

**TESTIMONY OF DR. BUU NYGREN, PRESIDENT OF THE NAVAJO NATION,
BEFORE THE SENATE COMMITTEE ON INDIAN AFFAIRS**

S. 953, the Northeastern Arizona Indian Water Rights Settlement Act (“NAIW RSA”)

March 11, 2026

Yá'át'ééh, Chairwoman Murkowski, Vice-Chairman Schatz, and honorable members of the Committee. My name is Dr. Buu Nygren, and I am the President of the Navajo Nation (the “Nation”). Thank you for the opportunity to testify in support of the Northeastern Arizona Indian Water Rights Settlement Act of 2025, S. 953, which will secure a sustainable water supply for the Navajo Nation, the Hopi Tribe, and the San Juan Southern Paiute Tribe (collectively, the “Tribes”). This settlement will resolve the most significant outstanding water claims in the State of Arizona. Thank you also to Senators Kelly and Gallego for sponsoring this historic legislation. And thank you to the Governor of the State of Arizona, Katie Hobbs, for her and her staff’s work and to the many federal and non-federal parties that have worked so hard to make this settlement a reality.

The Navajo Nation is the largest federally recognized Indigenous nation in the country. We provide critical governmental services to more than 420,000 tribal members, approximately half of whom reside on the Navajo Nation. Our Nation encompasses more than 27,000 square miles and is approximately the size of West Virginia. The states of Arizona, New Mexico, and Utah span our sovereign territory. Despite our location adjacent to the Colorado River, the lack of access to water remains an enormous barrier to ensuring a thriving permanent homeland for the Navajo people. As discussed in more detail below, S. 953 addresses needed water delivery infrastructure projects on the Navajo Nation that will bring safe and reliable clean drinking water to Navajo communities in Arizona.

The lack of access to clean drinking water impacts every aspect of life. As water development across the western United States has shown, when water arrives, economies thrive. Water supports small businesses, schools, hospitals, industrial development, and more. The impact on health cannot be overstated. At the height of the COVID-19 pandemic, we lost an average of 10 Navajo people a day to the virus. Whereas the Centers for Disease Control and Prevention reports that COVID-19-associated deaths among non-Hispanic Whites were 30.3 per 100,000, our preliminary data from the Navajo Nation Epidemiology Center shows that the COVID-19-associated death rate among our people was over 800 per 100,000. This high rate of death is in part due to the lack of access to clean water on the Navajo Nation. A recent Navajo Nation Health Survey continues to confirm that the lack of piped water in homes is a key factor contributing to poor health across the Nation. This settlement offers a path forward in closing the severe water access gap that exists on the Navajo Nation and offers the promise of a better future for our people and our region of the State of Arizona and the Four Corners Region of the United States.

The funding in the settlement represents a considerable investment of federal dollars, and the United States gets valuable consideration in return. As provided in the Settlement Agreement and legislation, the Tribes are waiving claims for water rights and injury to water rights in the Colorado River Basin against the federal government and the state parties. NAIW RSA resolves the largest

outstanding senior water right claims on the Colorado River—ending decades of costly litigation in state and federal courts. Importantly, NAIWRSA also provides a mechanism to assist in stabilizing the Colorado River system by providing the Bureau of Reclamation with a tool for improving Lake Powell reservoir levels. Enacting NAIWRSA is key to providing certainty to every water user in the Basin, now and for generations to come. This settlement secures the future of the Colorado River.

I. The Clean Water Crisis within the Navajo Nation

The lack of a reliable and affordable potable water supply suppresses economic growth throughout the Navajo Nation and northeastern Arizona and contributes to a high incidence of disease and infection attributable to the lack of access to clean drinking water. These conditions place significant financial burdens on Navajo and federal programs that treat diseases and illnesses that could be prevented if adequate, safe water supplies were available.¹

Over 30 percent of Navajo households lack running water and must rely on hauling water, which is most expensive means to access drinking water and significantly affects both the quantity and quality of water available to these households. Families that haul water sometimes must rely on non-potable water sources such as livestock wells to meet their daily household water needs, including drinking water. A recent study of livestock wells on Western Navajo found that 11 percent of livestock wells exceed the maximum contaminant levels set by the EPA for uranium. Seventeen percent contain high levels of arsenic.² Unfortunately, as our Department of Water Resources staff sometimes reminds us, “When you’re thirsty, you’re thirsty,” and for some Navajo families, that means drinking from the closest available water source, even if it is unsafe. A large proportion of those who do have piped water to their homes depend on public water supply systems that have exceeded the maximum sustainable withdrawal capacity of their source aquifers, have poor water quality, and are susceptible to drought.³

