

Testimony of Mr. Dwight Witherspoon, Water Rights Unit Attorney
Navajo Nation Department of Justice
Before the House Natural Resource Committee Subcommittee on Water, Wildlife, and
Fisheries
Thursday January 23, 2025
H.R. _____, the WaterSMART Access for Tribes Act

Yá'át'ééh Chairman Hageman, Ranking Member, and Members of the Subcommittee:

Thank you for the opportunity to testify on the WaterSMART Access for Tribes Act. My name is Dwight Witherspoon, and I serve as an attorney for the Navajo Nation Department of Justice in the Water Rights Unit. Today, I am here on behalf of Navajo Nation President Dr. Buu Nygren to express our strong support for this legislation, which will make the WaterSMART grant program more accessible to Tribes by allowing flexibility with the non-federal cost-share requirements. While this bill does not address the full scope of the Navajo Nation's water needs, it provides a useful tool to help the Nation and other tribes address water infrastructure challenges and move toward a more sustainable future.

The Navajo Nation's water needs are immense and urgent. Our Nation spans over 27,000 square miles across Arizona, New Mexico, and Utah, and many of our citizens live in remote areas without access to running water or reliable infrastructure. Roughly 30% of Navajo households lack access to clean drinking water—a rate that is more than 67 times the national average. This stark statistic is not just a number; it represents thousands of families who are forced to haul water for drinking, cooking, and bathing. The lack of access to clean water has led to a cascade of public health challenges, including higher rates of waterborne illnesses and other preventable diseases. It also places an undue burden on women, children, and elders, who are often the ones tasked with hauling water over long distances.

These challenges are compounded by the unique legal and economic realities faced by Tribal Nations. Unlike states and municipalities, the Navajo Nation does not have a traditional tax base. Federal law restricts our ability to generate revenue through property taxes, and the remoteness of our communities limits other opportunities for economic development. As a result, we must rely heavily on federal funding to build and maintain critical infrastructure. Programs like WaterSMART are helpful, but the current cost-share requirements often put these funds out of reach for Tribal Nations that need them most.

The WaterSMART program has the opportunity to fund impactful projects for the Navajo Nation. For example, the Nation could apply to fund drinking water system efficiency upgrades at the Alamo Chapter, a satellite reservation in rural central New Mexico, through the WaterSMART program if funding is available. The Nation in the past has struggled to successfully apply for these funds simply because we cannot meet the non-federal matching requirements. The WaterSMART Access for Tribes Act would address this hardship by allowing the Secretary of the Interior to reduce or waive the non-federal cost-share requirement, increasing the likelihood that Tribes like the Navajo Nation will be able to access this critical funding.

It is crucial to understand that while the WaterSMART Access for Tribes Act is a step forward, other larger investments in drinking water infrastructure in Indian Country are needed. For instance, the Nation continues to advance several water rights settlements before Congress, which would resolve the Nation's outstanding water claims in Arizona and the majority of its claims in New Mexico as well as address the massive water infrastructure needs on the Navajo Reservation.

Access to water is not just a matter of infrastructure; it is a matter of health, and economic opportunity. The inability to provide clean, reliable water to all of our citizens limits our ability to thrive as a Nation. It impacts our children's education, as schools struggle with inadequate water supplies. It affects our ability to attract businesses and create jobs, perpetuating cycles of poverty. And it undermines our efforts to build a sustainable future for the Navajo people.

The WaterSMART Access for Tribes Act recognizes these realities and offers a practical, immediate solution to help address the barriers that Tribes face in accessing federal resources. By waiving or reducing the cost-share requirements, this legislation would empower Tribal Nations to undertake projects that conserve water, improve efficiency, and enhance water delivery systems.

We urge this Subcommittee and Congress to support the WaterSMART Access for Tribes Act while continuing to prioritize the resolution of Tribal water rights settlements. Together, these efforts can help us turn the tide on water insecurity in Indian Country and honor the federal government's trust responsibility to Tribal Nations.

In closing, I want to thank this Subcommittee for its attention to the water needs of Tribal Nations. The Navajo Nation looks forward to working with you to advance this legislation, the Nation's water rights settlements, and other measures that support sustainable water access for Native communities. Your leadership and commitment to addressing these challenges will make a tangible difference in the lives of the Navajo people and all Native Americans.

Thank you for the opportunity to testify. I am happy to answer any questions you may have.