

**WRITTEN TESTIMONY
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SENATE COMMITTEE ON INDIAN AFFAIRS
S.2956
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Good morning Chairman Dorgan, Vice Chairman Barrasso, and members of the Committee. My name is Matthew Stone and I am the General Manager of Rancho California Water District (RCWD) in Riverside County, California. I appreciate the opportunity to appear on behalf of RCWD to present testimony regarding S.2956 on the Pechanga Band of Luiseño Mission Indians Water Rights Settlement (Settlement) between Pechanga, RCWD, Eastern Municipal Water District (EMWD), and the United States.

Thank you, Mr. Chairman, and Committee members, Rollie Wilson, and other members of your staff for your assistance in scheduling and preparing for this hearing. And special thanks to the bill's sponsor, Senator Barbara Boxer, and her staff for their continued support, as well as the bill's co-sponsor Senator Dianne Feinstein.¹

My testimony provides background information and an overview of the terms of the Settlement and its benefits.

I. BACKGROUND

RCWD is a "special district" organized and operated pursuant to the California Water Code and is governed by a seven-member Board of Directors that is elected by the voters of the region. RCWD serves the area known as Temecula/Rancho California, which includes the City of Temecula, portions of the City of Murrieta, and unincorporated areas of southwest Riverside County, California.

RCWD provides water supply, wastewater collection and treatment, and water recycling services to over 130,000 people in an area encompassing 160 square miles. RCWD has an infrastructure network to serve its service area. The District has 940 miles of water mains, 36 storage reservoirs, one surface reservoir (Vail Lake), 47 groundwater wells, and over 40,000 service connections. RCWD receives its imported water (treated and untreated) through six Metropolitan Water District of Southern California (MWD) water turnouts (three in EMWD's service area and three in Western Municipal Water District's (WMWD) service area).

RCWD currently delivers 80,000 acre feet per year (AFY) for domestic, commercial, agricultural and landscape uses. RCWD's customer profile includes a significant agricultural industry that produces avocados, citrus and wine grape products, which add significantly to the local and regional economy. In addition, RCWD services residential, business and manufacturing customers in Temecula and Murrieta. Larger employers in the service area

¹ The companion bill to S. 2956 is H.R. 5413 sponsored by Joe Baca (D-CA) and co-sponsored by six additional members.

include Abbott Vascular, International Rectifier, and Professional Hospital Supply. There is a wide range of local businesses that thrive on tourism in our wine region, historic old town, and Pechanga's casino. But the region has suffered from the impacts of the housing downturn, as Riverside was once the third fastest growing county in the nation.

RCWD's existing water supplies include: Groundwater - Temecula and Pauba groundwater basins; Imported Water - MWD's Colorado River Aqueduct and the State Water Project; Recycled Water - Santa Rosa Water Reclamation Facility operated by RCWD, and the Temecula Valley Regional Water Reclamation Facility operated by EMWD. RCWD also manages the water storage rights in Vail Lake, which was created through the construction of the Vail Dam in 1949. Storm runoff stored in Vail Lake is released during the subsequent months into groundwater recharge basins.

RCWD operates mostly within the Santa Margarita Watershed, as depicted in the attached map, which encompasses an area of approximately 750 square miles (475,000 acres) in southwestern Riverside and northern San Diego Counties in southern California. Drainage in the basin is provided by the Santa Margarita River with flows from Temecula and Murrieta Creeks in the upper watershed. Major tributaries of Temecula Creek include Pechanga Creek and Wilson Creek via Vail Lake. Major tributaries of Murrieta Creek include Saint Gertrudis, Tualota (via Lake Skinner), and Warm Springs Creeks. After the convergence of Temecula and Murrieta Creeks other major tributaries to the River include De Luz, Sandia, Rainbow, and Fallbrook Creeks. Major lakes in the watershed include Skinner, Vail, Diamond Valley, and O'Neil Lakes. A coastal lagoon lies at the mouth of the River on U.S. Marine Corps (USMC) Camp Pendleton.

