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Statement for the Record

Arizona State Land Department

Lisa A. Atkins, Commissioner

U.S. Senate Committee on Energy & Natural Resource

On

S.1416, limitation on the authority to reserve water rights in designating a national monument

September 22, 2016

The Arizona State Land Department (ASLD) appreciates the opportunity to provide a statement in support of S1416 co-authored by Senators Flake, McCain, Lee and Hatch to limit federal authority to reserve water rights in designating a national monument.

Protection of existing water rights in Arizona, where approximately 70% of land ownership is federal or tribal, requires the State to be vigilant in monitoring changes to land and water use. Special federal land designations, particularly designations that are created with limited public input, pose concerns for other land owners whose existing water rights could become compromised by these federal actions.

Congress granted lands to the western states as they were admitted into the Union to support public institutions in perpetuity. The ASLD serves as Trustee and fiduciary for the Arizona State Land Trust (Trust) consisting of 9.2 million acres. The Trust has a specific and unwavering obligation to ensure that the Beneficiaries are not only compensated for use of their land, but that decisions made on their behalf are consistently for best and highest possible use.

Throughout the 20th Century, as a consequence of Congressional and Executive actions that have created special land use designations, ASLD's abilities to establish and implement land use goals has been encumbered. These actions have diminished ASLD's decisions making, constitutional obligations, and has further segregated the State's land base into a patchwork of inconsistent, spurious land management boundaries.

Additionally, the checker-boarded areas of State Trust land and federal land are hydrologically connected in most circumstances. The language in this bill will prevent the federal government from creating additional federal reserved water rights without seeking additional action by Congress.

This is critical to Arizona's interest in protecting the value of State Trust Land, which is managed as a for-profit concern for the benefit of the Trust. Because federal reserved water rights have different attributes than State-based water rights, we must ensure that no additional federal reserved water rights are created without study as to the particular location, impacts to all users, and through a public and transparent process. The downstream impact of a poorly-sited federal reserved water right could have considerable implications for the value of Trust land throughout Arizona, as well as other adjacent private land owners.

S.1416 represents a meaningful step toward ensuring Arizona's natural resources are maintained by the State in perpetuity and that use or diversion of its rightful resources are not taken without compensation and consultation. ASLD appreciates your recognizing and providing a tool to ensure the Trust's ability to properly manage its assets – land, water, and other natural resources – for the benefit of the thirteen public entities who derive revenue from those assets and provide indispensable services to the citizens of this State.