

**United States House of Representatives
Committee on Natural Resources
Subcommittee on Water and Power**

Hearing on the “*Bill Williams River Water Rights Settlement Act of 2014*” (H.R. 4924)¹

**TESTIMONY OF
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FREEPORT MINERALS CORPORATION**

September 19, 2014

Chairman McClintock, Ranking Member Napolitano, and distinguished members of the Committee:

My name is Francis McAllister and I am the Vice President of Land & Water at Freeport Minerals Corporation. Thank you for the opportunity to provide testimony in support of H.R. 4924, the Bill Williams River Water Rights Settlement Act of 2014. The legislation before the Subcommittee authorizes, ratifies, and approves agreements between the Hualapai Tribe (Tribe), the U.S. Department of the Interior, acting on behalf of itself and as trustee for the Tribe, its members and Allottees (U.S. DOI), the Arizona Game & Fish Commission (AGFC), the Arizona Department of Water Resources (ADWR) and Freeport Minerals Corporation (Freeport).

Special thanks to Congressman Gosar for sponsoring this bill and to the entire Arizona delegation; Congressman Salmon, Schweikert, Franks, Pastor, Grijalva, Kirkpatrick, Sinema and Barber for their bi-partisan co-sponsorship and support of this bill. I would also like to thank both of you for scheduling this hearing to consider this important piece of legislation, and we appreciate the work staff, including Subcommittee staff on both sides of the aisle, has devoted to moving this bill through the process.

My testimony provides background information and an overview of the terms of the Settlement and its benefits.

I. BACKGROUND

Freeport is one of the world’s leading producers of copper and other minerals. The Company is headquartered in Phoenix, Arizona and its workforce in the U.S. at the end of 2013 included 13,300 direct employees and 1,900 contractors. In Arizona, Freeport owns and operates a copper smelter and five mining operations, which includes a large open-pit copper and molybdenum mining complex in Bagdad, Arizona.

Freeport’s Bagdad Arizona mining operation is located approximately 60 miles west of Prescott and 100 miles northwest of Phoenix, in Yavapai County. The open-pit mine has been ongoing since 1945, and prior mining was conducted through underground workings dating back to 1882.

¹ Companion Bill S. 2503.

The Bagdad operation encompasses approximately 21,750 acres, comprising 21,150 acres of patented mining claims and other fee lands and 600 acres of unpatented mining claims.

Production at the Bagdad mine in 2013 totaled 216 million pounds of copper and 8 million pounds of molybdenum. The direct and indirect economic contribution of the Bagdad Mine to Arizona's economy totaled \$339.1 million.

Freeport's involvement in the Bill Williams River Water Rights Settlement negotiations (H.R. 4924) marks yet another chapter in its proactive effort to collaborate with the U.S., the State of Arizona and the tribal communities that live in and around the Company's operations. The Company believes this bill is a positive step forward for all parties involved, and it is happy to join with the Hualapai Tribe in advancing this important effort.

II. PROTECTION OF FREEPORT BAGDAD'S WATER RIGHTS

As with all mining operations, the Bagdad operation requires a dedicated and certain water supply. The current water supplies for the Bagdad Mine include access to groundwater and surface water resources in the Big Sandy River Groundwater Basin and the Big Sandy River in the Bill Williams River Watershed. Although the Company believes the Bagdad operation has sufficient water sources to support current operations, Bagdad faces the potential for increases in competing water demands and variability in water supplies due to an on-going drought. We are particularly sensitive to this issue because general stream adjudications pending in other parts of Arizona may set legal precedents that could adversely affect Freeport's water rights at Bagdad.

The need to protect and ensure a long-term sustainable water supply for the Bagdad operation is the basis for Freeport's involvement in the water rights settlement with the Hualapai Tribe. Beginning with the purchase of Planet Ranch, Freeport sought to shore up its existing water rights along the Big Sandy River. Planet Ranch, located along the Bill Williams River in northwestern Arizona, has historically been irrigated for agricultural production dating back to the 1960s and 1970s. The City of Scottsdale purchased Planet Ranch (located approximately 125 miles northwest of the City) in 1984 as an additional source of water for its future municipal water supplies. After years of attempting to move water from Planet Ranch to Scottsdale, the City decided to liquidate its interest in the ranch, and in 2006 Freeport and Scottsdale entered into an agreement for the purchase of Planet Ranch, which the two parties completed in 2011 (for \$24 million).

Consistent with Arizona water laws, in 2010, Freeport filed with ADWR an Application to transfer a portion of the water rights from Planet Ranch to Freeport's Wikieup Wellfield along the Big Sandy River (located approximately 71 river miles upstream of the Planet Ranch property). In response to this filing, the AGFC and U.S. DOI acting in its capacity as trustee for the Hualapai Tribe filed objections with ADWR to the transfer, citing alleged impacts to water rights in the area affecting habitat along the Bill Williams River, specifically the Bill Williams River National Wildlife Refuge (which is located immediately downstream of the Planet Ranch property), and to other areas that are culturally important to the Tribe.

