

**Testimony of Ryan Garfield on behalf of the Tule River Tribe of California**  
**In Support of S. 789, the Tule River Tribe Water Development Act**

**Introduction**

Good afternoon Chairwoman Maria Cantwell and fellow members of the Committee. My name is Ryan Garfield, and I serve as the Chairman of the Tule River Tribe. I am a graduate of Citrus High School, Porterville California, Class of 1993. After graduation, I joined the military, where I served for 11 years, 4 months and 2 days and achieved the rank of Sergeant E-5. While in the military I was a UH-60 tactical transport helicopter repairer/crew chief/ and gunner. I was stationed overseas in Giebelstadt Germany, where I participated in operation K-FOR (Kosovo stabilization force) in Balkans, along with numerous training missions throughout Europe and Tunisia Africa from 1997-2000. In 2004 I was deployed to Kandahar in the Southern province of Afghanistan, where I flew over 500 combat flight hours and completed countless missions in support of Operation Enduring Freedom. I returned in April of 2005 and was honorably discharged from the service in October of that same year. Currently, I am married with three children and one more to arrive in the coming months. In these capacities, I humbly serve my community and Country as a tribal leader, soldier, father and husband. I come before you today to respectfully request the support of the United States government in securing a permanent water supply for the Tule River Reservation.

I send greetings and best wishes from all the members of the Tribal Council. We are very grateful for the expeditious scheduling of this hearing on S.789, the Tule River Tribe Water Development Act. We also appreciate the opportunity to appear before the Subcommittee on Water and Power of the Senate Committee on Energy and Natural Resources to present testimony supporting S. 789. This bill authorizes funding necessary for the Secretary of Interior to conduct a study on the feasibility and suitability of constructing a storage reservoir, outlet works and a water delivery system on our Reservation in Tulare County, California. S. 789 is consistent with, and an effectuation of the United State's trust responsibility to Indian tribes, to protect and advance their reserved water rights under the *Winters* doctrine. *Winters v. United States*, 207 U.S. 564 (1908).

For over ten years the Tribe has negotiated with the representatives of the Departments of Interior and Justice, including Interior's Bureau of Reclamation, and local water interests

represented by the Tule River Association and the South Tule Independent Ditch Company. In September 2007 the Tribe and the local water users signed a settlement agreement which embodies the shared goals and visions for the future of the community of parties who live together in the South Fork Tule River watershed. The agreement provides a stable water supply for both Indians and non-Indians relying on the South Tule River. This settlement is unique – indeed, it is one of the very few Indian water settlements ever achieved without a Tribe or the United States, on its behalf, filing litigation to enforce its federal water rights. Once the settlement is fully carried out, the Tribe will join other Indian nations in the United States, by turning its “paper” federal reserved rights to water from the South Fork Tule River into actual “wet” water. We anticipate that this settlement agreement will also be considered in the forthcoming months for Congressional approval. The Tule River Water Development Act is the first step in implementing that settlement agreement and it will enable the Tribe and its neighbors to complete the necessary technical background work to bring the final settlement agreement to life. We ask the Subcommittee to favorably and swiftly mark-up and pass S. 789 on to the full Committee.

### **The Struggle of the Tule River Tribe to Secure a Sustainable Homeland**

Prior to discussing the terms of the bill, I would like to briefly educate the Subcommittee about the history of the Tule River Tribe and Reservation, to help illustrate the need for The Tule River Water Development Act in our community. I have also attached a two-page historical timeline which chronicles our efforts to secure a sustainable homeland with the necessary water supplies. (Exhibit A.)

The Tule River Reservation is the homeland of the Tule River Tribe. We are descendants of the Yokuts Indians, a large group of linguistically-related people who occupied the San Joaquin Valley in California for thousands of years prior to contact with Euroamerican settlers. Following the discovery of gold, and California statehood in 1850, there was enormous pressure on Congress to reject the 18 treaties negotiated with the several hundred Indian tribes found there. Congress succumbed to this pressure and in 1852 rejected these 18 treaties, including the Treaty of Paint Creek of June 3, 1851, signed by leaders from our Tribe. In 1853, however, Congress established the Superintendency of Indian Affairs in California, to relocate Indians to reservations. In 1856, the California Superintendency established our reservation pursuant to the

1853 authority, on approximately 2,240 acres of prime San Joaquin Valley farmland in Tulare County. The land was transected on the southwest corner by the mainstem of the Tule River. It included part of what is today the eastern portion of the City of Porterville. The location of this original Reservation was purposefully selected by the federal government to provide our Tribe with the arable land and water resources necessary to establish a self-sufficient homeland for its people. Upon being promised this land as our homeland – ostensibly forever – we built homes and began to actively cultivate crops.

Despite our relative prosperity in those years, two of the federal Indian agents assigned to reservations in the area nonetheless saw fit to capitalize upon the distance and ignorance of the Indian officials in Washington, D.C. Thomas Madden, a federal Indian agent assigned to the neighboring Tejon Indian Reservation, applied for and was issued a land patent under fraudulent circumstances to 1,280 acres of the Tule River Reservation land from the State of California. Four years later under a similar arrangement a land patent for 1,160 acres of Tule River Reservation land was issued to Mr. John Benson, another Indian Agent. These two state land grants encompassed all of our Reservation lands. The federal government was fully aware that these lands were expressly reserved to us, but it made no effort to challenge the Madden and Benson land grants. Because the lands had been set aside for the Tribe, the State of California, had no legal basis upon which to issue the patents. The land transfers were also a violation of the federal Trade and Intercourse Act, which expressly prohibited Indian agents from having "any interest or concern in any trade with the Indians." Rather than setting aside the issuance of these patents, the federal government actually paid rent to Messrs. Madden and Benson for at least a dozen years to enable my ancestors to continue farming what was in actuality our land.

