



**TESTIMONY OF
CHAIRMAN NEIL PEYRON
TULE RIVER INDIAN TRIBE OF CALIFORNIA
BEFORE THE SENATE COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE
IN SUPPORT OF S. 4870
TULE RIVER TRIBE
RESERVED WATER RIGHTS SETTLEMENT ACT OF 2022**

I. Introduction

Greetings Chairman Schatz, Vice Chairwoman Murkowski, and members of the committee. My name is Neil Peyron and it is an honor to appear before you today. I am a member of the Tule River Indian Tribe ("Tule River") located in central California, and I serve as the Chairman of the Tule River Tribal Council. I come before you today to share Tule River's greetings, well wishes, and strong support for S.4870, the Tule River Tribe Reserved Water Rights Settlement Act of 2022.

This bill is fifty-one years in the making. It honors treaty rights as recognized by Presidential Executive Orders and other commitments made to Tule River by the United States, and it ensures we have a sustainable and livable homeland. It represents a historic coming together of tribal, state, and federal interests to form agreement around the important, and long-overlooked issue of access to water for the Tule River people.

I would like to thank Senator Padilla and Senator Feinstein for their support of Tule River in our efforts to introduce and move this important legislation. I would also like to thank Congressman McCarthy, who has worked with us to settle our federal reserved water rights. We have worked hard to meet the requirements of the Criteria and Procedures for the Participation of the Federal Government in Negotiations for the Settlement of Indian Water Rights Claims. We believe passing this bill into law offers a unique opportunity for all sides of the political spectrum to achieve success towards meeting the United States' trust responsibility to the Tule River Tribe by safeguarding our access to clean drinking water.

This settlement, achieved without the need for costly litigation, will finalize an agreement by the major water users on the South Fork of the Tule River, meet the obligations of the United States to protect and develop a permanent homeland for Tule River, and provide certainty to the water users in Central California that utilize the Tule River basin. It will also provide Tule River with the wet water it needs for its community after a decade of extreme drought brought on by climate change.

This bill reconciles over 100 years of the effects of forced removals on the Tule River people, even at gunpoint, and the unratified 1851 Treaty of Paint Creek relied upon by our people.¹ The history of Tule River, and our forced removal onto the reservation, tracks the troubled history of the United States and its relations with native people. But the history in California is one of the darker pages for the United States.² This legislation offers a unique opportunity to correct some of these past wrongs.

II. History of the Tule River Reservation and the Struggle of Tule River to Secure a Sustainable Homeland

A. The Unratified Treaty of Paint Creek

The Tule River Reservation is part of our ancestral homeland. We are Yokuts Indians and have occupied the San Joaquin Valley in California for thousands of years. Following the discovery of gold in the late 1840s, there was massive immigration into California from the eastern United States. In the first two years of the gold rush, it is estimated that 100,000 native people were killed.³

To legally obtain the lands that the Tribal Nations held, the United States negotiated 18 treaties with native people in California. One such treaty was the Treaty of Paint Creek that was signed on June 3, 1851. In that Treaty our ancestors reserved large tracts of land for our people. With California statehood and the desire for gold, however, there was enormous pressure on Congress to reject the 18 treaties negotiated with the Tribal Nations in California. Congress yielded to this pressure and in 1852 rejected the 18

¹ Frank, Gelya and Carole Goldberg, *Defying the Odds: The Tule River Tribe's Struggle for Sovereignty in Three Centuries*, p. 54, New Haven and London: Yale University (2010). Available at the National Indian Law Library (NILL) at the following link - <https://nill.softlinkliberty.net:443/liberty/OpacLogin?mode=BASIC&openDetail=true&corporation=NARF&action=search&queryTerm=uuid%3D%225c659d6f0af12b193f2f1f287c6e356b%22&operator=OR&url=%2Fopac%2Fsearch.do>).

² See Castillo, Edward D. (*Cahuilla-Luiseno*), State of California Native American Heritage Commission, California Indian History, "Short Overview of California Indian History," <https://nahc.ca.gov/resources/california-indian-history/> (last accessed Sept. 28, 2022).

³ *Id.*

treaties, including the Treaty of Paint Creek. The treaties were subsequently placed under an order of secrecy and hidden in the Senate's records for over 50 years.⁴ Our ancestors were never informed the treaties we negotiated with the federal government were not ratified.

Below is a map of the lands our ancestors reserved for our people in the Treaty of Paint Creek, which includes much of the agricultural hub of the central valley in California. (See also Exhibit A, which provides a timeline of significant events for the water rights of the Tule River Tribe.)

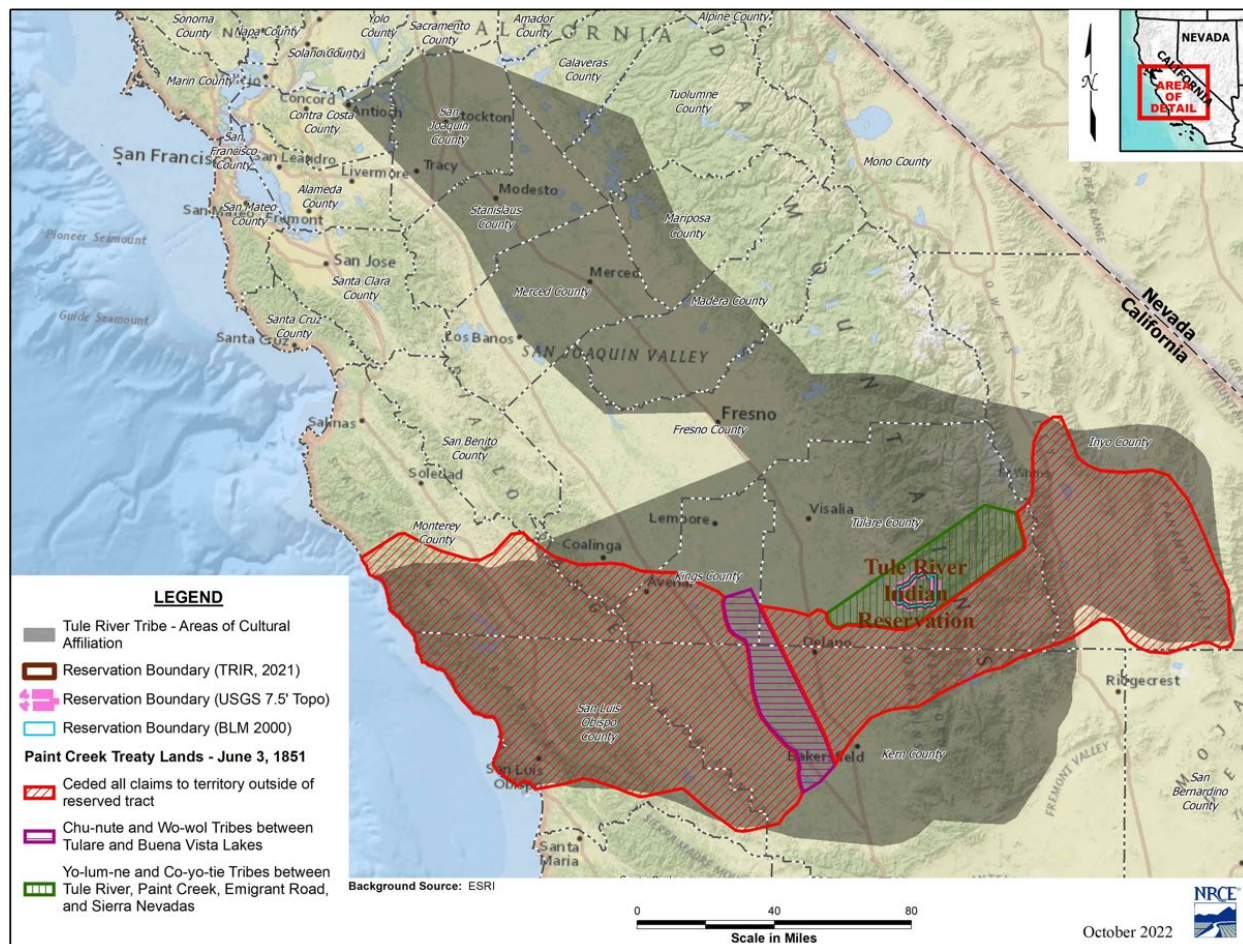


Figure 1: Map depicting area of traditional cultural affiliation for the Tule River Tribe of Yokut Indians as well as the lands ceded and retained in the Paint Creek Treaty of 1851.

⁴ See Miller, Larisa K., "The Secret Treaties with California's Indians," Archives, Hoover Institution at Stanford University, (2013), <https://www.archives.gov/files/publications/prologue/2013/fall-winter/treaties.pdf> (last accessed Sept. 28, 2022).

B. Establishment of the Original Reservation through Fraud

After failing to ratify the treaties, Congress established the Superintendency of Indian Affairs in California in 1853 to relocate Indians to reservations. In 1856, the California Superintendency established our reservation pursuant to the 1853 authority, on approximately 2,440 acres of prime San Joaquin Valley farmland in Tulare County. The southwest corner of the land was transected by the mainstem of the Tule River. It included part of what is today the eastern portion of the City of Porterville. Despite being significantly smaller than what was reserved in the treaty, the location of this original Reservation was selected by the federal government to provide Tule River with the arable land and water resources needed to establish a self-sufficient homeland for our people.

Upon being promised this land as our homeland - ostensibly forever - we built homes and began to actively cultivate crops. Despite our relative prosperity in those years, two of the federal Indian agents assigned to reservations in the area decided to capitalize on the distance and ignorance of the officials in Washington, D.C. Thomas Madden, a federal Indian agent assigned to the neighboring Tejon Indian Reservation, applied for, and was issued a fraudulent public land school warrant for 1,280 acres of the Tule River Reservation from the State of California.⁵ Four years later, and under a similar illegal arrangement, a land warrant for 1,160 acres of Tule River Reservation was issued to Mr. John Benson, another Indian Agent. These two state land warrants encompassed all our Reservation lands.

The federal government was fully aware that these lands were expressly reserved to us, but it made no effort to challenge the Madden and Benson land warrants – despite an investigation in 1858 confirming the fraudulent nature of the agents' land claims. Because the lands had been set aside for the Tribe, the State of California had no legal basis upon which to issue the warrants. The land transfers were also a violation of the federal Trade and Intercourse Act, which expressly prohibited Indian agents from having "any interest or concern in any trade with the Indians," *Indian United States v. Hutto*, 256 U.S. 524, 525 (1921), and prohibited the sale of Indian lands except by treaty. 25 U.S.C. § 177. Instead of setting aside the issuance of these warrants, the federal

⁵ Frank, Gelya and Carole Goldberg, *Defying the Odds: The Tule River Tribe's Struggle for Sovereignty in Three Centuries*, p. 41-55, New Haven and London: Yale University (2010). Available at the National Indian Law Library (NILL) at the following link - <https://nill.softlinkliberty.net:443/liberty/OpacLogin?mode=BASIC&openDetail=true&corporation=NARF&action=search&queryTerm=uuid%3D%225c659d6f0af12b193f2f1f287c6e356b%22&operator=OR&url=%2Fopac%2Fsearch.do>).

government actually paid rent to Agents Madden and Benson for at least a dozen years to enable our ancestors to continue farming what was our land.⁶

Gradually, over the years, hostility increased in general between the Indian farmers and the settlers in the area. In response to the tension, and rather than enforcing our rights to what was our Reservation land, in January 1873, President Grant issued an Executive Order creating a new reservation for the Tule River Tribe. It was comprised of mostly mountainous, rocky lands located about fifteen miles to the east of our original Reservation. The Tule River Indians and the Indian agent at the time, Agent J.B. Vosburgh, protested the forced removal as the new lands would be difficult to cultivate.

