

**TESTIMONY OF
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UNITED STATES DEPARTMENT OF THE INTERIOR
BEFORE THE
SUBCOMMITTEE ON INDIAN AND ALASKA NATIVE AFFAIRS
COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES
ON
H.R. 1461, MESCALERO APACHE TRIBE LEASING AUTHORIZATION ACT**

Good afternoon Mr. Chairman and Members of the Subcommittee. My name is Jodi Gillette. I am the Deputy Assistant Secretary for Indian Affairs at the Department of the Interior (Department). I am here today to provide the Department's position on H.R. 1461, the Mescalero Apache Tribe Leasing Authorization Act.

The Administration strongly supports the principles of self-determination and self-governance, and recognizes that intrinsic to these principles is tribal control over tribal resources. Like tribal homelands, water is essential to the health, safety, and welfare of Native people, and tribal governments are in the best position to determine how their water will be used. Accordingly, the Department supports H.R. 1461 with the amendments discussed below.

H.R. 1461 would enable the Mescalero Apache Tribe to lease its adjudicated and quantified water rights for use within the State of New Mexico for up to 99 years. The term "adjudicated water rights" is defined as those rights adjudicated to the Tribe in *State v. Lewis*, 861 P. 2d 235 (N.M. Ct. App. 1993). In leasing its adjudicated water rights, the Tribe would have to comply with New Mexico laws and regulations. In addition, the bill expressly states that the Tribe may not permanently alienate any of its adjudicated water rights.

The ability to lease water rights under H.R. 1461 is consistent with the Department's long-standing support for leasing quantified water rights recognized in Indian water rights settlements. Leasing is an important and acceptable way for which tribes may achieve economic value from use of their resources. The Department believes that the policy on approval of water leases should parallel aspects of its policies on approving leases of land. The Department recommends including language in the bill that provides that the Tribe shall develop a tribal water leasing code and submit such code to the Secretary of the Interior for approval. The tribal water leasing code should include provisions under which the tribe would identify and mitigate impacts that could potentially result from water leasing. Following this one-time approval of a tribal water leasing code, the Tribe would then have the authority to approve its own leases of water. In addition, the Department recommends that language should be added clarifying that the bill applies to water leases off the Tribe's reservation.

This concludes my prepared statement. I will be happy to answer any questions the Subcommittee may have.