Gradually, over the years, hostility increased between the Indian farmers and the settlers in the area. In response to the tension, and rather than enforcing our rights to what should have been our Reservation land, in January 1873, President Grant issued an Executive Order creating a new reservation for the Tule River Tribe. It was comprised of mostly mountainous lands located about fifteen miles to the east of our original Reservation. The Tule River Indians and the Indian agent protested the removal; as the new lands would be difficult to cultivate. The Indian agent, J.B Vosburgh, stated "The new reservation is not suited to the wants of the Indians for whose benefit it has been set apart, if the intention be, as heretofore, to teach them to become self supporting by means of agriculture, the soil of the reservation being insufficient both in

quantity and quality for their need." He further requested that the government inquire into the legality of Madden and Benson land patents and, if necessary, requested the federal government to purchase the property from them for the benefit and use of the Indians. However, no such action was taken, and our people were forcibly removed from their homes and cultivated fields.

The removal was very hard on our people. The new Reservation, though it contained 48,000 acres, was determined by the federal agents, based on the knowledge and technology of the time, to have scarcely 100 acres of arable land. Even that land was deemed by the agents to be of poor quality, and thought to be able to support only six families - far below the needs of our people. An Indian agent reported, "Year by year our number has decreased by death and removal, until now there are only 143 Indians, embraced in 30 different families, residing on the reservation." Our situation was so dire that, in response, President Grant, in October 1873 – just 9 months after the initial Executive Order – signed another Executive Order almost doubling the Reservation's size to 91,837 acres. Again, very little of these additional lands was deemed by the federal agents to be suitable for agriculture, and the few acres which were proven arable were coveted or settled by settlers, and history repeated itself. In August 1878, President Hays issued an Executive Order reducing the reservation back to the January 1873 size.

For over a century, then, we have lived on the Reservation established in 1873, a mountainous land where, because of the failure of the United States to provide adequate water storage and irrigation facilities, we have been unable to fully reap the benefits of the agricultural homeland promised to us through the original 1856 Reservation. The Tule River people are a proud people, and I tell this story not to complain or to blame anyone for these past injustices. They do, however, argue that now is the time for the United States to help begin the healing process through the enactment of S. 789. S. 789 is the first step in enabling the Tribe to bring water to our lands in sufficient quantities to make our new homeland– a viable homeland now and forever.

### **The Modern-Day Tule River Indian Reservation**

Today, our current Reservation includes about 58,000 acres. The reservation is located in south-central California, approximately 75 miles south of Fresno and 45 miles north of Bakersfield in Tulare County. The Reservation is situated on the western slope of the Sierra Nevada Mountains, east of Porterville, and lies almost entirely within the South Fork Tule River

drainage basin. The topography is generally steep, with elevations ranging from about 900 to 7500 feet above sea level. Most of the inhabited land is along the lower reach of the South Fork Tule River on the western side of the Reservation. The Reservation is drained by the South Fork Tule River. The South Fork Tule River flows into the Tule River at Success Reservoir, at a distance of about ten miles west of the Reservation. There are no significant uses of water upstream of the Reservation. (Exhibit B.)

The estimated average annual flow of the South Fork Tule River at the western boundary of the Reservation is 34,100 acre-feet per year, with a probability of 23,000 acre-feet over 50% of the time, and 11,800 acre-feet available over 80% of the time. Surface water supplies consist of the flow available from the South Fork Tule River and its tributaries on the Reservation, while underground supplies consist of a groundwater aquifer and springs. The groundwater sources barely serve the current needs of the Tribal community on the Reservation. There are growing concerns about the long-term reliability of these sources, both in terms of quantity and quality. The hydrology of the South Fork is similar to most western rivers in that the flows are generally much higher in the spring months than the rest of the year, other than occasional high water events following rainstorms. The hydrology of the South Fork is also marked by periods of drought during which the entire flow of the river is significantly reduced long periods of time, sometimes spanning several years. These two general characteristics are depicted on the two graphs attached to this testimony. (Exhibit C.)

The injustices and inequities of the past are still present and are still affecting our people. We have been plagued with unemployment and mortality rates substantially higher, and a standard of living substantially lower, than is experienced by the surrounding non-Indian communities. While the on-Reservation socio-economic conditions have improved over time, as recently as 1999, the estimated poverty rate on the Reservation was still 50% higher than Tulare County as a whole. To this day, the Reservation residents generally continue to suffer from a relatively low standard of living in substantial part due to the absence of an adequate and reliable potable water supply and system.

### **Contemporary Negotiations to Secure a Reliable Source of Water for the Tribe**

To address the inter-related issues of lack of water and resulting economic, political and social limitations facing the Tribe, we have spent several years assessing its future water needs for domestic, commercial, municipal, industrial and agricultural purposes. We concluded that, in view of existing uses downstream of the Reservation, the Tribe could not meet its water needs, especially over the long-term, without the construction of a reservoir or reservoirs on the Reservation. Given that our Reservation sits at the headwaters of the South Fork Tule River, it made perfect sense to us to build a water storage project to capture the high flows of the river when downstream users were not capturing or using those flows.

We approached the solutions to our problems with the attitude that we wanted to work with our downstream non-Indian neighbors. Too often – in the more typical situation where a general stream adjudication is commenced – the Indian and non-Indian interests are pitted against one another. By reaching out to our neighbors and respecting their needs while seeking solutions to our own, we were able to avoid the costs, delays and disruptions of water rights litigation. We entered into negotiations with interested parties seeking to establish the Tribe's reserved water rights through an agreement settling our federal reserved water rights claims.

For 10 years, the settling parties have diligently negotiated the terms of a settlement agreement which, upon Congressional approval, will finally establish the federally reserved water rights of the Tule River Tribe. In 2007, a settlement agreement was signed. The agreement includes the quantity of the Tribe's reserved water right, the Tribe's rights to use water both on and off the Reservation, and the operating rules of on-Reservation storage reservoirs, including the near-term Phase I Reservoir primarily intended to serve municipal and domestic water needs. We are very proud of the settlement agreement we have reached, which allows the South Fork Tule River water users to continue their historic uses while providing the Tribe with a firm water supply, primarily for its domestic, commercial, agricultural and municipal needs.