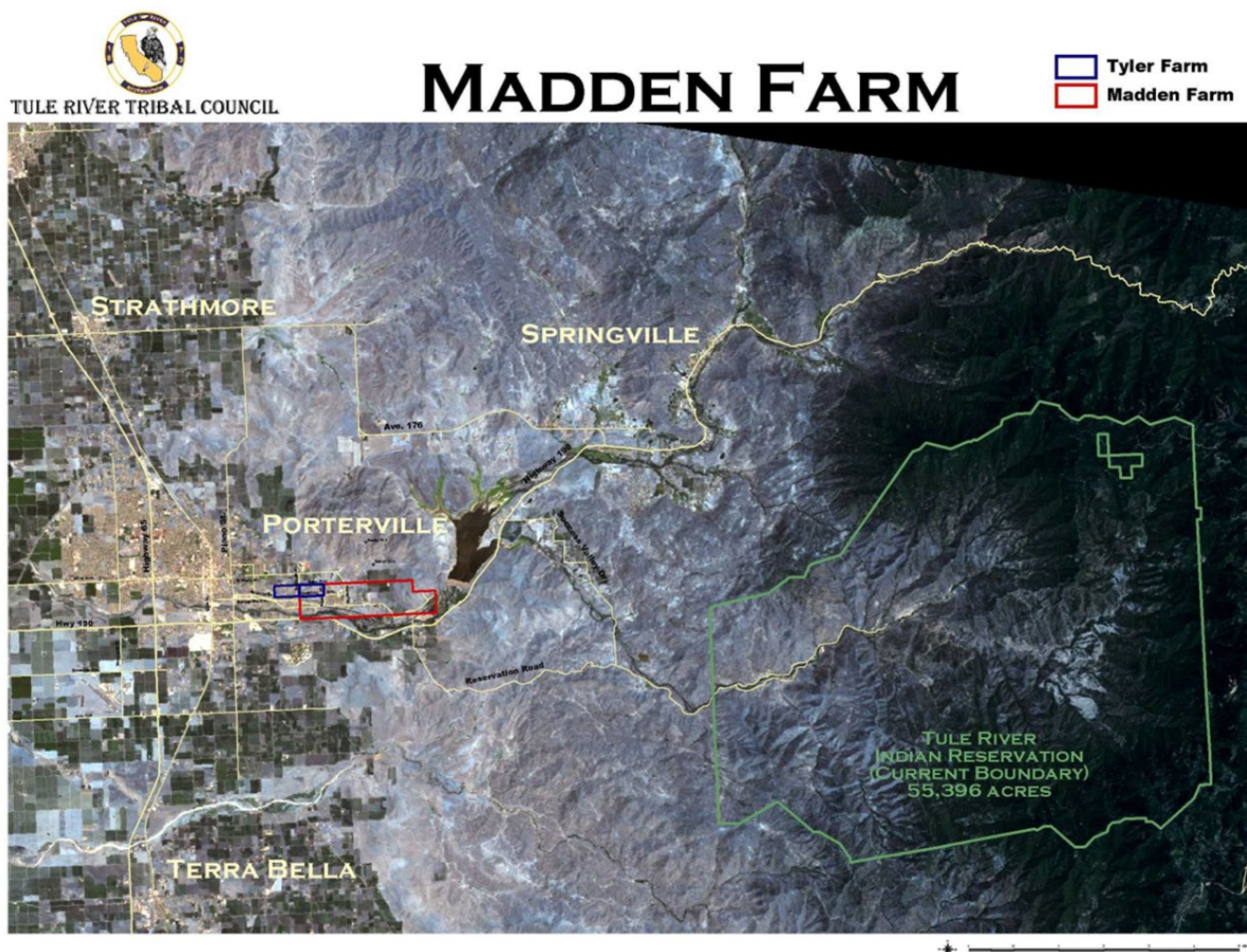


Figure 2: Map depicting the Tyler/Benson and Madden Farms in relation to current Tule River Reservation.

⁶ J. B. Vosburgh to CIA, September 4, 1875, Annual Report of the Commissioner of Indian Affairs (ARCIA), 1875, *HED* 1, 44th Congress, 1st Session, serial 1680, p. 730-731.

Agent Vosburgh, stated in his annual report to the Commissioner of Indian Affairs:

There was very little to be seen at the new agency to commend it for the purposes to which it was set apart. ... By far the most valuable part of the reserve is upon the mountains in the extreme eastern portion, where there are extensive forests of pine available for the production of lumber, which would find a ready market among the settlers on the plains below.⁷

He further requested that the government inquire into the legality of the Madden and Benson land warrants and, if necessary, requested the federal government purchase the property from them for the benefit and use of the Indians.

No such action was taken by the federal government, and our people were forcibly removed from their homes and cultivated fields. The removal was very hard on our people. One tribal member alive then, Mary Santiago, who was born about 1859 and participated in the removal, recalled hiding in a cave as she and her brother “watched soldiers run over women and children killing some, cutting down their jerky lines, burning their tule huts that they lived in. Mostly killing men and young boys.”⁸

The new Reservation, while it contained 48,000 acres, was determined by the federal agents, based on the knowledge and technology of the time, to be insufficient to provide for us. An Indian agent reported, year-by-year our number had decreased by death and removal, until at this point there were only 143 Indians, embraced in 39 different families, residing on the reservation.⁹

⁷ J. B. Vosburgh to CIA, September 9, 1874, ARCIA, 1874, House Executive Document HED 1, 43rd Congress, 2nd Session, serial 1639, p. 623. Note: The acreage figure that Agent Vosburgh reflects the acreage in the January 9 executive order and not the acreage for the October 3, executive order that enlarged the reservation.

⁸ Frank, Gelya and Carole Goldberg, *Defying the Odds: The Tule River Tribe's Struggle for Sovereignty in Three Centuries*, p. 54, New Haven and London: Yale University (2010). Available at the National Indian Law Library (NILL) at the following link - <https://nill.softlinkliberty.net:443/liberty/OpacLogin?mode=BASIC&openDetail=true&corporation=NARF&action=search&queryTerm=uuid%3D%225c659d6f0af12b193f2f1f287c6e356b%22&operator=OR&url=%2Fopac%2Fsearch.do>).

⁹ H.R. 123, H.R. 2498 and H.R. 2534, Legislative Hearing before the Subcommittee on Water and Power of the Committee on Natural Resources, U.S. House of Representatives, 110th Congress, 1st Session (Sept. 25, 2007), Serial No. 110-45, Testimony of Kenneth McDarment on behalf of the Tule River Tribe of California In Support of H.R. 4685, the Tule River Indian Reservation Land Trust, Health, and Economic Development Act; citing *Reports of Agents in California*, Tule River Agency, The Commissioner on Indian Affairs, United States Indian Agent C.G. Belknap (August 11, 1883) 18-20.

Our situation was so dire that, in response, President Grant, in October 1873 – just nine months after the initial Executive Order – signed another Executive Order almost doubling the Reservation’s size to 91,837 acres.¹⁰ In August 1878, President Hays issued yet another Executive Order unlawfully reducing the reservation back to the January 1873 size of 48,000 acres.

ENHANCED RESERVATION BOUNDARY

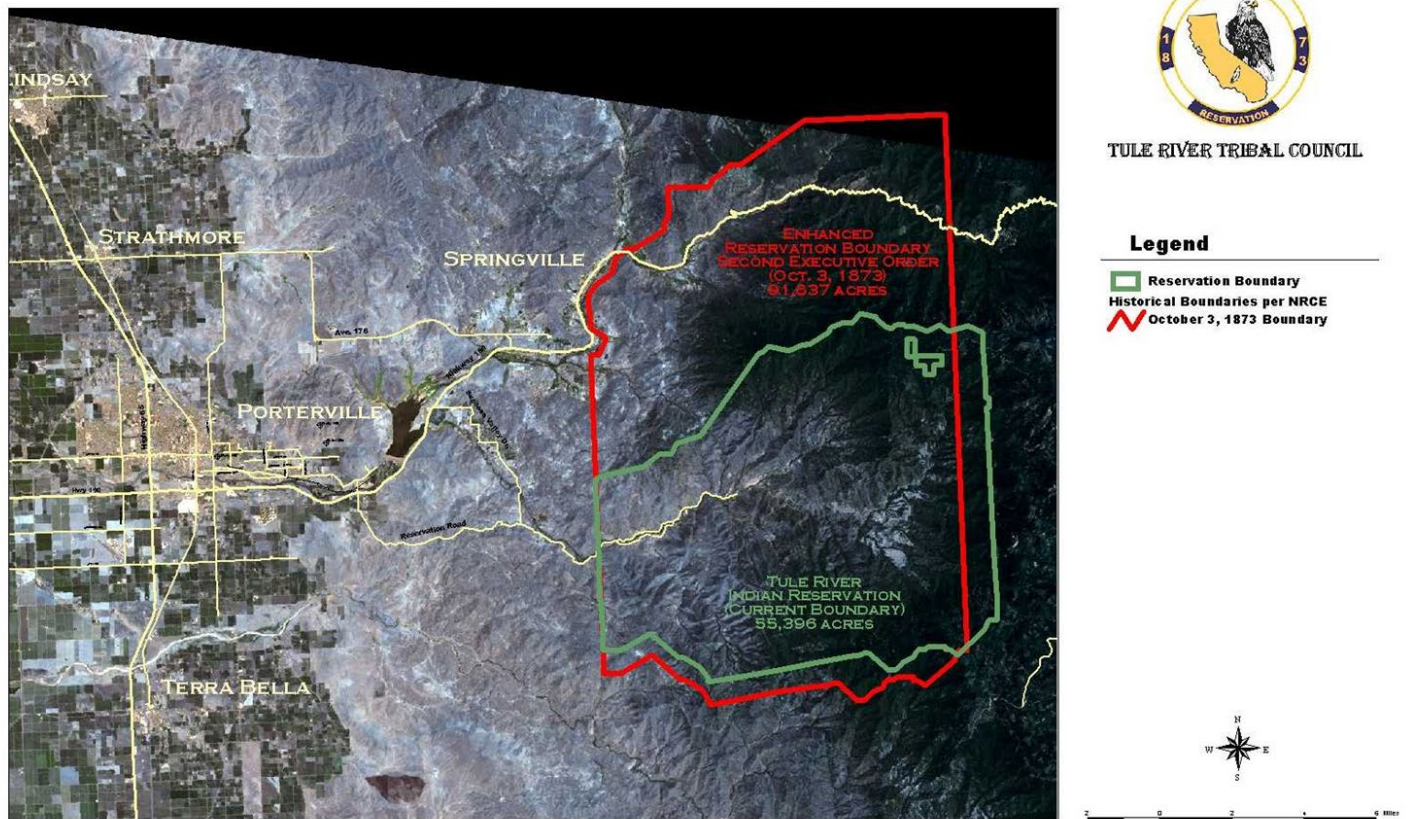


Figure 3: 1873 and 1878 Reservation Boundaries created by Executive Order.

C. The 1922 Agreement

The only known adjudication of water rights on the South Fork of the Tule River is *Poplar Irrigation Co. v. A.A. Howard*, No. 7004, Book 14, page 195, Superior Court of Tulare County, State of California, Dept. No. 2 (1916). In the proceedings, the U.S. created uncertainty when it failed to consider, evaluate, or defend any potential pre-1873 claims of the Tule River Tribe to the South Fork of the Tule River. Without involvement or consent from the Tule River Tribe, the court found that the South Tule Independent Ditch Company (STIDC) had the most senior rights, dating from 1854. The

¹⁰ *Id.*

Court never made the Tule River Tribe a party to the case despite their clear water right interests.

In 1922 the United States perpetuated this error and, in violation of their trust duties to the Tribe, the Secretary of the Interior, acting on behalf of the Tule River Tribe, entered an agreement with STIDC to ensure certain water deliveries reached STIDC's diversion without the Tribe's consent (Exhibit B). The Agreement apportioned the flow of the South Fork of the Tule River under low flow conditions that guaranteed water to STIDC, even when doing so would not benefit the Tribe.

Further, in the 1922 Agreement the United States promised to develop Tule River's reservation with the utilization of a permanent water right. The United States, however, has not fulfilled its obligation to fully develop the reservation or the water resources necessary to make the reservation a permanent homeland. We continue to live under the terms of the 1922 Agreement today. We have honored the obligations made by the United States while receiving little to none of the benefits promised.

For over a century, we have lived on the Reservation established in 1873, a mountainous land where, because of the failure of the United States to provide adequate water storage and irrigation facilities, we have been unable to fully achieve the agricultural homeland promised to us in the Paint Creek Treaty and partially performed in our original 1856 Reservation. The Tule River people are a proud people, and I tell this story not to complain or to blame anyone for these past injustices. They do, however, show that it is appropriate for the United States to now begin the reconciliation and healing process through enactment of S. 4870. This legislation will enable the Tule River Tribe to bring water to our lands in sufficient quantities to make our reservation a viable homeland now and forever.

III. Overview of Reservation and Need for Water

A. The Reservation and Water Resources

The current Tule River Indian Reservation is located along the border of the Central Valley of California just outside the town of Porterville in the rugged Sierra Nevada mountains. The Reservation's eastern boundary abuts the Forest Service's Giant Sequoia National Monument. Just downstream is the Army Corps of Engineer's Lake Success, a dammed water body used for flood control and downstream irrigation, which is fed by the Tule River.

The topography of the Reservation is generally steep, with elevations ranging from about 900 to 7500 feet above sea level. Most of the inhabited land is along the lower reach of the South Fork of the Tule River on the western side of the Reservation. The South Fork of the Tule River runs through the Reservation, which then flows into the

Tule River at Success Reservoir, about ten miles west of the Reservation. There are no significant uses of water upstream of the Reservation.

