AN ACT

To designate certain land as components of the National Wilderness Preservation System, to authorize certain programs and activities in the Department of the Interior and the Department of Agriculture, and for other purposes.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Omnibus Public Land Management Act of 2009".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—ADDITIONS TO THE NATIONAL WILDERNESS PRESERVATION SYSTEM

Subtitle A—Wild Monongahela Wilderness

Sec. 1001. Designation of wilderness, Monongahela National Forest, West Virginia.
Sec. 1002. Boundary adjustment, Laurel Fork South Wilderness, Monongahela National Forest.
Sec. 1003. Monongahela National Forest boundary confirmation.
Sec. 1004. Enhanced Trail Opportunities.

Subtitle B—Virginia Ridge and Valley Wilderness

Sec. 1101. Definitions.
Sec. 1102. Designation of additional National Forest System land in Jefferson National Forest, Virginia, as wilderness or a wilderness study area.
Sec. 1103. Designation of Kimberling Creek Potential Wilderness Area, Jefferson National Forest, Virginia.
Sec. 1104. Seng Mountain and Bear Creek Scenic Areas, Jefferson National Forest, Virginia.
Sec. 1105. Trail plan and development.
Sec. 1106. Maps and boundary descriptions.
Sec. 1107. Effective date.

Subtitle C—Mt. Hood Wilderness, Oregon

Sec. 1201. Definitions.
Sec. 1202. Designation of wilderness areas.
Sec. 1203. Designation of streams for wild and scenic river protection in the Mount Hood area.
Sec. 1204. Mount Hood National Recreation Area.
Sec. 1205. Protections for Crystal Springs, Upper Big Bottom, and Cultus Creek.
Sec. 1206. Land exchanges.
Sec. 1207. Tribal provisions; planning and studies.

Subtitle D—Copper Salmon Wilderness, Oregon

Sec. 1301. Designation of the Copper Salmon Wilderness.
Sec. 1302. Wild and Scenic River Designations, Elk River, Oregon.
Sec. 1303. Protection of tribal rights.

Subtitle E—Cascade-Siskiyou National Monument, Oregon
Sec. 1401. Definitions.
Sec. 1402. Voluntary grazing lease donation program.
Sec. 1403. Bat R Ranch land exchange.
Sec. 1404. Deerfield land exchange.
Sec. 1405. Soda Mountain Wilderness.
Sec. 1406. Effect.

Subtitle F—Owyhee Public Land Management

Sec. 1501. Definitions.
Sec. 1502. Owyhee Science Review and Conservation Center.
Sec. 1503. Wilderness areas.
Sec. 1504. Designation of wild and scenic rivers.
Sec. 1505. Land identified for disposal.
Sec. 1506. Tribal cultural resources.
Sec. 1507. Recreational travel management plans.
Sec. 1508. Authorization of appropriations.

Subtitle G—Sabinoso Wilderness, New Mexico

Sec. 1601. Definitions.
Sec. 1602. Designation of the Sabinoso Wilderness.

Subtitle H—Pictured Rocks National Lakeshore Wilderness

Sec. 1651. Definitions.
Sec. 1652. Designation of Beaver Basin Wilderness.
Sec. 1653. Administration.
Sec. 1654. Effect.

Subtitle I—Oregon Badlands Wilderness

Sec. 1701. Definitions.
Sec. 1702. Oregon Badlands Wilderness.
Sec. 1703. Release.
Sec. 1704. Land exchanges.
Sec. 1705. Protection of tribal treaty rights.

Subtitle J—Spring Basin Wilderness, Oregon

Sec. 1751. Definitions.
Sec. 1752. Spring Basin Wilderness.
Sec. 1753. Release.
Sec. 1754. Land exchanges.
Sec. 1755. Protection of tribal treaty rights.

Subtitle K—Eastern Sierra and Northern San Gabriel Wilderness, California

Sec. 1801. Definitions.
Sec. 1802. Designation of wilderness areas.
Sec. 1803. Administration of wilderness areas.
Sec. 1804. Release of wilderness study areas.
Sec. 1805. Designation of wild and scenic rivers.
Sec. 1806. Bridgeport Winter Recreation Area.
Sec. 1807. Management of area within Humboldt-Toiyabe National Forest.
Sec. 1808. Ancient Bristlecone Pine Forest.

Subtitle L—Riverside County Wilderness, California
See 1851. Wilderness designation.
See 1852. Wild and scenic river designations, Riverside County, California.
See 1853. Additions and technical corrections to Santa Rosa and San Jacinto Mountains National Monument.

Subtitle M—Sequoia and Kings Canyon National Parks Wilderness, California

See 1901. Definitions.
See 1902. Designation of wilderness areas.
See 1903. Administration of wilderness areas.
See 1904. Authorization of appropriations.

Subtitle N—Rocky Mountain National Park Wilderness, Colorado

See 1951. Definitions.
See 1956. Authority to lease Leiffer tract.

Subtitle O—Washington County, Utah

See 1972. Wilderness areas.
See 1978. Land disposal and acquisition.
See 1979. Management of priority biological areas.

TITLE II—BUREAU OF LAND MANAGEMENT AUTHORIZATIONS

Subtitle A—National Landscape Conservation System


Subtitle B—Prehistoric Trackways National Monument

See 2101. Findings.
See 2102. Definitions.
See 2103. Establishment.
See 2104. Administration.
See 2105. Authorization of appropriations.

Subtitle C—Fort Stanton-Snowy River Cave National Conservation Area

See 2201. Definitions.
Sec. 2202. Establishment of the Fort Stanton-Snowy River Cave National Conservation Area.

Sec. 2203. Management of the Conservation Area.

Sec. 2204. Authorization of appropriations.

Subtitle D—Snake River Birds of Prey National Conservation Area

Sec. 2301. Snake River Birds of Prey National Conservation Area.