Multiple studies have indicated that the Santa Margarita Watershed is the largest and best example of a riparian and estuarine system in southern California. The watershed contains a variety of nearly undisturbed natural habitats, including chaparral-covered hillsides, riparian woodlands, and coastal marshes, drained by the Santa Margarita River, which is formed near the City of Temecula at the confluence of the Temecula and Murrieta Creek systems. Upstream, the Temecula and Murrieta Creeks are fed by a number of smaller tributaries. Downstream, the Santa Margarita River flows into San Diego County and through the USMC base at Camp Pendleton, emptying into the ocean at the Santa Margarita lagoon.

The watershed currently faces significant water supply issues and challenges that are common throughout southern California, including rapid population and water demand growth; significant reliance on imported water supply; and water quality issues arising from excessive inputs of nutrients from a variety of sources including agriculture, nursery operations, municipal wastewater discharges, urban runoff, septic systems, and golf course operations. Surface waters and groundwater supporting surface water in the Santa Margarita Watershed have been under some form of court jurisdiction since 1928. A Watermaster has been assigned by the United States District Court for the Southern District of California to oversee all water uses within the Santa Margarita Watershed. Specific water rights in the watershed have not been adjudicated. However, the Stipulated Judgment assigns two-thirds of all natural waters to the United States of America (Camp Pendleton) and the remaining one-third to RCWD.

Rights to utilize the water and groundwater stored in Vail Lake are defined in the 1940 Stipulated Judgment in the case of Santa Margarita versus Vail and Appropriations Permit 7032 issued by the State Water Resources Control Board. RCWD stores local runoff in Vail Lake, which was created in 1949 through construction of Vail Dam on Temecula Creek. RCWD has a surface water storage permit in Vail Lake for up to 40,000 AF from November 1 to April 30. During these months, RCWD releases available water from Vail Lake to the Valle de los Caballos spreading basins, about 1.5 miles downstream, for groundwater recharge. From May through October, existing State permits prohibit storage and require inflow to pass through Vail Lake to Temecula Creek and ultimately to the lower watershed. RCWD must meet Gorge flow requirements as set by the Cooperative Water Resource Management Agreement between the United States on behalf of Camp Pendleton and RCWD. RCWD currently meets this requirement by discharging untreated water from MWD into Murrieta Creek.

Eights sub-basins within the Temecula and Pauba Basins provide RCWD with groundwater. The amount of groundwater produced annually from these basins varies depending on rainfall, recharge, and the amount and location of pumping. However, besides RCWD, others pump from the eight sub-basins, including: WMWD, Pechanga Indian Reservation, and other private pumps. Groundwater extractions are under court oversight in the watershed. Groundwater basins in the upper watershed are not adjudicated.

RCWD continually faces increasing water demands, variability in water supplies due to successive years of drought and imported water shortages, and water quality challenges necessitating more creative and innovative solutions to meet the water needs of its customers. In response to such challenges, RCWD is in the process of implementing its Water Reclamation Project, which will substantially expand the use of recycled and raw water in Riverside County in order to meet local water demands through 2050. The Water Reclamation Project involves the construction of a pipeline to transport raw water from MWD's aqueduct system to Vail Lake during low demand and high supply winter periods, a delivery system for recycled water to RCWD's agricultural users, and the construction of a demineralization/desalination plant. The Project is funded in part under the Title XVI Water Reclamation and Reuse Program administered by the United States Department of the Interior Bureau of Reclamation. (43 U.S.C. § 390h-32.)²

II. OVERVIEW OF SETTLEMENT

The Settlement would assist in the resolution of decades of litigation initiated in 1951 by the United States regarding water rights in the Santa Margarita River Watershed (*United States v. Fallbrook Public Utility District et al.*, Civ No. 3:51-cv-01247 (S.D.C.A)). The *Fallbrook* litigation eventually expanded to include all water users within the Santa Margarita Watershed, including three Indian Tribes (the Pechanga Band of Luiseño Mission Indians, the Ramona Band of Cahuilla Indians, and Cahuilla Band of Indians). The United States, as trustee, represents all three Tribes before the *Fallbrook* Court.