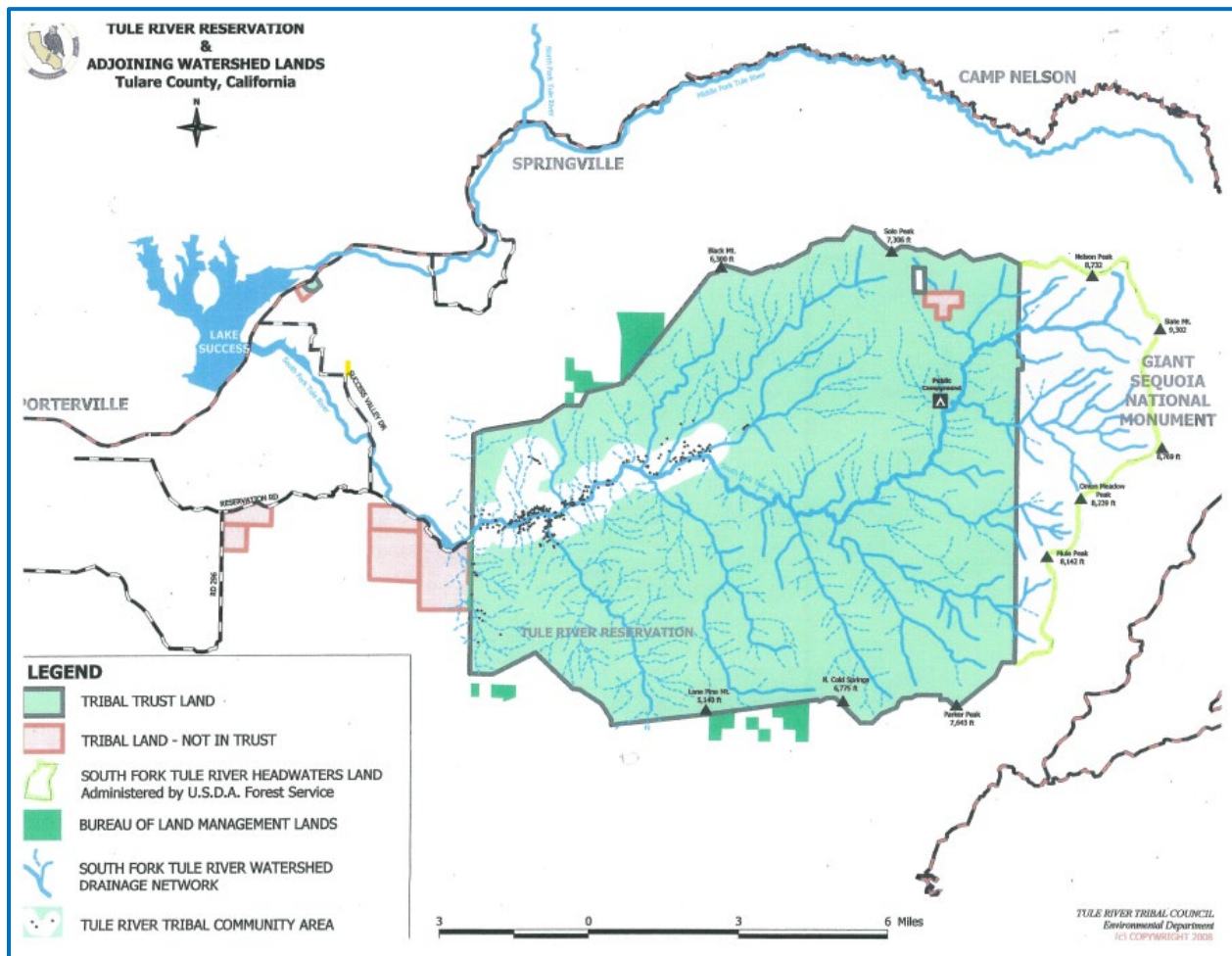


Figure 4: Map of Tule River Reservation and surrounding landmarks (See also Exhibit C).

The South Fork provides the Tribe with about 80% of its water. It flows through the Reservation and is subject to the Tule River Tribe's federal reserved Indian water rights. However, our Tribe is unable to use most of the river flow. To make use of the water in a meaningful way, it must be captured and stored, as the river runs low or even goes dry several months of the year. The hydrology of the South Fork is like most western rivers in that the flows are generally much higher in the spring months than the rest of the year. The hydrology of the South Fork is also marked by periods of drought during which the entire flow of the river is significantly reduced for long periods of time, sometimes spanning several years. These two general characteristics are depicted on the two graphs attached to this testimony. (Exhibit D).

The measured average annual flow of the South Fork Tule River at the western boundary of the Reservation is 25,080 acre-feet per year. However, its flow is dependent

on snowmelt and runoff. In 2014 there was zero flow in the South Fork for the first time in living memory, which lasted for 85 days. In 2015 the river was dry again for 97 days, and in 2021 it was dry for 93 days. The Tribe experiences water shortage even if the river has water running in it and every year the Reservation runs out of water for household use.

The water resources available to Tule River consist of the flow from the South Fork Tule River and its tributaries on the Reservation, as well as very limited groundwater resources. The existing supplies from the river and wells do not serve the current needs of the community on the Reservation. There are growing concerns about the long-term reliability of these sources, both in terms of quantity and quality.

B. The Impacts of the Lack of Water on Tule River

Tule River, like so many native nations, is plagued by unemployment and mortality. As recently as March of 2022, the estimated poverty rate on the Reservation was still 56% higher than Tulare County as a whole.¹¹ Our median household income is \$39,750, and we have a 16.1% unemployment rate.¹² That said, we are proud that 79.9% of our people graduate from high school, though very few, only 1.4%, go on to achieve their bachelor's degree or higher.¹³ To this day, Reservation residents generally continue to suffer from a relatively low standard of living due in large part to the absence of an adequate and reliable potable water supply and system.

Every year, our tribal members have gone without access to water for basic needs. When there are outages people cannot cook, or bathe, and Tribal Members must rely on bottled water for basic needs. They may miss work and/or school. Residents are asked to limit water use and not use water for landscaping. Nevertheless, we've adapted. We truck water in, drill deeper wells, and in the past members have been forced to use water tanks for basic needs such as bathing, and drinking donated bottled water for months at a time. In the hottest parts of the summer, we open government buildings to provide refuge for elders who rely on water for their swamp coolers. But we've survived.

¹¹ California Department of Social Services, Executive Summary, All County Letter No. 22-28 (April 8, 2022) (available at: [2021 50 Percent Unemployment Exemption ACL \(ca.gov\)](https://www.cdss.ca.gov/Programs/OPPS/Pages/2021-50-Percent-Unemployment-Exemption-ACL.aspx)); see also Bacon, David. "Tulare County During the Pandemic – The Hard Price of Poverty," Capital & Main (August 3, 2020) (available at: [Tulare County During the Pandemic – The Hard Price of Poverty \(capitalandmain.com\)](https://capitalandmain.com/tulare-county-during-the-pandemic-the-hard-price-of-poverty/)).

¹² United States Census Bureau, My Tribal Area, Tule River Reservation and Off-Reservation Trust Land, 2016-2020 American Community Survey 5-Year Estimates (available at: <https://www.census.gov/tribal/?aianihh=4300>).

¹³ *Id.*

To do so we experience interruptions in critical services like education programs, including the Towanits Elementary School, emergency services, elderly care, justice center and government functions, as well as the economy in general. Given the severe drought, we have had major fires in the last decade. (See Exhibit E). Last fall the Windy Fire of 2021, burned 97,528 acres of the neighboring Sequoia National Forest and 19,325 acres of our Reservation. When we utilize our water system to suppress fire, it completely depletes our supply of water, meaning we are back into the cycle described above.



Image 1: Tribal Members bathing from water tanks.



Image 2: Dry South Fork of the Tule River.



Images 3 & 4: Wildfire smoke and flames on Tule River Reservation.

Lack of access to water also means we cannot fully serve all our tribal membership that wish to reside on their homelands on the Reservation. We have a waiting list of over 500 candidates and land ready for development for their housing needs. All we lack is water.

We are extremely vulnerable to the ever-increasing water scarcity of the Central Valley. The Sierra Nevada snowpack is expected to decline by as much as 90 percent by the end of the century if heat trapping emissions continue to rise at today's levels.¹⁴ S. 4870 offers both a drought mitigation plan and a climate impact reality check. This settlement will allow us to create the much-needed storage to sustain our existence in our ancestral homelands.

IV. Overview of Legislation

We spent over twenty years studying how to best harness the water of the South Fork Tule River to meet our Tribe's needs. From a water needs assessment to a water allocation model, from a groundwater investigation to a water quality impact study for stored water, from creating a physical model of our Reservation to hydrologic studies and biological evaluations of a reservoir project, from dam cost comparisons to analysis of water supply alternatives, from an engineering geologic inspection of potential dam sites to a value planning study, and from an appraisal level dam project technical evaluation report to a hydrology and yield analysis, we have worked hard to objectively and thoroughly understand our water needs, potential solution options, and

¹⁴ National Oceanic and Atmospheric Administration (NOAA), National Environmental Satellite Data and Information Service, "Sierra Nevada Snowpack on the Decline" (March 2, 2020), [Sierra Nevada Snowpack on the Decline | NESDIS \(noaa.gov\)](https://www.noaa.gov/news/sierra-nevada-snowpack-on-the-decline).

the costs involved. (Exhibit F). With help from the Bureau of Reclamation, we concluded that a reservoir that can store up to 5,000 acre-feet is the most realistic and cost-effective option to us, which will net the greatest benefit through the least amount of harm.

A site just downstream of the confluence of the South Fork of the Tule River with one of its tributaries, Lower Bear Creek, was identified as the most likely and optimal location. This site is geologically robust, with granite rock, steep unvegetated slopes, and a narrow canyon cross-section. The site will also allow for access and construction staging areas.¹⁵ In addition to the reservoir and raw water transmission mainline, the project will also improve and update existing delivery and water treatment systems.¹⁶

Storing the water of the South Fork will also make it possible for us to consistently deliver water downstream to state-based water users. We spent fourteen years negotiating with the downstream water users, STIDC and the Tule River Association ("TRA"). As a result of our work together, in 2007 we came to a settlement agreement ("2007 Agreement") with STIDC and TRA, which is reflected in the terms of S. 4870. The 2007 Agreement offer flexible and realistic terms and provide built-in mechanisms to ensure fairness. The settlement reached with TRA and STIDC in 2007 was achieved without costly litigation that could otherwise lock up the invaluable water in the Tule River basin for decades.

The 2007 Agreement and accompanying S. 4870 legislation respects existing downstream water rights as agreed to by all the parties, and thus benefits everyone. The Tule River water storage project will capture early season runoff and make it available year-round, creating consistency for not only our Reservation water users, but also the state-based water users downstream. The operation rules for the future Tule River water storage project will mandate minimum releases for the benefit of downstream users. In addition, the Tribe will limit our use of river flow during what is typically the drier portion of the year to account for downstream uses. The Tribe will rely primarily on reservoir storage, which is filled during the high-flow season. In addition, storing water in the future reservoir can also allow it to be used to enhance downstream flows during dry periods. The Tribe will also share water shortages with the downstream users during dry years. Finally, the settlement includes provisions for record keeping, inspections, and cooperative technical decision making, which will be to everyone's benefit by increasing accuracy and thereby the wise use of water.

Based on a Bureau of Reclamation technical evaluation report, the Tribe has estimated the reservoir would likely cost \$568 million for a roller-compacted concrete dam, road

¹⁵ *Id.* at 6.

¹⁶ *Id.* at 7.

improvements, raw water transmission line, water treatment plant expansion, expanded distribution system, and operation, maintenance, and replacement costs.¹⁷ As this is a fund-based settlement, with a one-time payment, the Tribe is taking on considerable risk due to the rapidly increasing material and construction costs we have recently witnessed. Improvements to the downstream Schaffer Dam at Lake Success Reservoir, which entail widening the dam's spillway and improving flow control, are expected to total \$135.5 million alone.¹⁸

Given the risk, the Tribe seeks the funding on a mandatory basis, with part of the funding (\$20 million) available immediately to allow technical studies and investigations still needed to determine exactly where to build the reservoir. While Indian water right settlements have sometimes been subject to discretionary spending, according to the Congressional Research Service, "Congress also has authorized mandatory funding for Indian water rights settlements."¹⁹ Seeking a mandatory amount now will proactively prevent a backlog of U.S. moneys owed later. And it will reduce the cost, expense, and time for all involved in repeatedly seeking an appropriation from Congress in the future. What's more it will allow the Tule River to begin the long-overdue work of securing a water source for its people immediately. With the passage of S. 4870 our water crisis will end in 2022.