Subtitle E—Dominguez-Escalante National Conservation Area

Sec. 2401. Definitions.

Sec. 2402. Dominguez-Escalante National Conservation Area.

Sec. 2403. Dominguez Canyon Wilderness Area.

Sec. 2404. Maps and legal descriptions.

Sec. 2405. Management of Conservation Area and Wilderness.

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Sec. 2407. Advisory council.

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Subtitle F—Rio Puerco Watershed Management Program

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Sec. 2602. Southern Nevada limited transition area conveyance.

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Sec. 2607. Twin Falls, Idaho, land conveyance.

Sec. 2608. Sunrise Mountain Instant Study Area release, Nevada.

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Subtitle B—Wildland Firefighter Safety

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Subtitle C—Wyoming Range

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Sec. 6303. Public awareness and education program.
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SEC. 10301. SHORT TITLE.

This subtitle may be cited as the “Northwestern New Mexico Rural Water Projects Act”.

SEC. 10302. DEFINITIONS.

In this subtitle:

(1) Aamodt Adjudication.—The term “Aamodt adjudication” means the general stream adjudication that is the subject of the civil action entitled “State of New Mexico, ex rel. State Engineer and United States of America, Pueblo de Nambe, Pueblo de Pojoaque, Pueblo de San Ildefonso, and Pueblo de Tesuque v. R. Lee Aamodt, et al.”, No. 66 CV 6639 MV/LCS (D.N.M.).

(2) Abeyta Adjudication.—The term “Abeyta adjudication” means the general stream adjudication that is the subject of the civil actions entitled “State of New Mexico v. Abeyta and State of New Mexico v. Arrellano”, Civil Nos. 7896–BB (D.N.M) and 7939–BB (D.N.M.) (consolidated).

(3) Acre-Foot.—The term “acre-feet” means acre-feet per year.

(4) Agreement.—The term “Agreement” means the agreement among the State of New Mex-
ico, the Nation, and the United States setting forth a stipulated and binding agreement signed by the State of New Mexico and the Nation on April 19, 2005.

(5) ALLOTTEE.—The term “allottee” means a person that holds a beneficial real property interest in a Navajo allotment that—

(A) is located within the Navajo Reservation or the State of New Mexico;

(B) is held in trust by the United States;

and

(C) was originally granted to an individual member of the Nation by public land order or otherwise.

(6) ANIMAS-LA PLATA PROJECT.—The term “Animas-La Plata Project” has the meaning given the term in section 3 of Public Law 100–585 (102 Stat. 2973), including Ridges Basin Dam, Lake Nighthorse, the Navajo Nation Municipal Pipeline, and any other features or modifications made pursuant to the Colorado Ute Settlement Act Amendments of 2000 (Public Law 106–554; 114 Stat. 2763A–258).

(7) CITY.—The term “City” means the city of Gallup, New Mexico, or a designee of the City, with
authority to provide water to the Gallup, New Mexico service area.

(8) COLORADO RIVER COMPACT.—The term "Colorado River Compact" means the Colorado River Compact of 1922 as approved by Congress in the Act of December 21, 1928 (45 Stat. 1057) and by the Presidential Proclamation of June 25, 1929 (46 Stat. 3000).

(9) COLORADO RIVER SYSTEM.—The term "Colorado River System" has the same meaning given the term in Article II(a) of the Colorado River Compact.

(10) COMPACT.—The term "Compact" means the Upper Colorado River Basin Compact as consented to by the Act of April 6, 1949 (63 Stat. 31, chapter 48).

(11) CONTRACT.—The term "Contract" means the contract between the United States and the Nation setting forth certain commitments, rights, and obligations of the United States and the Nation, as described in paragraph 6.0 of the Agreement.

(12) DEPLETION.—The term "depletion" means the depletion of the flow of the San Juan River stream system in the State of New Mexico by a particular use of water (including any depletion in-
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cident to the use) and represents the diversion from
the stream system by the use, less return flows to
the stream system from the use.

(13) DRAFT IMPACT STATEMENT.—The term
"Draft Impact Statement" means the draft environ-
mental impact statement prepared by the Bureau of
Reclamation for the Project dated March 2007.

(14) FUND.—The term "Fund" means the Recl-
lamation Waters Settlements Fund established by
section 10501(a).

(15) HYDROLOGIC DETERMINATION.—The term
"hydrologic determination" means the hydrologic de-
termination entitled "Water Availability from Nav-
ajo Reservoir and the Upper Colorado River Basin
for Use in New Mexico," prepared by the Bureau of
Reclamation pursuant to section 11 of the Act of
June 13, 1962 (Public Law 87–483; 76 Stat. 99),

(16) LOWER BASIN.—The term "Lower Basin"
has the same meaning given the term in Article
II(g) of the Colorado River Compact.

(17) NATION.—The term "Nation" means the
Navajo Nation, a body politic and federally-recog-
nized Indian nation as provided for in section 101(2)
of the Federally Recognized Indian Tribe List of
1994 (25 U.S.C. 497a(2)), also known variously as the "Navajo Tribe," the "Navajo Tribe of Arizona, New Mexico & Utah," and the "Navajo Tribe of Indians" and other similar names, and includes all bands of Navajo Indians and chapters of the Navajo Nation.

(18) NAVAJO-GALLUP WATER SUPPLY PROJECT; PROJECT.—The term "Navajo-Gallup Water Supply Project" or "Project" means the Navajo-Gallup Water Supply Project authorized under section 10602(a), as described as the preferred alternative in the Draft Impact Statement.

(19) NAVAJO INDIAN IRRIGATION PROJECT.—The term "Navajo Indian Irrigation Project" means the Navajo Indian irrigation project authorized by section 2 of Public Law 87–483 (76 Stat. 96).

