

TESTIMONY OF DR. DAMON CLARKE,
CHAIRMAN, HUALAPAI TRIBE
BEFORE THE SENATE INDIAN AFFAIRS COMMITTEE
IN SUPPORT OF S. 1770
THE HUALAPAI TRIBE WATER RIGHTS SETTLEMENT ACT OF 2017
December 6, 2017

Chairman Hoeven, Vice Chairman Udall and members of the Committee, my name is Dr. Damon Clarke, Chairman of the Hualapai Tribe.

The Hualapai Tribe strongly supports S. 1770, the Hualapai Tribe Water Rights Settlement Act of 2017. Before I describe the major elements of this legislation and the critical benefits the Tribe receives from it, let me briefly inform the Committee of the Tribe's pressing water needs.

The Hualapai Reservation encompasses approximately 1 million acres in northwestern Arizona. All lands on the Reservation are tribal trust lands; there are no allotments or fee inholdings. The Colorado River forms the 108-mile northern boundary of the Reservation through a portion of the Grand Canyon.

Our Reservation has no significant surface streams other than the Colorado River, and has very limited groundwater resources. While the Tribe now relies on groundwater to serve Peach Springs, which is our principal residential community, that groundwater is a depletable resource and well levels on the Reservation are dropping. The Colorado River is the only feasible water supply for satisfying the long-term future needs of Peach Springs and of the rest of our Reservation. Our Tribe needs delivery of Colorado River water both to provide a permanent

and secure water supply for the domestic and residential needs of our present and future population, and also to fully realize the unique opportunities for economic development that we have at Grand Canyon West—a world class on-Reservation tourist development that the Tribe operates on the western rim of the Grand Canyon.

The Hualapai Reservation does not have the natural resources to permit commercial agriculture, timber or mineral development. But the Reservation's virtually unique location on the Grand Canyon gives the Tribe a strong basis to create a self-sustaining tourism-based economy. Grand Canyon West is the centerpiece of the Tribe's economy. The Grand Canyon Resort Corporation, a tribal corporation which operates Grand Canyon West and other tribal enterprises, along with the tribal government, currently employs more than 1,500 workers (more than 550 of which are non-Hualapai members). The Hualapai Tribe is the second largest employer in Mohave Country, Arizona. Grand Canyon West hosts over 1 million visitors a year.

As successful as Grand Canyon West has been to date, there is an even greater unrealized potential to further develop Grand Canyon West—but we are unable to take advantage of this potential because of a critical lack of water. The nearest groundwater to Grand Canyon West is 35 miles away, and the supply from that low-production well is barely adequate for current operations, and completely inadequate for growth. With the Colorado River water that the Tribe would receive from this settlement, and with the infrastructure to deliver that water to Grand Canyon West that would be authorized by this legislation, the Tribe could take full advantage of the potential for further development of Grand Canyon West that would create additional jobs for both tribal members and non-Indians, as well as provide new revenues for our tribal government.

But there would also be significant benefits beyond this. I am accompanied today by Professor Joseph P. Kalt from the Harvard Project on American Indian Economic Development

at the John F. Kennedy School of Government. Professor Kalt was commissioned by the Tribe to analyze the economic impact that enactment of S. 1770 would have on the regional economy of northwestern Arizona and southern Nevada, as well as on the economy of the State of Arizona and the Nation as a whole. Professor Kalt's report, which is attached to his written testimony, states that the significant increase in visitors to both Grand Canyon West and the Grand Canyon National Park in recent years serves as evidence that the Grand Canyon will continue to attract a growing number of visitors in the coming years. His report also states that the economic development of Grand Canyon West that would be triggered by the water and infrastructure authorized by this legislation would support an average of more than 6,500 jobs per year in Arizona, and close to 1,000 jobs per year in southern Nevada. For the Nation as a whole, the project would support an average of more than 10,000 jobs per year, nearly \$1.5 billion in federal tax revenues in present value, and a present value of more than \$9.3 billion in gross domestic product (GDP) for the United States. I believe this settlement is unique among Indian water settlements in supporting this level of regional and national economic benefits—benefits that dwarf the level of federal outlays authorized by S. 1770.

The use and delivery of water for this kind of economic development is well within the parameters of past Indian water rights settlements. Most Indian water rights settlements in this century have provided federal funding for infrastructure development to support commercial as well as residential uses of water. There is, for example, ample recent precedent for federally-funded irrigation projects to deliver water to Indian reservations for purposes of commercial agricultural, where agriculture is the basis of a tribe's economy. And in other recent settlements, federally-funded projects have delivered water to support other kinds of economic development—including hydropower and other energy development, and a retail travel center.

Therefore, the infrastructure development for the Hualapai Tribe's tourism-based economy that is authorized by S. 1770 is completely consistent with past Indian water rights settlements approved by Congress.