Our bill also includes a transfer of land into trust of ~ 825 acres from the Bureau of Land Management, ~1,837 acres of tribally owned fee land, and ~9,000 acres from the Giant Sequoia National Monument for Tule River. The Giant Sequoia lands are at the headwaters of the South Fork of the Tule River and their management is critical to the success of the proposed reservoir. Just last fall the Windy Fire burned 34% of our 55,356-acre Reservation. Runoff from the burn area could create a siltation overload in the reservoir and highlights the need for reforestation efforts and ongoing management, which the Tribe is poised to provide with over a thousand years of experience in observing and understanding the ecosystem and developing sustainable management techniques. We are currently engaged in negotiations with the USDA and Sequoia National Forest to establish better and more formal co-stewardship provisions that will complement the land transfer. (Include MOU as an Exhibit?). What's more, the reservoir

¹⁷ Bureau of Reclamation, "Tule River Indian Water Rights Settlement – Technical Evaluation Report" 53-61 (September 2016).

¹⁸ Gutierrez, Danielle, "Second Phase of Schafer Dam has Begun" The Sun Gazette (August 22, 2022) (<https://thesungazette.com/article/news/2022/08/27/second-phase-of-schafer-dam-project-has-begun/>).

¹⁹ Congressional Research Service, "Indian Water Rights Settlements" (Updated January 18, 2022) (<https://crsreports.congress.gov/product/pdf/R/R44148>). The report discusses each type of source of mandatory funding in greater detail.

will provide more immediate access to an emergency water supply in the face of wildfire to the benefit of all landowners and managers in the area.

The land transfer will redress the failure of the United States to honor promises of a forever homeland for the Tule River Tribe. It will more accurately account for the land lost to the Tribe because of the past fraudulent land warrants and because of the U.S. decision to relocate the Tribe to our current location. And it will reunite us to an area sacred to our people. With the transfer of the land back to the Tule River's direct use and management, the Tribe will also be able to protect its main source of water more fully – the South Fork of the Tule River.

V. Conclusion

The Tule River Tribe is in a water crisis. The crisis was, in part, created by broken promises and previous failures of the United States to act. Had action been taken even as far back in the 1870s to address this situation, we would not be here today. Let us delay no longer. The time is as ripe as it will ever be for our federal partners to join us in providing the resources necessary to ensure a sustainable future for the Tule River Tribe by supporting S. 4870.

We respectfully request that the Senate Committee on Indian Affairs swiftly mark up and pass S. 4870 for consideration by the House. I thank the Committee for the opportunity to fully express Tule River's support of this bill.



EXHIBIT A: TULE RIVER WATER RIGHTS TIMELINE

**TULE RIVER TRIBE WRITTEN TESTIMONY
RESERVED WATER RIGHTS SETTLEMENT ACT OF 2022
SENATE COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE**

TULE RIVER WATER RIGHTS TIMELINE

- 1848 Treaty of Guadalupe Hidalgo - Mexico cedes California Territory to the United States.
- 1850 California becomes a state.
- 1851 Treaty of Paint Creek, June 3, 1851 designates a reservation for the Koyeti and Yowlumne Tribes extending from the Tule River south to Paint Creek.
- 1852 Tulare County, California, is established.
- 1852 The United States Senate votes to reject all 18 treaties negotiated with the California Tribes.
- 1853 Act of March 3, 1853. Congress establishes the Superintendency of Indian Affairs in California and authorizes five military reservations in the state. The Tejon Reservation, the first, is established at the southern end of the San Joaquin Valley.
- 1856 Tule River Reservation (Tule River Farm) established as part of the Tejon Reservation.
- 1857 Tejon Reservation employees Thomas Madden and John Benson file applications with the State of California for over 2,440 acres of public land fraudulently using state school warrants.
- 1858 Investigation of Madden's fraudulent land patent claim, conducted by U.S. Treasury Department Inspector J. Ross Brown, is ignored.
- 1860 Thomas P. Madden receives patent to 1,280 acres located on the Tule River Farm and begins renting it to the government.
- 1863 The Tejon Agency and Kings River Farms are terminated, and the Indians removed to Tule River farm, the only reservation remaining in the Central and Southern San Joaquin Valley.
- 1864 Congress passes the Act of April 8, 1864, "An Act to Provide the Better Organization of Indian Affairs in California," also known as the "Four Reservations Act." It provides for the President to set aside up to four tracts of land to establish Indian reservations in California. The four Executive Order reservations established were the Hoopa, Tule River, Round Valley and Mission
- 1868 Measles epidemic reduces population of Owens Valley Indians at Tule River Reservation and most of the survivors leave, leaving predominantly

Southern Valley and Foothill Yokuts tribes at Tule River.

- 1873 Executive Order of January 9, 1873 establishes the 48,000 acre Tule River Indian Reservation in a new remote location in the foothills west of the Madden Farm lands, and significantly less suited to farming than the Madden Farm lands.
- 1873 Second Executive Order issued on October 3, 1873 adds land that increases the size of the reservation to 91,837 acres to better support the Indians agriculturally.
- 1878 A third Executive Order, issued August 2, 1878, reduces the size of the Tule River Indian Reservation, by reestablishing its original boundaries of about 48,000 acres.
- 1922 Secretary of the Interior, acting on behalf of the Tule River Tribe, entered into an agreement with the South Tule Independent Ditch Company (STIDC) - an aggregation of water rights holders below the Reservation - apportioning the flow of the South Fork Tule River between the Tribal and STIDC interests based on available flow in the river
- 1935 Indians on the Tule River Indian Reservation adopt the Indian Reorganization Act, incorporating themselves as the Tule River Indian Tribe.
- 1971 Tule River Tribe first commences efforts to secure a water storage project on its Reservation and thus secure its federal reserved water rights under the Winters doctrine.
- 1998 Active negotiations commence between the Tribe, STIDC and the Tule River Association on the subject of the Tribe's water needs and interests.
- 2007 Settlement Agreement reached with STIDC and the Tule River Association concerning the Tribe's storage project and water rights.
- 2007-2021 23 separate technical studies completed to evaluate the terms of the 2007 Agreement. (See Exhibit D for a breakdown of the studies).
- 2021 Legislation drafted for federal ratification of the 2007 Agreement.
- 2022 Legislation introduced by Sen. Padilla and Sen. Feinstein in the 117th Congress as S. 4870.



**EXHIBIT B: 1922 AGREEMENT BETWEEN THE UNITED STATES AND
THE SOUTH TULE INDEPENDENT DITCH COMPANY**

**TULE RIVER TRIBE WRITTEN TESTIMONY
RESERVED WATER RIGHTS SETTLEMENT ACT OF 2022
SENATE COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE**

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ENGINEERS

AGREEMENT OF 1922 BETWEEN THE UNITED STATES OF AMERICA
ACTING THROUGH THE SECRETARY OF INTERIOR AND THE SOUTH TULE
DITCH COMPANY

This AGREEMENT, made and entered into the 3rd day of May, 1922, by the Secretary of the Interior of the United States, acting for and in behalf of the Indians of the Tule River Indian Reservation, party of the first part, and the South Tule Independent Ditch Company, a corporation organized and existing under and by virtue of the laws of the State of California, party of the second part;
WITNESSETH:

THAT WHEREAS, the party of the second part is the owner of certain water rights in the South Fork of Tule River in Tulare County, California, said rights having been initiated at various times between the years 1854 and 1872, and said rights having been adjudicated and fixed by a judgment of the Superior Court of Tulare County in the case of the Poplar Irrigation Company vs. A. A. Howard et. al., in which said case said South Tule Independent Ditch Company was one of the defendants, dated September 11, 1916, and being No. 7004 on the docket of said Court.

AND WHEREAS, the Indians of said Tule River Indian Reservation, which is situated upon said South Fork of Tule River above the lands and points of diversion of the party of the second part, have diverted and made beneficial and continuous use of certain portions of the water of said River since the establishment of said reservation by Executive Order dated January 9, 1873, and continuously used same without protest for about 46 years.

AND WHEREAS, the Indians of said reservation were not included as defendants in said adjudication nor were their water rights nor the water rights appertaining to said reservation considered or passed on therein, and said Indians have received no formal allocation of water rights from this stream by decree or otherwise, and while continuing to use water have at times done so in a wasteful manner to the detriment and under the protest, during recent years, of the party of the second part, thereby, as is alleged, causing much annoyance and uncertainty and alleged loss of water at critical periods to the party of the second part;

AND WHEREAS, the party of the second part is desirous of initiating, financing and making certain improvements to its irrigation system, by the construction of a storage dam and lined canals, on account of which it becomes desirable to determine and fix the rights of said Indians in the waters of the South Fork of Tule River as between the parties hereto;

AND WHEREAS, the party of the first part, in order that he may adopt suitable plans for the development of the Indian lands and that the Indians may avoid future controversy and enjoy the advantages of a permanent water right, is desirous of having the amount of water which may legally be diverted by said party of the second part definitely fixed for all time as between the parties hereto;

NOW THEREFORE, in consideration of the waiver by the party of the second part of any and all claim or claims to any right, title or interest whatsoever in those certain quantities hereinafter described of the waters naturally flowing in the South Fork of Tule River, and in further consideration of the waiver by said first party during the life of this contract of any claim or claims against said second party to the water described herein, or any part thereof, other or further than to those quantities hereinafter set forth, and in further consideration of the material advantages to be derived from having the rights of the respective parties definitely determined, and in further consideration of the mutual promises and forbearances of the respective parties hereto.

IT IS HEREBY CONTRACTED AND AGREED, that the said first party will permit the remainder of the natural flow of said river, over and above the quantities hereinafter set forth, to flow down the natural channel thereof, for the use and benefit of said party of the second part;

IT IS FURTHER AGREED, that the Indians of the Tule River Indian Reservation are and shall hereafter be entitled and permitted to divert for their unrestricted use from the waters naturally flowing in the South Fork of Tule River on the Tule River Indian Reservation, the following described quantities or amounts:

FIRST, when the total amount of water flowing in said stream immediately above the present intake of the South Tule Independent Ditch Company's canal near the Section line between Sections 10 and 15 of Township 22 South, Range 29 East, Mount Diablo Base and Meridian, is 10 second feet or more (500 inches), the Indians are entitled to and may take any amount desired;

SECOND, when the total flow at said point is 5 second feet (250 inches) or more, but less than 10 second feet, (500 inches), the Indians are entitled to and may take 2 second feet; (100 inches)

THIRD, when the total flow at said point is 3 second feet (150 inches) or more, but less than 5 second feet, (250 inches), the Indians are entitled to and may take 1-1/2 second feet, (75 inches)

FOURTH, when the total flow at said point is less than 3 second feet (150 inches) the Indians are entitled to and may take 1 second foot (50 inches)

IT IS FURTHER AGREED, that in determining the above described amounts which the Indians are entitled to divert at any time, the total flow at said point shall be the mean flow for the preceding 24 hours instead of the flow as determined by a single measurement, also that by total flow is meant the total amount of water flowing at said point including any water to which prior or superior existing rights have been established in favor of any persons or parties other than the parties to this agreements:

IT IS FURTHER AGREED, that in order that the total amount of water naturally flowing in the river at said point may be accurately determined, the measuring weir already constructed in the South Tule Independent Ditch Company's canal, immediately below said point, shall be maintained at all times in good condition by the party of the second part and to the amount of water diverted into said canal and measured at said weir shall be added the amount of water escaping diversion and measured opposite to said weir, provided, that, if a storage dam shall at any time be constructed by the party of the second part at this point or above, said party of the second part shall thereupon, install and maintain an accurate measuring device at a new point immediately above the flow line of the reservoir and that thereafter, the amount of water flowing in the stream shall be measured at the new point instead of at the line between Sections 10 and 15 above-described. The party of the first part and his agents and representatives shall be permitted free access at all times to said measuring devices for the purpose of determining the amount of water flowing;

IT IS FURTHER AGREED, that the party of the first part will limit and restrict the diversion and use of water upon the reservation to the above amounts and in the above manner and that suitable and accurate measuring and regulating devices will be installed and maintained by the party of the first part upon all ditches through which

water may be diverted from the river, and that the party of the second part and its agents and representatives will be permitted free access thereto at all times for the purpose of determining the amount of water being diverted and used. Nothing herein shall be construed to restrict the reasonable and economical use of water for domestic and stock purposes upon the reservation.

IT IS FURTHER AGREED, that this instrument shall be and become of full force and effect immediately upon its execution by both parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be duly executed the day and year first herein-above written.

THE UNITED STATES OF AMERICA

WITNESSES:

Name, Guy Knupp
Address, Porterville, Calif.
Name, Mami Eastwood
Address, Porterville, Calif.

By _____
Secretary of the Interior
SOUTH TULE INDEPENDENT DITCH
COMPANY
By Edwin A. Fisher
President
and Mrs. John Hickle, Secretary

State of California) ss
County of Tulare)

(SEAL)

On this 3rd day of May in the year nineteen hundred and twenty-two, A. D., before me Guy Knupp, a Notary Public in and for the County of Tulare, State of California, residing therein, duly commissioned and sworn, personally appeared Edwin A. Fisher, known to me to be the President and Mrs. John Hickle, known to me to be the Secretary of THE SOUTH TULE INDEPENDENT DITCH COMPANY, the corporation which executed the above instrument, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in said County the day and year in this certificate first above written.