The lack of a safe and reliable water supply places a tremendous economic burden on the Navajo people. According to the Navajo Department of Water Resources, families that haul water for domestic purposes “spend the equivalent of \$43,000 per acre-foot of water compared with \$600 per acre-foot for typical suburban water users in the region. The Navajo water hauling cost is \$133 per thousand gallons. This water is among the most expensive in the United States for a sector of the population that is among the poorest.”⁴ Although S. 953 will not eliminate water hauling altogether, it will deliver a source of potable water that is of higher quality, more reliable, and closer to homes.

¹ See Water Resources Management Strategy for the Navajo Nation prepared by the Navajo Nation Department of Water Resources, p. IX, available at [Strategy Document \(frontiernet.net\)](#).

² See [Dissolved Uranium and Arsenic in Unregulated Groundwater Sources – Western Navajo Nation - Jones - 2020 - Journal of Contemporary Water Research & Education - Wiley Online Library](#).

³ See Water Resources Management Strategy for the Navajo Nation prepared by the Navajo Nation Department of Water Resources, p. IX, available at [Strategy Document \(frontiernet.net\)](#).

⁴ *Id.* There are 325,851 gallons in an acre foot.

The Navajo Nation is committed to combatting water insecurity and has invested \$800 million in water and wastewater infrastructure from a combination of its own investments and a mix of other federal resources. The Navajo Nation brings down the cost of the settlement by its strong investments in water development. Notwithstanding the commitment of the Navajo Nation, there remains a significant funding gap to meet the basic needs of our people. S. 953 will largely address these funding deficiencies.

II. Key Components of the Settlement

S. 953 authorizes, ratifies, and confirms a historic water rights settlement (“Settlement Agreement”) between the Navajo Nation and 38 other parties, including the Hopi Tribe, the San Juan Southern Paiute Tribe, the United States, the State of Arizona, the Arizona State Land Department, Salt River Project, Arizona Public Service, Central Arizona Water Conservation District, Bar T Bar Ranch, local irrigation districts and ranchers located within the Little Colorado River watershed, and the Cities of Winslow, Flagstaff, Holbrook, Taylor, Snowflake, Show Low, Eagar, Springerville, and St. Johns. The Settlement Agreement reflects decades of settlement negotiations among these parties and the importance of the settlement between Navajo and Hopi can never be overstated. The 25th Navajo Nation Council unanimously approved the Settlement Agreement on May 23, 2024. That same week, the councils for the Hopi Tribe and the San Juan Southern Paiute Tribe unanimously approved the settlement as well. The legislation, once enacted by Congress, will settle the Navajo Nation’s claims to the Little Colorado River, the Gila River, and the Upper and Lower Basins of the Colorado River. It will also address the Nation’s claims to washes, tributaries, springs, and underground water flowing on and underlying the Navajo Nation. Upon approval by Congress, the Nation will be able to focus efforts on developing our water resources and building our economy by, among other things, continuing to develop our energy resources.

A. Water Claims Resolved

The Settlement Agreement, once confirmed by Congress through enactment of S. 953 and House companion bill H.R. 2025, will provide a comprehensive settlement of the Nation’s water rights in Arizona. Under the terms of the Settlement Agreement, the Navajo Nation will have the right to 44,700 acre-feet per year (“AFY”) of Colorado River water from the State of Arizona’s Upper Colorado River Basin allocation and 3,600 AFY of Fourth Priority Lower Basin Colorado River water.

