

Exhibit 1

TESTIMONY OF LESTER RANDALL, CHAIRMAN, KICKAPOO TRIBE IN KANSAS, IN
SUPPORT OF S. 2154, THE KICKAPOO TRIBE IN KANSAS WATER RIGHTS SETTLEMENT
AGREEMENT ACT

COMMITTEE ON INDIAN AFFAIRS UNITED STATES SENATE
JULY 18, 2018

1320 Research Park Drive
Manhattan, Kansas 66502
(785) 564-6700



900 SW Jackson, Room 456
Topeka, Kansas 66612
(785) 296-3556

Jackie McClaskey, Secretary

Governor Sam Brownback

March 9, 2016

The Honorable Jerry Moran, Chair
Senate Appropriations Subcommittee on Agriculture
Dirksen Senate Office Building, Room 521
Washington, DC 20510

Chairman Moran:

On behalf of the state of Kansas, we, the undersigned, express our support for the enclosed Kickapoo Tribe Water Rights Settlement Agreement (Agreement) and the associated Memorandum of Agreement (MOA), and the terms and conditions described therein.

Final resolution of the lawsuit and implementation of this Agreement requires ratification by an Act of the United States Congress and approval by the United States District Court. We hope you accept this letter of support and assist the state in securing an expeditious and favorable review by Congress and implementation of the Agreement.

The purpose of the Agreement is to resolve all claims asserted by the Kickapoo Tribe in Kansas (Tribe) in the litigation initiated by the Tribe in June 2006, seeking a declaration of the existence and priority date of its Tribal Water Right in the Delaware River and its tributaries. In August 2007, the parties to the lawsuit agreed to suspend active litigation and to attempt to negotiate a resolution of the disputed issues. In 2007, the Court granted a stay of the litigation for that purpose. Since that time, the parties have worked cooperatively and in good faith toward that end.

The objectives of the Agreement are to establish the characteristics of the Tribal Water Right; remove causes of future controversy concerning water rights in the Delaware River Basin; permanently resolve certain damage claims and all water right claims; and establish the respective rights, duties and obligations of the Agreement parties.

The Agreement, reflecting nearly ten years of thoughtful discussion and rigorous technical evaluations, quantifies the Tribal Water Right, describes the standard procedures which the state shall take to protect the Tribal Water Right, and outlines a general procedure for the protection of water to be stored by reservoirs which the Tribe intends to build in the future.

This single, comprehensive Agreement is a favorable alternative for all parties involved, recognizing that the resolution of the lawsuit in the absence of this Agreement would entail great expense over many years, prolong the uncertainty of water availability to the region, and threaten the long-term economic well-being of the Tribe and its neighboring communities.

All Kansans benefit when we can avoid the high cost and uncertainty of litigation, and arrive at a negotiated settlement. We appreciate the opportunity to share our support and look forward to your favorable review and guidance as we seek to shepherd this Agreement through the requisite federal processes.

Sincerely,

Jackie McClaskey
Kansas Secretary of Agriculture



STATE OF KANSAS
OFFICE OF THE ATTORNEY GENERAL

DEREK SCHMIDT
ATTORNEY GENERAL

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February 10, 2017

Ms. Alletta Belin
Senior Counselor to the Deputy Secretary
United States Department of the Interior
Office of the Secretary
Washington, DC 20240

Re: Kickapoo Tribe Water Right Claims

Dear Ms. Belin:

Tribal Council Vice Chairman Fred Thomas of the Kickapoo Tribe in Kansas has forwarded to me your letter of January 3, 2017, in which you request a letter from the State of Kansas endorsing the appointment of a Federal Negotiation Team pursuant to the Department of the Interior's 1990 Criteria and Procedures for Indian Water Rights Settlements, 55 Fed. Reg. 9223 (March 12, 1990), to assist the Tribe and the State in negotiating a water rights settlement agreement. As your letter acknowledges, the State and the Tribe, with the active involvement of the United States, have achieved a negotiated water rights agreement. Work remains, however, to complete the approval of the water rights agreement and the associated components of a full settlement that is approved by both the Congress and the federal court.