(SEAL)

GUY KNUPP
Notary Public in and for the
County of Tulare, State of
California.

My commission expires April 3, 1923.

SECRETARY'S CERTIFICATE

Mrs. John Hickle, hereby certifies and declares: That she is the Secretary of the SOUTH TULE INDEPENDENT DITCH COMPANY, a corporation, and was secretary of the corporation on the 28th day of April, 1922; that a meeting of the Board of Directors of said corporation was held on said date at which a quorum of said Board was present; that said meeting was duly and regularly called in the manner prescribed by the By-Laws of said corporation and was legally held; that at said meeting the following resolution was passed and adopted by the affirmative vote of all the directors present:

BE IT RESOLVED: that this corporation will and does hereby give and grant unto the Secretary of the Interior of the United States of America, for and in behalf of the Indians of the Tule River Indian Reservation, the right to divert from the South Fork of Tule River the amounts of water and in the manner set forth in the proposed agreement to be executed between this corporation and the Secretary of the Interior as presented and read to the Board at this meeting, a copy of which is hereby directed to be set out in full in the minutes of this meeting; and the President and Secretary of this corporation are hereby authorized and directed to execute and deliver said agreement to the Secretary of the Interior of the United States of America as the act and deed of this corporation.

The undersigned further certifies that the foregoing resolution has not been revoked and is in full force and effect on this 3rd day of May, 1922.

Dated the 3rd day of May, 1922

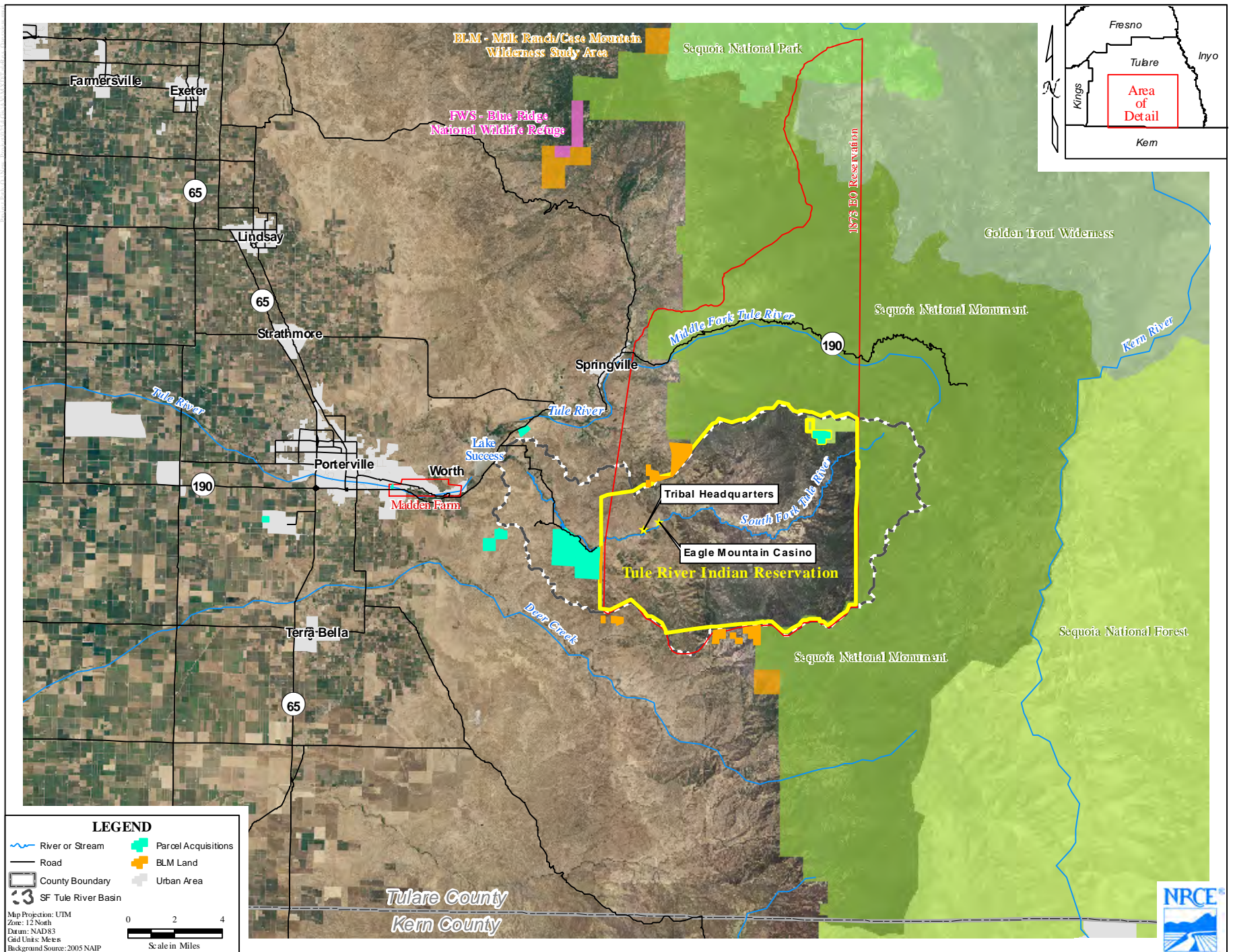
Mrs. John Hickle
Secretary

(SEAL)



EXHIBIT C: DETAIL MAP OF CURRENT TULE RIVER RESERVATION

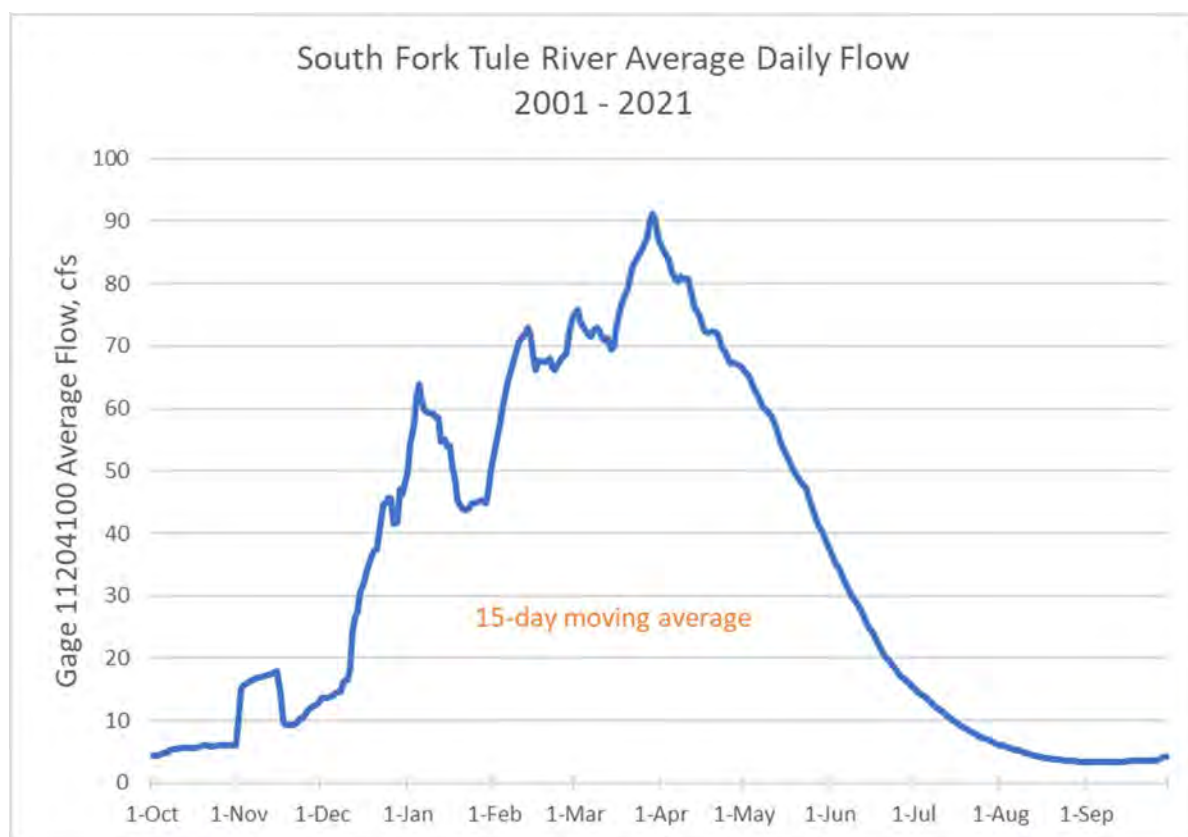
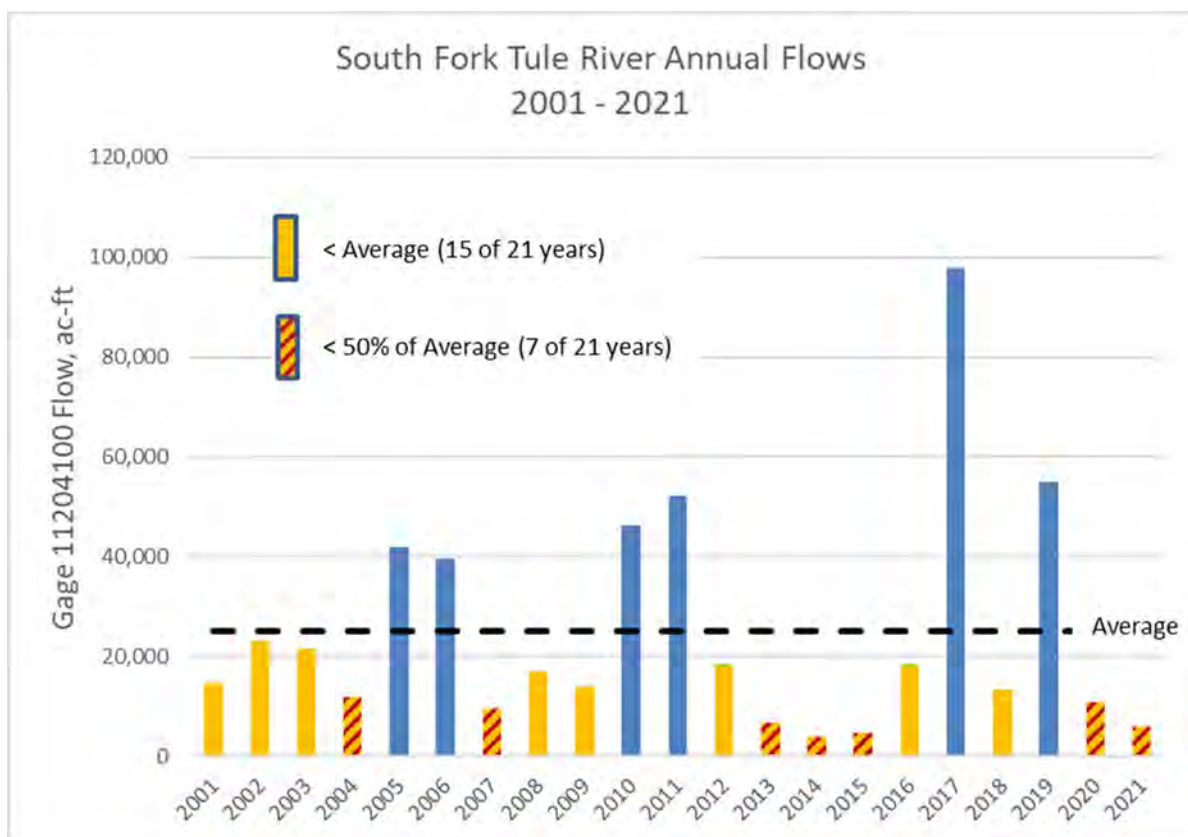
**TULE RIVER TRIBE WRITTEN TESTIMONY
RESERVED WATER RIGHTS SETTLEMENT ACT OF 2022
SENATE COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE**





**EXHIBIT D: GRAPHS SHOWING FLOW CONDITIONS ON THE
SOUTH FORK OF THE TULE RIVER
2001-2021**

**TULE RIVER TRIBE WRITTEN TESTIMONY
RESERVED WATER RIGHTS SETTLEMENT ACT OF 2022
SENATE COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE**





**EXHIBIT E: NEWS ARTICLES HIGHLIGHTING DROUGHT, WILDFIRE, AND WATER NEEDS ON
THE TULE RIVER RESERVATION**

**TULE RIVER TRIBE WRITTEN TESTIMONY
RESERVED WATER RIGHTS SETTLEMENT ACT OF 2022
SENATE COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE**



TULE RIVER INDIAN TRIBE OF CALIFORNIA

IN THE MATTER OF:

