

**TESTIMONY
OF THE
ZUNI TRIBE GOVERNOR
ARDEN KUCATE
IN SUPPORT OF S. 4643
BEFORE THE
SENATE COMMITTEE ON INDIAN AFFAIRS
ON SEPTEMBER 25, 2024**

Good afternoon Chairman Schatz, Vice Chair Murkowski, and Honorable Members of the Committee. On behalf of the Tribe, I want to extend my sincere thanks to you for scheduling this hearing. And I want to express my gratitude to Senators Lujan and Heinrich for their support and leadership in introducing S.4643.

Zuni's history is a story of resilience and persistence in the face of federal neglect and mismanagement. Our reservation contains almost a half million acres within the Zuni River basin, carved out from our vast ancestral lands. It is located in a very rural area approximately 125 miles west of Albuquerque, extending to the Arizona border (See Attachment 1 for location map), and is currently home to some 10,000 members and their families.

Centuries before the coming of the Spanish conquistadors, we grew corn, squash, beans, and other food crops in our main village along the Zuni River, and in surrounding satellite communities along tributary streams and arroyos, often utilizing an irrigation technique that we are famous for — waffle gardens (See Attachments 2 & 3 for pictures of these gardens). Our storied irrigation techniques and careful stewardship of our water and lands allowed us to irrigate over 15,000 acres of land, and provided our people with surplus supplies of corn and other subsistence crops that could carry us through winter months and other challenging periods. Known as the “Father of Pueblos,” our agricultural practices were so successful that we had reserves to sell to the US army and others.

We developed improvements and clever techniques to control and divert water onto our lands, utilizing natural features and topography, and adapting our techniques to changing conditions. Despite the region's semi-arid environment and highly variable precipitation, our water supply was relatively stable until the late 19th Century when settlers located upstream of our reservation established the town of Ramah and began diverting and storing virtually the entire flow of the Zuni River's primary tributary. Clear cutting of the forests and overgrazing in the Zuni Mountains compounded our water supply woes, causing severe erosion and clogging our waterways with silt. The final dagger was the construction by the BIA of Black Rock Dam in 1908, immediately upstream of our village, which I describe below. As a consequence, the Zuni River, once a perennial stream running through the heart of our main village area (See Attachments 4

& 5), is now a mere trickle for most of the year. Nevertheless, it remains enormously important to our culture and traditions.

Unfortunately, instead of taking action to stop or limit these junior diversions by newcomers to the Zuni River valley and taking action to protect the watershed, the federal government, over our objections, undertook ill-fated efforts to free up some of our traditional agricultural areas for settlement by non-Indians — constructing a series of dams and storage reservoirs in a poorly conceived and executed attempt to centralize farming by our members. Those efforts included the construction of a large dam and reservoir just above our main village at what is known as Black Rock. The construction buried our sacred spring, *Malokyatsiki*, the original home of our Salt Mother (See Attachment 6) and ended river flows within our village — flows that our ancestors depended upon for activities of daily life, including the growing of crops, and remain central to our religious practices. Black Rock Dam failed in its first year, leaving a path of devastation downstream. (See Attachments 7 & 8). Although it was rebuilt, it began silting in immediately, and within 20 years the reservoir had filled with sediment, losing nearly all of its storage capacity. Today it only serves to provide limited flood protection.

In the wake of Black Rock's failure, the federal government effectively reversed course and constructed a series of other smaller dams and reservoirs near our traditional farming communities, but these were also poorly engineered and not maintained. In addition, while the government encouraged a return to decentralized farming, federal construction of these dams and reservoirs destroyed Zuni's ability to use traditional farming methods that had been successful for generations. Today, our five irrigation units, and the diversion structures and reservoirs serving them, are sediment-laden and largely useless, and need to be re-engineered and rebuilt. Zuni currently has 48 miles of open ditches and 20 miles of buried pipeline that previously served our irrigation units. The Bureau of Reclamation, in a study completed in December 2022, found that **all** 68 miles of conveyances, valves, turnouts and other related infrastructure were in poor condition. (See Attachments 9 & 10 showing an example of the exposed and cracked concrete pipeline conveyance system).

Upstream, off-reservation groundwater pumping has also caused significant declines in stream flows and spring levels on our Reservation, and though these will be challenging to reverse, we are determined to stop further declines. As part of the settlement, while our neighbors will be permitted to drill new wells for domestic and stock purposes, the State of New Mexico has instituted measures prohibiting new large groundwater withdrawals near our Reservation, and the parties have agreed to undertake a monitoring program to assist these efforts.

In addition to our irrigation infrastructure needing to be overhauled, our domestic water system is in dire need of rehabilitation. We are dependent on two wells located over 10 miles from our village, both of which have poor water quality. The EPA has notified Zuni that contaminate levels in these wells exceed safe drinking water standards.

And our continued reliance on them jeopardizes several sacred springs in the area that have experienced major drawdowns in recent years.

