

STATEMENT OF DR. DAMON CLARKE,
CHAIRMAN, HUALAPAI TRIBE
BEFORE THE GOVERNOR'S WATER AUGMENTATION,
INNOVATION AND CONSERVATION COUNCIL

September 10, 2020

Chairman Buschatzke and members of the Council, I am Dr. Damon Clarke. I have served as Chairman of the Hualapai Tribe since June 2016. I appreciate the opportunity to appear before you today to discuss the dire water needs of our Tribe and our efforts over the past decade to secure a congressionally ratified water rights settlement that would address those needs and provide a secure permanent municipal water supply to our Reservation.

1. The Tribe's critical need for additional water.

The Hualapai Reservation encompasses approximately one million acres in northwestern Arizona that our Tribe has occupied since time immemorial. All lands on our Reservation are tribal trust lands; there are no allotments or fee inholdings. The Colorado River forms the 108-mile northern boundary of our Reservation through a portion of the Grand Canyon.

Our Reservation has no significant surface streams other than the Colorado River. It has very limited groundwater resources. The Tribe's principal residential community at Peach Springs now relies exclusively on three groundwater wells in the Truxton Aquifer, near the Reservation's southern boundary. These existing wells are a depletable resource and well levels on the Reservation have been dropping for years. The wells in the Truxton Aquifer were installed in 1975, so the piping for the well system is 45 years old and has failed in the recent past, leaving our community without water for several days. One of the wells has also suffered episodes of dangerous E-coli and coliform contamination. When that well is out of service

because of contamination, we have been unable to supply sufficient water to the Peach Springs community, so we have had to implement strict mandatory conservation measures.

Because this groundwater is currently the only source of water for our residential needs on the Reservation, we are very vulnerable to any short-term interruptions in supply from these wells, and also vulnerable to the undeniable long-term decline in the water levels in the Truxton Aquifer. Our future depends both upon having a quantified right to water from the Colorado River, which forms the very boundary of our Reservation, and upon obtaining the infrastructure needed to pump that water up 4000 feet in elevation to the Reservation and deliver it to our people.

The Hualapai Reservation does not have the natural resources to permit commercial agriculture, timber or mineral development. But the Reservation's virtually unique location on the Grand Canyon has given the Tribe an opportunity to create a self-sustaining tourism-based economy. Over two decades ago, we opened Grand Canyon West to attract tourists to view magnificent vistas in the Grand Canyon, chiefly visitors from Las Vegas, a two-hour drive away. The nearest groundwater to Grand Canyon West is 35 miles away, and the low-production well there is not able to pump water due to the current drought, thus endangering the Tribe's ability to keep our tourist facility open, and requiring the tribe to haul water from near Peach Springs to Grand Canyon West.

Prior to the current pandemic, Grand Canyon West and other tribal enterprises such as rafting on the Colorado River -- along with our tribal government -- employed more than 1,500 workers, more than 550 of which were non-Hualapai members. Indeed, the Hualapai Tribe was the second largest employer in Mohave County, Arizona. At one time, we were the largest

employer in the county. In recent years, Grand Canyon West has hosted over 1 million visitors a year.

Our Vision to Success is that the “Skywalk and Grand Canyon West are the main economic drivers for the Hualapai Tribe, and we are proud of the success our dedicated tribal members and others have achieved in this beautiful location.

But there is one issue standing in the way of building upon that success: access to water. Just like the urgent water issues facing the rest of Arizona, the Hualapai Tribe needs to assure its water supply to support our people in the generations to come.” (Legislative Day- 01, 16, 2019; Drclarke).

This year, however, the coronavirus pandemic has devastated our Reservation. About 1400 tribal members reside on the Reservation. We have suffered more than 100 cases of coronavirus, many with serious lasting effects. So far, twelve tribal members have died from the virus, almost one percent of our membership. And Grand Canyon West was forced to close earlier this year because of the pandemic, thus imposing great economic hardship on the tribal members who are employed there and on the tribal government which depends on the revenues from Grand Canyon West.

When the pandemic ends, we would like to reopen and further develop Grand Canyon West – but we will be unable to take advantage of the full potential for expansion because of our critical lack of water. The Tribe urgently needs Colorado River water to take advantage of the potential both to reopen and to expand Grand Canyon West to create jobs for both tribal members and non-Indians, as well as provide revenues for our tribal government. As I will discuss next, we now have a negotiated water settlement pending in Congress that if it is ratified would allow us to achieve these goals.

