



**RESOLUTION  
of the  
WESTERN STATES WATER COUNCIL  
in support of  
INDIAN WATER RIGHTS SETTLEMENTS**

**Anchorage, Alaska  
September 14, 2023**

**WHEREAS**, the Western States Water Council, an instrumentality of eighteen western states advising Western Governors on water policy, has consistently supported negotiated settlement of disputed Indian water rights claims; and

**WHEREAS**, “Indian water rights claims” is a term of art referring specifically to the quantification of the implied reserved water rights for use on reservations of land to Native Americans in the Lower 48 that arise under the U.S. Supreme Court doctrine in *Winters v. United States*, 207 U.S. 564 (1908); and

**WHEREAS**, the public interest and sound public policy require the resolution of Indian water rights claims in a manner that is least disruptive to existing uses of water; and

**WHEREAS**, negotiated resolution of Indian water rights claims is a highly desirable process, which can achieve the final determination of Indian water rights fairly, efficiently, and with the least cost; and

**WHEREAS**, the advantages of negotiated settlements include: (i) the ability to be flexible and to tailor solutions to the unique circumstances of each situation; (ii) the ability to promote conservation and sound water management practices; and (iii) the ability to establish the basis for cooperative partnerships between Indian and non-Indian communities; and

**WHEREAS**, the successful resolution of certain claims may require “physical solutions,” such as development of federal water projects and improved water delivery and application techniques; and

**WHEREAS**, the United States has developed many major water projects for waters claimed by Indian and non-Indian communities and has a responsibility to both to assist in resolving such water use conflicts; and

**WHEREAS**, the settlement of Indian water rights claims is one of the most important aspects of the United States’ trust obligations, where applicable, to Native Americans and is of vital importance to the country as a whole and not just individual Tribes or States; and

**WHEREAS**, the obligation to fund resulting settlements is analogous to, and no less serious than, the obligation of the United States to pay judgments rendered against it; and

**WHEREAS**, Indian water rights settlements involve a waiver of both tribal water right claims and tribal breach of trust claims that otherwise could result in court-ordered judgments against the United States and increase costs for federal taxpayers; and

**WHEREAS**, current budgetary pressures and legislative policies make it difficult for the Administration, the States, and the Tribes to negotiate settlements knowing that they may not be funded because either they are considered earmarks or because funding must be offset by a corresponding reduction in some other expenditure, such as another tribal or essential Interior Department program; and

**WHEREAS**, a substantial federal investment has been made in past settlements, including appropriations under the Infrastructure Investment and Jobs Act creating an Indian Water Rights Settlement Completion Fund, but no permanent dedicated source of funding exists for future settlements.

**NOW, THEREFORE, BE IT RESOLVED**, that the Western States Water Council reiterates its support for the policy of encouraging negotiated settlements of disputed Indian water rights claims as the best solution to a critical problem that affects almost all of the Western States; and

**BE IT FURTHER RESOLVED**, that the Western States Water Council urges the Administration to support its stated policy in favor of Indian water rights settlements with a strong continuing fiscal commitment for meaningful federal contributions to these settlements that recognizes the applicable trust obligations of the United States government; and

**BE IT FURTHER RESOLVED**, that Congress should expand opportunities to provide funding for settlements both through the Bureau of Reclamation to undertake project construction related to these settlements from revenues accruing to the Reclamation Fund -- or otherwise via fund-based settlements designed to provide resources for tribes to develop their own water resources – recognizing the existence of other legitimate needs that may be financed by these reserves; and

**BE IT FURTHER RESOLVED**, that Indian water rights settlements are not and should not be defined as Congressional earmarks; and

**BE IT FURTHER RESOLVED**, that steps be taken to ensure that any Indian water rights settlement, once authorized by the Congress and approved by the President, will be funded without a corresponding offset, including cuts to some other tribal or essential Interior Department program.

*\*Originally adopted March 21, 2003  
Revised and reaffirmed Mar 29, 2006, October 17, 2008, October 7, 2011,  
October 10, 2014, and October 20, 2017  
(See also Nos. 250, 275, 310, 336, 376, 412 and 454)*