The Nation will be entitled to divert and deplete all surface water that is tributary to the Little Colorado River that reaches the Navajo Reservation, provided that such diversions and depletions shall not interfere with or diminish existing surface water uses. The Nation will have the right to divert and deplete any surface water of the mainstem of the Little Colorado River that reaches the Navajo Reservation. The Nation will also have the right to divert and deplete up to 40,780 AFY of surface water from the Little Colorado River for specific historic irrigation projects in specified quantities and with identified priority dates. The Nation will have the right to all the groundwater that underlies the Navajo Reservation, including the Navajo aquifer (the “N-Aquifer”) and the Coconino aquifer. Resources shared by the Navajo Nation and the Hopi Tribe,

including the N-Aquifer and certain washes, are subject to an intertribal use and management agreement that includes a limit on annual pumping from the confined portion of the N-Aquifer and the Shonto recharge area to 8,400 AFY.

B. The iiná bá – paa tuwaqat’si pipeline and the Implementation Fund.

1. In General

The iiná bá – paa tuwaqat’si pipeline is a key component of the Settlement Agreement. The pipeline is needed to convey water from the Colorado River to Western Navajo lands and to the Hopi and San Juan Southern Paiute reservations. The pipeline will deliver a portion of the Nation’s Upper Basin Colorado River allocation and a portion of the Nation’s Lower Basin Colorado River allocation from Lake Powell to the Navajo Chapters of Cameron, Bodaway/Gap, Tuba City, Coppermine, Bitter Springs, Cedar Ridge, Coalmine Canyon, Grey Mountain, and Lechee and to the San Juan Southern Paiute Reservation. It will also deliver water from Lake Powell to Hopi Villages at Moenkopi, First Mesa, Second Mesa, Third Mesa, Howell Mesa, and Keams Canyon. The cost of constructing the pipeline is estimated to be \$1.715 billion based on the Bureau of Reclamation’s Navajo-Hopi Value Planning Study – Arizona, dated October 2020, updated in 2023. The sizing of the pipeline project is based on an annual population growth rate of 1.8% and a municipal per capita water demand of 130 gallons per capita per day. S. 953 provides a mandatory appropriation of \$1.715 billion to fund the iiná bá – paa tuwaqat’si pipeline Implementation Fund to be used by the Bureau of Reclamation to plan, design, and construct the pipeline.

2. Measures to Address Potential Cost Overruns

To address concerns about potential cost overruns for the iiná bá – paa tuwaqat’si pipeline, the settling tribes negotiated mechanisms that are included in this bill with the Department of the Interior that will prevent any cost overruns in the construction of the pipeline from resulting in a higher federal cost. Specifically, the Navajo Nation and the Hopi Tribe are each reserving 50% of their trust funds for cost overruns, if any, until the Secretary of the Interior makes a determination that there is sufficient funding in the pipeline Implementation Fund for completion of the pipeline. Moreover, this Act requires a feasibility study of the pipeline and allows for modifications of the final design to lower costs, if necessary. Both provisions will ensure that any increase in the final cost of the pipeline does not result in additional costs to the federal government in the future.

C. NAIWRSA Pool to Protect Lake Powell

In addition, under the updated version of NAIWRSA introduced in this Congress, the Tribes agreed to create a water savings pool in Lake Powell by contributing 17,050 AFY for twenty years. Importantly, this is one-half of the amount of water that was formerly used by the Navajo Generating Station, which is now shut down. This contribution will amount to 341,000 acre-feet of the Tribes’ Arizona Upper Basin Colorado River water over twenty years. This pool would be used to mitigate or offset impacts demonstrated in all of the model alternatives in the Draft Environmental Impact Statement Post-2026 Operational Guidelines and Strategies for Lake

Powell and Lake Mead. This pool could also help with elevation levels in Lake Powell, protecting critical infrastructure. Importantly, the water that would be placed in the pool is the firmest water in the entire Colorado River system.

D. Navajo Nation Water Settlement Trust Fund

In addition to the iiná bá – paa tuwaqat’si pipeline Implementation Fund, S. 953 establishes and funds a water settlement trust fund for each of the three tribes, also funded by mandatory appropriations: the Navajo Nation Water Settlement Trust Fund – \$2.8764 billion, the Hopi Tribe Water Settlement Trust Fund – \$515.2 million, and the San Juan Southern Paiute Tribe Water Settlement Trust Fund – \$29.8 million.

