



RESOLUTION
of the
WESTERN STATES WATER COUNCIL
in support of
UNIVERSAL ACCESS TO RELIABLE, CLEAN DRINKING WATER FOR
FEDERALLY RECOGNIZED INDIAN TRIBES
Washington, DC
March 14, 2024

WHEREAS, access to reliable, clean drinking water is an essential human need that is critical to the public health, well-being, educational attainment, and economic development of all communities in the United States; 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 states that arise under the U.S. Supreme Court doctrine in *Winters v. United States*, 207 U.S. 564 (1908); and

WHEREAS, “Indian Tribes,” as used here, refers to federally recognized Indian Tribes in the Lower 48 states; and

WHEREAS, lack of access to reliable, clean drinking water has long been a significant problem for many federally recognized Indian Tribes such that nearly half of all households still do not have access to reliable, clean drinking water, and are significantly more likely than non-Native households to lack indoor plumbing; and

WHEREAS, reliable, clean drinking water may be unavailable to households in federally recognized Indian Tribes for a number of reasons, including because –

- (1) there is no piped water system connecting to the house;
- (2) the water available to the household does not meet minimum standards protective of human health;
- (3) the water and sanitation infrastructure is deteriorating, insufficient or non-existent; or
- (4) federally recognized Indian Tribes are unable to support the operation and maintenance needs of existing water and sanitation infrastructure; and

WHEREAS, federal programs administered through the Department of the Interior, Indian Health Service of the Department of Health and Human Services, the Environmental Protection Agency, the Department of Agriculture, and other federal and state agencies have not been fully successful in developing and/or maintaining the infrastructure necessary to provide reliable, clean drinking water for some federally recognized Indian Tribes; and

WHEREAS, many federally recognized Indian Tribes have unresolved Indian water rights claims, which may not be immediately resolved, due in part to the complex and significant issues typically involved in the adjudication or negotiated settlement of Indian water rights claims; and

WHEREAS, while funding for drinking water infrastructure for federally recognized Indian tribes has benefited greatly from appropriations in the Infrastructure Investment and Jobs Act of 2021 and the Inflation Reduction Act of 2022, more effort is required to provide a complete solution and ensure that the benefit of the funding previously made available is realized; and

WHEREAS, the Western States Water Council recognizes the sovereignty of the states to administer and distribute the waters of each state and that adjudication of Indian water rights claims occur through state water rights adjudications, and strongly supports the negotiated settlement of Indian water rights claims; and

WHEREAS, the development of drinking water infrastructure for federally recognized Indian Tribes is often included in the settlement of Indian water rights claims, but the Western States Water Council recognizes that because of the length of time it takes to successfully adjudicate or negotiate settlement of Indian water rights claims, an alternative means for immediate action is needed to provide funding to develop drinking water infrastructure for federally recognized Indian Tribes; and

WHEREAS, the trust responsibility of the Federal Government to ensure the survival and welfare of federally recognized Indian tribes, where applicable, includes the provision of safe and reliable drinking water infrastructure for basic water services; and

WHEREAS, the lack of access to clean and safe drinking water supplies has had a significant and adverse public health impact on federally recognized Indian Tribes, and the COVID 19 pandemic provided a stark reminder that access to reliable, clean drinking water to support basic personal hygiene practices is a matter of life or death for all citizens of the United States.

NOW, THEREFORE, BE IT RESOLVED, that the Western States Water Council supports the provision of reliable, clean drinking water to meet the domestic needs of federally recognized Indian Tribes and recognizes that providing access to reliable, clean drinking water through water infrastructure, coupled with developing the technical, managerial, and financial capacity to operate and maintain that infrastructure, is an essential component of the Federal trust responsibility to Native Americans, where applicable; and

BE IT FURTHER RESOLVED, that while recognizing that adjudication or negotiated settlement of Indian water right claims is critically important, and that the provision of reliable, clean drinking water and related infrastructure is frequently an important component of adjudications and settlements, the Western States Water Council believes that a final adjudication or settlement is not and should not be a prerequisite to providing reliable, safe drinking water infrastructure to federally recognized Indian Tribes; and

BE IT FURTHER RESOLVED, that the Western States Water Council urges the Administration and Congress to support, encourage, and fund the appropriate, expedited resolution of negotiated settlements and adjudications relating to Indian water rights claims; and

BE IT FURTHER RESOLVED, that the Western States Water Council urges the Administration to employ a coordinated approach to meeting the aforementioned safe drinking water needs by working across departmental and agency boundaries in collaboration with Tribal governments and encourages inter-governmental agreements to facilitate such coordination; and

BE IT FURTHER RESOLVED, that the Western States Water Council also urges Federal agencies and Tribal governments to coordinate and work collaboratively with appropriate State and local jurisdictions to establish expedited planning, design, development, and operation of infrastructure necessary to provide reliable, affordable, and clean drinking water for federally recognized Indian Tribes in accordance with applicable law.

Revised and Readopted
(see former Position No. 465, March 25, 2021)