(20) NAVAJO RESERVOIR.—The term "Navajo Reservoir" means the reservoir created by the impoundment of the San Juan River at Navajo Dam, as authorized by the Act of April 11, 1956 (commonly known as the "Colorado River Storage Project Act") (43 U.S.C. 620 et seq.).

(21) NAVAJO NATION MUNICIPAL PIPELINE; PIPELINE.—The term "Navajo Nation Municipal Pipeline" or "Pipeline" means the pipeline used to
convey the water of the Animas-La Plata Project of
the Navajo Nation from the City of Farmington,
New Mexico, to communities of the Navajo Nation
located in close proximity to the San Juan River
Valley in the State of New Mexico (including the
City of Shiprock), as authorized by section 15(b) of
the Colorado Ute Indian Water Rights Settlement
Act of 1988 (Public Law 100–585; 102 Stat. 2973;

(22) NON-NAVAJO IRRIGATION DISTRICTS.—
The term “Non-Navajo Irrigation Districts”
means—

(A) the Hammond Conservancy District;
(B) the Bloomfield Irrigation District; and
(C) any other community ditch organiza-
tion in the San Juan River basin in the State
of New Mexico.

(23) PARTIAL FINAL DECREE.—The term “Par-
tial Final Decree” means a final and binding judg-
ment and decree entered by a court in the stream
adjudication, setting forth the rights of the Nation
to use and administer waters of the San Juan River
Basin in New Mexico, as set forth in Appendix 1 of
the Agreement.
(24) PROJECT PARTICIPANTS.—The term "Project Participants" means the City, the Nation, and the Jicarilla Apache Nation.

(25) SAN JUAN RIVER BASIN RECOVERY IMPLEMENTATION PROGRAM.—The term "San Juan River Basin Recovery Implementation Program" means the intergovernmental program established pursuant to the cooperative agreement dated October 21, 1992 (including any amendments to the program).

(26) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Commissioner of Reclamation or any other designee.

(27) STREAM ADJUDICATION.—The term "stream adjudication" means the general stream adjudication that is the subject of New Mexico v. United States, et al., No. 75–185 (11th Jud. Dist., San Juan County, New Mexico) (involving claims to waters of the San Juan River and the tributaries of that river).

(28) SUPPLEMENTAL PARTIAL FINAL DECREE.—The term "Supplemental Partial Final Decree" means a final and binding judgment and decree entered by a court in the stream adjudication,
setting forth certain water rights of the Nation, as
set forth in Appendix 2 of the Agreement.

(29) TRUST FUND.—The term "Trust Fund"
means the Navajo Nation Water Resources Develop-
ment Trust Fund established by section 10702(a).

(30) UPPER BASIN.—The term "Upper Basin"
has the same meaning given the term in Article II(f)
of the Colorado River Compact.

SEC. 10303. COMPLIANCE WITH ENVIRONMENTAL LAWS.

(a) EFFECT OF EXECUTION OF AGREEMENT.—The
execution of the Agreement under section 10701(a)(2)
shall not constitute a major Federal action under the Na-
tional Environmental Policy Act of 1969 (42 U.S.C. 4321
et seq.).

(b) COMPLIANCE WITH ENVIRONMENTAL LAWS.—In
carrying out this subtitle, the Secretary shall comply with
each law of the Federal Government relating to the protec-
tion of the environment, including—

(1) the National Environmental Policy Act of
1969 (42 U.S.C. 4321 et seq.); and

(2) the Endangered Species Act of 1973 (16
U.S.C. 1531 et seq.).

SEC. 10304. NO REALLOCATION OF COSTS.

(a) EFFECT OF ACT.—Notwithstanding any other
provision of law, the Secretary shall not reallocate or reas-
sign any costs of projects that have been authorized under
the Act of April 11, 1956 (commonly known as the “Colo-
rado River Storage Project Act”) (43 U.S.C. 620 et seq.),
as of the date of enactment of this Act because of—
(1) the authorization of the Navajo-Gallup
Water Supply Project under this subtitle; or
(2) the changes in the uses of the water di-
verted by the Navajo Indian Irrigation Project or
the waters stored in the Navajo Reservoir authorized
under this subtitle.
(b) USE OF POWER REVENUES.—Notwithstanding
any other provision of law, no power revenues under the
Act of April 11, 1956 (commonly known as the “Colorado
River Storage Project Act”) (43 U.S.C. 620 et seq.), shall
be used to pay or reimburse any costs of the Navajo In-
dian Irrigation Project or Navajo-Gallup Water Supply
Project.
SEC. 10305. INTEREST RATE.
Notwithstanding any other provision of law, the inter-
est rate applicable to any repayment contract entered into
under section 10604 shall be equal to the discount rate
for Federal water resources planning, as determined by
the Secretary.
PART I—AMENDMENTS TO THE COLORADO RIVER STORAGE PROJECT ACT AND PUBLIC LAW 87–483

SEC. 10401. AMENDMENTS TO THE COLORADO RIVER STORAGE PROJECT ACT.

(a) Participating Projects.—Paragraph (2) of the first section of the Act of April 11, 1956 (commonly known as the “Colorado River Storage Project Act”) (43 U.S.C. 620(2)) is amended by inserting “the Navajo-Gal-up Water Supply Project,” after “Fruitland Mesa,”.

(b) Navajo Reservoir Water Bank.—The Act of April 11, 1956 (commonly known as the “Colorado River Storage Project Act”) is amended—

(1) by redesignating section 16 (43 U.S.C. 620o) as section 17; and

(2) by inserting after section 15 (43 U.S.C. 620n) the following:

“Sec. 16. (a) The Secretary of the Interior may create and operate within the available capacity of Navajo Reservoir a top water bank.