There are six separate accounts in the Navajo Nation Water Settlement Trust Fund. The largest account is the Navajo Nation Water Projects Trust Fund, which will receive \$2.3692 billion and will be used to plan, design, construct, operate, and maintain water supply infrastructure, including wells, water treatment facilities, pipelines, storage tanks, pumping stations, electrical transmission equipment, wastewater treatment facilities, and renewable energy facilities to serve Navajo communities. The proposed projects include:

- The iiná bá – paa tuwaqat’si pipeline lateral that will provide potable water to serve the communities of LeChee, Antelope Point, Coppermine, Kaibeto, Bodaway/Gap, Cameron, Tuba City, Coalmine Canyon and Hopi villages.
- The Southwest Navajo Regional Groundwater Project that will extend the Leupp-Dilkon Project to deliver potable water to Leupp, Birdsprings, Tolani Lake, Teesto, Dilkon, and Indian Wells.
- The Ganado Regional Groundwater Project that will develop and expand public water systems to deliver potable water to Kinlichee, Ganado, Cornfields, Lower Greasewood, Jeddito, and Steamboat.
- The Black Mesa Project that will develop and expand public water systems to deliver potable water to Black Mesa, Forest Lake, Pinon, Hardrock, and Shonto.
- The Four-Corners Project that will develop and expand public water systems to deliver potable water to Chinle, Many Farms, Rock Point, Round Rock, Sweetwater, Teec Nos Pos, and Tsaile/Wheatfields/Blackrock.
- The Kayenta Area Project that will develop and expand public water systems to deliver potable water to Chilchinbeto, Kayenta, Dennehotso, Mexican Water, and Oljato.
- The Lupton Area Project will develop and expand public water systems to deliver potable water to Houck, Lupton, and Nahata’Dziil.
- The Code Talker Lateral that will extend the Navajo Gallup Water Supply Project Code Talker Lateral (NGWSP) waterline and expand public water systems to deliver potable water to Fort Defiance, Red Lake, and Saint Michaels, with an intertie to the Ganado Area Project.
- The Local Upper Basin Water Projects, small local projects in the Upper Basin, that will develop and expand public water systems to deliver additional water to local communities.

In addition to the Navajo Nation Water Projects Trust Fund Account, S. 953 confirms the establishment of five other accounts and appropriates mandatory funding for these accounts:

- The Navajo Nation Renewable Energy Project Fund Account: \$40 million to support Navajo water development projects with renewable energy;
- The Navajo Nation Agricultural Conservation Fund Account: \$80 million to support historically irrigated acreage by implementing modernized irrigation infrastructure, including replacement and development of livestock wells and impoundments;
- The Navajo Nation Operation, Maintenance & Replacement Fund Account: \$229.5 million to support operation, maintenance, and replacement costs of the water projects;
- The Navajo Nation Lower Basin Colorado River Water Acquisition Fund Account: \$28 million to purchase land in Arizona with senior water rights with the intention to sever and transfer such water rights for reallocation to the Navajo Nation; and
- The Navajo Nation System Conservation Trust Fund: \$129.7 million to be used to compensate the Navajo Nation for the storage of System Conservation Eligible Water at Lake Powell.

E. Waivers

In return for resolution of the Nation's water rights claims, the federal funding to develop the water infrastructure, and such other benefits as provided in the Settlement Agreement, the Navajo Nation will waive claims against the State of Arizona, the Hopi Tribe, the Hopi Allottees, the San Juan Southern Paiute Tribe and any other individual, entity, corporation, or municipal corporation under federal, state or other law including past, present and future claims for water rights arising from time immemorial and thereafter forever; past, present and future claims for water rights arising from time immemorial and thereafter forever based on aboriginal occupancy of the land; past and present claims for injury to water rights from time immemorial through the enforceability date; past, present, and future claims for injury to water from time immemorial and thereafter forever; past, present and future claims for injury to water rights arising from time immemorial and thereafter forever based on aboriginal occupancy of the land; claims for injury to water rights arising after the enforceability date in a manner not in violation of the Settlement Agreement or State law; and past, present and future claims arising out of or relating to the negotiation, execution or adoption of the Settlement Agreement, any judgment or decree approving or incorporating the Settlement Agreement, or the legislation. The Navajo Nation will also waive its claims against the United States for all water rights settled under the Settlement Agreement, including all past, present, and future claims for such water; claims of past or present injury to such water rights; past, present, and future claims arising out of monitoring activities by the United States; past and present claims related to foregone benefits from non-Navajo use of water; past and present claims based on damage, loss, or injury to land or natural resources due to loss of water or water rights related to hunting, fishing, gathering, or cultural rights; past and present claims related to failure to establish or provide water delivery systems; past and present claims relating to irrigation projects; and past and present claims based on failures to provide dam safety improvements.

