



Soboba Band of Luiseño Indians

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**TESTIMONY OF
ROBERT SALGADO, SR.
SOBOBA BAND OF LUISEÑO INDIANS**

BEFORE THE

**U. S. HOUSE OF REPRESENTATIVES
COMMITTEE ON NATURAL RESOURCES
SUBCOMMITTEE ON WATER AND POWER**

**CONCERNING
H.R. 4841
SOBOBA BAND OF LUISEÑO INDIANS SETTLEMENT ACT**

March 13, 2008

Madam Chairwoman and Members of the Subcommittee on Water and Power, I am Robert Salgado, Sr., former Tribal Chairman for nearly 30 years of the Soboba Band of Luiseño Indians. On behalf of our Tribe and Tribal Council, thank you for convening this important hearing and for inviting me to testify in support of the long-awaited settlement of our water rights claims.

The Tribe also expresses its deepest gratitude to Representative Mary Bono Mack for her leadership and introduction of H.R. 4841, the Soboba Band of Luiseño Indians Settlement Act. I would also like to recognize and thank our co-sponsors: Representative Joe Baca, Representative Ken Calvert, Representative Tom Cole, Representative Dale Kildee and Representative Jerry Lewis.

Madam Chairwoman, it is a pleasure and honor for me to testify after many decades of hard work and persistence by the Soboba Band's tribal leaders. When approved, this settlement will usher in a new era for the Soboba people by ensuring a sustainable and independent homeland for our Tribe. The settlement before you is borne from a century and a half of interference with our water resources, decades of litigation and negotiation with federal, state and local authorities, and years in the legislative making.

Indeed, this is a historic occasion.

Our people have always lived in the San Jacinto River Valley of Southern California. Then, as now, we lived east of the River, on the slopes of the San Jacinto Mountains. We built the first irrigation ditches in the valley. We grew the first melons and beans and corn. We planted the first fruit trees. The River always flowed then. The creeks were always full. And the mountain springs were alive, sustaining our people and our gardens, our animals and our orchards.

When the non-Indian settlers came to the Valley, they dammed up the River. When the River went dry, we dug wells. But the settlers dug deeper ones, and the wells of the our people failed. Even the springs and creeks disappeared when a tunnel drilled through the mountains to carry water to Los Angeles drained the underground reservoir that sustained us.

And so the Soboba people lost their water. Our animals died, our fruit trees died, our gardens died. Some of our people starved, some of us were forced to move away, and some of us stayed to fight for our homeland.

Now, the long struggle is nearly over.

FACTUAL BACKGROUND

Since time immemorial our people have lived and irrigated farm fields on lands within our present-day reservation. During Spanish and Mexican rule in California, the Soboba Indians were recognized as an established Indian community, residing within the boundaries of Rancho San Jacinto Viejo, a large Mexican land grant comprising over 35,000 acres on both sides of the San Jacinto River and embracing the present-day cities of San Jacinto, Hemet, Valle Vista and Winchester. Prior to American settlement in the San Jacinto Valley in the 1860s, Soboba's farmlands – irrigated with surface water from the San Jacinto River, from two of its tributary streams, Poppet and Indian Creeks, and from more than forty perennial springs – made our people virtually self-sufficient.

Diversions and Interference

The story of our water struggle begins shortly after the Civil War. From 1865 to 1891 upstream diversions of the San Jacinto River and its major tributaries by new settlers eliminated nearly all river surface flow through the Soboba lands. Deprived of the river's perennial water supply, the Tribe's gravity-flow irrigation system became useless. By

1899 – only 15 years after the initial creation of our Reservation in 1883 – our people faced starvation.

In an attempt to ameliorate the Tribe's dire situation, the U.S. Indian Service constructed a well system on our Reservation in 1909, utilizing the waters of an underground aquifer beneath the Reservation. By the early 1930s, however, the wells had become largely unproductive because the Reservation's water table had been drawn down substantially by the upstream diversions of the San Jacinto River, and by intensive withdrawals by non-Indians of the groundwater sub-basins lying beneath the Reservation.

Some surface water continued to be available until the 1930s from the many springs and creeks in the upland parts of the Reservation, which supported settlements, vineyards and orchards, stock watering and other domestic uses. But even this meager supply of surface water soon disappeared almost entirely with the construction of the San Jacinto Tunnel.

The San Jacinto Tunnel

In 1933, the Metropolitan Water District of Southern California (“Metropolitan”) began constructing a tunnel through the San Jacinto Mountains as part of its Colorado River Aqueduct, designed to supply water to southern California. The San Jacinto Tunnel, 16 feet in diameter and nearly 13 miles long, passes within three and one-half miles of the Soboba Reservation, at elevations substantially below that of most of the Reservation.