Reaffirm the Declaration of Emergency Drought)
Conditions and high levels of water deficiencies)
due to low water production and storage capacity)
on the Tule River Indian Reservation, California)

**Amendment No. 01 to
RESOLUTION NO. FY2018-173**

BE IT RESOLVED BY THE COUNCIL OF THE TULE RIVER INDIAN TRIBE:

WHEREAS, The Tule River Tribe of California is governed under a Constitution and Bylaws duly adopted and approved by the Secretary of the Interior on January 15, 1936; and

WHEREAS, Article VI, Section 1 (a) of the Tribal Constitution authorizes the governing body to enter into negotiations with Federal, State or local agencies on behalf of the Tribe; and

WHEREAS, the central part of the State of California still remains in moderate to extreme drought related conditions. In the past Governor Brown has issued a Statewide Drought Declaration. This has allowed the tribe to navigate through some available water resources to help alleviate the drought but there still has been no permanent solution to the Tule River Indian Reservation drought conditions. The Tule River Indian Reservation still remains in a state of emergency drought conditions; and

WHEREAS, as a result over the course of six years of drought the Tribe continues to promote water conservation. The Tribe uses its Public Works Department, First Responders, Office of Emergency Management to help provide support to domestic water distribution operations in these times where it is critical for water management related activities throughout the summer on the reservation, the Tribe has been proactive as it continues to seek water donations to help protect life and property as water is a common and natural resource that is needed to survive and community safety. Other options of water storage and methods have tried to have been employed and implemented, and still the Tribe continues to experience water outages every year especially during the summer; and

WHEREAS, as a result of the drought, the Tribe continues to truck water to residents as well as provides residents with emergency bottled water when there are problems with distribution of domestic water from the main water treatment plant on the reservation. Typically, every summer water outages we have and are experienced causing our Tribal Members including Elders and Infants to run out of water during the day. This has an impact to life which ultimately limits bathing, washing, cooking, etc. within our tribal member's dwellings. During the hottest parts of the summer the Tribe has brought Elders to the Community Center to prevent them from heat exhaustion because of the lack of water to cool their dwellings. Further water levels have been so low that if there were to be a fire on the reservation, the fire sprinkler systems in government buildings and fire hydrants will only have enough water to run them for minutes before depleting the water supply and losing pressure to save all of what the Tribe has invested in for its community. Those are programs which provide vital services to its tribal community members. This crisis continues to force Tribal Members to often forgo the most basic element and natural common resource that is a necessity for life; and

WHEREAS, just like the rest of central California the Tule River tribe is not immune to the drought. In the past years the drought has existed, the Tribe, its government facilities, and enterprises, have been affected by the limited resources available to maintain the domestic water system to manage their own water shortage problems; and

WHEREAS, the Tule River Indian Reservation is not located by or in an area with a large water supply or a reservoir that contributes to the community. Roughly estimated, the Tribe consists of a population of 997 members residing on the reservation. To include a casino and 15 plus fully staffed government departments. Not having water is a major issue and has been a problem in the continuity of government functions in day-to-day operations. The Tribe is geographically in the foothills, far inland, located east of Porterville California; and

WHEREAS, the water issue continues to affect most of the entire reservation. Domestic water is distributed through a water treatment plant to most of the homes on the reservation. The drought has reduced water pressure in government facilities and residential housing. The domestic water system has experienced severe reductions in producing and storing water; to include, water pressure and distribution throughout the reservation for the past seven years as direct result of the drought; and

WHEREAS, these drought conditions have already reached historic levels and we are now pose to imminent threat to public health, and life and property, and can lead to substantial economic hardship of the Tule River Indian Reservation; and

Page 3
Amendment No. 01 to .
Resolution No. FY2018-173

WHEREAS, the dry conditions especially when humidity is low will dramatically increase the threat to wild fires on the Tule River Indian Reservation; and

THEREFORE BE IT RESOLVED the Tule River Tribal Council, by authority vest in it pursuant to the Constitution, Bylaws, Ordinances, and laws of the Tribe, hereby declares that a State of Emergency exists as it is also identified in the Tribes' Hazard Mitigation Plan, and until further notice the Tribe and all lands and natural resources within the Tribe's Reservation boundaries are in a state of Extreme Drought Conditions. The Council here by directs the Tribal Departments and staff to take all necessary actions to protect all life and property given these conditions; and

NOW THEREFORE BE IT RESOLVED that the Tule River Tribal Council has been attempting to devise strategies for dealing with the drought since 2013. This has been a challenge for long-term solution given the limitations of development of newer technologies. The Tribe requires the assistance of its Federal and State partners, and Congressional delegation, to continue to develop short and long-term plans of action to address this crisis that the tribe is seriously impacted by; and

NOW BE IT FURTHER RESOLVED, which the Tule River Indian Tribe calls upon its Congressional delegation members, and the Biden Administration, to uphold the government's longstanding trust obligation to the Tribe, to put aside partisan politics, and to work effectively with the Tribe to help find long-term solutions to its water storage and domestic distribution system during ongoing extreme drought conditions. Tule River Tribal people should not be forced to not have adequate water for basic household needs such as; bathing, washing, or cooking nor put the stress on its Departments to have water trucked throughout its community. By the Tribal Council of the Tule River Indian Tribe of California that the Tribal Council hereby approves a Declaration of Emergency Drought Conditions and hereby authorized by this resolution passed by the Tule River Indian Tribe of California; and

BE IT FURTHER RESOLVED that this resolution has not been amended or rescinded in any way.

Page 4.
Amendment No. 01 to
Resolution No. FY2018-173

CERTIFICATION


UPON MOTION OF COUNCIL MEMBER **Zachary Janoko**, SECONDED BY
COUNCIL MEMBER, **Joyce Carothers**, THE FOREGOING WAS ADOPTED BY
THE TULE RIVER TRIBAL COUNCIL AT A DULY CALLED MEETING HELD ON
Tuesday, May 25, 2021, AT WHICH A QUORUM WAS PRESENT BY THE
FOLLOWING VOTES:

AYES: 8

NOES: 0

ABSTAIN: 0


WILLIAM J. GARFIELD, CHAIRMAN
TULE RIVER TRIBAL COUNCIL


CARLY GOMEZ, SECRETARY
TULE RIVER TRIBAL COUNCIL

ATTEST TO:


RECORDING SECRETARY



California wildfires threaten sequoia trees, tribal lands

A fire on the Tule River Indian Reservation and in Giant Sequoia National Monument grew significantly overnight to more than 6 square miles

THE ASSOCIATED PRESS • SEP 17, 2021

A firefighter lays hose around the Foothills Visitor Center while battling the KNP Complex Fire in Sequoia National Park, Calif., on Tuesday, Sept. 14, 2021. The blaze is burning near the Giant Forest, home to more than 2,000 giant sequoias. (AP Photo/Noah Berger)

Noah Berger and John Antczak
Associated Press

THREE RIVERS, Calif. — Firefighters wrapped the base of the world's largest tree in a fire-resistant blanket as they tried to save a famous grove of gigantic old-growth sequoias from wildfires burning Thursday in California's rugged Sierra Nevada.

The colossal General Sherman Tree in Sequoia National Park's Giant Forest, some other sequoias, the Giant Forest Museum and other buildings were wrapped as protection against the possibility of intense flames, fire spokeswoman Rebecca Paterson said.

The aluminum wrapping can withstand intensive heat for short periods. Federal officials say they have been using the material for several years throughout the U.S. West to protect sensitive structures from flames. Near Lake Tahoe, some homes that were wrapped in protective material survived a recent wildfire while others nearby were destroyed.

The Colony Fire, one of two burning in Sequoia National Park, was expected to reach the Giant Forest, a grove of 2,000 sequoias, at some point within days. It was unclear Thursday night whether that had happened. The fire didn't grow significantly as a layer of smoke reduced its spread, fire spokeswoman Katy Hooper said.

It comes after a wildfire killed thousands of sequoias, some as tall as high-rises and thousands of years old, in the region last year.

The General Sherman Tree is the largest in the world by volume, at 52,508 cubic feet, according to the National Park Service. It towers 275 feet high and has a circumference of 103 feet at ground level.

Sequoia and Kings Canyon national parks Superintendent Clay Jordan stressed the importance of protecting the massive trees from high-intensity fire during a briefing for firefighters.

A 50-year history of using prescribed burns — fires set on purpose to remove other types of trees and vegetation that would otherwise feed wildfires — in the parks' sequoia groves was expected to help the giant trees survive by lessening the impact if flames reach them.

A "robust fire history of prescribed fire in that area is reason for optimism," Paterson said. "Hopefully, the Giant Forest will emerge from this unscathed."

Giant sequoias are adapted to fire, which can help them thrive by releasing seeds from their cones and creating clearings that allow young sequoias to grow. But the extraordinary intensity of fires — fueled by climate change — can overwhelm the trees.

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10 Fashion Faux Pas to Avoid at a Pow Wow



Actor, 'Medicine Man' Chasing Horse Banished From Fort Peck



Two Spirits, One Heart, Five Genders

That happened last year when the Castle Fire killed what studies estimate were 7,500 to 10,600 large sequoias, according to the National Park Service.

A historic drought and heat waves tied to climate change have made wildfires harder to fight in the American West. Scientists say climate change has made the region much warmer and drier in the

past 30 years and will continue to make weather more extreme and wildfires more frequent and destructive.

A national interagency fire management team took command of efforts to fight the 11.5-square-mile Paradise Fire and the 3-square-mile Colony Fire, which was closest to the grove. Operations to burn away vegetation and other fuel that could feed the flames were done in that area.

The fires forced the evacuation of the park this week, and parts of the town of Three Rivers outside the main entrance remained evacuated Thursday. A bulldozer was cutting a line between the fire and the community.

Tule River Indian Reservation

To the south, a fire on the Tule River Indian Reservation and in Giant Sequoia National Monument grew significantly overnight to more than 6 square miles, and crews had no containment of it, a Sequoia National Forest statement said.

The Windy Fire, also started by lightning, has burned into part of the Peyrone Sequoia Grove in the national monument, and other groves were threatened.

"Due to inaccessible terrain, a preliminary assessment of the fire's effects on giant sequoia trees within the grove will be difficult and may take days to complete," the statement said.

The fire led the Tulare County Sheriff's Office to warn the community of Johnsondale and Camp Whitsett, a Boy Scouts camp, to be ready to evacuate if necessary.

The wildfires are among the latest in a long summer of blazes that have scorched nearly 3,550 square miles in California, destroying hundreds of homes.

Crews had limited ground access to the Colony Fire and the extreme steepness of the terrain around the Paradise Fire prevented it completely, requiring extensive aerial water and flame-retardant drops on both fires. The two fires were being managed collectively as the KNP Complex.



Tule River Reservation reaches for state's help amid water crisis



By **Lacey Patrick**

11:05 am, August 30, 2022

The Tule Tribe continues its battle with extreme drought conditions that have left residents without bathing or drinking water

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TULARE COUNTY – The Tule River council hopes that asking the state for less might lead to more money as they drop their request from \$30 million to \$6.6 million to help mitigate their water crisis.

Wells are running dry in the rolling foothills of the Tule River Reservation, which has occurred every summer since 2013. The Tule River Reservation recently appealed to the California legislature requesting \$6.6 million to fix the water reservoir and water treatment center, as many in the community have little to no access to water for drinking, hygiene and sanitation. Measures to remedy the lack of water access have even gone as far as moving the *Eagle Mountain Casino* (EMC) in fall 2022.



“The Tule River Indian Tribe calls upon its congressional delegation members, and the Biden administration,” the council stated in a *state of emergency letter*. “To put aside partisan politics, and to work effectively with the tribe to help find long-term solutions to its water storage and domestic distribution system during ongoing extreme drought conditions.”



This request to the state is only a fraction of the roughly \$30 million previously requested for water infrastructure improvements. These funds have yet to be put aside for the tribe and the process is lengthy, however the tribe has received some help from grants, such as the California Department of Water Resources' *\$2.1 million towards the Tribes water infrastructure*.

"DWR, State Water Resources Control Board, Indian Health Service, and Self Help Enterprises have been actively coordinating outreach to Tule River Tribe," the California Department of Water Resources stated. "Advising the tribe of various programs available through DWR's Integrated Regional Water Management (IRWM) Implementation Grant Program, and the Urban Streams Restoration Program."

Though grants have helped alleviate some needs in the past, there has been no permanent solution to the tribe's water crisis granted by the state. As a result, they have had to truck in water and donate bottled water to residents. During the summer, when water supply is the lowest, government buildings and residential houses run dry, and residents are unable to bathe, cook nor have access to clean drinking water.

Gov. Gavin Newsom stated in a letter to Assistant Secretary of Indian Affairs Tara Sweeney that the lack of water access has resulted in a housing shortage. There is a 200-member waitlist in the Tule River Indian tribe for those wanting to move onto the reservation. They are also unable to renovate 58% of the current on-site homes, but without water, this is not tangible, according to Sweeney. A large remedy for this has been relocating the Eagle Mountain Casino.