F. Limited Waiver of Sovereign Immunity

Pursuant to Navajo Nation Resolution CMY-26-24 unanimously approving the Settlement Agreement, the Navajo Nation will consent to a limited waiver of sovereign immunity in the circumstance that a party to the Settlement Agreement brings an action to interpret or enforce the Settlement Agreement or the legislation or in the circumstance that a landowner or water user in the Little Colorado River Watershed or the Gila River Watershed brings an action to interpret or enforce the waivers or the decrees and so long as the action does not include request for an award of money damages, court costs, or attorneys' fees.

G. Right to Use and Lease Colorado River Water

The Navajo Nation is uniquely located in both the Upper Basin and the Lower Basin of the Colorado River. In order to efficiently provide water to Navajo communities, the Nation must move Colorado River water allocated to it from the Upper Basin to the Lower Basin and from the Lower Basin to the Upper Basin. The Navajo Nation's ability to move water depends on congressional action, and S. 953 authorizes such movement of water. The Nation's right to move its water anywhere within the State is consistent with the intent of the settling parties and Congress to address critical water needs on the Navajo Reservation, irrespective of which Basin a particular Navajo community is located within. The iiná bá – paa tuwaqat'si pipeline commences in the Upper Basin and crosses into the Lower Basin, delivering Colorado River water from Lake Powell to both Upper Basin and Lower Basin communities. Some of the Lower Basin communities it will serve include Cedar Ridge, Bodaway/Gap, and Coalmine Canyon, and high population/high growth communities like Cameron and Tuba City. There is a lack of viable options for the development of a firm, sustainable supply of water for the Navajo Nation in Arizona without the iiná bá – paa tuwaqat'si pipeline delivering surface water to these communities. Therefore, it is absolutely essential that the Nation be able to effectively move its water supply within the Navajo Reservation. It would make no sense, neither economically nor from an engineering perspective, to preclude the efficient movement of water simply because the Navajo Reservation happens to be in both Basins.

Like many other congressionally approved Indian water settlements, the Settlement Agreement provides for the Nation to lease its Colorado River water to users anywhere within the State, and S. 953 confirms that right. The revenue generated by leasing its Colorado River water to off-reservation Arizona communities will allow the Navajo Nation to further develop and/or defray the cost of water infrastructure for its communities. Leasing is an appropriate use of the Nation's Colorado River water in the short term. Leasing further demonstrates the Nation's desire to invest in water security and allows the Nation to monetize its rights until such time as its population grows into its entitlement.

The Upper Colorado River Basin states have raised concerns regarding the leasing provisions which were included in the NAIWRSA version introduced in the 118th Congress. The version of NAIWRSA introduced in the 119th Congress includes the NAIWRSA Pool provision discussed above and that was included in an attempt to address many of the Upper Colorado River Basin states' concerns. Over the course of the last year, the Navajo Nation, the United States, and

the Basin states have had and continue to have conversations and work diligently to address these states' concerns. I believe all Basin states are committed to the goal of addressing critical water needs on the Navajo Reservation. As a result, the Navajo Nation remains optimistic that the seven basin states will soon reach consensus on NAIWRA.

In addition to the pool provision and in an effort to address the Upper Basin's concerns and provide a benefit to the entire Colorado River Basin, the introduced version of NAIWRSA in the 119th Congress limits the Navajo Nation's and the Hopi Tribe's authority to lease their Arizona Upper Basin Colorado River water to 17,050 for the first twenty years after the settlement becomes enforceable. The introduced version of the legislation in the 118th Congress had no such limitation in regard to amount or duration. Under this new proposal, after twenty years, the Tribes are able to lease the amount of their Upper Basin Water that they are not using on-reservation, but this leasing is time-limited. It continues only until the settlement's water infrastructure is built and the Tribes can fund operations and maintenance independently. In addition to helping to backfill Colorado River shortages in Arizona in the short term as the system transitions to drier hydrology, a benefit of the leasing is that it will allow water to continue moving through hydropower turbines so long as the elevation in Lake Powell continues to support hydropower.