While we are proudly a very traditional tribe, and our geographic isolation has helped us to remain that way, we are also a poor tribe, and high unemployment is a challenging problem. Our community needs new economic opportunities, and we believe that outside businesses, including manufacturing businesses, can be attracted to our reservation because our people are renowned for their skilled work in producing world famous jewelry and pottery. But we must be able to offer new businesses safe and reliable water supply and wastewater services.¹

The settlement will comprehensively resolve all of Zuni's water rights claims in the Zuni River basin, both surface and ground water. The Settlement Agreement provides Zuni surface water rights sufficient for irrigation and livestock, including the filling of reservoirs and impoundments, and groundwater rights sufficient for current and future domestic, commercial, and municipal needs. The Agreement also recognizes Zuni's right to continue its traditional irrigation practices.

The settlement will provide the Tribe with critically-needed funding for various water-related projects including: 1) a much needed replacement of the Tribes aged municipal water system which has significant levels of contaminants (including radionuclides and arsenic); 2) a modern wastewater treatment facility that will allow the re-use of wastewater, replacing our outdated sewage lagoons; 3) redesign and rehabilitation of our 5 irrigation units and associated reservoirs in a manner that is suited to climatic conditions, as well as to Zuni's traditional irrigation practices; 4) restoration of the channels of the Zuni River and the Rio Nutria, a tributary of the Zuni River, for traditional and cultural purposes, and to support habitat for several endangered species, including the critically endangered Zuni bluehead sucker; 5) repairing and upgrading livestock watering facilities, to allow for more efficient and even use of our range lands by tribal ranchers; and 6) rehabilitating and developing additional wells and community water hauling stations in areas outside of our main village area.

In addition to resolving the Tribe's water rights in the Zuni River basin, S. 4643 will ensure the continuation of protections for the sacred Zuni Salt Lake and Sanctuary, and provide for the transfer to the Tribe, in trust, of approximately 4,756 acres of BLM land surrounding the Lake, subject to valid existing rights. The Zuni Salt Lake is located in a remote part of western New Mexico, approximately 60 miles south of our main village, in an area that is primarily used for grazing and hunting (Attachment 1 shows the location of the Lake.). The Lake and Sanctuary area are sacred to our Tribe, and a number of other southwestern tribes and pueblos, including the Pueblos of Laguna and

¹ We recently worked with our local rural electric cooperative to provide highspeed internet throughout all of the populated areas of the reservation, and to upgrade and improve the reliability of electric service.

Acoma, as well as the Navajo, Hopi and Apache tribes.

The Lake itself is a unique, naturally occurring saline lake, maintained by a delicate balance of surface water and groundwater (See Attachments 11 & 12 for pictures of it and the surrounding caldera). For centuries Zuni and other tribes and pueblos have made pilgrimages to the Lake, the home of Zuni's Salt Mother, for spiritual guidance and to collect the salts for ceremonial and domestic use. The surrounding land, with pilgrimage trails and other cultural resources, has similarly been respected by tribes and pueblos as a sanctuary where no hunting is allowed, and conflicts are set aside, in reverence for the sanctity of the area. The Sanctuary contains numerous sacred places, religious shrines, and ancestral archaeological sites, which S.4643 will protect. These protections reflect those already included in the BLM management plan for the area, but the legislation will make them more permanent.