In response to these objections, Freeport began discussions with the parties to resolve the water rights dispute. In 2013, the AGFC, ADWR, the Hualapai Tribe and Freeport reached an agreement in principle to move forward on a settlement and resolution of these objections in exchange for, among others, Freeport's recognition of tribal water rights on parcels owned by the Tribe and Allottees in the Big Sandy River watershed and Freeport's commitment to make financial contributions toward a future settlement of the Tribe's water rights claims in other river basins. The agreement in principle is the basis of the Bill Williams River Water Rights Settlement Act of 2014.

III. OVERVIEW OF THE BILL WILLIAMS WATER RIGHTS SETTLEMENT ACT

The Bill Williams River Water Rights Settlement Act of 2014 (Settlement Act) approves, ratifies and confirms the Big Sandy River - Planet Ranch Water Rights Settlement Agreement and the Hualapai Tribe Bill Williams River Water Rights Settlement Agreement (Settlement Agreements). The Settlement Act also represents an important first step in facilitating a comprehensive settlement of the Tribe's water rights claims in other river basins, such as the Lower Colorado River.

In addition to confirmation of certain water rights for the Tribe, this Act provides for two non-federal financial contributions that are intended to facilitate a potential future comprehensive settlement of the Tribe's water rights claims on the Lower Colorado River and Verde River in Arizona. First, Freeport has already provided a non-federal contribution of \$1,000,000 that the Tribe can immediately use to develop the necessary professional studies to develop the most appropriate infrastructure for delivery of Colorado River water directly to the Reservation. Completion of this study before comprehensive settlement discussions begin will potentially facilitate a settlement of the outstanding claims of the Tribe and provide earlier benefits to both Tribal members and other water users in Arizona.

The second non-federal contribution provided by Freeport will enable the Tribe to seek the purchase of lands and water rights in Arizona along the Colorado River. This non-federal contribution may be used by the Tribe to acquire water that can be used towards a future comprehensive settlement or judicial resolution of the Tribe's water rights claims to the Lower Colorado River in addition to other water obtained from the State of Arizona in any potential future comprehensive settlement. Without these non-federal contributions, the settlement of the Tribe's claims could be significantly delayed or reduced and would come at a higher cost to federal taxpayers.

The Agreements related to this Act will also provide for the donation of a portion of the Freeport-owned Planet Ranch lands and water rights to the AGFC. Donation of this land will provide several benefits to the region.

First, these lands will be leased to the U.S. Bureau of Reclamation for the long-term benefit of the Lower Colorado River Multi Species Conservation Program (LCR MSCP). The LCR MSCP is a joint program cooperatively developed between the federal government and representatives from agencies within the States of Arizona, California, and Nevada (Lower Basin States) to provide compliance with the Endangered Species Act which protects current water diversions

and power production as well as providing opportunities for future water and power development on the Colorado River which is vital to each of these States.

Secondly, for these lands that are currently under private ownership with limited access, the legislation provides for access to the public which will allow for new recreational opportunities. Additionally, the AGFC has affirmed their commitment to make voluntary in-lieu payments for the property taxes currently being paid by Freeport once the ownership has been transferred, thus neutralizing any negative tax burdens on the counties that underlie the Planet Ranch property. Finally, Freeport is also providing waivers to the AGFC for the donation and transfer of the water rights to the LCR MSCP leased lands.

To further protect existing water rights in the region, Freeport agrees to cap its withdrawals of water from its Wikieup Wellfield along the Big Sandy River to no more than 10,055 acre-feet per year for the remainder of its mining operations at the Bagdad Mine. This compromise from Freeport provides a significant increase to the water balance of the area, as Freeport is agreeing to abstain from utilizing nearly 40,000 acre-feet of its existing water rights in the area for the life of the mining operation. This will ensure water flows to Alamo Lake and other uses downstream that provide recreational and economic development opportunities in the region.

In exchange for these significant concessions, the Settlement Agreements provide to Freeport the necessary and important waivers of the objections filed by the AGFC and the U.S. DOI acting on behalf of itself and as trustee for the Tribe, its members and Allottees which will allow for the partial water rights transfer from Planet Ranch to the Wikieup Wellfield. These waivers will provide secure water rights to Freeport for its continued operations at the Bagdad Mine in northwestern Arizona and a reasonable level of business assurance for future.

IV. CONCLUSION

This Settlement Act represents the achievement of a fair, equitable, and final settlement of certain claims among the Tribe, the U.S. DOI acting on behalf of itself and as trustee for the Tribe, its members and Allottees, the AGFC, the ADWR (in a limited capacity related to the transfer of the water rights) and Freeport to water rights in the Bill Williams River watershed in the State of Arizona. It is beneficial for all the parties involved by providing long-term certainty and promoting a reliable water supply for the Tribe, Freeport and the Lower Basin States. Freeport's significant non-federal contributions will facilitate a comprehensive settlement of certain long-standing tribal water rights claims. The Settlement Act is a good example of the use of public/private partnerships to advance regional and cooperative resolution of long-standing water disputes and will further provide clarity and certainty of water resource availability to other water users in the State of Arizona.

Thank you again, Mr. Chairman, Madam Ranking Member, and other Members of the Committee for the opportunity to present this important Indian water rights settlement, which will significantly improve the reliability of regional water supplies for Freeport, the U.S., the Tribe and the region. Freeport strongly supports H.R. 4924, and looks forward to seeing this provision advance through the legislative process.