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[H.R. 1296, to amend the San Luis Rey Indian Water Rights Settlement Act to clarify certain settlement terms, and for other purposes](#)

FLOOR SITUATION

On Wednesday, February 24, 2016, the House will consider [H.R. 1296](#), to amend the San Luis Rey Indian Water Rights Settlement Act to clarify certain settlement terms, and for other purposes, under suspension of the rules. H.R. 1296 was introduced on March 4, 2015 by Rep. Duncan Hunter (R-CA), and was referred to the Committee on Natural Resources, which ordered the bill reported by unanimous consent on February 3, 2016.

SUMMARY

H.R. 1296 amends the San Luis Rey Indian Water Rights Settlement Act by approving and ratifying all provisions of the January 30, 2015 Settlement Agreement. The bill also authorizes the Interior Secretary and the Attorney General to execute and implement the agreement and any amendments approved by the parties.

BACKGROUND

In 1969, the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians (the Bands) sued the City of Escondido, California and the Vista Irrigation district (Local Entities) on the grounds that the federal government improperly signed over the Bands' water rights to the Local Entities. Decades of litigation surrounding the Bands' water rights claims ensued until 1988, when Congress enacted the San Luis Rey Indian Water Rights Settlement Act (the 1988 Settlement Act or P.L. 100-675).¹ It is one of 29 Indian water rights settlements that have been approved by Congress.²

The 1988 Settlement Act, among other things, directed the U.S. Secretary of the Interior to provide 16,000 acre-feet of water annually to the Bands. An acre foot of water is equivalent to approximately 326,000 gallons or enough to cover a football field with a foot of water. The 1988 Settlement Act becomes effective only when the United States, the Bands and the Local Entities enter into "a

¹ See [Public Law 100-675](#)

² See [Natural Resources Committee Hearing Memo on H.R. 1296](#)

settlement agreement providing for the complete resolution of all claims, controversies, and issues involved in all the pending proceedings among the parties”. P.L. 100-675 also established the San Luis Rey Tribal Development Fund (Fund) that authorized up to \$30 million in federal appropriations. The Fund has been fully appropriated, however it has not been released to the Band’s Indian Water Authority due to the absence of a settlement agreement and enacted legislation ratifying that settlement agreement.

One of the main hurdles to resolution of a settlement agreement was whether the 16,000 acre-feet of water would be deemed supplemental water or would be classified as water reserved under the Winters Doctrine, which holds that the federal government implicitly reserved water rights sufficient to fulfill the purposes of an Indian reservation (based on the 1908 Supreme Court decision in *Winters v. United States*).³ In January 2015, the parties signed a settlement agreement, which stipulated that the 16,000 acre-feet of water would be deemed supplemental. This designation kept the Bands’ Winters Doctrine rights intact, allowing them the ability to pursue those rights at a later time if necessary. However, the settlement agreement also relieved the federal government as a future supporting party to the Bands’ Winters Doctrine rights, effectively resolving some future federal liability. H.R. 1296 approves and ratifies this settlement agreement, which provides that congressional approval is required for the agreement, and thus the settlement, to take effect. The Departments of the Interior and Justice submitted a letter and testimony to the House Natural Resources Committee conveying support for the January 2015 settlement agreement and this legislation.⁴

COST

A Congressional Budget Office estimate is not available at this time.

STAFF CONTACT

For questions or further information please contact [Robert Goad](#) with the House Republican Policy Committee by email or at 6-1831.

³ Id.

⁴ See [Public Law 100-675](#)