



JUL 22 2016



The Honorable Rob Bishop
Chairman, Committee on Natural Resources
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Bishop:

Thank you for your letter of July 1, 2016, regarding the Blackfoot Tribe (Blackfoot) and Pechanga Band of Luiseño Mission Indians (Pechanga Band) water rights settlement legislation.

In response to your questions, the Department of the Interior (DOI) and Department of Justice strongly believe that the United States has legal and equitable responsibilities, otherwise referred to as the trust responsibility, to Indian tribes based on treaties, statutes, and regulations. We have already confirmed that both the Blackfoot and the Pechanga Band settlements adhere to the 1990 *Criteria and Procedures*,¹ including Criteria 4 and 5(a) and (b). With that analysis and confirmation, and consistent with the Federal trust responsibility to both tribal nations, we affirm that both the Blackfoot and Pechanga Band water rights settlements represent a net benefit to the American taxpayer as compared to the consequences and costs of not settling the litigation related to the Tribes' water rights claims.

As we have noted in our testimony on these water rights settlement bills, our evaluation of the settlements also adheres to the general principles set forth in the *Criteria and Procedures* that the United States participate in water rights settlements consistent with its responsibilities as trustee to Indians; that Indian tribes receive equivalent benefits for rights which they, and the United States as trustee, may release as part of a settlement; that Indian tribes should realize value from confirmed water rights resulting from a settlement; and that settlements are to contain appropriate cost-sharing proportionate to the benefits received by all parties benefitting from the settlement.

With respect to the tables provided to the Committee on Natural Resources (Committee) by the Pechanga Band, we can confirm that we also have carefully evaluated Federal savings and Federal contributions to both that settlement and the Blackfoot settlement, and we have come to the same general conclusion as the Pechanga Band that settlement is preferable to continued litigation, consistent with the affirmation above.

Although the DOI provided a table with respect to the drainage settlement legislation (H.R. 4366 and H.R. 5217), that analysis was based on a specific court judgment against the United States after the conclusion of litigation and consequently is very different from an analysis pursuant to the *Criteria and Procedures*, which, among other things, involves analysis of potential liability in suits that have not been litigated and expressly takes into account the trust responsibility of the United States.

¹*Federal Register*, Vol. 55, No. 48, March 12, 1990.

The Departments believe we have addressed all of the information requested by your February 26, 2015 letter and, as stated in our June 23, 2016 testimony, support legislation to enact these settlements.

Sincerely,



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U.S. Department of the Interior



Peter Kadzik
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