² The purpose and intent of the Title XVI funds that RCWD is entitled to receive for the Water Reclamation Project is separate from the federal contribution under the Settlement; indeed, the interim and permanent capacity funds are not tied to a specific project and the remaining funds serve as Pechanga's share of the recycled water infrastructure costs.

In Interlocutory Judgment 41, the Court concluded that each of the three Tribes have a recognized federally reserved water right without specifying the amount of each of the Tribe's water right. However, the Court developed "prima facie" findings with respect to each of the Tribe's quantifiable water rights. The prima facie evidence established the reserved right and set forth the number of acres to which the reserved water right applied. Pechanga believes that, based on the prima facie evidence established in Interlocutory Judgment 41, Pechanga's reserved water rights are at least 4,994 AFY. Pechanga requested that the Secretary of the Interior seek settlement of the water rights claims involving Pechanga, the United States, and non-Federal third parties through a Federal Negotiation Team formed in August 2008. Consistent with the United States' policy to resolve Indian water rights settlements expeditiously whenever possible, in less than two years the parties have managed to reconcile their disagreement over Pechanga's water rights claims.

Under the terms of the Settlement, RCWD has agreed to allocate an additional 25% of the Wolf Valley Groundwater Basin to Pechanga. Additionally, RCWD will wheel imported water made available to Pechanga under an Extension of Service Area Agreement (ESAA) with MWD in perpetuity. And RCWD agrees to provide desalination and brine disposal for recycled water utilized in the Wolf Valley Basin, which will improve groundwater quality in the basin for both RCWD and Pechanga. Thus, RCWD's contribution to the Settlement involves more than a foregoing of its assertion of water rights but instead involves implementation of a partnership to utilize, convey and improve the quality of local and imported water. In summary, the Settlement will:

- 1) Establish an initial safe yield of 2100 AFY in the Wolf Valley Groundwater Basin (of which Pechanga would receive 75 percent and RCWD would receive 25 percent) and a means for ongoing management and determination of the safe yield;
- 2) Facilitate the provision of interim and permanent capacity for delivery of imported water from MWD to its member agency EMWD and then through RCWD's distribution system to Pechanga in exchange for a federal contribution of \$17.9 million;
- 3) Allow RCWD to purchase between 300 and 475 AFY of recycled water that Pechanga is currently entitled to purchase from EMWD, depending on availability;
- 4) Provide for Pechanga's share of the costs in the amount of \$2.5 million for RCWD to design and construct an additional recycled water pond to increase seasonable storage capacity in its existing recycled water system necessary to accommodate the EMWD recycled water received by RCWD under the Settlement;
- 5) Provide for Pechanga's share of the costs in the amount of \$4.46 million for RCWD's design and construction of a demineralization and brine disposal project to lower the salinity of recycled water received by Pechanga from EMWD (or, if such facilities are not constructed, for availability of funds to Pechanga for an alternative salinity management solution); and

- 6) Provide for mutual waivers of claims for water rights in the Santa Margarita River Watershed to prevent future disputes between the parties over Pechanga's water rights claims.

The Settlement is beneficial for all parties involved in that it promotes a reliable water supply for Pechanga by incorporating it into RCWD's water distribution system, improves the quality and reliability of recycled and groundwater supplies for RCWD, and fosters a regional solution to Pechanga's water rights claims by incorporating EMWD and MWD. The federal monetary contribution of \$50 million to the Settlement is relatively modest compared to other recent Indian water rights settlements. The Settlement would also avoid many additional years of litigation at great expense to the parties and the uncertainty concerning the availability of scarce water supplies in the region.

III. CONCLUSION

Thank you again, Mr. Chairman and other Members of the Committee for the opportunity to present this important Indian water rights settlement, which will significantly improve the reliability and quality of local water supplies for RCWD and Pechanga. RCWD would greatly appreciate your support of S.2956 to move the bill one step closer to approval.