

Written Testimony
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Pechanga Band of Indians
House Committee on Natural Resources
Subcommittee on Water, Wildlife and Fisheries
H.R. 8546
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Good morning Chair Hageman, Ranking Member Hoyle, and Members of the Subcommittee:

My name is Mark Macarro, and I serve as Chairman of the Pechanga Band of Indians. Thank you for the opportunity to testify in support of H.R. 8546, the Pechanga Band of Indians Water Rights Settlement Technical Amendments Act.

H.R. 8546 would make targeted, technical corrections to the Pechanga Band of Luiseño Mission Indians Water Rights Settlement Act, which Congress enacted and the President signed into law in 2016. These corrections will help ensure that the settlement is implemented as Congress intended: by protecting Pechanga's federally reserved water rights for use on Pechanga tribal lands, supporting responsible water management in the Santa Margarita River Watershed, and providing Pechanga with practical tools to protect the quality and use of our water resources. The legislation is supported by our local water-district settlement partners and requires no additional federal funding.

I thank Representatives Darrell Issa and Ken Calvert for introducing H.R. 8546 and for their continued support of Pechanga and this important legislation. I also thank Senators Alex Padilla and Adam Schiff for introducing the Senate companion, S. 4417, underscoring the bipartisan and bicameral support for these commonsense technical corrections.

Background and History of Pechanga's Efforts to Protect Our Water Rights

The Pechanga Band of Indians is a federally recognized Indian Tribe with a reservation of more than 7,400 acres near Temecula, California.

Pechanga has called the Temecula Valley home for more than 10,000 years. Ten thousand years from now, tribal elders will share with tribal youth, as they do today, the story of the Band's creation in this place. Since time immemorial, through periods of plenty, scarcity, and adversity, the Pechanga people have governed ourselves and cared for our lands.

The history of Pechanga begins with our ancestral home village of Temeeku, which was a center for all the Payómkawichum, or People of the West. After California became a state in 1850, a group of Temecula Valley ranchers petitioned the District Court in San Francisco for a decree ejecting the Indians living on the land in the Temecula Valley. The court granted the decree in 1873. In 1875, the San Diego County sheriff began three days of evictions, and the Payómkawichum people were taken into the hills south of the Temecula River.

Strong in spirit, most of our dispossessed ancestors moved upstream to a small, secluded valley, where they built new homes and re-established their lives. A spring two miles upstream in a canyon provided them with water. We have always called that spring Pechaa'a, from pechaq, meaning 'to drip.' The spring is the namesake for Pechaa'anga, or Pechaanga, meaning 'at Pechaa'a, at the place where water drips.'

On June 27, 1882, seven years after the eviction, the President of the United States issued an Executive Order establishing the Pechanga Indian Reservation. Additional lands were later added to Pechanga's reservation or trust land base through executive orders, trust patents, congressional enactments, and administrative trust acquisitions. Since 2015, Pechanga has also acquired smaller parcels for housing, governmental, cultural, and economic-development purposes.

Water is central to who we are as a people. Our tribal government operates environmental monitoring and natural-resource management programs to honor and protect our land, water, and culture. We are particularly concerned with protecting our watershed and wellheads, maintaining the quality of our surface water and groundwater resources, and ensuring a reliable water supply for our community.

For decades, Pechanga worked to secure recognition and protection of our federally reserved water rights in the Santa Margarita River Watershed. Those efforts date to 1951, when the United States initiated litigation over water rights in *United States v. Fallbrook Public Utility District, et al.* The Fallbrook litigation ultimately expanded to include water users throughout the Santa Margarita River Watershed, including three Indian Tribes, among them Pechanga.

Pechanga intervened in the Fallbrook litigation in 1975 to protect our rights. Beginning in 2007, Pechanga also worked to avoid unnecessary conflict by negotiating directly with neighboring water users. Our goal was to develop practical agreements for sharing limited water resources and to settle Pechanga's water-right claims and related injury claims in the Santa Margarita River Watershed. Those efforts led to a comprehensive settlement among Pechanga, Rancho California Water District, Eastern Municipal Water District, The Metropolitan Water District of Southern California, and the United States. Federal recognition of our water rights through the 2016 settlement legislation was essential to protect Pechanga's water in the basin and ensure that the basin can continue to provide for generations of Pechanga people.

Congress approved the Pechanga Water Settlement in 2016 as Title III, Subtitle D of the Water Infrastructure Improvements for the Nation Act, Public Law 114-322. In 2020, all conditions necessary for enforceability were satisfied. On October 1, 2020, the Department of the Interior published the Federal Register notice making the Pechanga Settlement Agreement and the Act fully enforceable.

The Pechanga Water Settlement Resolved Longstanding Claims and Established Cooperative Water Management

The Pechanga Settlement Agreement resolved Pechanga's longstanding water-right claims in the Santa Margarita River Watershed and secured water supplies needed to meet Pechanga's current and future needs. The parties negotiated the overarching Settlement Agreement together with several related agreements. Each component helped achieve the settlement's goals and formed part of an integrated, cooperative framework.

The settlement recognized Pechanga's federally reserved water right - the Tribal Water Right - in the amount established on a prima facie basis in the original 1965 Fallbrook Decree: 4,994 acre-feet per year. That recognition was profoundly important to Pechanga because it provided final judicial recognition of our water entitlement.