Fault zones in that part of the San Jacinto Mountains traversed by the Tunnel acted as underground dams holding back water stored in the shattered rock of the Mountains. During the six years it took to complete the Tunnel, construction crews encountered enormous quantities of water gushing into the Tunnel from the surrounding mountain mass. From 1933 until 1939, when the Tunnel was finished, Metropolitan calculates that construction drained more than 155,000 acre-feet of underground water. An immediate result of the drainage was that many perennial springs on the Soboba Reservation once fed by that water ceased to flow by 1937.

Substantial drainage of groundwater into the Tunnel has continued ever since. By 1946, the Tunnel drainage had lowered the water table sufficiently to dry up the rest of the perennial springs on the Reservation, as well as most of the remaining surface stream flow in the Reservation's two major streams, Poppet and Indian Creeks. Of the total groundwater inflows into the Tunnel from 1940 to the present, approximately 280,000 acre-feet, averaging 4,100 acre-feet per year, have come from basins directly or indirectly tributary to the Soboba Reservation.

Serious and Negative Effects

The Tunnel's destruction of the Reservation's surface springs and creeks, combined with the pre-existing and ongoing San Jacinto River diversions and groundwater pumping by Soboba's non-Indian neighbors, left our people without water and destroyed the last remnants of our once-flourishing agricultural economy. The devastating effects on the

Soboba people were documented in a 1982 study by noted University of California at Irvine anthropologists Joseph G. Jorgensen and Robert Goforth. They concluded:

“In the wake of water losses to non-Indian appropriators in the 1930’s and 1940’s, agriculture at Soboba ceased. Several important consequences followed: 1) the collective production and exchange relations based in agriculture, and the integrative posers that they possessed with respect to the reservation community, were sundered; 2) a great many Sobobans relocated off the reservation in search of other employment, since they could not sustain themselves, in whole or in part, from farming; and 3) the material basis of religious observances based on ceremonies tied to agricultural land use, as well as the loss of many members who emigrated, contributed to the final withering of the Soboban’s native religion. With the decay of native religion went another important source of community integration. Water losses, by bringing to an end the agricultural economy of the reservation, amounted to an assault on the basic institutions of the Soboba community . . .”

Jorgensen & Goforth, *The Effects of Water Losses on the Economic, Political, Kinship and Ceremonial Organization of the Soboba Indians: 1891-1981* at 191-92.

From these depths – with our economy, our culture, our society, our religion and our very existence as a people on the verge of extinction – we began the long struggle back.

Adjudication and Settlement

In 1950, we filed litigation in the Indian Claims Commission against the United States for its failure to protect the Reservation's water resources. Following the Commission's 1976 determination of the United States' liability to the Tribe, Soboba Band of Mission Indians v. United States, 37 Ind. Cl. Comm. 326 (1976) (Docket 80-A), the parties commenced extended negotiations which finally resulted in a 1991 compromise settlement of the our claims against the Federal government.

Since 1991, with the assistance of a multi-agency Federal Indian Water Rights Settlement Team, we have attempted to negotiate a settlement of our water rights and claims with the two principal holders of competing claims in the San Jacinto Valley, Eastern and Lake Hemet Municipal Water Districts. Metropolitan, the third entity primarily responsible for the depletion of our water resources, was not directly involved in the settlement discussions, because it holds no water rights in the Valley. The parties to the negotiations contemplated, however, that satisfaction of Metropolitan's liability for the San Jacinto Tunnel drainage would ultimately be incorporated into the final resolution of the Soboba’s claims, most likely as a partial source of imported replacement water for the Reservation.

In late 1998, with settlement discussions with Eastern and Lake Hemet making little progress, we invited direct negotiations with Metropolitan with respect to the Tunnel

drainage, in hopes that resolving that issue would facilitate a solution to our claims against the other two districts. Metropolitan declined the invitation, pending its resolution with Eastern of the relative liability of the two districts for the Tunnel drainage.

In January 2000, we renewed our invitation to Metropolitan to begin settlement discussions. When the invitation was again declined, we filed suit against Metropolitan for the San Jacinto Tunnel drainage. After we prevailed in a series of initial motions filed by Metropolitan, the parties agreed to a stay of the proceedings to seek a settlement.

The ensuing settlement negotiations, which spanned the following decade, included participation by representatives of the Soboba Band, the United States, Metropolitan Water District of Southern California, Eastern Municipal Water District, and Lake Hemet Municipal Water District. They ultimately led to an agreement that quantified the Tribe's prior and paramount water rights at 9,000 acre-feet per year, resolved all of our claims for interference with and damages to the water resources of the Reservation, and provided for the construction of water projects to facilitate the exercise of our rights.