The remaining major issue prior to submitting the settlement agreement to Congress is securing the support of the Department of the Interior, and the Administration, to authorize and fund the construction, operation and maintenance facilities anticipated by the settlement agreement and to compensate the Tribe for releasing water related claims against the United States. To date we have not heard if the new administration will support the settlement agreement or S. 789. Two years ago Congress considered H.R. 2535, a bill that authorized the

feasibility study and appropriated funding for the study. The previous Administration opposed it claiming it was premature because the settlement agreement had not been signed and was too expensive. We were disappointed that after ten years of federal involvement and commitment to resolving my community's water issues that we were left standing alone in the final hour. But we are hopeful that the new administration will support S. 789 and the forthcoming settlement legislation. We are please that Mr. Michael Connor has been appointed as the Commissioner of the Bureau of Reclamation, as he was a instrumental in establishing our federal negotiation team assigned to us over ten years ago. We know that individuals like him understand that the federal government created several of our water related problems, as was previously explained, and that the federal government has an obligation, as our trustee, to help us resolve these issues. We look forward to working with Mr. Connor and his colleagues to move the settlement legislation forward in a timely fashion.

All the parties to the settlement agreement are anxiously waiting its implementation. Lack of federal support for the past two years has delayed any progress. The delay is now harming the day to day life of people living on the Tule River Reservation. Unfortunately, the problems created by a lack of a viable water supply have increased since the beginning of the negotiations. Families living on the Reservation do not have consistent running water in their homes and are forced to collect buckets of water from the South Tule River for cooking, drinking and cleaning. Water supplies in local schools have been dramatically reduced causing increased illnesses and creating cleanliness issues. Problems stemming from an unreliable water supply will continue to increase absent the implementation of the settlement agreement. The people of the Reservation can wait no longer to have access to a clean, reliable water supply. They too deserve what every American should have – a sanitary water supply to grow their crops, feed their families and provide a clean safe home.

### **S. 789 Lays the Foundation for Moving Forward With the Settlement of the Tule River Indian Tribe's Water Rights**

Moving to the terms of the bill under consideration today, S. 789 authorizes the Secretary of Interior to conduct a study on the feasibility and suitability of constructing a storage reservoir, outlet works, and delivery system on the Reservation. S. 789 also authorizes the appropriation of

\$3 million to the Bureau of Reclamation to fund the study. The House passed H.R. 1945, S. 789's counterpart in May of 2009. The storage facility feasibility study is the most recent step in a several-decades-long effort by the Tribe to secure both title to and quantification of its federal reserved water rights, and to actually deliver "wet" water to our members for domestic, agricultural, municipal, commercial and industrial purposes. Notably, the eventual construction of a water storage project will enable us to meet our needs without disrupting the current water uses of the South Tule River.

As part of our lengthy and detailed negotiations with our neighbors and with the United States spanning the past decade, we commissioned technical studies of the South Fork Tule River watershed within our Reservation boundaries. This analysis by the firm of Natural Resources Consulting Engineers of Ft. Collins, Colorado and Oakland, California, led us to the present site of a proposed water storage project at the confluence of Cedar Creek and the mainstem of the South Fork Tule River. The site of the proposed project, and the existing and proposed expansion to the Tribe's water service area, are depicted on the map marked as Exhibit D. The Bureau of Reclamation has reviewed this work and found that the dam site was acceptable.

The analysis we have commissioned to date, while rigorous and thorough, is not sufficiently detailed to support and justify a final decision to authorize and appropriate federal funds from which to initiate actual construction activities. Thus, the authority and funding delivered through S. 789 would enable the Tribe, acting in concert with the Department of the Interior and its Bureau of Reclamation, to ensure that this Cedar Creek site is the optimal site at which to build the project.

Although S. 789 is a separate bill from the larger settlement legislation that will be forthcoming, it is the first step toward implementing the final settlement agreement. While the study is under consideration we will be working to pass the authorizing settlement agreement legislation. The parties to the settlement agreement and indeed, the people whose water needs will be met through this agreement have worked to hard and for too long to delay any longer.

As previously mentioned, Congress considered H.R. 2535 in 2007, a bill that authorized a feasibility study and appropriated \$3 million to complete the study. This bill was virtually identical to S.789. We had secured resolutions in support of H.R. 2535 from the National



Congress of American Indians and the Southern California Tribal Chairman's Association. Copies of the resolutions of these organizations are also attached to my testimony to be made a part of the record. (Exhibits E and F.) We had also secured letters of support from the City of Porterville, CA; the Tulare County, CA Board of Supervisors, the Tule River Association and the South Tule Irrigation Ditch Company in support of H.R. 2535 and we believe these documents are being made a part of the record of this hearing. We were also able to secure letters of support for S. 789 from the Tule River Association (Exhibit G) and the South Tule Irrigation Ditch Company (Exhibit H) which we understand were submitted directly to the committee and are to be made a part of the record. We submit the letters and resolutions to demonstrate unanimous support for the feasibility study and appropriations to complete the study.

### **Conclusion**

It is now time for our federal partners to join us in securing a brighter future for the Tule River Tribe and its people by supporting S. 789. The House overwhelmingly passed H.R. 1945. We respectfully request that the Subcommittee follow suit by swiftly marking up and passing S. 789 to the full Committee. I thank the Subcommittee for the opportunity to express the Tule River Tribe's support of S. 789.

In closing, I would ask that my testimony and supporting materials be made a part of the record of this hearing by unanimous consent.

I, or my associates here at the witness table with me, would be happy to respond to any questions which the members of the Subcommittee might have.