The lack of water we currently suffer at Hualapai also imposes another substantial burden on our members. Grand Canyon West is located a two-hour drive on a dirt road from Peach Springs, where virtually all tribal members on the Reservation live. Thus, tribal employees at Grand Canyon West have daily round-trip commutes of four hours a day to their jobs, longer in inclement weather. Currently, it is impossible to locate a residential community at Grand Canyon West because of the lack of water there. This imposes an unsustainable burden on tribal members who work at Grand Canyon West, and on their families. The Tribe urgently needs Colorado River water at Grand Canyon West in order to allow the Tribe to construct a residential community there so tribal member can reside near to their jobs on the Reservation.

Over the past seven years, the Hualapai Tribe has, in two phases, negotiated a settlement of all of the Tribe's reserved water rights with the State of Arizona and major private entities in Arizona. The United States actively participated in these settlement negotiations through a Federal Negotiating Team consisting of representatives from affected Interior Department agencies and from the Department of Justice. In phase 1, the parties successfully resolved a portion of the Tribe's water rights—those in the Bill Williams River watershed, where the Tribe has a small parcel of Reservation land and some allotted trust land—in a settlement that was ratified by the Bill Williams River Water Rights Settlement Act of 2014, Pub. L. 113-223, 128 Stat. 2096 (Dec. 16, 2014).

The Tribe and the State parties have now reached agreement on phase 2. The legislation now before the Committee, S. 1770, would resolve the Tribe's remaining water rights claims on

a comprehensive basis. The legislation is strongly supported by the State of Arizona and by the private entities which are parties to the settlement—the Salt River Project, Central Arizona Water Conservation District and Freeport Minerals Corporation. It is also strongly supported by Mohave County, the local jurisdiction in which most of the Reservation is located.

Let me now summarize the principal elements of the comprehensive water rights settlement ratified by S. 1770:

- The Act comprehensively settles all of the Hualapai Tribe's federally reserved water right claims for its Reservation and trust lands.
- The Tribe receives exclusive rights to all groundwater and surface water on the Reservation and its other trust lands, and agrees not to object to any pumping of groundwater or diversions of surface water outside the Reservation or its trust lands.
- The Tribe receives an allocation of 4,000 acre-feet a year of Central Arizona Project water from the Colorado River. Of this amount, 1,115 acre-feet a year will be "firmed" (half by the United States and half by the State) until 2108 to protect against future shortages of the availability of Colorado River water in Arizona. The Act also provides that the Tribe itself can "firm" additional portions of the Central Arizona Project Water allocated to the Tribe in any year the water is available and is not needed for delivery to the Reservation.
- The legislation authorizes the expenditure of \$134.5 million in federal funds (in 2016 dollars) to construct an infrastructure project to deliver up to 3,414 acre-feet a year from the Colorado River to the Reservation. The project would divert water from the Colorado River on the Reservation at Diamond Creek and then deliver it through a 70-mile pipeline to both Peach Springs and Grand Canyon West. This system would replace the Tribe's reliance on the existing groundwater wells (except when those wells are needed as an emergency backup). The

legislation also authorizes an OM&R Trust Fund of \$32 million for the Tribe partially to defray future costs of operating, maintaining and replacing the project works, \$5 million for OM&R costs prior to transfer of the project to the Tribe, and \$2 million for training of Tribal members in operating and managing the project.

- Certain lands designated by the legislation owned by the Hualapai Tribe near the Reservation will be brought into trust status and certain other lands currently held in trust for the Tribe will be made part of the Hualapai Reservation.

There are substantial non-federal contributions to this settlement. As part of the phase 1 Bill Williams settlement, the Freeport Minerals Company provided a significant multi-million dollar contribution to a Hualapai Tribe economic development fund which the Tribe can use to purchase Colorado River water rights to supplement the allocation of CAP water provided by the settlement. The 2014 Bill Williams Settlement Act expressly states that this substantial funding from Freeport constitutes a non-federal contribution to the Tribe's comprehensive water rights settlement. Pub. L. 113-223 at sec. 5(d)(1)(B). Freeport also contributed an additional \$1 million to the Tribe that enabled the Tribe to conduct an essential "appraisal-plus level" study to determine the feasibility and costs of alternative infrastructure projects to bring Colorado River water to the Hualapai Reservation. That study is the technical report referenced in this settlement legislation. The State of Arizona is also making a contribution, which it values at approximately \$3.2 million, in the form of "firming" 557.5 acre-feet-per year of the CAP water allocated to the Tribe, until the year 2108. Finally, the Tribe has agreed to fund the cost of constructing an electrical transmission line to the project, which the infrastructure study estimates will cost about \$40 million. In aggregate these various non-federal contributions to the settlement constitute over 30 percent of the Federal costs of the comprehensive settlement.

Passage of this legislation is absolutely essential if our Tribe is to realize the full economic potential of our Reservation. We have done everything possible to provide jobs and income to our people in order to lift them out of poverty—but the lack of a secure and replenishable water supply on our Reservation is our major obstacle to achieving economic self-sufficiency, a goal that Federal Indian policy has long favored. Passage of this legislation is essential to allow my Tribe to attain this goal.

Thank you for the opportunity to testify before you today. I will be pleased to answer any questions you may have, and our Tribe will help in any way it can to secure enactment of this critical legislation.