2. History of Settlement Negotiations.

Over a six-year period ending in 2016, the Hualapai Tribe, in two phases, negotiated a settlement of all of the Tribe's federally reserved water rights with the State of Arizona and major private entities in Arizona - Salt River Project, Central Arizona Water Conservation District and Freeport Minerals Corporation. The United States actively participated in these settlement negotiations through a Federal Negotiating Team consisting of representatives from affected Interior Department agencies and from the Department of Justice.

First, the parties successfully resolved a portion of the Tribe's water rights—those in the Bill Williams River watershed south of the Reservation, where the Tribe has a small parcel of tribal trust land and where tribal members have two parcels of allotted trust land. This settlement that was ratified by Congress is the Bill Williams River Water Rights Settlement Act of 2014.

Second, in 2016, the Tribe and the State and private parties also concluded a final settlement agreement resolving all the Tribe's remaining water rights claims on a comprehensive basis. This settlement is now before Congress in S. 1277, introduced by Senators Sinema and McSally, and an identical bill, H.R. 2459, introduced by Representative O'Halleran. The legislation is co-sponsored by other Republican and Democratic members of our Arizona congressional delegation – as it was in prior Congresses where it was introduced by Senators McCain and Flake and Representative Gosar. This legislation is strongly supported by the Tribe, the State of Arizona and by the private entities which are parties to the settlement. It is also strongly supported by Mohave County, the local jurisdiction in which most of our Reservation is located.

The Tribe is currently working with the Interior and Justice Departments to secure the Trump Administration's support for the legislation.

3. Elements of the Settlement.

The principal elements of the comprehensive water rights settlement and

- A comprehensive settlement of all of the Hualapai Tribe's federally reserved water right claims for its Reservation and other trust lands.
- Recognition of the Tribe's exclusive rights to all groundwater and surface water on the Reservation and its other trust lands.
- An allocation to the Tribe of 4,000 acre-feet a year of Central Arizona Project (CAP) water from the Colorado River. Of this amount, 1,115 acre-feet a year will be "firmed" (half by the United States and half by the State) until 2108 to protect against future shortages in the availability of Colorado River water in Arizona. The Settlement Act also provides that the Tribe itself can "firm" additional portions of the Central Arizona Project water allocated to the Tribe in any year the water is available and is not needed in that year for delivery to the Reservation.
- The legislation authorizes the expenditure of \$134.5 million in federal funds (in 2016 dollars) to construct an infrastructure project to deliver up to 3,414 acre-feet a year from the Colorado River to the Reservation. The project would divert water from the Colorado River on the Reservation at Diamond Creek and then deliver it through a 70-mile pipeline to both Peach Springs and Grand Canyon West. This system will replace the Tribe's reliance on the existing groundwater wells (except when those wells are needed as an emergency backup). The legislation also authorizes a Trust Fund of \$32 million for the Tribe partially to defray future costs of operating, maintaining and replacing the project works, \$5 million for OM&R costs prior to transfer of the project to the Tribe, and \$2 million for training of Tribal members in operating and managing the project.

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

4. In Conclusion.

Passage of this settlement legislation is absolutely essential if our Tribe is to attain a secure future for our Reservation, to accommodate future growth of our population and to realize the full economic potential of our Reservation. We have done everything possible to provide jobs and income to our people in order to lift them out of poverty—but the lack of a secure and replenishable water supply on our Reservation is our major obstacle that prevents us from achieving economic self-sufficiency. On a personal note, I've live here in Peach Springs since I was 11 years old, living with my grandparents in Kingman, and visiting often during my early years. I am now 53 years older, and Peach Springs has not changed much. There are more people, more homes, and more problems with unemployment, issues with drugs and alcohol, and suicide and finally more issues with education. We have had little growth economically within Peach Springs; the gym is still the gym of over 60 years. Youth have little to look forward to when the go to college and return; but we encourage them to go and get higher education. This settlement will hopefully enhance our ability to do something for our future—the youth. As I have stated, when I was a teen not much has changed and this is what our youth see and say, just as I said when I was a teen. But, I tried to stay busy and did. Dreams are made to become reality and we are here to make them became true with the future leaders in mind- OUR YOUTH. Somehow this a plan the Man Up Above made for us by putting us on the border of the Colorad River (Ha'Kama) the Colorado River , River of life. This water settlement legislation will allow us to overcome that obstacle and reach our goal. Hani kyu- thank you.