I

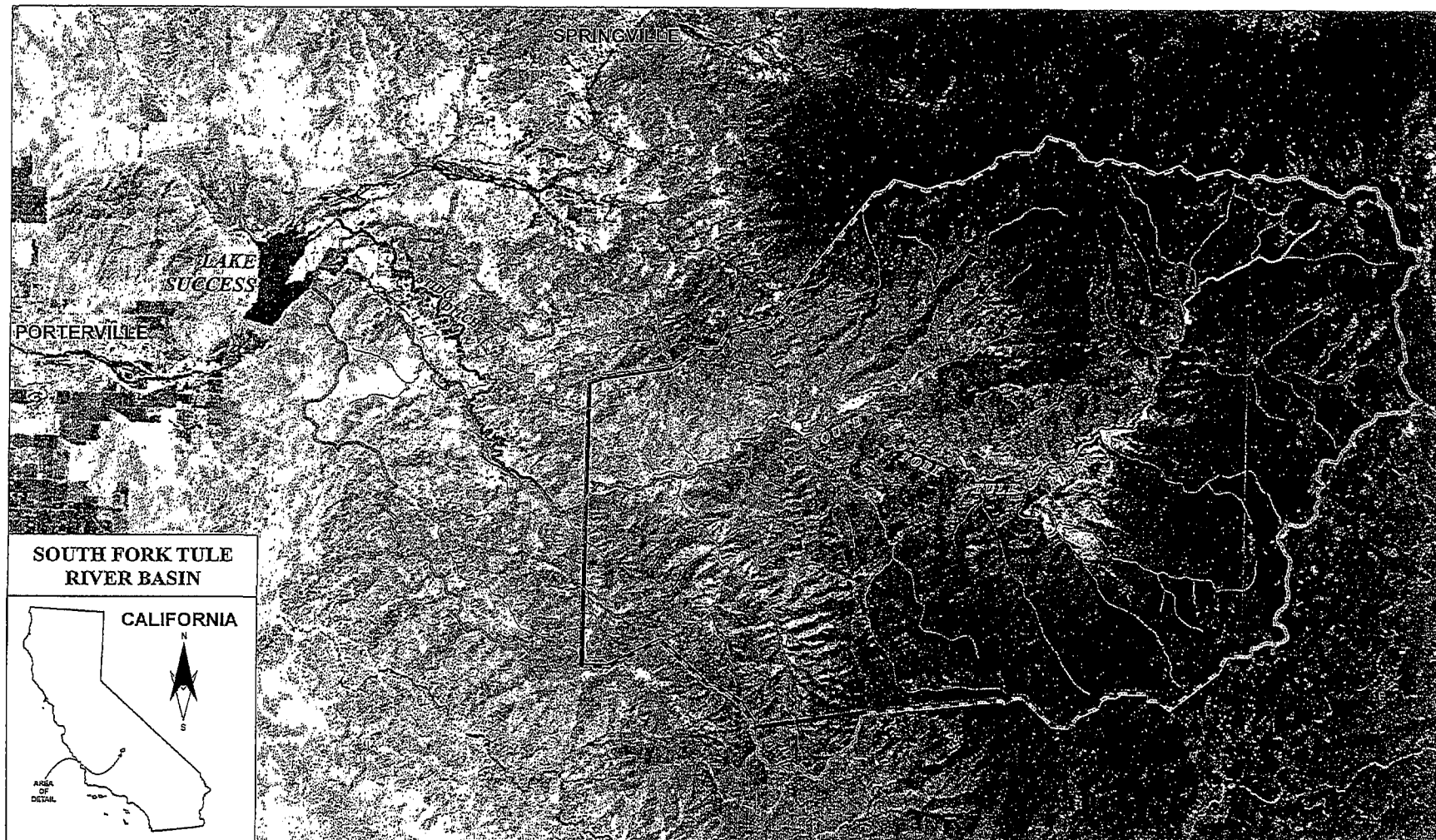
**EXHIBIT A**  
**TO THE**  
**TESTIMONY OF RYAN GARFIELD**  
**SUPPORTING S. 789**  
**THE TULE RIVER TRIBE WATER DEVELOPMENT ACT**  
**July 23, 2009**

### **TULE RIVER WATER RIGHTS TIMELINE**

- 1848 Treaty of Guadalupe Hidalgo – Mexico cedes California Territory to the United States.
- 1850 California becomes a state.
- 1851 Treaty of Paint Creek, June 3, 1851 designates a reservation for the Koyeti and Yowlumne Tribes extending from the Tule River south to Paint Creek.
- 1852 Tulare County, California, is established.
- 1852 The United States Senate votes to reject all 18 treaties negotiated with the California Tribes.
- 1853 Act of March 3, 1853. Congress establishes the Superintendency of Indian Affairs in California and authorizes five military reservations in the state. The Tejon Reservation, the first, is established at the southern end of the San Joaquin Valley.
- 1856 Tule River Reservation (Tule River Farm) established as part of the Tejon Reservation.
- 1857 Tejon Reservation employees Thomas Madden and John Benson file applications with the State of California for over 2,440 acres of public land using state school warrants.
- 1858 Investigation of Madden's fraudulent land patent claim, conducted by U.S. Treasury Department Inspector J. Ross Brown, is ignored.
- 1860 Thomas P. Madden receives patent to 1,280 acres located on the Tule River Farm and begins renting it to the government.
- 1863 The Tejon Agency and Kings River Farms are terminated and the Indians removed to Tule River Farm, the only reservation remaining in the Central and Southern San Joaquin Valley.
- 1864 Congress passes the Act of April 8, 1864, "An Act to Provide the Better Organization of Indian Affairs in California," also known as the "Four Reservations Act." It provides for the President to set aside up to four tracts of land to establish Indian reservations in California. The four Executive Order reservations established were the Hoopa, Tule River, Round Valley and Mission Reservations.

