

**Written Statement of Testimony of Thomas Buschatzke
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Arizona Department of Water Resources
Committee on Natural Resources
Subcommittee on Water and Power
U.S. House of Representatives
H.R. 4924 (Gosar)
The Bill Williams River Water Rights Settlement Act of 2014
September 19, 2014**

Chairman McClintock, Ranking Member Napolitano and members of the Subcommittee:

I. Introduction

My name is Tom Buschatzke. I am the Assistant Director for the Water Planning Division for the Arizona Department of Water Resources. Thank you for providing me an opportunity to present testimony on behalf of the State of Arizona in support of H.R. 4924, the Bill Williams River Water Rights Settlement Act of 2014. Before beginning my testimony, I would like to first mention that Arizona Governor Jan Brewer previously expressed her support for this legislation in a letter dated July 7, 2014 which was addressed to Senator Jeff Flake and copied to the Arizona Congressional Delegation.

II. The Act Advances the Goal of Securing Water Supplies in Arizona

As mentioned in Governor Brewer's letter, earlier this year Governor Brewer released a report prepared by the Arizona Department of Water Resources entitled "Arizona's Next Century: A Strategic Vision for Water Supply Sustainability." The stated purpose of the Strategic Vision is to help guide Arizona through the coming decades on steps that the State can take to secure water supplies to meet current and anticipated demands and provide a stable economy for our future. The Bill Williams River Water Rights Settlement Act is consistent with the Strategic Vision report and advances the report's goal of securing water supplies to meet current and anticipated water demands in the State in at least three respects.

A. Confirmation of Water Rights Between Water Users in the Bill Williams River Watershed

First, on a regional level, the two water rights settlement agreements authorized by the Act will provide a more secure water supply for three major water users in the Bill Williams River watershed – The Hualapai Tribe, Freeport Minerals Corporation (“Freeport”) and the Arizona Game and Fish Commission. The Hualapai Tribe has water rights claims for three trust land parcels within the watershed. As part of the settlement, Freeport will confirm water rights for those three parcels and will agree to take certain actions to protect the physical water supply for those parcels, as well as Cofer Hot Spring located on land held in fee by the Tribe in the watershed.

Freeport owns and operates the Bagdad mine in the Bill Williams River watershed. As part of the settlement, the Hualapai Tribe, the United States as trustee for the Tribe, the Department of the Interior and the Arizona Game and Fish Commission will confirm certain water rights of Freeport in the watershed. In addition, the Act will direct the Secretary of the Interior to withdraw objections filed by the Bureau of Indian Affairs, the Bureau of Land Management and the United States Fish and Wildlife Service to applications Freeport filed with the Department of Water Resources to sever and transfer surface water rights from Planet Ranch and Lincoln Ranch in the watershed to its Wikieup wellfield. Freeport pumps water at the Wikieup wellfield for use at the Bagdad mine. Freeport will agree to cap the volume of water withdrawn from those wells at historic levels.

The Arizona Game and Fish Commission holds water rights in the Bill Williams River watershed for recreation, fish and wildlife uses. Under the settlement, Freeport will confirm and agree not to challenge those water rights.

B. Donation of land for the Lower Colorado River Multi-Species Conservation Program

On a state-wide level, the Big Sandy River-Planet Ranch Water Rights Settlement Agreement authorized by the Act will help secure Arizona’s 2.8 million acre-feet per year allocation of water from the Lower Colorado River through the donation of land by Freeport to the Lower Colorado River Multi-Species Conservation Program (“MSCP”). The MSCP is a partnership among federal agencies, the States of Arizona, California and Nevada, Indian Tribes, water and hydroelectric power providers and other public interests with the goal of creating and conserving habitat for threatened and endangered species in the Lower Colorado River Basin. Through implementation of the program, providers of water and power from the Lower Colorado River achieve long-term compliance with endangered species laws.

The continued success of the MSCP is critical to the economy of the State of Arizona and the well-being of millions of people within the State who rely on water and power from the Lower Colorado River. Arizona is using all of its Colorado River water allocation, and the continued availability of that supply is an important piece of the Strategic Vision. Actions to secure the supply are therefore consistent with the Strategic Vision and help further its goals.