“(b) Water made available for the top water bank in accordance with subsections (c) and (d) shall not be subject to section 11 of Public Law 87–483 (76 Stat. 99).

“(c) The top water bank authorized under subsection (a) shall be operated in a manner that—
“(1) is consistent with applicable law, except that, notwithstanding any other provision of law, water for purposes other than irrigation may be stored in the Navajo Reservoir pursuant to the rules governing the top water bank established under this section; and

“(2) does not impair the ability of the Secretary of the Interior to deliver water under contracts entered into under—

“(A) Public Law 87–483 (76 Stat. 96);

and

“(B) New Mexico State Engineer File Nos. 2847, 2848, 2849, and 2917.

“(d)(1) The Secretary of the Interior, in cooperation with the State of New Mexico (acting through the Interstate Stream Commission), shall develop any terms and procedures for the storage, accounting, and release of water in the top water bank that are necessary to comply with subsection (c).

“(2) The terms and procedures developed under paragraph (1) shall include provisions requiring that—

“(A) the storage of banked water shall be subject to approval under State law by the New Mexico State Engineer to ensure that impairment of any existing water right does not occur, including storage
of water under New Mexico State Engineer File No. 2849;

"(B) water in the top water bank be subject to evaporation and other losses during storage;

"(C) water in the top water bank be released for delivery to the owner or assigns of the banked water on request of the owner, subject to reasonable scheduling requirements for making the release;

"(D) water in the top water bank be the first water spilled or released for flood control purposes in anticipation of a spill, on the condition that top water bank water shall not be released or included for purposes of calculating whether a release should occur for purposes of satisfying the flow recommendations of the San Juan River Basin Recovery Implementation Program; and

"(E) water eligible for banking in the top water bank shall be water that otherwise would have been diverted and beneficially used in New Mexico that year.

"(e) The Secretary of the Interior may charge fees to water users that use the top water bank in amounts sufficient to cover the costs incurred by the United States in administering the water bank."
SEC. 10402. AMENDMENTS TO PUBLIC LAW 87-483.

(a) NAVajo INDIan IRIGATION PROJECT.—Public Law 87-483 (76 Stat. 96) is amended by striking section 2 and inserting the following:

"Sec. 2. (a) In accordance with the Act of April 11, 1956 (commonly known as the ‘Colorado River Storage Project Act’) (43 U.S.C. 620 et seq.), the Secretary of the Interior is authorized to construct, operate, and maintain the Navajo Indian Irrigation Project to provide irrigation water to a service area of not more than 110,630 acres of land.

"(b)(1) Subject to paragraph (2), the average annual diversion by the Navajo Indian Irrigation Project from the Navajo Reservoir over any consecutive 10-year period shall be the lesser of—

"(A) 508,000 acre-feet per year; or

"(B) the quantity of water necessary to supply an average depletion of 270,000 acre-feet per year.

"(2) The quantity of water diverted for any 1 year shall not exceed the average annual diversion determined under paragraph (1) by more than 15 percent.

"(c) In addition to being used for irrigation, the water diverted by the Navajo Indian Irrigation Project under subsection (b) may be used within the area served by Navajo Indian Irrigation Project facilities for the following purposes:
“(1) Aquaculture purposes, including the rearing of fish in support of the San Juan River Basin Recovery Implementation Program authorized by Public Law 106–392 (114 Stat. 1602).

“(2) Domestic, industrial, or commercial purposes relating to agricultural production and processing.

“(3)(A) The generation of hydroelectric power as an incident to the diversion of water by the Navajo Indian Irrigation Project for authorized purposes.

“(B) Notwithstanding any other provision of law—

“(i) any hydroelectric power generated under this paragraph shall be used or marketed by the Navajo Nation;

“(ii) the Navajo Nation shall retain any revenues from the sale of the hydroelectric power; and

“(iii) the United States shall have no trust obligation to monitor, administer, or account for the revenues received by the Navajo Nation, or the expenditure of the revenues.

“(4) The implementation of the alternate water source provisions described in subparagraph 9.2 of
the agreement executed under section 10701(a)(2)
of the Northwestern New Mexico Rural Water
Projects Act.
“(d) The Navajo Indian Irrigation Project water di-
verted under subsection (b) may be transferred to areas
located within or outside the area served by Navajo Indian
Irrigation Project facilities, and within or outside the
boundaries of the Navajo Nation, for any beneficial use
in accordance with—
“(1) the agreement executed under section
10701(a)(2) of the Northwestern New Mexico Rural
Water Projects Act;
“(2) the contract executed under section
10604(a)(2)(B) of that Act; and
“(3) any other applicable law.
“(e) The Secretary may use the capacity of the Nav-
ajo Indian Irrigation Project works to convey water sup-
plies for—
“(1) the Navajo-Gallup Water Supply Project
under section 10602 of the Northwestern New Mex-
ico Rural Water Projects Act; or
“(2) other nonirrigation purposes authorized
under subsection (c) or (d).
“(f)(1) Repayment of the costs of construction of the
project (as authorized in subsection (a)) shall be in accord-
ance with the Act of April 11, 1956 (commonly known
as the 'Colorado River Storage Project Act') (43 U.S.C.
620 et seq.), including section 4(d) of that Act.

"(2) The Secretary shall not reallocate, or require re-
payment of, construction costs of the Navajo Indian Irri-
gation Project because of the conveyance of water supplies
for nonirrigation purposes under subsection (e).”.

(b) RUNOFF ABOVE NAVAJO DAM.—Section 11 of
Public Law 87–483 (76 Stat. 100) is amended by adding
at the end the following:

"(d)(1) For purposes of implementing in a year of
prospective shortage the water allocation procedures es-
tablished by subsection (a), the Secretary of the Interior
shall determine the quantity of any shortages and the ap-
propriate apportionment of water using the normal diver-
sion requirements on the flow of the San Juan River origi-
nating above Navajo Dam based on the following criteria:

"(A) The quantity of diversion or water delivery
for the current year anticipated to be necessary to
irrigate land in accordance with cropping plans pre-
pared by contractors.