To assist the Department of Interior in being able to take a position as a matter of law and policy on a final comprehensive settlement, the State of Kansas supports the appointment of a Federal Negotiation Team. The Tribe and the State have developed a solid basis over the past few years for working together on the Tribe's reserved water rights, and it is our expectation that a Federal team will facilitate the speedy completion of that task as we move forward into the federal legislative approval phase.

Sincerely,

Derek Schmidt
Kansas Attorney General

Congress of the United States
Washington, DC 20515

October 19, 2017

Alan Mikkelsen, Chair
Working Group on Indian Water Settlements
Pamela Williams, Director
Secretary's Indian Water Rights Settlement Office
United States Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240

Re: Congressional Approval of Kickapoo Tribe Indian Water Settlement

Mr. Mikkelsen and Ms. Williams:

On September 8, 2016, the State of Kansas (the State) and the Kickapoo Tribe of Kansas (the Tribe) entered into a formal agreement approving a water right for the Tribe and associated details for the administration of the water right. The water right has an 1832 priority date, the most senior water right on the Delaware River and its tributaries that flow through the Kickapoo Reservation. Pursuant to the agreement, the Kansas Department of Agriculture will administer the right on that basis. The agreement includes consumptive, storage, and related seepage and evaporation water right components. Copies of the settlement agreement and summary information are available on the Kansas Department of Agriculture's website.¹ As you continue your review of the settlement agreement, we write to request your technical assistance and recommendations for consideration of the matter by Congress.

The settlement agreement has a long and complicated history. The Tribe worked extensively with the U.S. Department of Agriculture since the 1970s to plan, design, and conduct a full environmental review pursuant to the National Environmental Policy Act of a water storage project under the Natural Resources Conservation Service PL 83-566 Small Watershed Program. That project received Office of Management and Budget approval and congressional authorization in 1998, yet it stalled due to the inability of the Tribe to secure the necessary land rights. It is our understanding that since that time, the Tribe has been acquiring land for a storage project in the Delaware River basin at its own expense. Additionally, the Tribe, the State, and the United States worked cooperatively to reach a settlement agreement on the water right, a vital component to someday bringing a project to fruition. However, the draft legislation under your


¹ <http://www.agriculture.ks.gov/divisions-programs/dwr/interstate-rivers-and-compacts/kickapoo-indian-reservation>

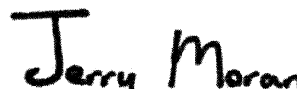
review currently neither authorizes appropriations nor appropriates funding for a storage project, but it does set in motion a process to reevaluate the project that was approved in 1998, and to within two years of enactment bring recommendations back to Congress.

It is further our understanding that the State and the Tribe negotiated the agreement with the active involvement of attorneys from the Departments of Interior and Justice, and, accordingly, execution of provisions of the agreement that require federal involvement and responsibility depend on and will be directed by Congress as it considers approval of the settlement.

Therefore, we understand that it may be necessary to make changes to the terms of the draft legislation as it proceeds through introduction and referral to the committees of jurisdiction as well as garners additional input from legislative hearings in those committees. We look forward to working with you and your staff as the Department of the Interior reviews the draft settlement legislation and thank you for your timely consideration of this issue.

Sincerely,


Lynn Jenkins, CPA
Member of Congress


Jerry Moran
U.S. Senator



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

FEB 07 2018

The Honorable Lynn Jenkins
U.S. House of Representatives
Washington, DC 20510

Dear Representative Jenkins:

Thank you for your letter dated October 19, 2017 regarding the Kickapoo Tribe (Tribe) water rights settlement. The Department of the Interior has been engaged with the Tribe and others regarding the appointment of a Negotiation Team for some time. The Tribe has submitted documentation to support the establishment of a team, and the Department's Working Group on Indian Water Settlements will be considering the request during its next meeting on February 14, 2018.

As a general matter, the Department supports the policy that negotiated Indian water rights settlements are preferable to protracted and divisive litigation. Indian water rights settlements have the potential to resolve long-standing claims to water, provide certainty to water users, foster cooperation among water users within a watershed, allow for the development of water infrastructure, promote tribal sovereignty and self-sufficiency, and improve environmental and health conditions on reservations.

We appreciate your outreach and will keep you apprised of the decision once made. If you have further questions, please do not hesitate to reach out.

Sincerely,

Alan Mikkelsen, Chairman
Working Group on Indian Water Settlements