Any concern about NAIWRSA setting a precedent for interbasin transfers is overstated for many reasons, notably the facts on the ground. As noted, the Navajo Nation is the only Tribe in both Colorado River basins. The Hopi Tribe and the San Juan Southern Paiute Tribe are entirely surrounded by the Navajo Nation. The State of Arizona is the only state with an allocation of Upper Basin and Lower Basin water. This factual framework is unique and does not set a broader precedent for the Colorado River system moving forward. Nearly every Arizona water settlement already includes intrastate leasing authority. Of further import, this is an Arizona settlement utilizing Arizona water, including Arizona's allocation of Colorado River water, to be leased within Arizona at the Tribes' discretion. The leasing provision which happens to be an interbasin transfer is a targeted tool as part of a congressionally-approved Indian water settlement, not a precedent.

III. Value of the Settlement

This historic settlement is a critical investment for the United States for several reasons. First, the Navajo Nation will forgo seeking legal confirmation through litigation for a larger amount of water, even though we believe we are entitled to additional water rights under well-established legal principles. To settle, the Nation has agreed to reduce the scope of its water rights to account for the ongoing drought and to stay within Arizona's Upper Basin Colorado River apportionment. Ratification of the Settlement Agreement will avoid protracted and costly litigation. Indeed, by the Tribes settling their claims to the Colorado River, they have agreed to avoid complex legal questions regarding the applicability of interstate compact obligations to senior Indian water rights, which could destabilize the delicate balance that exists among the Colorado River Basin states and water users under the Law of the River. The Settlement Agreement enables the many people who depend on the Colorado River to move forward together, rather than fighting over this limited and critical water resource.

Second, the NAIWRSA Pool in Lake Powell described above will provide a direct benefit to every state in the Basin. Critical federal infrastructure is at risk from low elevations that are predicted to occur as soon as this summer. The NAIWRSA Pool will help protect reservoir elevations and electrical generation at Lake Powell.

Finally, S. 953 will fund important unfunded federal programmatic responsibilities by using S. 953 infrastructure development monies to fund federal programmatic responsibilities. It will also secure and deliver a clean water supply to the Navajo Nation that will save the federal government money that would otherwise be spent treating infectious diseases on the Navajo Reservation. For example, the Indian Health Service (“IHS”) estimates that each dollar invested in water and sewer infrastructure could yield savings of \$1.18 in avoided direct healthcare costs for these diseases.⁵ The projects contemplated in the Settlement Agreement and funded in S. 953 will provide the necessary clean and reliable water supply to serve these communities. Although IHS’s numbers are not dispositive for the entirety of the funds authorized in the settlement, they are instructive as they show the value of providing these communities with a secure and safe water supply.⁶

IV. Conclusion

S. 953 is historic legislation. When history is written, the passage of the Northeastern Arizona Indian Water Rights Settlement Act will be described as providing an opportunity for members of the Navajo Nation, and those of the Hopi Tribe and the San Juan Southern Paiute Tribe, to enjoy the same health and prosperity as other citizens of the State of Arizona and the United States. It provides us with certainty that the Navajo Nation will flourish as a permanent homeland for generations to come. Enactment of this legislation and ultimate implementation of the Settlement Agreement, as conformed to be consistent with this legislation, will encourage stronger cooperation, collaboration, and coordination between the settling parties – both tribal and non-tribal. On behalf of the Navajo Nation, I respectfully request that this Congress pass the Northeastern Arizona Indian Water Rights Settlement Act as soon as possible.

Thank you. Ahéhee’.

⁵ See Indian Health Service Announces Allocation Decisions for \$702.6 Million in Bipartisan Infrastructure Law Funding | 2023 Press Releases (ihs.gov).<https://www.ihs.gov/newsroom/pressreleases/2023-press-releases/indian-health-service-announces-allocation-decisions-for-702-6-million-in-bipartisan-infrastructure-law-funding/>

⁶ Settlement trust funds are available to supplement IHS sanitation deficiencies if needed, or to provide programmatic support if the future waste-water infrastructure demands fall outside of the IHS authorities.