THE SETTLEMENT

Upon enactment of H.R. 4841, Soboba will be guaranteed a secure and reliable water supply adequate to meet the long-term needs of our people. We also will have \$11 million in Federal funds to assist us in rehabilitating and expanding our long-neglected water and sewage system infrastructure.

Moreover, the entire San Jacinto River Valley will benefit from the final resolution of Soboba's water rights and claims. Most beneficial is 7,500 acre-feet per year of reduced cost water that will be provided by Metropolitan until 2035. An additional 4,900 acre-feet per year for 50 years will be provided by Soboba's forbearance in using all of its quantified water rights. The legal certainty and the water supplies that the settlement provides in turn make possible the implementation of a court-administered Water Management Plan, which has been negotiated over the past decade by the Eastern and Lake Hemet water districts, the neighboring cities of Hemet and San Jacinto, and the area's agricultural producers. The Plan, which is subject to the approval of the United States and the Tribe, will operate to bring the aquifer into a safe-yield basis, where annual withdrawals from the groundwater basin are no greater than annual replenishment of it. A Federal contribution of \$10 million under the settlement will be used for the construction of infrastructure to recharge the aquifer with the imported water from Metropolitan.

The Federal government will also receive a final release for Soboba's water-related claims that have accrued since the 1991 settlement.

THE SETTLEMENT IS WIDELY SUPPORTED

The following governmental bodies have formally expressed their support of the Soboba Settlement Act.

- California State Legislature, AJR 65 (2004)
- County of Riverside
- City of Hemet
- City of San Jacinto
- National Congress of American Indians
- Agua Caliente Band of Cahuilla Indians
- Bishop Tribal Council
- Morongo Band of Mission Indians
- Ramona Band of Cahuilla Mission Indians
- Rincon San Luiseno Band of Mission Indians
- San Luis Rey Indian Water Authority
- San Manuel Band of Mission Indians
- Santa Ynez Band of Chumash Indians
- Twenty Nine Palms Band of Mission Indians

Other groups and organizations have also publicly declared support for settlement and the legislation. The support is truly gratifying and greatly welcome, but should come as no surprise given benefits that will be realized by the entire San Jacinto Valley.

TWO FINAL CONSIDERATIONS

HR 4841 is critical to the future of the entire San Jacinto River Valley

The San Jacinto River Basin, from which our Tribe, the Eastern and Lake Hemet Municipal Water Districts, and the cities of Hemet and San Jacinto obtain their water supply, is currently in overdraft by approximately 10,000 acre-feet per year. An additional 7,500 acre-feet per year are needed to satisfy our settlement water rights (the difference between our current usage of 1,500 acre-feet per year and our settlement water rights of 9,000 acre-feet per year), and the water districts estimate that an additional 15,000 acre-feet per year will be needed for future growth in the Valley.

The Water Management Plan developed by Soboba's neighboring water districts and cities is designed to address all of these demands and place the basin on a sustainable, safe-yield basis within the next few years. However the plan, which under the settlement requires the approval of Soboba and the United States, cannot be implemented without Congressional approval of the settlement agreement.

HR 4841 is critical to the future of the Soboba Tribe

For nearly 150 years, the Soboba Tribe's self-sufficiency has been impaired by continuing and increasing incursions on its water resources by its non-Indian neighbors. Lacking both adequate water and the funds necessary to construct the infrastructure to store and deliver it, our water and sewage systems have fallen into disrepair and are in desperate need of rehabilitation. We estimate that approximately \$64 million will be required to update and upgrade the Reservation's water infrastructure.

The settlement guarantees the Tribe's future water supply and provides funding in the amount of \$11 million to begin addressing its infrastructure needs. In addition, the settlement provides another \$10 million to construct the recharge facilities that are necessary to accommodate the 7,500 acre-feet per year of imported supplemental water which the Metropolitan Water District of Southern California under the settlement has committed to deliver to the Valley until 2035 to make up the difference between the Tribe's current usage and its water rights quantified by the settlement.

CONCLUSION

For the Soboba Band of Luiseño Indians this proposed settlement is about replenishing the water supply for our people and concluding our 150-year struggle. The ability of the Soboba Band to plan and implement a strategy to address the water and sewage requirements for its people depend upon the certainty both of a reliable water supply and the availability of funds for infrastructure rehabilitation and improvements – which in turn depend upon approval and implementation of the Soboba settlement.

I wish to sincerely express my appreciation for the honor and privilege of having been invited to present testimony to the subcommittee today. I am happy to answer any questions you have of me.