"(B) The annual diversion or water delivery de-
mands for the current year anticipated for non-irri-
gation uses under water delivery contracts, including
contracts authorized by the Northwestern New Mex-
Rural Water Projects Act, but excluding any current demand for surface water for placement into aquifer storage for future recovery and use.

"(C) An annual normal diversion demand of 135,000 acre-feet for the initial stage of the San Juan-Chama Project authorized by section 8, which shall be the amount to which any shortage is applied.

"(2) The Secretary shall not include in the normal diversion requirements—

"(A) the quantity of water that reliably can be anticipated to be diverted or delivered under a contract from inflows to the San Juan River arising below Navajo Dam under New Mexico State Engineer File No. 3215; or

"(B) the quantity of water anticipated to be supplied through reuse.

"(e)(1) If the Secretary determines that there is a shortage of water under subsection (a), the Secretary shall respond to the shortage in the Navajo Reservoir water supply by curtailing releases and deliveries in the following order:

"(A) The demand for delivery for uses in the State of Arizona under the Navajo-Gallup Water Supply Project authorized by section 10603 of the
Northwestern New Mexico Rural Water Projects Act, excluding the quantity of water anticipated to be diverted for the uses from inflows to the San Juan River that arise below Navajo Dam in accordance with New Mexico State Engineer File No. 3215.

“(B) The demand for delivery for uses allocated under paragraph 8.2 of the agreement executed under section 10701(a)(2) of the Northwestern New Mexico Rural Water Projects Act, excluding the quantity of water anticipated to be diverted for such uses under State Engineer File No. 3215.

“(C) The uses in the State of New Mexico that are determined under subsection (d), in accordance with the procedure for apportioning the water supply under subsection (a).

“(2) For any year for which the Secretary determines and responds to a shortage in the Navajo Reservoir water supply, the Secretary shall not deliver, and contractors of the water supply shall not divert, any of the water supply for placement into aquifer storage for future recovery and use.

“(3) To determine the occurrence and amount of any shortage to contracts entered into under this section, the Secretary shall not include as available storage any water
stored in a top water bank in Navajo Reservoir established
under section 16(a) of the Act of April 11, 1956 (commonly known as the 'Colorado River Storage Project Act').
“(f) The Secretary of the Interior shall apportion
water under subsections (a), (d), and (e) on an annual
volume basis.
“(g) The Secretary of the Interior may revise a deter-
mination of shortages, apportionments, or allocations of
water under subsections (a), (d), and (e) on the basis of
information relating to water supply conditions that was
not available at the time at which the determination was
made.
“(h) Nothing in this section prohibits the distribution
of water in accordance with cooperative water agreements
between water users providing for a sharing of water sup-
plies.
“(i) Diversions under New Mexico State Engineer
File No. 3215 shall be distributed, to the maximum extent
water is available, in proportionate amounts to the diver-
sion demands of contractors and subcontractors of the
Navajo Reservoir water supply that are diverting water
below Navajo Dam.”.
SEC. 10403. EFFECT ON FEDERAL WATER LAW.

Unless expressly provided in this subtitle, nothing in this subtitle modifies, conflicts with, preempts, or otherwise affects—

(1) the Boulder Canyon Project Act (43 U.S.C. 617 et seq.);

(2) the Boulder Canyon Project Adjustment Act (54 Stat. 774, chapter 643);

(3) the Act of April 11, 1956 (commonly known as the “Colorado River Storage Project Act”) (43 U.S.C. 620 et seq.);

(4) the Act of September 30, 1968 (commonly known as the “Colorado River Basin Project Act”) (82 Stat. 885);

(5) Public Law 87–483 (76 Stat. 96);

(6) the Treaty between the United States of America and Mexico respecting utilization of waters of the Colorado and Tijuana Rivers and of the Rio Grande, signed at Washington February 3, 1944 (59 Stat. 1219);

(7) the Colorado River Compact of 1922, as approved by the Presidential Proclamation of June 25, 1929 (46 Stat. 3000);

(8) the Compact;

(9) the Act of April 6, 1949 (63 Stat. 31, chapter 48);
(10) the Jicarilla Apache Tribe Water Rights Settlement Act (106 Stat. 2237); or

PART II—RECLAMATION WATER SETTLEMENTS FUND

SEC. 10501. RECLAMATION WATER SETTLEMENTS FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund, to be known as the “Reclamation Water Settlements Fund”, consisting of—

(1) such amounts as are deposited to the Fund under subsection (b); and

(2) any interest earned on investment of amounts in the Fund under subsection (d).

(b) DEPOSITS TO FUND.—

(1) IN GENERAL.—For each of fiscal years 2020 through 2029, the Secretary of the Treasury shall deposit in the Fund, if available, $120,000,000 of the revenues that would otherwise be deposited for the fiscal year in the fund established by the first section of the Act of June 17, 1902 (32 Stat. 388, chapter 1093).
(2) A VAILABILITY OF AMOUNTS.—Amounts de-
posited in the Fund under paragraph (1) shall be
made available pursuant to this section—
(A) without further appropriation; and
(B) in addition to amounts appropriated
pursuant to any authorization contained in any
other provision of law.
(c) EXPENDITURES FROM FUND.—
(1) IN GENERAL.—
(A) EXPENDITURES.—Subject to subpara-
graph (B), for each of fiscal years 2020
through 2034, the Secretary may expend from
the Fund an amount not to exceed
$120,000,000, plus the interest accrued in the
Fund, for the fiscal year in which expenditures
are made pursuant to paragraphs (2) and (3).
(B) ADDITIONAL EXPENDITURES.—The
Secretary may expend more than $120,000,000
for any fiscal year if such amounts are available
in the Fund due to expenditures not reaching
$120,000,000 for prior fiscal years.
(2) AUTHORITY.—The Secretary may expend
money from the Fund to implement a settlement
agreement approved by Congress that resolves, in
whole or in part, litigation involving the United
States, if the settlement agreement or implementing legislation requires the Bureau of Reclamation to provide financial assistance for, or plan, design, and construct—

(A) water supply infrastructure; or

(B) a project—

(i) to rehabilitate a water delivery system to conserve water; or

(ii) to restore fish and wildlife habitat or otherwise improve environmental conditions associated with or affected by, or located within the same river basin as, a Federal reclamation project that is in existence on the date of enactment of this Act.