Freeport, through a subsidiary company, owns Planet Ranch, a ranch consisting of approximately 8,400 acres of land located adjacent to the Bill Williams River National Wildlife Refuge and near the Lower Colorado River. As part of the Big Sandy River-Planet Ranch Water Rights Settlement Agreement, Freeport will lease approximately 3,400 acres of farm land within Planet Ranch, including water rights for those lands, to the United States Bureau of Reclamation for 50 years. The Bureau of Reclamation will use the land and water rights to create and maintain habitat for endangered and threatened species as part of the MSCP. Freeport will then donate the leased land and water rights to the Arizona Game and Fish Commission, subject to the lease to the Bureau of Reclamation.

The addition of 3,400 acres of land to the MSCP for use as habitat for endangered and threatened species will be a significant benefit to the MSCP. It will help the MSCP continue achieving compliance with endangered species laws for persons using water and power from the Lower Colorado River. As previously stated, this will advance the Strategic Vision's goal of securing water supplies within Arizona.

C. Facilitation of a comprehensive water rights settlement with the Hualapai Tribe

The third way in which the Act advances the Strategic Vision's goal is that it will facilitate a future comprehensive settlement of all of the Hualapai Tribes' water rights claims in Arizona, including its claims to the Colorado River. There are 22 federally recognized Indian tribes in Arizona. The water rights for thirteen of those tribes have been established in whole or in part through the United States Supreme Court's decree in *Arizona v. California* or through settlements approved by Congress. Eleven Arizona tribes, including the Hualapai Tribe, have unresolved water rights claims.

Although this Act will authorize the settlement of a portion of the Hualapai Tribe's water rights claims in Arizona, the settlement is limited to its claims associated with three trust land parcels in the Bill Williams River watershed, and only settles those claims between Freeport and itself. The settlement will not resolve the Tribe's other water rights claims in Arizona, including its claims for water rights for its main reservation. Those claims include claims to Colorado River water due to the reservation's close proximity to the Lower Colorado River.

The Strategic Vision report recognizes the importance of continuing the State's policy of resolving the outstanding tribal water rights claims in Arizona through settlement rather than litigation. As stated in the report, completion of the settlements is essential to not only provide a secure water supply for tribal communities, but also to provide long-term certainty for all water users in Arizona.

The settlement agreements authorized by this Act include two provisions that will facilitate a future comprehensive settlement of the Hualapai Tribe's remaining water rights claims in Arizona. The Big Sandy River-Planet Ranch Water Rights Settlement Agreement provides that Freeport will transfer \$1 million to the Tribe as a contribution toward the cost of the Tribe's study of water project alternatives. It is expected that this study will identify a project that, depending on its feasibility, would be funded through a comprehensive settlement for the purpose of delivering to the reservation water allocated to the Tribe through the settlement.

Under the Hualapai Tribe Bill Williams River Water Rights Settlement Agreement, Freeport will contribute a sum of money agreed upon by the Tribe and Freeport to a Hualapai Tribe Economic Development Fund. The Act provides that the Tribe may use the money only to acquire Colorado River water rights with the intent to increase the security of the Tribe's water rights, to facilitate the use of water on the Hualapai Reservation, and to facilitate settlement of the Tribe's claims for rights to Colorado River water. The Colorado River water rights purchased by the Tribe with the money contributed by Freeport will facilitate a comprehensive settlement by providing a water supply that will partially meet the water demands on the Tribe's reservation, reducing the amount of water needed from other sources.

III. Conclusion

In conclusion, the State of Arizona strongly supports this legislation. The legislation authorizes a settlement that not only will provide secure water supplies for the settling parties in the Bill Williams River watershed, but also will provide benefits to other water users in the State. The settlement will provide land and water rights to help achieve the goals of the MSCP and will pave the way for a comprehensive water rights settlement with the Hualapai Tribe.

Thank you again for the opportunity to present the State of Arizona's support for this legislation.