

Northeastern Arizona Indian Water Rights Settlement Agreement

Purpose

The Northeastern Arizona Indian Water Rights Settlement Agreement (NAIWRSA) finally settles the Navajo Nation's, the Hopi Tribe's, and the San Juan Southern Paiute Tribe's claims to the main stem of the Colorado River, the Little Colorado River, and relevant groundwater sources, in Arizona.

Background and Need

In 1922, the Colorado River Compact divided Colorado River basin water among seven Western states but left out tribes. Tribes in the West have been trying to settle their water rights for years. Three tribes in Northeastern Arizona — the Navajo Nation, Hopi Tribe, and the San Juan Southern Paiute — have come together to complete a water settlement with the state of Arizona.

The Navajo Nation is the largest Native community in the U.S. with a population of about 175,000 people in Arizona, Utah, and New Mexico. The Navajo Nation has one of the largest single outstanding claims in the Colorado River basin. They have been able to settle water rights for different with New Mexico and Utah but have yet to settle with Arizona. In 2023, about one third of residents did not have running water in their homes. Many homes on Hopi lands share similar circumstances. The San Juan Southern Paiute do not have their own reservation, and thus, no water.

This settlement will allow for a reliable and safe source of water for these communities. Additionally, the Navajo Nation and Hopi Tribes gain the ability to lease their water, creating economic opportunity until the water projects are complete and demand is local. This water settlement is the result of years of government-to-government negotiation and collaboration. It has been approved by all three tribes, over 30 parties, and now the federal government must ratify and fund the settlement.

Summary

This bill settles the ongoing water claims in the Colorado River Basin for the Navajo Nation, the Hopi Tribe, and the San Juan Southern Paiute. The legislation includes \$5 billion to build essential water development and delivery projects.

The settlement terms are outlined below:

NAVAJO NATION SETTLEMENT ELEMENTS

Upper Basin Colorado River Water: 44,700 AFY (acre-feet per year) of the Arizona Upper Basin allocation.

Lower Basin Colorado River Water: 3,600 AFY of Fourth Priority Lower Basin Colorado River Water (including 100 AFY of Cibola Lower Basin Water).

Little Colorado River Mainstem Water: All the Little Colorado River mainstem water that reaches the Navajo Nation (historic flows are estimated to be 122,000 AFY). Includes quantified amounts and priority dates for specific historic Navajo irrigation projects.

Little Colorado River Tributary Water: All LCR tributary water that reaches the Navajo Nation.

Coconino Aquifer: All that underlies the Navajo Nation.

Navajo Aquifer: All that underlies the Navajo Nation subject to an agreement between the Navajo Nation and the Hopi Tribe that limits Navajo pumping from the Confined Aquifer and the Shonto Recharge Area to 8,400 AFY (and within that amount limits the use of that water for industrial purposes to 2,000 AFY).

Shared Washes: There are 5 major washes shared by the Navajo Nation and the Hopi Tribe that are subject to an agreement between the Tribes to (1) grandfather existing water uses, (2) provide limitations on new uses upstream of the southern boundary of the Hopi Reservation, (3) provide for the rehabilitation of historic irrigation uses, and (4) permit traditional agriculture and wash restoration.

The Navajo Nation may lease, exchange, and accrue long-term storage credits for its Arizona water; store its Arizona water in two Reservoirs in New Mexico; store its Arizona water in aquifers on the Navajo Reservation for later recovery; engage in inter-basin transfer of Colorado River water in Arizona; and divert its water in New Mexico and Utah for use in Arizona.

HOPI TRIBE SETTLEMENT ELEMENTS

Upper Basin Colorado River Water, Cibola 4th, 5th, & 6th Priority Lower Basin Colorado River Water, Little Colorado River Water, tributary water, springs, underground water, and effluent.

Upper Basin Colorado River Water: 2,300 AFY of the Arizona Upper Basin allocation.

Lower Basin Colorado River Water: 4,178 AFY of 4th priority Cibola Water, 750 AFY of 5th priority Cibola Water, and 1,000 AFY of 6th priority Cibola Water.

Little Colorado River Mainstem & Tributary Water: Existing uses, the same limited new uses as permitted for non-Indian parties, and certain limited rights to participate with the Navajo Nation in new and enlarged reservoir projects on or adjacent to Hopi Land.

Coconino Aquifer: All the water that underlies the Hopi Reservation; the Hopi Tribe has agreed to pumping limitations at the Hart Ranch (see description of C-Aquifer Agreement below and Figure 1 and Figure 2 of the Navajo Hopi C-Aquifer Pumping Restrictions Area).

Navajo Aquifer: All that underlies the Hopi Reservation subject to an agreement between the Navajo Nation and the Hopi Tribe that limits Hopi Tribe's pumping to 5,600 AFY (and within that amount limits the use of that water for industrial purposes to 2,000 AFY).

Shared Washes: There are 5 major washes shared by the Navajo Nation and the Hopi Tribe that are subject to an agreement between the Tribes to (1) grandfather existing water uses, (2) provide limitations on new uses upstream of the southern boundary of the Hopi Reservation, (3) provide for the rehabilitation of historic irrigation uses, and (4) permit traditional agriculture and wash restoration.

The Hopi Tribe may lease, exchange, and accrue long-term storage credits for its water; store its water in aquifers on the Hopi Reservation for later recovery; and engage in inter-basin transfer of Colorado River water in Arizona.

SAN JUAN SOUTHERN PAIUTE TRIBE SETTLEMENT ELEMENTS

Surface water that reaches and flows on the San Juan Southern Paiute Southern Area; underground water, springs, and effluent on the Southern Area; Delivery of up to 350 AFY from NTUA (either groundwater or Colorado River water delivered through a pipeline from Lake Powell.)

Navajo Section 1 Allotments (On-Reservation): The United States will settle these claims. Navajo Section 1 Allottees will be served with Navajo Nation water.

Hopi Allotments (On-Reservation): The United States will settle these claims. Existing surface water rights will be grandfathered.

Funds Created in the legislation:

The iiná bá – paa tuwaqat’si pipeline Implementation Fund – \$1.715 billion. The settlement would fund a pipeline from Lake Powell that must be completed by the U.S. Bureau of Reclamation by the end of 2040.

Navajo Nation Water Settlement Trust Fund - \$2.7467 billion, including Navajo Nation Water Projects Trust Fund Account, Navajo Nation Renewable Energy Project Fund Account, Navajo Nation Agricultural Conservation Fund Account, Navajo Nation OM&R (Operation, Maintenance & Replacement) Fund Account, and the Navajo Nation Lower Basin Colorado River Water Acquisition Fund Account.

Hopi Tribe Water Settlement Trust Fund -- \$508.5 million, including the Hopi Tribe Groundwater Project Trust Fund Account, Hopi Tribe Agricultural Conservation Fund Account, Hopi Tribe OM&R Trust Fund Account, and the Hopi Tribe Lower Basin Colorado River Water Acquisition Trust Fund Account.

San Juan Southern Paiute Tribe (“SJSPT”) Water Settlement Trust Fund - \$29.8- Million, including the SJSPT Groundwater Project Trust Fund Account, the SJSPT Agricultural Conservation Trust Fund Account, and the SJSPT OM&R Trust Fund Account: \$1.5 million to support operation, maintenance, and replacement for the San Juan Southern Paiute Tribe groundwater project.