"While the casino is the tribe's main source of government revenue, it is also the largest user of water in the community, contributing further to the local water shortage," Newsom wrote.

EMC was previously located on the tribe's reservation bounds, but because of the water crisis, the tribe council requested to move EMC to a 40-acre lot within the city of Porterville. Since the new location will be in the borders of Porterville, the EMC will be connected to the city's water supply. Moving the EMC will not only alleviate the strain on the tribe's water sources, but also allow the casino to be more accessible to those outside of the reservation.



“The Tribe has partnered with the city of Porterville on plans to develop a water reclamation facility that will further increase the availability of potable water for the city,” Newsom wrote.

In a letter to Gov. Gavin Newsom, Sweeney stated that the reservation relies on three wells, springs and water from the South Fork of the Tule River. The wells frequently become dry and their springs are used for agriculture since they contain high levels of carbon dioxide, which is harmful for humans to consume.

Additionally, the tribe fears that if a fire were to occur on the reservation, the fire hydrants and fire sprinklers would only have enough resources to run for a few minutes.

“These drought conditions have already reached historic levels and now pose an imminent threat to public health, to life and property, and can lead to substantial economic hardship,” the council stated.

BREAKING NEWS Three vehicle traffic collision leaves one dead, CHP says

DROUGHT

Tule River Tribe faces constant water woes

'This is home. This is all we have left of all that land we once roamed.. we don't want our children's children to deal with this'



By [Elisa Navarro](#) via
 Friday, August 26, 2022


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[MORE VIDEOS ▶](#)

The Tule River Indian Tribe has been battling a shortage of water for decades. Now, tribal leaders are speaking up and hope for relief from the state.

PORTERVILLE, calif. (KFSN) -- Members of the Tule River Indian Tribe say they're coping with a lack of water on their land... and the problem is

Drought



Drought conditions bring financial hit to...



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Neil Peyron, chairman of the tribe, took Action News around, showing us their reality when it comes to water... like dry wells.



admits second killing, claims se...

"This reservation will be 150 years old, Jan 9th of 2023, and it's been a problem since then. And we don't want our children or children's children to deal with this. We want to fix this now," Peyron says.

He says the last thing they want is to move away.

"This is home. This is all we have left of all that land we once roamed. Our community, they want to be here, they want to come home."

Their home is in the South Valley - about 90 square miles of land starting from 900 feet of elevation and capping at 7600.

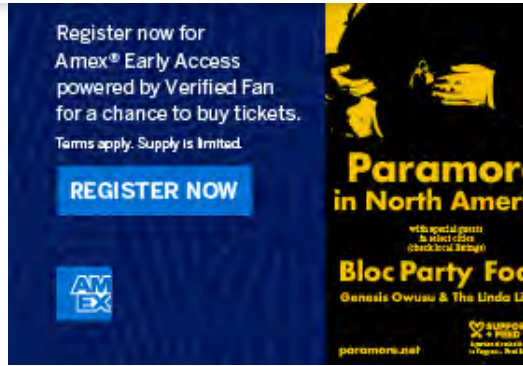
For the last four months, some families have depended on bottled water and manually-filled water tanks to get by.

Peyron says with the drought only getting worse and the river level decreasing, they need a long-term solution to help the community and welcome many who want to live on this land.

"We have a lot of members who want to come home to the reservation, but we can't provide housing because we cannot provide enough water," he says.

China Peak set to open Nov. 12 after snowfall,...

Sanger City Hall reverses course, allows fentanyl prevention event



When does breast cancer start? New study says its when you're asleep

The current water crisis is also the primary reason the Eagle Mountain Casino is being relocated since it used 40,000 gallons of water a day.

"We need help, we need assistance. We've reached out to the federal government, the state government to see what can happen," Peyron says.

The tribe is hopeful state leaders will help with the requested \$6.6 million grant to improve water infrastructure as a long-term solution. That includes improving the existing dam and the water delivery system.



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Tule River Tribe relying on bottle water as drought dries up wells on reservation



By: [ABC News](#)

Posted at 11:32 AM, Aug 27, 2022 and last updated 12:32 PM, Aug 27, 2022

(KERO) — The drought it impacting nearly every community across California, but some more than others. Members of the Tule River Indian Tribe in Tulare County say the remaining water on their land is dwindling.

There are about 16-hundred people that live at the reservation near Porterville and tribal officials say the lack of water is a constant barrier faced by residents.

Recent Stories from turnto23.com

So much so that some wells on the reservation are no longer working and families are relying on bottled water for drinking, cooking, and bathing.

And they are taking action, the tribe's chairman, Neil Peyron, says they are looking for more assistance to help the community and have reached out to the federal and state government.

The tribe is hopeful state leaders will help with the requested 6.6 million dollar grant to improve their water infrastructure.

- [More Kern County News Coverage from 23ABC](#)

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U.S. Senators Dianne Feinstein and Alex Padilla Introduce Legislation to Enact Water Settlement Between Tule River Tribe in Tulare County and United States

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September 21, 2022 - Washington - Senators Dianne Feinstein and Alex Padilla (both D-Calif.) have introduced



legislation to formally recognize the Tule River Tribe's reserved water rights and quantify the tribe's water right of 5,828 acre-feet/year of surface water from the South Fork of the Tule River. For decades, the Tule River Tribe has worked with the federal government and downstream water users to advance a settlement agreement, thereby avoiding costly litigation for both the tribe and the United States government. This legislation would fulfill the federal government's trust and treaty responsibilities to the Tule River Tribe by ensuring that the tribe is able to access the water resources they were promised and to provide clean drinking water to their people.

"The Tule River Tribe – the second largest tribe in California with more than 1,900 members – often lacks

enough drinking water during the summer and is forced to import bottled water for basic household needs. This is unacceptable, especially considering the tribe has been working for decades to restore sufficient water on its reservation," Senator Feinstein said. **"I'm happy to support Senator Padilla's bill to codify a settlement between the Tule River Tribe, the Interior Department and downstream water users of the tribe's federally reserved water rights that date back nearly 150 years."**

"Water is a sacred and necessary resource for Tribal Nations and for all people," said Senator Padilla. **"As California and the West continue to experience a historic megadrought, my bill would help provide water security to Tule River citizens now and for generations to come. It is long past time for the federal government to live up to its trust and treaty responsibilities to the Tule River Tribe. We must codify this water settlement and ensure the continued strength of Tribal Nations now and into the future."**

"The Tule River Tribe applauds Senator Padilla and Senator Feinstein for introducing S. 4870, the Tule River Water Rights Settlement Act of 2022, which resolves precisely 100 years of water claims

by the Tule River Tribe while providing certainty of our right to clean water,” said Neil Peyron, Chairman of the Tule River Tribe. **“The bill captures decades of hard work on a real solution in our drought-stricken homelands and is also beneficial to our neighbors, the downstream agricultural community, that depend on the South Fork of the Tule River. Our senators listened and agree that Tule River's water crisis must end in 2022.”**

In 1971, the tribe began its efforts to secure its federally reserved water rights to be able to restore water on their reservation. The tribe extensively studied possible storage options and entered into an agreement with downstream water users to ensure that their proposed storage project would not adversely impact their water; this was known as the 2007 Settlement Agreement. This legislation would ratify that agreement and is supported by the downstream water users. It would also transfer nearly 10,000 acres of federal lands in the Sequoia National Forest into trust so that the tribe can manage the headwaters of the watershed.

Full text of the bill is available [here](#).

Source: Senator Dianne Feinstein

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Forest Service Announces Emergency Plan to Save Giant Sequoias





Former Tule River Tribe Chairman William Garfield and staff members Carly Gomez and Quinton Garcia inspect a historic cultural site. | Jeanine Pfeiffer

By Jeanine Pfeiffer

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Last September, when lightning storms ignited the KNP Complex and Windy fires deep in the Sierra Nevada's giant sequoia forests, state and federal agencies **rushed to suppress the flames.**

Air tankers made countless (and sometimes unannounced, undocumented, and unreported) fire retardant and water drop trips, **even for individual trees,** followed by bulldozers clearing fuel breaks. Ground crews raked pine needles and **wrapped national treasures** like the General Sherman sequoia with fire-resistant foil.

Across an invisible border between the Sequoia National Forest and the Tule River Tribe of California's reservation, an equally urgent response was mounted, but with far fewer resources. Tribal firefighters scrambled for water, ladders and other equipment as they battled blazes threatening sequoia and redwood groves regarded as extended family relations.

"These trees have seen a lot of history — they hold our knowledge. They watch over us. It's our job to protect them," explained Carlos DeSoto, a tribal water technician who helped fight the fires.

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Giant Sequoia National Monument in Pictures

Ancient sequoias are increasingly threatened by fires exacerbated by climate change. This summer, firefighters fought to protect sequoia trees in Yosemite's Mariposa Grove from the **Washburn Fire.** The 2021 **Windy Fire** raised the total giant sequoia loss to **over 10,000,** almost **one-fifth** of the world population.

While sequoias evolved to withstand low level fires — and even **require flames to**

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tops.

"The local branch of the USFS [United States Forest Service] gave us one of their battalion chiefs. They had additional crews, but didn't send them to us, because they were prioritizing the Sequoia National Forest," noted Zane Santos, the tribe's fire management officer. Two 20-person USFS hand crews joined tribal firefighters the second day of the fire.



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Tule River Tribe firefighters extinguish a crown fire. | Tule River Tribe

Richard "Quntan" Garcia, a Fire Captain from the Santa Ynez Band of Chumash Indians assisting with the wildfire response, described frantically scrounging for vintage brass nozzles that could emit high-pressure streams of water at local antique stores after being denied the temporary use of an idle fire engine to douse a crown fire. (Instead, the vehicle was kept on stand-by.)

"It was a sure thing versus a gamble," he recounted. "But we saved the tree. It's still standing. That's the reward."

It wasn't just lack of resources that led to tragic loss of trees, plants and wildlife on the 19,325 acres of Tule River tribal lands. Lack of proactive inclusion and tribal consultation in fire management by collaborating agencies, from preventative prescribed burns to mapping sacred sites, exacerbated the damage.

These latest wildfire events have amplified **repeated calls for increased tribal**

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The **Tule River Tribe** occupies an 84-square-mile reservation in the Sierra foothills in Tulare county, the third-largest tribal landholding in California (the Yurok Reservation is the largest, followed by the Hoopa Valley Reservation in Humboldt County, both in Northern California). Driving through the hardest hit burn zone in the northeast corner of the tribe's reservation in December, much of the forest had been reduced to moonscapes: acre after acre of charred trees surrounded by barren ground covered with ash and fire retardant. Giant sequoia trunks were split through the middle; some of the trees were still smoldering.



A view of the hardest-hit area of the Tule River Tribe's reservation, December 2021. | Jeanine Pfeiffer

Of firefighting operations during the Windy Fire, Santos explained, "Their [priority] number six was our number one."

The California Department of Forestry and Fire Protection (CAL FIRE) uses Fire

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— KCET FIRE's fire management priorities are based on life and property — but given the Windy Fire's location, there weren't any homes threatened," said Santos. "For us, it was the headwaters of the Tule River, the giant sequoias, the redwood trees, the cultural sites and all the plants and animals we consider culturally important."



Tule River Tribe Reservation | Jeanine Pfeiffer

Incorporating tribal leadership in fire management could direct decisions about what to protect from fire, what to allow to burn, and which trees and resources to avoid when clearing breaks or applying retardant to stop the fire's spread. During the 2017 Pier Fire

— a three-month wildfire that burned 36,556 acres, including a substantial portion of the

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last two fires on our reservation, that wasn't the case.

Federal laws such as the National Historic Preservation Act of 1966 call for interagency collaboration to protect cultural sites, and CAL FIRE is legally mandated to protect archaeological, historical, and tribal cultural resources. Still, during the Windy Fire, proactive protection of the Tule River Tribe's cultural resources was largely absent from incident management decisions.

“Cultural sites should be automatic avoidance zones — but for the last two fires on our reservation, that wasn't the case.”

Kerri Vera, Director of the Department of Environmental Protection, Tule River Tribe of California

"After discussing things with us during some of the Windy Fire incident calls, they changed some of their priorities," Santos confirmed. But inadequate mapping ahead of time meant that culturally significant species – sequoias and redwoods – and cultural sites were lost.

"Either the maps were never created, or they were not communicated to CAL FIRE and USFS personnel," said Theo McConnell, a consulting cultural resources specialist. "If there were blanks on our maps, there are probably blanks on other maps in Indian country, too."

Federally-established reservations encompass only small portions of tribes' historical territories — so for most tribes, historical cultural sites are located not only on the reservation but also in neighboring state and national forests. For the Tule River Tribe, many of their ancestral village sites and traditional gathering, fishing and hunting territories are contained within adjacent Sequoia National Forest lands.