(3) USE FOR COMPLETION OF PROJECT AND OTHER SETTLEMENTS.—

(A) PRIORITIES.—

(i) FIRST PRIORITY.—

(I) IN GENERAL.—The first priority for expenditure of amounts in the Fund during the entire period in which the Fund is in existence shall be for the purposes described in, and
in the order of, clauses (i) through (iv) of subparagraph (B).

(II) RESERVED AMOUNTS.—The Secretary shall reserve and use amounts deposited into the Fund in accordance with subclause (I).

(ii) OTHER PURPOSES.—Any amounts in the Fund that are not needed for the purposes described in subparagraph (B) may be used for other purposes authorized in paragraph (2).

(B) COMPLETION OF PROJECT.—

(i) NAJAJO-GALLUP WATER SUPPLY PROJECT.—

(I) IN GENERAL.—Subject to subclause (II), effective beginning January 1, 2020, if, in the judgment of the Secretary on an annual basis the deadline described in section 10701(f)(1)(A)(ix) is unlikely to be met because a sufficient amount of funding is not otherwise available through appropriations made available pursuant to section 10609(a), the Secretary shall expend from the Fund
such amounts on an annual basis consistent with paragraphs (1) and (2), as are necessary to pay the Federal share of the costs, and substantially complete as expeditiously as practicable, the construction of the water supply infrastructure authorized as part of the Project.

(II) MAXIMUM AMOUNT.—

(aa) IN GENERAL.—Except as provided under item (bb), the amount expended under sub-clause (I) shall not exceed $500,000,000 for the period of fiscal years 2020 through 2029.

(bb) EXCEPTION.—The limitation on the expenditure amount under item (aa) may be exceeded during the entire period in which the Fund is in existence if such additional funds can be expended without limiting the amounts identified in clauses (ii) through (iv).
(ii) OTHER NEW MEXICO SETTLEMENTS.—

(I) IN GENERAL.—Subject to subclause (II), effective beginning January 1, 2020, in addition to the funding made available under clause (i), if in the judgment of the Secretary on an annual basis a sufficient amount of funding is not otherwise available through annual appropriations, the Secretary shall expend from the Fund such amounts on an annual basis consistent with paragraphs (1) and (2), as are necessary to pay the Federal share of the remaining costs of implementing the Indian water rights settlement agreements entered into by the State of New Mexico in the Aamodt adjudication and the Abeyta adjudication, if such settlements are subsequently approved and authorized by an Act of Congress and the implementation period has not already expired.
(II) **MAXIMUM AMOUNT.**—The amount expended under subclause (I) shall not exceed $250,000,000.

(iii) **MONTANA SETTLEMENTS.**—

(I) **IN GENERAL.**—Subject to subclause (II), effective beginning January 1, 2020, in addition to funding made available pursuant to clauses (i) and (ii), if in the judgment of the Secretary on an annual basis a sufficient amount of funding is not otherwise available through annual appropriations, the Secretary shall expend from the Fund such amounts on an annual basis consistent with paragraphs (1) and (2), as are necessary to pay the Federal share of the remaining costs of implementing Indian water rights settlement agreements entered into by the State of Montana with the Blackfeet Tribe, the Crow Tribe, or the Gros Ventre and Assiniboin Tribes of the Fort Belknap Indian Reservation in the judicial proceeding entitled "In re the General
Adjudication of All the Rights to Use Surface and Groundwater in the State of Montana", if a settlement or settlements are subsequently approved and authorized by an Act of Congress and the implementation period has not already expired.

(II) MAXIMUM AMOUNT.—

(aa) IN GENERAL.—Except as provided under item (bb), the amount expended under subclause (I) shall not exceed $350,000,000 for the period of fiscal years 2020 through 2029.

(bb) EXCEPTION.—The limitation on the expenditure amount under item (aa) may be exceeded during the entire period in which the Fund is in existence if such additional funds can be expended without limiting the amounts identified in clause (i), (ii), and (iv).

(cc) OTHER FUNDING.—The Secretary shall ensure that any
funding under this clause shall be
provided in a manner that does
not limit the funding available
pursuant to clauses (i) and (ii).

(iv) ARIZONA SETTLEMENT.—

(I) IN GENERAL.—Subject to
subclause (II), effective beginning
January 1, 2020, in addition to fund-
ing made available pursuant to
clauses (i), (ii), and (iii), if in the
judgment of the Secretary on an an-
nual basis a sufficient amount of
funding is not otherwise available
through annual appropriations, the
Secretary shall expend from the Fund
such amounts on an annual basis con-
sistent with paragraphs (1) and (2),
as are necessary to pay the Federal
share of the remaining costs of imple-
menting an Indian water rights settle-
ment agreement entered into by the
State of Arizona with the Navajo Na-
tion to resolve the water rights claims
of the Nation in the Lower Colorado
River basin in Arizona, if a settlement
is subsequently approved and authorized by an Act of Congress and the implementation period has not already expired.