Under the Settlement Agreement, Pechanga receives 75 percent of the safe yield in the Wolf Valley Basin, which supplies part of the Tribal Water Right. Because the water supplies in Pechanga's portion of the Santa Margarita Basin were too depleted to fulfill the entire Tribal Water Right or were being used by other parties, Pechanga needed replacement water. The principal source is imported water from The Metropolitan Water District under an Extension of Service Area Agreement.

To make that delivery possible, the settlement parties enhanced capacity for imported-water deliveries to Pechanga and extended The Metropolitan Water District's service area to a defined portion of the Reservation. The settlement also extended Pechanga's Recycled Water Agreement with Eastern Municipal Water District for 90 years and allowed Rancho California Water District to use a portion of that recycled water. Finally, the settlement required coordinated infrastructure and water-quality measures, including improvements to the quality of recycled water delivered to Pechanga and to the water quality of the Wolf Valley Groundwater Basin.

The 2016 Act provided federal funding for infrastructure necessary to deliver imported water to Pechanga, connection fees owed to The Metropolitan Water District and Eastern Municipal Water District, recycled-water infrastructure critical to the negotiated settlement, and a limited subsidy to reduce the unusually high cost of imported water.

Together, these interrelated commitments and federal funding formed the foundation of an innovative, comprehensive settlement. They reflect a cooperative approach to water management among Pechanga, local water agencies, and the United States.

H.R. 8546 Makes Narrow Technical Amendments Needed to Implement the Settlement as Intended

Since the Settlement became enforceable in 2020, Pechanga has worked diligently and collaboratively with the United States and our local settlement partners - Rancho California Water District, Eastern Municipal Water District, and The Metropolitan Water District of Southern California - to implement the Act, the Settlement Agreement, and the related agreements. As often occurs when a complex Indian water settlement moves from legislation to implementation, practical experience revealed limited provisions that should be updated to reflect current circumstances and carry out Congress's original intent.

Pechanga worked cooperatively with the three local water districts to develop H.R. 8546, and those districts support the technical amendments. The two substantive changes are narrow and noncontroversial. They require no additional appropriation and do not increase Pechanga's water entitlement or alter any existing water right.

1. Updating the Definition of “Reservation”

First, H.R. 8546 updates the Act's definition of 'Reservation.' As enacted, the definition was tied to Pechanga trust lands identified as of the date of the Act. That was a straightforward way to describe the Pechanga Reservation in 2016. Since then, however, additional contiguous lands have been taken into trust for Pechanga and are now part of Pechanga's reservation land base. The amendment would ensure that Pechanga may use its Tribal Water Right on current and future contiguous trust lands within the Santa Margarita River Watershed.

Specifically, H.R. 8546 preserves the original reservation lands identified in the 2016 Act and adds two categories: first, contiguous land held in trust for the Band on the settlement's enforceability date; and second, contiguous land within the Santa Margarita River Watershed that is placed into trust for the Band after the enforceability date.

This correction does not increase Pechanga's water entitlement under the Act or Settlement Agreement. Nor does it expand the area in which imported water from The Metropolitan Water District may be used; imported-water service remains governed by the Extension of Service Area Agreement and its map. The amendment simply ensures that Pechanga's federally reserved Tribal Water Right may be used on qualifying Pechanga trust lands to support tribal citizens, governmental services, housing, cultural preservation, economic self-sufficiency, and other sovereign purposes.

2. Allowing Water Quality Funds to Address Broader Water Quality Needs

Second, H.R. 8546 updates the authorized uses of the Pechanga Water Quality Account. When Congress enacted the settlement, Pechanga and the other settlement parties were focused on salinity associated with recycled and imported water. The Act therefore limited the account to 'groundwater desalination activities within the Wolf Valley Basin.' Since then, emerging contaminants and other water-quality challenges, including PFAS, have made clear that Pechanga needs flexibility to respond to threats beyond salinity.

H.R. 8546 would authorize the existing account to support 'activities to address water quality issues within the Wolf Valley Basin.' It provides no new money and does not increase the amount already

available. It simply allows Pechanga to use existing settlement funds more effectively to protect water quality for the Tribe and the surrounding region, now and in the future.

3. Preserving the Settlement and Existing Water Rights

H.R. 8546 also includes important implementation and savings provisions. It recognizes that the parties have agreed to conform the Settlement Agreement and its exhibits to the technical amendments and directs the Secretary of the Interior to execute those conforming changes promptly. At the same time, it expressly preserves the 2020 enforceability determination and provides that nothing in the bill alters, or requires alteration of, any existing water right. These protections provide certainty to Pechanga, neighboring water users, and the United States.

Conclusion

H.R. 8546 is a narrow, practical, and necessary bill. It reflects the shared understanding of Pechanga and our local settlement partners regarding the technical updates needed to carry out Congress's intent and allow Pechanga to realize the full benefits of the settlement. The bill accounts for Pechanga's current and future contiguous trust land base, provides flexibility to address modern water-quality challenges, preserves existing water rights and the settlement's enforceability, and requires no additional federal appropriation.

For these reasons, Pechanga respectfully urges the Subcommittee and the Committee on Natural Resources to support H.R. 8546 and advance it expeditiously to the House floor.

Thank you for the opportunity to testify. I look forward to answering your questions.