

# Universal Access to Clean Water for Tribes

## Recommendations for Operational, Administrative, Policy, and Regulatory Reform



## Executive Summary

Water & Tribes Initiative | Colorado River Basin



# Foreword

## Colorado River Basin Native American Tribal Leaders

Clean water is fundamental to life, but many of our people have never had an opportunity to experience this basic and essential service, one that is taken for granted in most American communities. Our tribal members have suffered greatly in the absence of clean water, with the public health impacts starkly and tragically demonstrated by the COVID pandemic. Native American people have experienced the highest death and hospitalization rates for COVID and many of our children have lost caregivers and had their lives forever altered. The necessity and the urgency of having access to safe water sources for drinking and hygiene has been starkly demonstrated during this difficult global challenge.

The United States government has long promised all Native American tribes a “permanent homeland,” a “livable reservation,” and a home “conducive to the health and prosperity of the Indians.” The Biden-Harris Administration has reiterated its commitment to honoring the nation’s trust and treaty responsibilities to federally recognized Tribes. But these promises are broken when we do not have clean water to drink, to cook with, and to wash as required to avoid the spread of deadly disease. Both the tribes and the United States envisioned our homelands as places where our people can thrive, as they had done from time immemorial. Access to clean and safe drinking water is essential to making this vision a reality.

We have an opportunity right now to correct this longstanding wrong. The 2021 Infrastructure Investment and Jobs Act and the Build Back Better bill can deliver the funding needed to fulfill

the nation’s responsibility to its first citizens. It is imperative that this financial support be delivered. But funding by itself is not sufficient – the federal government must commit itself to delivering clean water throughout Indian country and must put in place the mechanisms required to ensure it happens.

This compelling report describes in detail the steps that should be taken by the federal agencies with programs that can ensure every tribal household has access to clean water. It is both explicit and comprehensive and can serve as a roadmap for bringing a long unfulfilled promise into realization. It provides the right approach to activating all the agencies’ authorities in a manner that will be most efficient in getting “boots on the ground” and capitalizing on each of their strengths and expertise.

Access to safe water must be made available now. Promises made must be kept and access provided to this most basic of human needs—clean water.

Tó éi iiná até [Water is Life],  
**Jonathan Nez**, *President, Navajo Nation*

Paatuwaqatsi [Water is Life],  
**Timothy Nuvangyaoma**, *Chairman, Hopi Tribe*

Payy new aakut [Water is Life],  
**Manuel Heart**, *Chairman, Ute Mountain Ute Tribe and Ten Tribes Partnership*

Xa ‘iipayk [Water is Life],  
**Jordan D. Joaquin**, *President, Fort Yuma Quechan Indian Tribe*

# Executive Summary



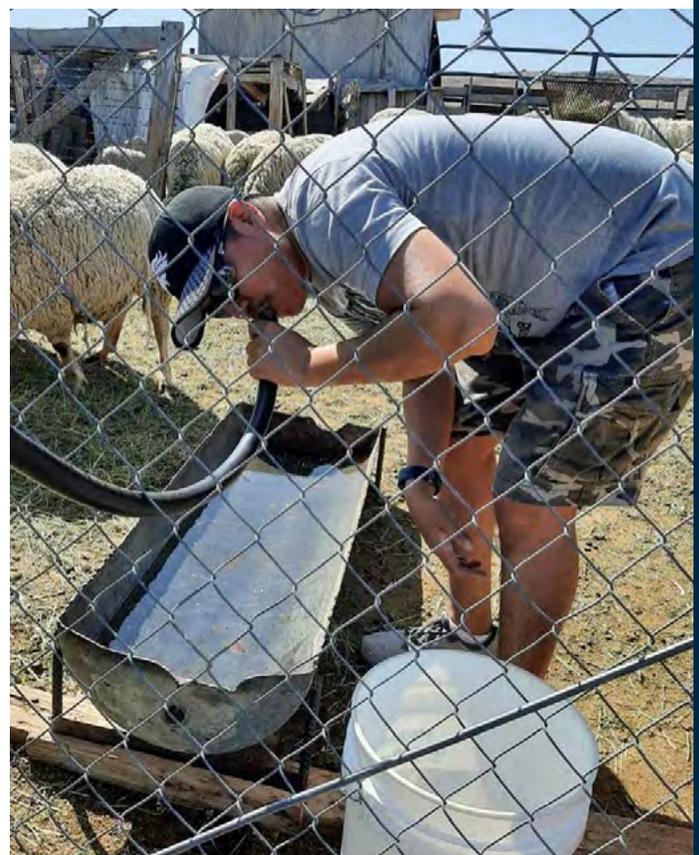
Access to clean drinking water is a fundamental human right. As highlighted by the COVID-19 pandemic, basic water and sanitation services are critical to public health and economic development, yet absent from many Tribal communities. The federal government has treaty and trust responsibilities to promote the general welfare of Tribes, and to provide Tribes with permanent homelands. This includes a duty to provide water security to Tribes, but for far too long the federal government has failed to meet this responsibility. Although various federal programs exist to support drinking water infrastructure projects in Indian country, these programs have historically been underfunded. As a result, many Native American households remain without access to clean drinking water or adequate sanitation.

