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Testimony before the House Natural Resources Committee
on
“H.R. 1904, The Indian Water Rights Settlement Extension Act”

10:00 am, April 4th, 2019

Chairman Grijalva, Ranking Member Bishop and members of the committee, my name is Dave Roberts and I am the Associate General Manager, Water Resources, at the Salt River Project (SRP). Thank you for the opportunity to testify today before the committee on H.R. 1904, The Indian Water Rights Settlement Extension Act which would address ever-increasing funding needs for Indian water rights settlements and provide greater budget flexibility to the Bureau of Reclamation. SRP strongly supports this bill.

Over the past five decades, SRP has worked with numerous tribes and stakeholders to resolve water rights disputes in a manner that benefits both Indian communities and their non-Indian neighbors. We have seen the productive solutions and mutual benefits that can occur when tribes and other stakeholders work collaboratively toward negotiated settlements. Most important among the benefits is water supply certainty, which is a fundamental outcome of any water rights settlement. The negotiation process is also beneficial because it moves away from often costly and contentious litigation. In addition, the improved communication and trust produced by a negotiated settlement has allowed Indian communities and their neighbors to improve water management regionally. While there are many challenges to successful completion of Indian water rights settlements, funding the infrastructure component of settlements continues to be a primary barrier.

To address the funding challenge, Congress passed legislation (P.L. 111-11) to deposit revenues into the Reclamation Water Settlement Fund (RWSF) creating a funding mechanism for settlements that did not put undue pressure on the Department of Interior’s discretionary budget. Under this law, the direction of revenues to the RWSF will end in fiscal year 2029, but the need is far from over. Quite the opposite, when we look out on the horizon there are a number of large settlements still to come in Arizona and throughout the west. The Indian Water Rights Settlement Extension Act would extend the RWSF beyond the current expiration date and assure continued funding for authorized and future Indian water rights settlements.

The Salt River Project

The Salt River Project was formed to contract with the federal government for the building of Theodore Roosevelt Dam, and other components of the Salt River Federal Reclamation Project. Today SRP operates seven dams and reservoirs throughout Arizona,

1,300 miles of canals, laterals, ditches, and pipelines to deliver water to approximately 250,000 acres of land in the greater Phoenix area. We also operate and have interests in a variety of electrical generation facilities within Arizona and neighboring states. Due to SRP's senior surface water rights on the Salt and Verde Rivers, and claims by the 22 Indian tribes in Arizona, SRP has been integrally involved in nearly all of the congressionally approved Indian water rights settlements in Arizona, and continues to be involved in many of the still outstanding claims.

Past Arizona Indian Water Rights Settlements

Salt River Pima – Maricopa Indian Community - The Salt River Pima-Maricopa Indian Community reservation consists of approximately 53,000 acres of land on the northeast corner of the Phoenix metropolitan area, at the confluence of the Salt and Verde Rivers. In the early-1980's, as part of the ongoing water rights adjudication in the state court, the Community and the United States asserted claims to approximately 185,000 acre-feet of water annually from the Salt and Verde rivers. Negotiations involving the United States and numerous municipalities and water districts, including the Salt River Project, began in the mid-1980s and eventually led to the Salt River Pima-Maricopa Indian Community Water Rights Settlement Act of 1988. The settlement resolved the concerns of both the Salt River Pima – Maricopa Indian Community and the other settling parties by securing 122,400 acre-feet annually of a dependable water supply, and the funds needed to utilize the resource, in exchange for the Community agreeing to waive any additional water rights claims or claims for money damages. Today SRP and the Salt River Pima-Maricopa Indian Community have a good relationship and work cooperatively on water supply issues, including one of the largest underground storage projects in Arizona located on the Community's reservation.

Fort McDowell Yavapai Nation - The Fort McDowell Yavapai Nation has a reservation 23 miles northeast of Phoenix. The Verde River runs through the reservation from north to south. In the early 1980s, the United States asserted claims to water on behalf of the Nation in the amount of 31,500 acre-feet per year. The Nation's settlement was negotiated between the Community and several non-Indian parties, including SRP, and was signed into law in November of 1990. In exchange for a waiver of the Nation's claims for water rights or injuries to water rights, the Act provides an annual entitlement of 36,350 acre-feet of water to be used on the Nation's reservation. In addition, the Act authorized the federal appropriation of \$23 million and a \$13 million loan pursuant to the Small Reclamation Projects Act. Since the settlement was approved, SRP and the Nation have entered into subsequent agreements to facilitate the use of the Nation's Central Arizona Project water supply on its reservation.

San Carlos Apache Tribe - The San Carlos Apache Tribe has a reservation located in east-central Arizona, near the city of Globe. The United States filed claims in the Gila River Adjudication on behalf of the Tribe for over 292,000 acre-feet of water annually from the Salt and Gila rivers, their tributaries and ground water. In October of 1992, Congress enacted the San Carlos Apache Tribe Water Rights Settlement Act. The Act recognized the Tribe's right to divert 7,300 acre-feet annually from the Salt River or from

the Black River, which is a tributary to the Salt River upstream from SRP's reservoirs, with a priority date of 1871. In addition, the Act allocated to the Tribe approximately 64,000 acre-feet annually from the Central Arizona Project and recognized the Tribe's right to use water from all on reservation tributaries, as well as groundwater beneath the reservation. In exchange for these sources of water and the Settlement Act's establishment of a \$38.4 million tribal trust fund for on-reservation economic development, the Tribe agreed to waive its claims on the Salt River and its tributaries. SRP and the Tribe are also parties to an exchange agreement that allows for the use of the Tribe's Central Arizona Project water entitlement.