(II) **MAXIMUM AMOUNT.**—

(aa) **IN GENERAL.**—Except as provided under item (bb), the amount expended under subclause (I) shall not exceed $100,000,000 for the period of fiscal years 2020 through 2029.

(bb) **EXCEPTION.**—The limitation on the expenditure amount under item (aa) may be exceeded during the entire period in which the Fund is in existence if such additional funds can be expended without limiting the amounts identified in clauses (i) through (iii).

(cc) **OTHER FUNDING.**—The Secretary shall ensure that any funding under this clause shall be provided in a manner that does
not limit the funding available
pursuant to clauses (i) and (ii).

(C) REVERSION.—If the settlements de-
scribed in clauses (ii) through (iv) of subpara-
graph (B) have not been approved and author-
ized by an Act of Congress by December 31,
2019, the amounts reserved for the settlements
shall no longer be reserved by the Secretary
pursuant to subparagraph (A)(i) and shall re-
vert to the Fund for any authorized use, as de-
termined by the Secretary.

(d) INVESTMENT OF AMOUNTS.—

(1) IN GENERAL.—The Secretary shall invest
such portion of the Fund as is not, in the judgment
of the Secretary, required to meet current with-
drawals.

(2) CREDITS TO FUND.—The interest on, and
the proceeds from the sale or redemption of, any ob-
ligations held in the Fund shall be credited to, and
form a part of, the Fund.

(e) TRANSFERS OF AMOUNTS.—

(1) IN GENERAL.—The amounts required to be
transferred to the Fund under this section shall be
transferred at least monthly from the general fund
of the Treasury to the Fund on the basis of estimates made by the Secretary of the Treasury.

(2) ADJUSTMENTS.—Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(f) TERMINATION.—On September 30, 2034—

(1) the Fund shall terminate; and

(2) the unexpended and unobligated balance of the Fund shall be transferred to the appropriate fund of the Treasury.

PART III—NAVAJO-GALLUP WATER SUPPLY PROJECT

SEC. 10601. PURPOSES.

The purposes of this part are—

(1) to authorize the Secretary to construct, operate, and maintain the Navajo-Gallup Water Supply Project;

(2) to allocate the capacity of the Project among the Nation, the City, and the Jicarilla Apache Nation; and

(3) to authorize the Secretary to enter into Project repayment contracts with the City and the Jicarilla Apache Nation.
SEC. 10602. AUTHORIZATION OF NAVAJO-GALLUP WATER SUPPLY PROJECT.

(a) In General.—The Secretary, acting through the Commissioner of Reclamation, is authorized to design, construct, operate, and maintain the Project in substantial accordance with the preferred alternative in the Draft Impact Statement.

(b) Project Facilities.—To provide for the delivery of San Juan River water to Project Participants, the Secretary may construct, operate, and maintain the Project facilities described in the preferred alternative in the Draft Impact Statement, including:

(1) A pumping plant on the San Juan River in the vicinity of Kirtland, New Mexico.

(2)(A) A main pipeline from the San Juan River near Kirtland, New Mexico, to Shiprock, New Mexico, and Gallup, New Mexico, which follows United States Highway 491.

(B) Any pumping plants associated with the pipeline authorized under subparagraph (A).

(3)(A) A main pipeline from Cutter Reservoir to Ojo Encino, New Mexico, which follows United States Highway 550.

(B) Any pumping plants associated with the pipeline authorized under subparagraph (A).
(4)(A) Lateral pipelines from the main pipelines to Nation communities in the States of New Mexico and Arizona.

(B) Any pumping plants associated with the pipelines authorized under subparagraph (A).

(5) Any water regulation, storage or treatment facility, service connection to an existing public water supply system, power substation, power distribution works, or other appurtenant works (including a building or access road) that is related to the Project facilities authorized by paragraphs (1) through (4), including power transmission facilities and associated wheeling services to connect Project facilities to existing high-voltage transmission facilities and deliver power to the Project.

(c) ACQUISITION OF LAND.—

(1) IN GENERAL.—The Secretary is authorized to acquire any land or interest in land that is necessary to construct, operate, and maintain the Project facilities authorized under subsection (b).

(2) LAND OF THE PROJECT PARTICIPANTS.—As a condition of construction of the facilities authorized under this part, the Project Participants shall provide all land or interest in land, as appropriate, that the Secretary identifies as necessary for acquisi-
tion under this subsection at no cost to the Sec-
retary.

(3) LIMITATION.—The Secretary may not con-
demn water rights for purposes of the Project.

(d) CONDITIONS.—

(1) IN GENERAL.—Except as provided in para-
graph (2), the Secretary shall not commence con-
struction of the facilities authorized under sub-
section (b) until such time as—

(A) the Secretary executes the Agreement
and the Contract;

(B) the contracts authorized under section
10604 are executed;

(C) the Secretary—

(i) completes an environmental impact
statement for the Project; and

(ii) has issued a record of decision
that provides for a preferred alternative;

and

(D) the Secretary has entered into an
agreement with the State of New Mexico under
which the State of New Mexico will provide a
share of the construction costs of the Project of
not less than $50,000,000, except that the
State of New Mexico shall receive credit for
funds the State has contributed to construct water conveyance facilities to the Project Participants to the extent that the facilities reduce the cost of the Project as estimated in the Draft Impact Statement.

(2) EXCEPTION.—If the Jicarilla Apache Nation elects not to enter into a contract pursuant to section 10604, the Secretary, after consulting with the Nation, the City, and the State of New Mexico acting through the Interstate Stream Commission, may make appropriate modifications to the scope of the Project and proceed with Project construction if all other conditions for construction have been satisfied.

(3) EFFECT OF INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT.—The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) shall not apply to the design, construction, operation, maintenance, or replacement of the Project.

