Current Indian Water Settlements and Negotiations

National Congress of American Indians
National Tribal Water Summit
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- Comprehensive settlement of Tribe’s water rights claims in Montana
  - Legislation approves Blackfeet Water Rights Compact
  - 750,000 acre feet of surface water, plus groundwater and storage water
  - $421.96 million in funding for water related infrastructure and other purposes

- 02/03/2016 - Reported out of Senate Committee on Indian Affairs

- 05/24/2016 - Hearing on discussion draft of legislation before House Natural Resources Committee Subcommittee on Water, Power, and Oceans

- 7/11/16 – H.R. 5633 introduced

- 09/15/2016 - Included in Senate version of Water Resources Development Act S. 2848

- Comprehensive settlement of Band’s water rights claims in Santa Margarita River Basin
  - 4,994 acre feet of water decreed to Band
  - $28.5 million in funding

- 02/03/2016 - Reported out of Senate Committee on Indian Affairs

- 06/23/2016 - Hearing on draft legislation before House Natural Resources Committee Subcommittee on Water, Power, and Oceans

- 09/09/16 - H.R. 5984 introduced

- 09/15/2016 - Included in Senate version of Water Resources Development Act S. 2848

- 9/22/2016 - Reported out of House Natural Resources Committee
S. 2848, § 8002 – Choctaw Nation of Oklahoma and the Chickasaw Nation water settlement

- First settlement of Indian water rights claims in Oklahoma

- Water rights recognized but no quantified acre feet number. Provides the Nations a defined role in managing water resources within the Settlement Area
  - Places conditions on exports of Sardis Lake water including minimum bypass flows and a lake level management program
  - Provides unique mechanism for resolution of allottee rights
  - Federal contribution: forgiveness of approximate debt of $51 million potentially owed to US Army Corps of Engineers
  - Nations delegate regulatory authority to State

- 09/15/2016 - Included in Senate version of Water Resources Development Act S. 2848
H.R. 1296 – Amendment to the San Luis Rey Indian Water Rights Settlement Act of 1988

- 1988 settlement included 16,000 acre feet of water and a $30 million settlement fund for the La Jolla, Rincon, San Pasqual, Pala, and Pauma Bands of Mission Indians
  - Benefits were contingent upon an executed settlement agreement
  - Numerous implementation problems arose

- Amendment approves a 2014 Settlement Agreement (as amended in September 2016, including waivers not included in the 1988 Act)
  - Recognizes the continuing federal reserved water rights of the Bands
  - Confirms that the benefits of the Settlement Agreement satisfy the water rights of allottees
  - Limits the Bands’ annual withdrawals from the settlement fund (now estimated at approx. $60 million) to $3.7 million until the fund is exhausted

- 09/22/2016- Passed in the House of Representatives
S. 2959 – Amendment to the White Mountain Apache Tribe Water Rights Quantification Act of 2010

- Amendment allows a tribal settlement trust fund to be used to cover cost over runs associated with the planning, design, and construction of the WMAT rural water system.

- WMAT Act provides:
  - $78.5 million tribal trust fund (WMAT Settlement Fund)
  - $24 million Cost Overrun Subaccount with authorization for an additional $11 million
  - $126.2 million in mandatory appropriations to build the WMAT rural water system

- The WMAT rural water system consists of:
  - A dam and storage reservoir, pumping plant and treatment facilities
  - A pipeline distribution system from the treatment facilities to existing distribution systems that serve various Reservation communities

- 09/07/2016- Reported out of Senate Committee on Indian Affairs

- Comprehensive settlement of water rights claims of the Confederated Salish and Kootenai Tribes of the Flathead Reservation (CSKT) in Montana

- Legislation approves CSKT Water Rights Compact
  - Authorizes joint Tribal-State water rights administration on the CSKT Reservation
  - Proposes approximately $2.3 billion for irrigation and other water resource improvements

- 05/26/2016 - Legislation introduced in Senate

- 06/29/2016 – Hearing before Senate Committee Indian Affairs
  - DOI testified that it could not support the legislation
  - Additional review of the Compact and the legislation needed
  - Significant concerns about costs

- Not yet introduced in the House

- Comprehensive settlement of Tribe’s water rights claims in Arizona
  - 4,000 acre-feet of Central Arizona Project water
  - $134.5 million infrastructure project to divert water from the Colorado River to Peach Springs and Grand Canyon West
  - $34 million for OM&R trust fund for Tribe

- 09/07/2016 - Legislation Introduced in Senate

- 09/14/2016 - Hearing before Senate Committee on Indian Affairs
  - DOI testified that it does not support the legislation
  - Concerns over costs, including validity of construction estimates
  - Need to assess use of groundwater as part of settlement

- Not yet introduced in the House
S. 2848 – Water Resources Development Act of 2016

- Act includes 3 Indian water Settlements
  - Blackfeet Water Rights Settlement Act
  - Pechanga Band of Luiseno Mission Indians Water Rights Settlement Act
  - Choctaw Nation of Oklahoma and the Chickasaw Nation water settlement

- Administration on record supporting Blackfeet and Pechanga settlements

- Formal position on Choctaw/Chickasaw in process

- Conference expected on S. 2848 and H.R. 5303 in lame duck session
Upcoming Settlements

- Navajo-Utah
- Tule River
- Kickapoo