Zuni Indian Tribe - The Zuni Heaven Reservation, located in eastern Arizona in the Little Colorado River Basin, was authorized by Congress in legislation enacted in 1984 and amended in 1990. The purpose of the reservation was to recognize longstanding religious and sustenance activities by the Tribe on these lands along the Little Colorado and Zuni rivers in the vicinity of St. Johns, Arizona. In 2003, Congress enacted the Zuni Indian Tribe Water Rights Settlement Act. The Act confirmed the terms of a settlement agreement entered into among the Tribe, the United States, the State of Arizona and several local water users and utilities, including SRP. The settlement agreement permanently resolved the Tribe's water rights claims and provided resources to restore wetlands and the Sacred Lake on the Zuni Heaven Reservation.

The Zuni Indian Tribe Water Rights Settlement Act provided federal funding for the acquisition of water rights, and for facilities construction and related costs, in the amount of \$19.25 million. The State of Arizona and the Arizona Game and Fish Commission also provided a total of \$6.6 million in funding for the settlement for wetland restoration and enhancement of instream flow and riparian areas. Further, SRP contributed \$1 million toward providing a water supply for the Sacred Lake and the reestablishment of riparian vegetation on the reservation. In exchange for these benefits, the Zuni Tribe and the United States on its behalf agreed to waive their objections to all existing uses of surface water and groundwater in the Little Colorado River Basin, as well as objections to certain future uses, as outlined in the agreement.

Gila River Indian Community - The Gila River Indian Community's Reservation encompasses approximately 377,000 acres of land in central Arizona. Most of the lands within the Reservation are located within the Gila River watershed, while a small portion of the lands lie within the Salt River watershed, west of Phoenix and several miles downstream from SRP's reservoirs. In the Gila River Adjudication, pending before the Arizona courts, the Indian Community had asserted claims to water from Salt and Gila Rivers, their tributaries and ground water totaling more than 2.7 million acre-feet annually. The Gila River Indian Community Water Rights Settlement was passed as title two of the Arizona Water Settlements Act in 2004 under the leadership of Senator Jon Kyl. The settlement resolves all outstanding water related litigation between the Indian Community and the other settling parties, and settles, once and for all, the water rights of the Indian Community to surface water and ground water in the Gila River Basin.

The Arizona Water Settlements Act also provided federal funding in the amount of \$200 million to be used for the rehabilitation of the Community's existing water system, for rehabilitation of past subsidence damages on the reservation, to defray some of the operation, maintenance and replacement costs of the CAP water to be delivered to the Community, and to implement a program to monitor water quality on the reservation.

Since the settlement was approved, the Gila River Indian Community and SRP have been able to work closely together to address Arizona water supply needs. Together SRP and the Gila River Indian Community have formed Gila River Water Storage (GRWS) to bring 5 million acre-feet of additional dependable, renewable water supplies to central Arizona. As part of Arizona's plan to implement the Lower Colorado River Drought Contingency Plan, GRWS entered into an agreement with the Central Arizona Groundwater Replenishment District to provide 445,375 acre-feet of much-needed water supplies. These types of arrangements demonstrate the partnerships that are made possible by tribal water rights settlements.

White Mountain Apache Tribe – The White Mountain Apache Tribe is located on the Fort Apache Reservation in eastern Arizona. Four of SRP's storage reservoirs are located downstream of the Fort Apache Reservation. Approximately 42% of the water delivered by SRP to the Phoenix metropolitan area originates on the Reservation. The United States, acting on behalf of the Tribe, had asserted claims in the pending General Stream Adjudication for the depletion of 179,000 acre-feet of water from these headwaters.

Under the settlement the Tribe's water rights are quantified at 99,000 acre-feet per year through a combination of surface water rights in the Salt and Little Colorado River systems, and CAP water. The Quantification Act provides the tribe with infrastructure to put water supplies to use by authorizing the Miner Flat Dam Project, which includes a dam, water treatment plant, and conveyance infrastructure. The tribe has negotiated CAP water leases with the valley cities of Avondale, Chandler, Gilbert, Glendale, Mesa, Peoria, Phoenix, and Tempe.

Summary

The Salt River Project has a history of negotiating and settling Indian water rights disputes, and we have seen the productive solutions and mutual benefits that can occur when tribes and other stakeholders work collaboratively. Completed tribal settlements provide the tribes with quantified water rights, and enable partnerships with non-tribal entities that benefit both the tribes and others.

The State of Arizona has made good progress toward resolving tribal water rights settlements through negotiated settlements, and SRP has been an enthusiastic partner in this effort. But there are still more than ten settlements to go in Arizona alone, and funding of the infrastructure component of the remaining settlements will be a challenge. The passage of the Indian Water Rights Settlement Extension Act will go a long way to helping address the funding challenge. SRP appreciates your leadership on this important issue, and supports passage of the legislation.