- 1868 Measles epidemic reduces population of Owens Valley Indians at Tule River Reservation and most of the survivors leave, leaving predominantly Southern Valley and Foothill Yokuts tribes at Tule River.
- 1873 Executive Order of January 9, 1873 establishes the 48,000 acre Tule River Indian Reservation in a new remote location in the foothills west of the Madden Farm lands, and significantly less suited to farming than the Madden Farm lands.
- 1873 Second Executive Order issued on October 3, 1873 adds land that increases the size of the reservation to 91,837 acres to better support the Indians agriculturally.
- 1878 A third Executive Order, issued August 2, 1878, reduces the size of the Tule River Indian Reservation, by reestablishing its original boundaries of about 48,000 acres.
- 1922 Secretary of the Interior, acting on behalf of the Tule River Tribe, entered into an agreement with the South Tule Independent Ditch Company (STIDC) – an aggregation of water rights holders below the Reservation – apportioning the flow of the South Fork Tule River between the Tribal and STIDC interests based on available flow in the river.
- 1935 Indians on the Tule River Indian Reservation adopt the Indian Reorganization Act, incorporating themselves as the Tule River Indian Tribe.
- 1971 Tule River Tribe first commences efforts to secure a water storage project on its Reservation and thus secure its federal reserved water rights under the Winters doctrine.
- 1998 Active negotiations commence between the Tribe, STIDC and the Tule River Association on the subject of the Tribe's water needs and interests.
- 2007 Settlement Agreement reached with STIDC and the Tule River Association concerning the Tribe's storage project and water rights.

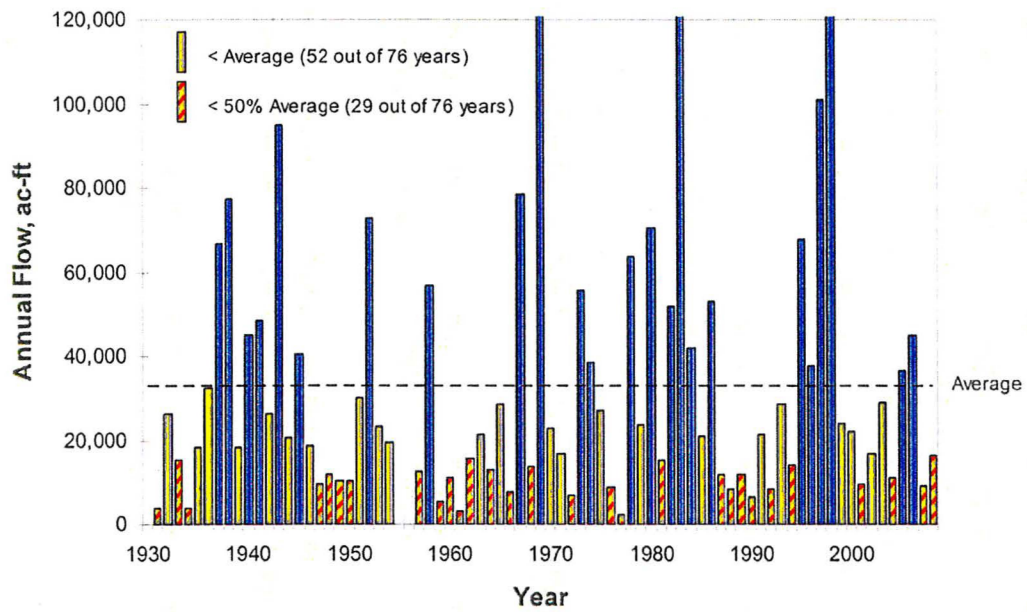
**EXHIBIT B**  
**TO THE**  
**TESTIMONY OF RYAN GARFIELD**  
**SUPPORTING S. 789**  
**THE TULE RIVER TRIBE WATER DEVELOPMENT ACT**  
**July 23, 2009**



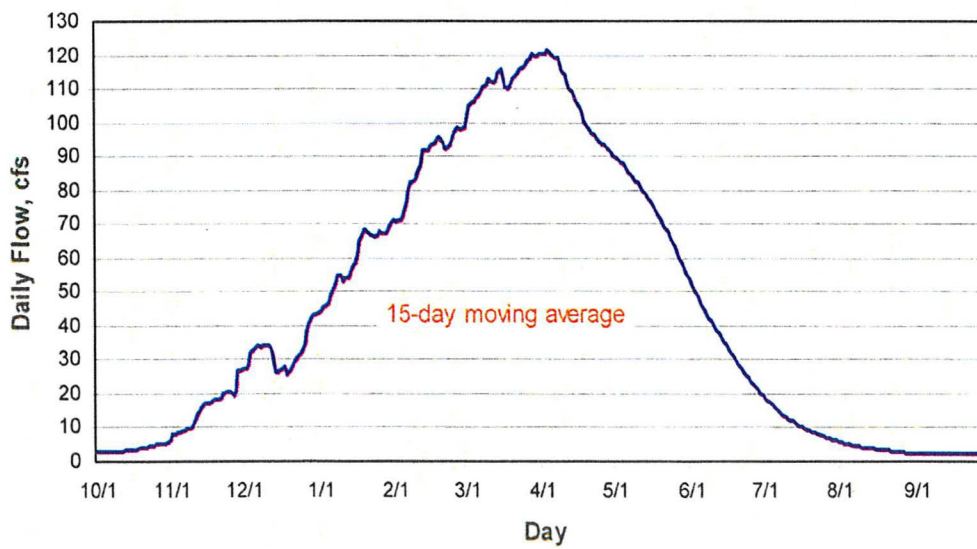
20M LANDSAT ENHANCED THEMATIC MAPPER (ETM) SATELLITE IMAGE

**EXHIBIT C**  
**TO THE**  
**TESTIMONY OF RYAN GARFIELD**  
**SUPPORTING S. 789**  
**THE TULE RIVER TRIBE WATER DEVELOPMENT ACT**  
**July 23, 2009**