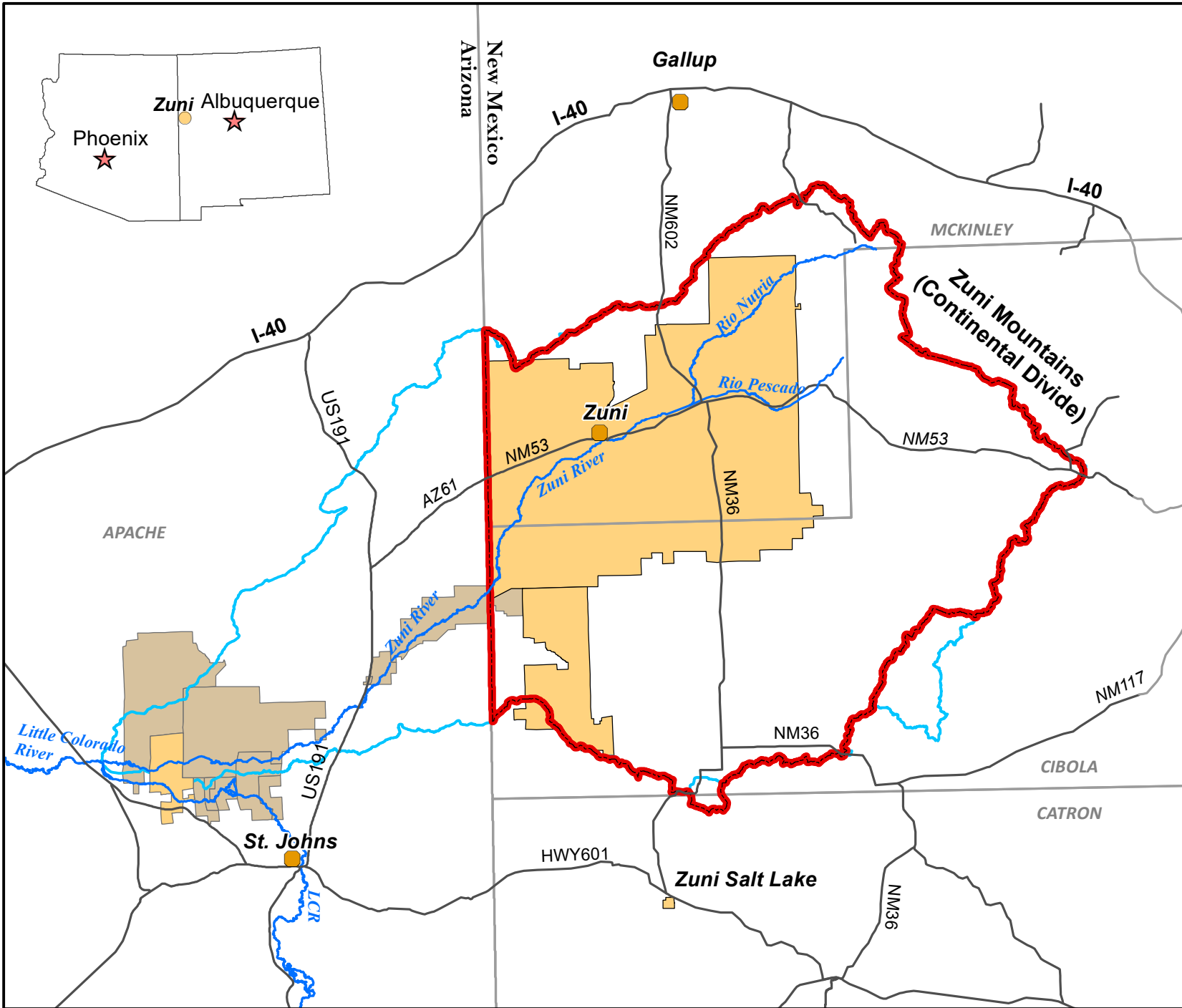
In addition, the approximately 4,756 acres of BLM land to be transferred into trust is important for the protection of the Lake as it encircles the geographic features surrounding the Salt Lake maar to create a stronger natural physical buffer. This transfer is subject to all existing grazing and other rights. There are also several hundred acres of private land within the acquisition area, and we have been in communication with the land owner with the mutual goal of working out a land exchange with the BLM that will help preserve the Salt Lake, and provide the land owner with title to certain other BLM lands on which the land owner has corrals and other improvements.

The adjudication to determine the Tribe's water rights in the Zuni River basin has been ongoing for over 25 years, clouding the rights and interests of basin residents and straining relationships. Needless to say, the ratification of the Settlement Agreement by Congress is of enormous importance to my community and its future. While protecting all existing water uses by our non-Zuni neighbors, the settlement will usher in what I sincerely believe will be a new chapter for our Tribe, allowing us to protect and sustainably develop our community's limited water resources, to restore traditional agriculture, and to facilitate much needed economic development. It will also allow us to address and adapt to the growing impacts of climate change, which has resulted in diminished snowpacks in most years, along with more intense monsoonal storm events.

The Tribe is not aware of any opposition to the settlement, and it is supported by the only irrigation company in the basin, the Ramah Valley Land and Irrigation Company, and by the State of New Mexico. As an integral part of the settlement, the State of New Mexico worked closely with us to establish measures to help protect our Reservation springs and streams, as well as our sacred Salt Lake and Sanctuary. I want to recognize New Mexico State Engineer's office for its work on this settlement, and for the open and cooperative manner in which its technical and legal staff negotiated and worked with us. We ask the United States to join us in this effort, on behalf of my community and the generations to come.

Thank you for the opportunity to testify before you today. I will be pleased to answer any questions you may have, and respectfully urge members of the Committee to support Senate passage of this legislation, which is critical to our future.

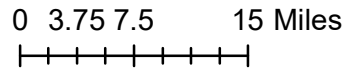
Zuni Testimony - Attachment 1



Legend

- Zuni River Basin Adjudication Boundary (Red outline)
- Zuni River Basin Watershed (Blue outline)
- Roads (Black line)
- River System (Blue line)
- County Boundary (Grey line)
- Zuni Trust Lands (Orange fill)
- Zuni Lands - Ranches (Tan fill)

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September 3, 2024

Zuni Testimony - Attachment 2



Zuni Testimony - Attachment 3



Zuni Testimony - Attachment 4



Zuni Testimony - Attachment 5



Zuni Testimony - Attachment 6



This shows the springs at Blackrock prior to development the Blackrock Dam. Spring-fed pools were common along the entire Zuni River.

Zuni Testimony - Attachment 7



Zuni Testimony - Attachment 8



Zuni Testimony - Attachment 9



Zuni Testimony - Attachment 10



Zuni Testimony - Attachment 11



Zuni Testimony - Attachment 12