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A Tule River Tribe village site impacted by the Windy Fire and fire retardant drops | Jeanine Pfeiffer

"There's no buy-in to our culture [by state and federal agencies]," noted tribal councilmember Harold Santos. "And the more decisions trickle down, the less information is shared, and the fewer people who know us." When hundreds of firefighters are sent to a site where they lack awareness of the area's history, and when work crews don't contain any tribal members, this can translate to cultural tragedies like dozer operators destroying petroglyph sites.

"When we say cultural resources, we aren't just talking about archaeological sites. We're talking about all the places and beings that we, Indigenous people, have relationships with, and work to protect: from the smallest bug in the ground to the stars in the sky.

"We are concerned not only about the trees, but about every creature whose life is connected to those trees, because our very existence depends on them," said Garcia.

The Impact of Fire Retardant on Critical Water Sources

The Windy Fire and the KNP Complex fires ignited in steep, remote canyons inside Sequoia and Kings Canyon National Parks. The extreme topography and the sheer number of simultaneous lightning-caused wildfires prompted the USFS and CAL FIRE to

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~~blooms in affected waterways. These algal blooms, when they produce poisonous cyanotoxins, can cause a range of health issues for humans and animals, from rashes, dizziness and nausea to liver and kidney damage.~~

“Funding to identify red flags ... would go a long way towards ensuring this kind of thing doesn't happen on other reservations.”

Theo McConnell, cultural resources specialist consulting with the Tule River Tribe of California

Although standard USFS practice employs retardant exclusion zones around ecologically sensitive areas, the first 12 days of aerial retardant drops on the Windy Fire zone weren't recorded. The tribe therefore has incomplete documentation of where to test their exposed water ways for retardant chemicals.

This is especially concerning, as 75% of the tribe's drinking water comes from tributaries of the South Fork of the Tule River.



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A damaged waterway inside the burn zone of the Tule River Tribe reservation after a wildfire | Jeanine Pfeiffer

"Now that the fire has been contained, we're focusing on the unrecorded fire retardant drops that are affecting our watershed," explained former tribal chairman, William Garfield, linking the algal blooms to toxins showing up in plants, fish, and animals consumed by the tribe.

"Funding to identify red flags, through a national review of Indian country property, would go a long way towards ensuring this kind of thing doesn't happen on other reservations," observed McConnell.

"If we were more proactive, you wouldn't have [tribes] saying, 'Wait a minute, you just poisoned our drinking water,' because pilots would see those flagged areas, and realize, 'Oh, we can't drop retardant here.'"

The Consequences of Insufficient Prescribed Burns

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velocity and severity, protecting old-growth sequoias and making firefighters' jobs easier.

For over 20 years, the Tule River Tribe has advocated for resources to conduct prescribed burns to protect the reservation's forests. Intentionally set, controlled fires can remove vegetation that would fuel more intense fires, support beneficial plants and animal species and promote healthy watersheds. In 2000, when the neighboring forest was declared a national monument, tribe members traveled to Washington to ask Congress to support the creation of a fire break buffer zone along the border of their lands.

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What is Traditional Ecological Knowledge?

At present, despite the recent passage of new laws that remove liability risks for California tribes setting prescribed burns, and the dramatic increase in support for prescribed burns and Indigenous fire ecology expertise, current levels of state and federal agency prescribed burns and tribal cultural burns are too low to make a significant impact on millions of acres left untended for over a century. The Tule River Tribe has only been able to complete burns on a small portion of their lands.

"Because I'm a weaver, I always said, we need to prune those trees," said Carrie Franco, a Tule River tribal elder with firefighting experience. "Before the fire, I wasn't happy with our forest. They left it all brushy — it was a tinder box waiting to happen. You know why our round dance house was saved? Because me and my kids cleaned around it. We rake it, we clean it, we use it."

Inequitable Sharing of Decisions and Resources Hampers Fire

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The Tule River Tribe maintains both a firefighting wheelhouse and a wildlands fire department. | Jeanine Pfeiffer

The same goes for post-fire funding for repairs. During rainy seasons and winter months following the fires, the tribe struggled to rebuild key structures and bolster eroded hills to prevent debris flow. "We got shorted," said Former Chairman Garfield. So far, out of \$2.1 million recommended by the Burn Area Emergency Response (BAER, a Bureau of Indian Affairs field evaluation team that surveyed the reservation after the Windy Fire), only \$180,000 has been distributed for repairs for the winter, noted Former Chairman

Garfield. "Whereas according to the BAER report, other agencies are set to receive up to

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interagency fire training, diminished Sequoia National Forest fire emergency resources.

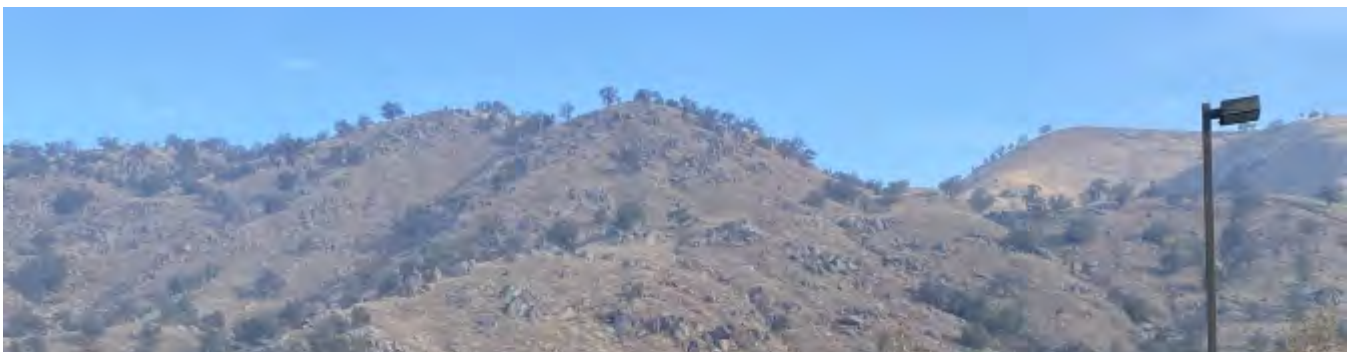
After witnessing a series of catastrophic fires impacting the reservation, tribal elders feel too many fire prevention needs remain unmet. "I'm very upset with things: Why don't we have a hotshot crew? Why don't we have a dozer crew? Why don't we have a helitack crew? Where are our water tenders? We have 58,000 acres, redwood forests, giant sequoias, and nobody's prepped on tule reeds [an important traditional basketry material]," remarked Franco.

“Delegation of authority needs to include tribes and tribal concerns.”

William Garfield, former chairman, Tule River Tribe of California

Tribes want to see proactive actions and funding, rather than largely reactive responses. Proactive measures include more resources for prescribed burns and consistent involvement of tribal staff on briefings, unified command teams and incident management calls where critical decisions on resource allocations — such as where hotshot crews will be deployed — are made.

"Delegation of authority needs to include tribes and tribal concerns," stated Former Chairman Garfield. "They need to set this up before the wildfires come through. Instead, while I'm listening in on these incident management calls, they're arguing about which agency is going to pay for what."



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Tule River Tribal wildlands fire management staff morning briefing. | Jeanine Pfeiffer

Tribal firefighters dealing with the aftermath of the Windy Fire emphasized that during an active fire, everyone from the pilots doing the airdrops to the bulldozer operators cutting fire breaks should be following previously created maps and agreed-upon field protocols that delineate red flag areas on reservations: tribal watersheds, hunting, fishing, and gathering grounds, and other culturally significant sites.

"When we have tribal members on incident management teams or on bulldozers, they aren't going to mess things up," noted Zane Santos. "They'll stop if they see a cultural site, call us, and check in before they do anything."



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...priorities were respected, leading to protection of invaluable cultural resources. In one example, at a critical juncture during the Windy Fire, a tribal member on a USFS fire crew directed fire mitigation measures around the Redwood Corral, a key tribal cultural gathering area.

In another instance, when tribal cultural specialists were granted permission to survey post-burn areas within the Sequoia National Forest, they found a hidden treasure. An intense burn from the Windy Fire had removed thick vegetative cover, revealing a traditional Yokut village site, one that current generations had never seen before.

"Seeing that site was like winning the lottery," stated tribal member Carly Gomez, during a tour of the burned area.

She and other tribal leaders have vowed to turn the devastation of the Windy Fire into more positive outcomes for this generation and every generation to follow.

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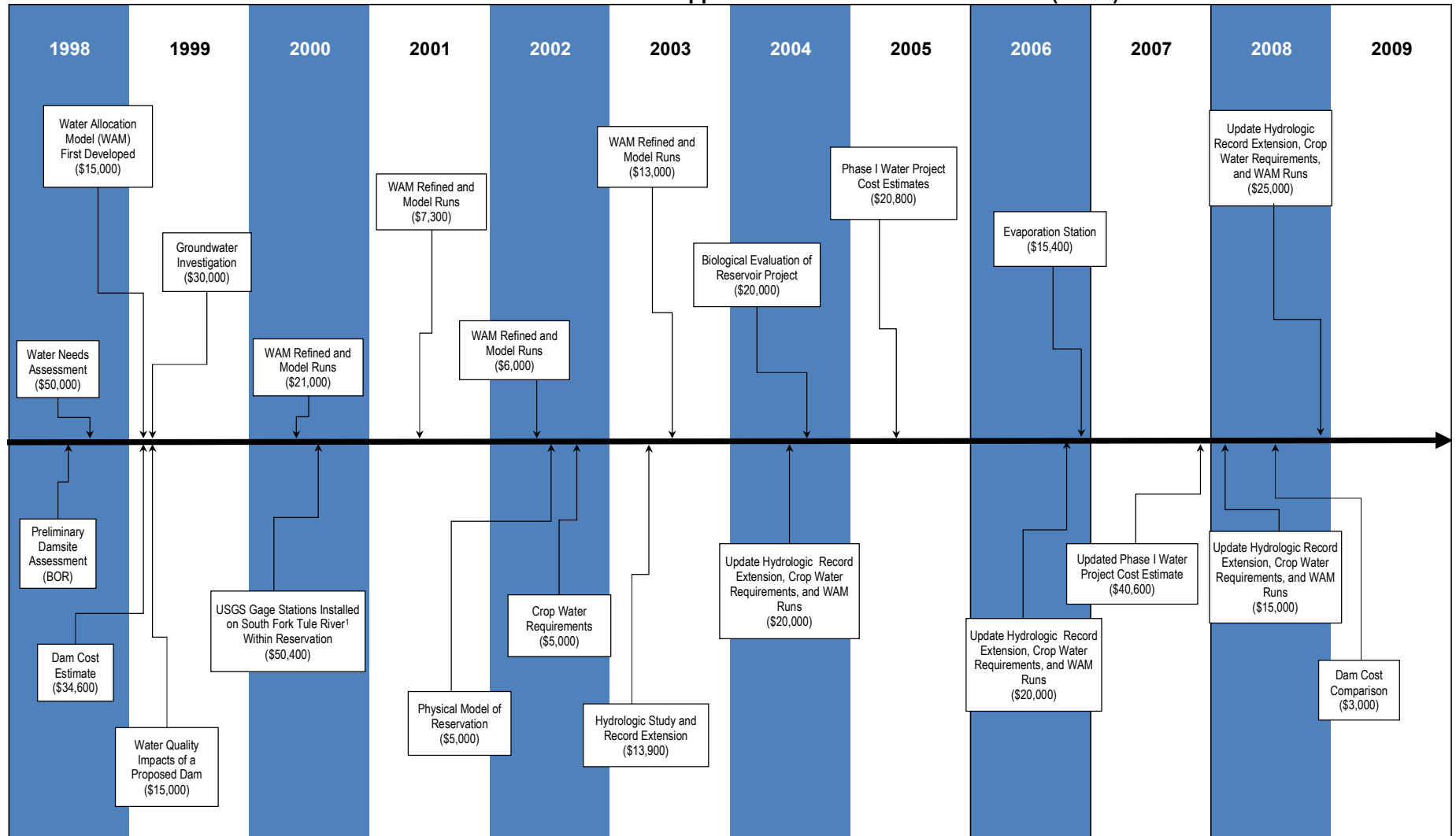


**EXHIBIT F: TIMELINE OF TECHNICAL STUDIES PERFORMED IN SUPPORT OF THE
TULE RIVER TRIBE WATER SETTLEMENT
1998-2021**

**TULE RIVER TRIBE WRITTEN TESTIMONY
RESERVED WATER RIGHTS SETTLEMENT ACT OF 2022
SENATE COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE**

Tule River Tribe

Technical Studies Performed In Support of the Tribal Water Settlement (1 of 2)



Tule River Tribe

Technical Studies Performed In Support of the Tribal Water Settlement (2 of 2)