### South Fork Tule River Annual Flows 1931 - 2008

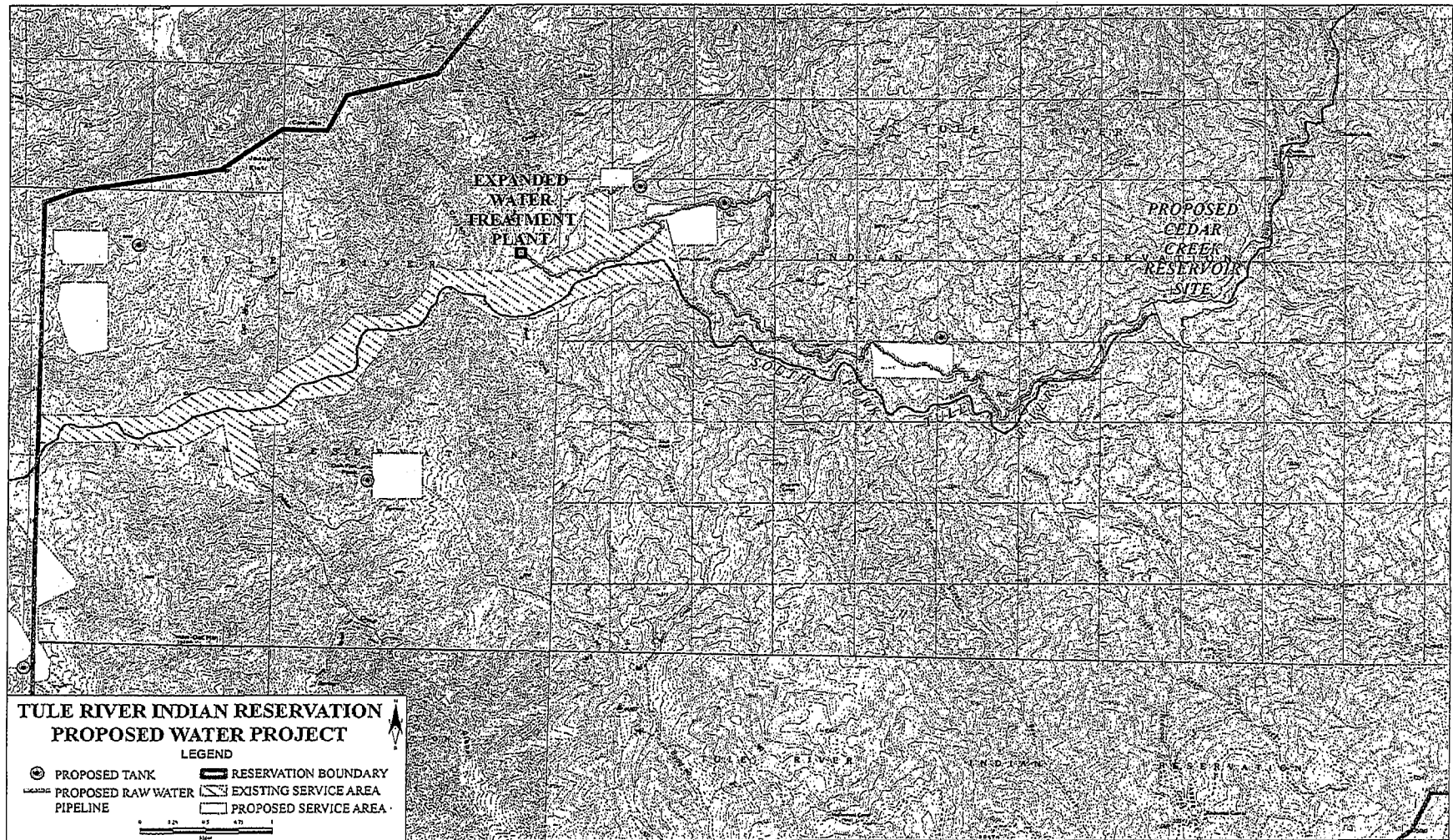


### South Fork Tule River Average Daily Flow 1931 - 2008





**EXHIBIT D**  
**TO THE**  
**TESTIMONY OF RYAN GARFIELD**  
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**July 23, 2009**



**EXHIBIT E**  
**TO THE**  
**TESTIMONY OF RYAN GARFIELD**  
**SUPPORTING S. 789**  
**THE TULE RIVER TRIBE WATER DEVELOPMENT ACT**  
**July 23, 2009**

2007 water



## NATIONAL CONGRESS OF AMERICAN INDIANS

### The National Congress of American Indians Resolution #ANC-07-019

**TITLE: Support for the Tule River Tribe Feasibility Study Bill for Proposed Reservoir and Water Distribution System**

#### EXECUTIVE COMMITTEE

##### PRESIDENT

Joe A. Garcia  
Ohlway Owingeh  
(Pueblo of San Juan)

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Chickasaw Nation

##### RECORDING SECRETARY

Juana Mojel  
Pawnee-Yukon Band of Mision Indians

##### TREASURER

W. Ron Allen  
Jamestown S'Klallam Tribe

#### REGIONAL VICE-PRESIDENTS

##### ALASKA

Mike Williams  
Yup'ik

##### EASTERN OKLAHOMA

Joe Grayson, Jr.  
Cherokee Nation

##### GREAT PLAINS

Mark Allen  
Flandreau Santee Sioux

##### MIDWEST

Robert Childs  
Stockbridge-Munsee

##### NORTHEAST

Randy Noka  
Naragansett

##### NORTHWEST

Ernie Stensgar  
Coeur d'Alene Tribe

##### PACIFIC

Cheryl Seidner  
Wiyot

##### ROCKY MOUNTAIN

Carl Venne  
Crow Tribe

##### SOUTHEAST

Leon Jacobs  
Lumbee Tribe

##### SOUTHERN PLAINS

Steve Johnson  
Absentee Shawnee

##### SOUTHWEST

Mmanuel Heert  
Ute Mountain Ute Tribe

##### WESTERN

Kathleen Kitcheyan  
San Carlos Apache

##### EXECUTIVE DIRECTOR

Jacqueline Johnson  
Tlingit

#### NCAI HEADQUARTERS

1301 Connecticut Avenue, NW  
Suite 200  
Washington, DC 20036  
202.466.7767  
202.466.7797 fax  
www.ncai.org

WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, the health, safety, welfare, education, economic and employment opportunity, and preservation of cultural and natural resources are primary goals and objectives of NCAI; and

