

PRIORITIZING THE COMPLETION OF ARIZONA INDIAN WATER RIGHTS SETTLEMENTS

POSITION STATEMENT

The 21 Member Tribes of the Inter Tribal Association of Arizona (ITAA) request that Congress takes action to prioritize the completion of all outstanding Indian water rights settlements in Arizona, including ensuring that these settlements are appropriately funded and expeditiously passed into law. Tribes should have an equal opportunity to provide basic resources to their communities through the delivery of critically needed water supplies and the enhanced opportunity for economic development that comes with reliable water.

KEY POINTS

-  **Tribal Sovereignty:** Indian water rights settlements are deeply connected to the settling Tribe's ability to self-govern and maintain their way of life. Water settlements reinforce Tribal sovereignty by giving Tribes control – through negotiation and not litigation – over an essential resource critical to their future prosperity and survival.
-  **Trust Responsibility:** The United States holds Indian water rights in trust on behalf of Indian Tribes. The United States has a legal and moral responsibility to protect Tribal land, its water resources, and thereby the very safety and welfare of Tribal people.
-  **Federal Funding:** For well over 150 years, the United States has prioritized non-Indian communities and interests, while leaving Tribes to fend for themselves. Water settlements help to address these historic injustices by providing the federal funding Tribes need to finally develop, manage, and use their water resources effectively. In Arizona, funding for Indian water rights settlements often provides compounded benefits to neighboring communities and stakeholders throughout the state that far exceed the actual costs of settlement.



BACKGROUND

Indian Tribes have jurisdiction over approximately 28% of lands in the State of Arizona. Because Tribes in Arizona have very senior water rights to water, it is critical that the State of Arizona finally resolves these water claims, if the state is to provide water certainty for its citizens. However, of the 22 federally recognized Tribes in Arizona, only 11 have fully resolved their water rights claims.

At least two significant Arizona water rights settlements will come before Congress this year – the Northeastern Arizona Indian Water Rights Settlement Agreement and the Yavapai-Apache Nation Water Rights Settlement Agreement. When passed by Congress, these two settlements will bring the total number of Tribes with fully resolved water rights claims to 13.

Tribes in Arizona and the State of Arizona have waited long enough, and ITAA asks Congress to prioritize and expedite approval of and funding for Arizona Indian water rights settlements.

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The 21 Member Tribes of the Inter Tribal Association of Arizona (ITAA) request that Congress takes action to prioritize the completion of all outstanding Indian water rights settlements in Arizona, including ensuring that these settlements are appropriately funded and expeditiously passed into law. Tribes should have an equal opportunity to provide basic resources to their communities through the delivery of critically needed water supplies and the enhanced opportunity for economic development that comes with reliable water. Indian water rights settlements provide for the long overdue quantification of Indian water rights while also securing water certainty for Tribes and their neighboring communities along with the federal funding needed to construct the types of generational water infrastructure projects that will put Tribal water supplies to beneficial use.

Key Points

- **Tribal Sovereignty.** Indian water rights settlements are deeply connected to the settling Tribe's ability to self-govern and maintain their way of life, as water is necessary for adequate housing, community uses, economic development, agriculture, and the preservation of sacred sites. Water settlements reinforce Tribal sovereignty by giving Tribes control – through negotiation and not litigation – over an essential resource critical to their future prosperity and survival.
- **Trust Responsibility.** The United States holds Indian water rights in trust on behalf of Indian Tribes. The United States has a legal and moral responsibility to protect Tribal land, its water resources, and thereby the very safety and welfare of Tribal people. This includes ensuring Tribes have the ability to access safe and reliable water to provide for the needs of their Tribal communities, now and in the future. Water rights settlements are a practical mechanism for the United States to finally fulfill its trust responsibility to Tribes in the context of water rights and resource management.
- **Federal Funding.** For well over 150 years, the United States has prioritized funding water infrastructure projects throughout the Western United States that primarily benefit non-Indian communities and interests, while leaving Tribes to fend for themselves. Water settlements help to address these historic injustices by providing the federal funding Tribes need to finally develop, manage, and use their water resources effectively. In Arizona, funding for Indian water rights settlements often provides compounded benefits to neighboring communities and stakeholders throughout the state that far exceed the actual costs settlement.
- **Economic Development.** Like everyone, Indian tribes in Arizona need water for farming, homes, businesses, and other economic activities. Yet, until Tribal water rights are finally quantified, Tribes lack a reliable water supply to plan for even the most basic needs of their communities. In fact, some Indian tribes in Arizona do not have a single natural source of water on their reservations, while others lack the legal or physical access to water for their people, leaving tribal members to haul water or go without. With access to reliable water supplies, Tribes can improve their economic development, reduce poverty, improve health, and enhance business opportunities resulting in higher employment in their communities.

- **Dispute Resolution.** Indian water settlements put an end to what is often years of litigation, providing water certainty to all parties and avoiding the cost of litigating these water rights in court. Water settlements also provide a unique opportunity to resolve years of water controversy through negotiation, compromise, and creative solutions that provide “win-win” results that cannot be achieved through litigation.

Background

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