Recent actions by the Biden Administration and Congress are bringing the necessary attention and financial resources to support real, tangible progress toward providing universal access to clean water for all Americans. Through bipartisan efforts, Congress is committed to providing substantial funding for federal agencies and programs that can be used for drinking water projects in Tribal communities. For the first time in history, this funding will enable the federal government to more fully deliver on its responsibilities to provide basic drinking water service to Tribes.

The Biden Administration must be ready to utilize this funding to deliver the maximum benefit to Tribes. The recommendations for administrative

actions and agency reforms included in this report provide a roadmap to help the federal government capitalize on this opportunity.

First, the federal government must adopt a “whole of government” approach to enable coordination among the multiple federal agencies and programs that provide some aspect of drinking water and sanitation services to Tribes. Those agencies include the Indian Health Service, the Environmental Protection Agency, the U.S. Department of Agriculture, and the U.S. Bureau of Reclamation.



Second, each agency should make changes to their existing drinking water and sanitation programs to allow these programs to be more accessible to Tribes and more effective in their implementation. To date, the mismatch between demonstrated need and available funding has led agencies to place substantial limits on how and where water and sanitation funds could be used. With the prospect of adequate funding, these restrictions are no longer appropriate. This report identifies some of the internally-imposed constraints and other barriers that should now be removed or revised. While these recommendations have broad applicability, it is important to note that there is no one-size-fits-all solution to the different challenges faced by each Tribe—individual assessment and application of resources is required. Overall, federal investments made in Indian country must be distributed efficiently and effectively to provide all Tribal communities with the drinking water and sanitation services they need and deserve.

Finally, while the federal government must act quickly and adeptly to address the troubling lack of drinking water and sanitation in Indian country, the ultimate goal is to support tribal self-determination so that Tribes have greater involvement in the provision of safe drinking water services on their homelands. In addition to providing drinking water and sanitation as quickly as possible to those currently lacking these basic services, the federal government must also focus on building Tribal capacity through technical assistance and operation and maintenance support to ensure safe and secure water and sanitation services for all American Indians and Alaska Natives. This report provides recommendations for developing the required internal Tribal resources that will ensure long-term sustainability and resilience in drinking water systems.



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## About this Report

This report was produced for the Water & Tribes Initiative: Colorado River Basin by Heather Tanana, JD/MPH, Assistant Professor of Law (Research) & Stegner Fellow, Wallace Stegner Center – S.J. Quinney College of Law – University of Utah; Biddah Becker, JD, Navajo Tribal Utility Authority; Anne Castle, JD, Getches-Wilkinson Center – University of Colorado; Ana Olaya, JD/LLM, Managing Director, CK Blueshift, LLC; Jaime Garcia, JD, Water Fellow, Getches-Wilkinson Center – University of Colorado; and Chelsea Colwyn, JD/MELP, Water Fellow, Getches-Wilkinson Center – University of Colorado.

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There is no official consensus regarding the terminology used related to Indigenous peoples or when to capitalize certain terms. In this report, Native American and American Indian/Alaska Native are used as well as general capitalization of the words Tribe and Tribal as a sign of respect.

**Disclaimer:** *The report is subject to ongoing data collection and may be revised as new information is received. URLs provided were operational at the time of writing but may have subsequently been changed or deactivated.*

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FOR TRIBAL COMMUNITIES

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## For More Information

The Water & Tribes Initiative was catalyzed in 2017 to enhance the capacity of Tribes to advance their needs and interests with respect to water management in the Basin, and to advance sustainable water management through collaborative problem-solving. The Initiative is guided by a broad-based Leadership Team and funded through in-kind contributions of Tribes and many other organizations as well as funding from the Babbitt Center for Land and Water Policy, the Catena Foundation, and the Walton Family Foundation. For more information, please go to <http://naturalresourcespolicy.org/projects/water-tribes-colorado-river-basin.php>.

## Leadership Team

**Bidtah Becker**, *Navajo Tribal Utility Authority*

**Leland Begay**, *Ute Mountain Ute*

**Lorelei Cloud**, *Southern Ute Tribe*

**Maria Dadgar**, *Inter Tribal Council of Arizona (Jay Tomkus, alternate)*

**Jason John**, *Navajo Nation (Crystal Tulley-Cordova, alternate)*

**Nora McDowell**, *Fort Mojave Indian Tribe*

**Margaret Vick**, *Colorado River Indian Tribes*

**Jay Weiner**, *Quechan Tribe*

**Anne Castle**, *Getches-Wilkinson Center, University of Colorado*

**Peter Culp**, *Culp & Kelly, LLP (Mary Kelly, alternate)*

**Becky Mitchel**, *Colorado Water Conservation Board*

**Colby Pellegrino**, *Southern Nevada Water Authority*

**Jason Robison**, *University of Wyoming, College of Law*

**Garrit Voggesser**, *National Wildlife Federation*

**John Weisheit**, *Living Rivers*

**Julia Guarino**, *University of Colorado (ex-officio)*

**Sharon Megdal**, *University of Arizona (ex-officio)*

**Mike Wight**, *Catena Foundation (ex officio)*

**Daryl Vigil**, *Jicarilla Apache Nation, co-facilitator*

**Matthew McKinney**, *Center for Natural Resources & Environmental Policy, co-facilitator*



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