WHEREAS, the Tule River Tribe is in good standing membership with the NCAI and has predominantly supported the legislative issues of NCAI and its support services to Native Americans in its entire membership; and

WHEREAS, the preservation, protection, and development of Indian water resources is of paramount importance to the continued vitality of reservation economies, to the preservation of Indian culture, and religious practices, and to ensure that the next generations will inherit sustainable homelands; and

WHEREAS, the President, by a series of three Executive Orders, on January 9, 1873, October 3, 1873, and August 3, 1878, set aside and defined the boundaries of the Tule River Indian Reservation for the purpose of providing a permanent and sustainable homeland for the Tule River Indians; and

WHEREAS, pursuant to the doctrine of federally reserved water rights, the Tule River Tribe has a right to water sufficient to fulfill the purposes of Reservation which includes ensuring a permanent and sustainable homeland for the Tribe; and

WHEREAS, Since 1971, the Tribe has diligently worked to establish its federally reserved water rights in order to ensure that the Tribe has sufficient water to meet its current and future water needs; and

WHEREAS, the Tribe's right to water can best be resolved by a single, comprehensive settlement agreement entered into by and among the Tribe, other affected water users impacted by the Tribe's use of its water right, and the Secretary of the Interior, which Agreement will subsequently be ratified by the United States Congress; and

WHEREAS, the parties have reached an Agreement in principal and expect to introduce settlement legislation in the near future; and

WHEREAS, a Bill has been introduced in the U.S. House of Representatives directing the Secretary of the Interior to conduct a study on the feasibility and suitability of constructing a storage reservoir, outlet works, and a delivery system for the Tule River Indian Tribe of California to provide a water supply for domestic, municipal, commercial, industrial, and agricultural purposes, and for other purposes.

NOW THEREFORE BE IT RESOLVED, that the NCAI does hereby support the Tule River Tribe in their efforts to get their feasibility study bill passed; and

BE IT FURTHER RESOLVED, that the NCAI encourages the Department of the Interior to fully support the congressional legislation directing the Secretary of the Interior to conduct a feasibility study for the Tule River Tribe's proposed reservoir; and urges Congress to expeditiously enact legislation ratifying the Tule River Tribe's final water rights settlement agreement; and

BE IT FURTHER RESOLVED, that this resolution shall be the policy of NCAI until all terms of the Tule River Tribe's settlement legislation have been carried out; and

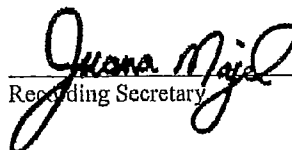
BE IT FINALLY RESOLVED, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

#### CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2007 64<sup>th</sup> Mid-Year Session of the National Congress of American Indians, held at the Egan Convention Center in Anchorage, Alaska on June 10-13, 2007, with a quorum present.

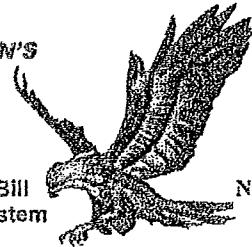
  
\_\_\_\_\_  
President

ATTEST:

  
\_\_\_\_\_  
Recording Secretary

**EXHIBIT F**  
**TO THE**  
**TESTIMONY OF RYAN GARFIELD**  
**SUPPORTING S. 789**  
**THE TULE RIVER TRIBE WATER DEVELOPMENT ACT**  
**July 23, 2009**

Southern California  
**TRIBAL CHAIRMEN'S**  
Assoc., Inc.



**RESOLUTION**

**Support for the Tule River Tribe Feasibility Study Bill  
for Proposed Reservoir and Water Distribution System**

No. 2007-08

WHEREAS, we, the members of the Southern California Tribal Chairmen's Association and citizens of the United States, with inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, The Southern California Tribal Chairmen's Association (SCTCA) was established in 1972 and is the oldest and largest organization of Southern California Tribal governments; and

WHEREAS, The health, safety, welfare, education, economic and employment opportunity, and preservation of cultural and natural resources are primary goals and objectives of SCTCA; and

WHEREAS, the Tule River Tribe is in good standing membership with the SCTCA and has predominantly supported the legislative issues of SCTCA and its support services to Native Americans in its entire membership; and

WHEREAS, the preservation, protection, and development of Indian water resources is of paramount importance to the continued vitality of reservation economies, to the preservation of Indian culture, and religious practices, and to ensure that the next generations will inherit sustainable homelands; and

WHEREAS, the President, by a series of three Executive Orders, on January 9, 1873, October 3, 1873, and August 3, 1878, set aside and defined the boundaries of the Tule River Indian Reservation for the purpose of providing a permanent and sustainable homeland for the Tule River Indians; and

WHEREAS, pursuant to the doctrine of federally reserved water rights, the Tule River Tribe has a right to water sufficient to fulfill the purposes of Reservation which includes ensuring a permanent and sustainable homeland for the Tribe; and

WHEREAS, Since 1971, the Tribe has diligently worked to establish its federally reserved water rights in order to ensure that the Tribe has sufficient water to meet its current and future water needs; and

Continued.....

**RESOLUTION**

**Support for the Tule River Tribe Feasibility Study Bill  
for Proposed Reservoir and Water Distribution System**

No.2007-08

WHEREAS, the Tribe's right to water can best be resolved by a single, comprehensive settlement agreement entered into by and among the Tribe, other affected water users impacted by the Tribe's use of its water right, and the Secretary of the Interior, which Agreement will subsequently be ratified by the United States Congress; and

WHEREAS, the parties have reached an Agreement in principal and expect to introduce settlement legislation in the near future; and

WHEREAS, a Bill has been introduced in the U.S. House of Representatives directing the Secretary of the Interior to conduct a study on the feasibility and suitability of constructing a storage reservoir, outlet works, and a delivery system for the Tule River Indian Tribe of California to provide a water supply for domestic, municipal, commercial, industrial, and agricultural purposes, and for other purposes.

NOW THEREFORE BE IT RESOLVED, that the SCTCA does hereby support the Tule River Tribe in their efforts to get their feasibility study bill passed; and

BE IT FURTHER RESOLVED, that the SCTCA encourages the Department of the Interior to fully support the congressional legislation directing the Secretary of the Interior to conduct a feasibility study for the Tule River Tribe's proposed reservoir, and urges Congress to expeditiously enact legislation ratifying the Tule River Tribe's final water rights settlement agreement; and

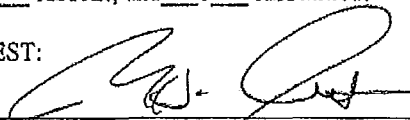
BE IT FURTHER RESOLVED, that this resolution shall be the policy of SCTCA until all terms of the Tule River Tribe's settlement legislation have been carried out; and

BE IT FINALLY RESOLVED, that this resolution shall be the policy of SCTCA until it is withdrawn or modified by subsequent resolution.


**CERTIFICATON**

At a general called meeting of the Southern California Tribal Chairmen's Association's Board Members in which a quorum was present and held on August 21, 2007, the Resolution No. 2007-08 received a vote of 13 Support; 0 Opposed; 0 Absent; and 0 Abstained.

ATTEST:



Robert Smith  
Chairman of the Board of SCTCA



Denis Turner  
Recording Secretary



**EXHIBIT G**  
**TO THE**  
**TESTIMONY OF RYAN GARFIELD**  
**SUPPORTING S. 789**  
**THE TULE RIVER TRIBE WATER DEVELOPMENT ACT**  
**July 23, 2009**



SECRETARY-WATERMASTER:  
RICHARD L. SCHAFER  
MEMBER AGENCIES:  
PIONEER WATER COMPANY  
VANDALIA IRRIGATION DISTRICT  
PORTERVILLE IRRIGATION DISTRICT  
LOWER TULE RIVER IRRIGATION DISTRICT  
DOWNSTREAM KAWEAH & TULE RIVERS ASSOCIATION

July 20, 2009

Senate Committee on Energy and Natural Resources  
304 Dirksen Senate Building  
Washington, DC 20510

Attn: Honorable Jeff Bingaman, Chairman

Re: S. 789, Tule River Tribe Water Development Act

Dear Chairman Bingaman:

The Tule River Association, representing all the water rights holders at and below Success Reservoir, Tule River, California, fully supports S. 789.

The Tule River Association was engaged for more than 10 years, along with the South Tule Independent Ditch Company and riparians along the South Fork Tule River, with the Tule River Indian Tribe in the negotiation and settlement of the reserved water rights of the Tule River Indian Reservation. The Tule River Association accepted and agreed to the terms and conditions of the "Tule River Tribe Reserved Water Rights Settlement Agreement Among the Tule River Indian Tribe, the Tule River Association and the South Tule Independent Ditch Company" (Settlement Agreement) in November 2007, however, the Agreement has not been ratified by the Congress or the United States District Court for the Eastern District Court of California.

The Settlement Agreement quantifies and allocates all of the residential, commercial, industrial, public, fire, livestock, mining and irrigated agricultural reserved water right uses for the Tule River Indian Reservation and would be available to your committee upon request.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'R. L. Schafer'.

R. L. Schafer

RLS/mep

cc: Senator Dianne Feinstein  
Congressman Devin Nunes  
Congressman Jim Costa

TRA Directors  
Alec Garfield, TRTC  
Tom Rodgers  
Amy Bowers

**EXHIBIT H**  
**TO THE**  
**TESTIMONY OF RYAN GARFIELD**  
**SUPPORTING S. 789**  
**THE TULE RIVER TRIBE WATER DEVELOPMENT ACT**  
**July 23, 2009**

**SOUTH TULE INDEPENDENT DITCH COMPANY**  
**P.O. BOX 1270**  
**PORTERVILLE, CA 93258**

July 21, 2009

Senator Debbie Stabenow, Chairwoman  
Subcommittee on Water and Power of the  
Senate Committee on Energy and Natural Resources  
United States Senate  
Washington, D. C. 20510-6150

Re: Support of S.789, Tule River Tribe Water Development Act

Dear Senator Stabenow:

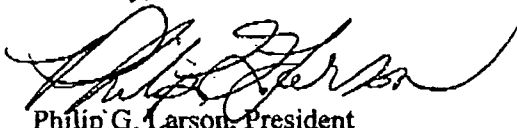
I am writing on behalf of South Tule Independent Ditch Company in support of Tule River Tribe's efforts to secure funding for a feasibility study to determine the design and location for a water storage facility on the Tule River Indian Reservation. The passage of the Tule River Tribe Water Development Act (S.789) will provide this need.

The Tule River Tribe, Tule River Association and South Tule Independent Ditch Company have successfully finalized and executed an historic water rights settlement agreement, absent litigation, which quantifies the amount of water the Tribe is entitled to receive from the South Fork of the Tule River. The parties have worked diligently and cooperatively to develop a water rights plan that will provide a stable water supply for the Tribe, as well as for its downstream neighbors who own water rights that pre-date the 1873 establishment of the Reservation. Additionally, the Tribe has committed to honor the provisions of a 1922 agreement between South Tule Independent Ditch Company and the Department of the Interior, acting in behalf of the Tribe, regarding the relative water rights of these two entities. The parties are in agreement that the only method to secure a stable water supply is for the Tribe to impound water during the high flow season. Thus, a significant storage facility will be required to facilitate the agreement and supply the rapidly growing demand for water on the Reservation.

We therefore encourage your support for the Tule River Tribe Water Development Act (S.789).

Thank you for your interest and support in this matter. Should you have any questions, please telephone me at (559) 784-4648.

Sincerely,



Philip G. Larson, President