(e) POWER.—The Secretary shall reserve, from existing reservations of Colorado River Storage Project power for Bureau of Reclamation projects, up to 26 megawatts of power for use by the Project.
(f) **Conveyance of Title to Project Facilities.**—

(1) **In General.**—The Secretary is authorized to enter into separate agreements with the City and the Nation and, on entering into the agreements, shall convey title to each Project facility or section of a Project facility authorized under subsection (b) (including any appropriate interests in land) to the City and the Nation after—

(A) completion of construction of a Project facility or a section of a Project facility that is operating and delivering water; and

(B) execution of a Project operations agreement approved by the Secretary and the Project Participants that sets forth—

(i) any terms and conditions that the Secretary determines are necessary—

(I) to ensure the continuation of the intended benefits of the Project; and

(II) to fulfill the purposes of this part;

(ii) requirements acceptable to the Secretary and the Project Participants for—
(I) the distribution of water
under the Project or section of a
Project facility; and

(II) the allocation and payment
of annual operation, maintenance, and
replacement costs of the Project or
section of a Project facility based on
the proportionate uses of Project fa-
cilities; and

(iii) conditions and requirements ac-
ceptable to the Secretary and the Project
Participants for operating and maintaining
each Project facility on completion of the
conveyance of title, including the require-
ment that the City and the Nation shall—

(I) comply with—

(aa) the Compact; and

(bb) other applicable law;

and

(II) be responsible for—

(aa) the operation, mainte-
nance, and replacement of each
Project facility; and

(bb) the accounting and
management of water conveyance
and Project finances, as necessary to administer and fulfill the conditions of the Contract executed under section 10604(a)(2)(B).

(2) Effect of conveyance.—The conveyance of title to each Project facility shall not affect the application of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) relating to the use of the water associated with the Project.

(3) Liability.—

(A) In general.—Effective on the date of the conveyance authorized by this subsection, the United States shall not be held liable by any court for damages of any kind arising out of any act, omission, or occurrence relating to the land, buildings, or facilities conveyed under this subsection, other than damages caused by acts of negligence committed by the United States, or by employees or agents of the United States, prior to the date of conveyance.

(B) Tort claims.—Nothing in this section increases the liability of the United States beyond the liability provided in chapter 171 of
title 28, United States Code (commonly known as the "Federal Tort Claims Act").

(4) NOTICE OF PROPOSED CONVEYANCE.—Not later than 45 days before the date of a proposed conveyance of title to any Project facility, the Secretary shall submit to the Committee on Resources of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate notice of the conveyance of each Project facility.

(g) COLORADO RIVER STORAGE PROJECT POWER.—The conveyance of Project facilities under subsection (f) shall not affect the availability of Colorado River Storage Project power to the Project under subsection (e).

(h) REGIONAL USE OF PROJECT FACILITIES.—

(1) IN GENERAL.—Subject to paragraph (2), Project facilities constructed under subsection (b) may be used to treat and convey non-Project water or water that is not allocated by subsection 10603(b) if—

(A) capacity is available without impairing any water delivery to a Project Participant; and

(B) the unallocated or non-Project water beneficiary—

(i) has the right to use the water;
(ii) agrees to pay the operation, maintenance, and replacement costs assignable to the beneficiary for the use of the Project facilities; and

(iii) agrees to pay an appropriate fee that may be established by the Secretary to assist in the recovery of any capital cost allocable to that use.

(2) Effect of Payments.—Any payments to the United States or the Nation for the use of unused capacity under this subsection or for water under any subcontract with the Nation or the Jicarilla Apache Nation shall not alter the construction repayment requirements or the operation, maintenance, and replacement payment requirements of the Project Participants.

SEC. 10603. DELIVERY AND USE OF NAVAJO-GALLUP WATER SUPPLY PROJECT WATER.

(a) Use of Project Water.—

(1) In General.—In accordance with this subtitle and other applicable law, water supply from the Project shall be used for municipal, industrial, commercial, domestic, and stock watering purposes.

(2) Use on Certain Land.—
(A) IN GENERAL.—Subject to subparagraph (B), the Nation may use Project water allocations on—

(i) land held by the United States in trust for the Nation and members of the Nation; and

(ii) land held in fee by the Nation.

(B) TRANSFER.—The Nation may transfer the purposes and places of use of the allocated water in accordance with the Agreement and applicable law.

(3) HYDROELECTRIC POWER.—

(A) IN GENERAL.—Hydroelectric power may be generated as an incident to the delivery of Project water for authorized purposes under paragraph (1).

(B) ADMINISTRATION.—Notwithstanding any other provision of law—

(i) any hydroelectric power generated under this paragraph shall be used or marketed by the Nation;

(ii) the Nation shall retain any revenues from the sale of the hydroelectric power; and
(iii) the United States shall have no
trust obligation or other obligation to mon-
itor, administer, or account for the reve-
 nues received by the Nation, or the ex-
 penditure of the revenues.

(4) STORAGE.—

(A) IN GENERAL.—Subject to subpar-
graph (B), any water contracted for delivery
under paragraph (1) that is not needed for cur-
rent water demands or uses may be delivered by
the Project for placement in underground stor-
age in the State of New Mexico for future re-
covery and use.

(B) STATE APPROVAL.—Delivery of water
under subparagraph (A) is subject to—

(i) approval by the State of New Mex-
ico under applicable provisions of State law
relating to aquifer storage and recovery;
and

(ii) the provisions of the Agreement
and this subtitle.

(b) PROJECT WATER AND CAPACITY ALLOCA-
TIONS.—

(1) DIVERSION.—Subject to availability and
consistent with Federal and State law, the Project
may divert from the Navajo Reservoir and the San Juan River a quantity of water to be allocated and used consistent with the Agreement and this subtitle, that does not exceed in any 1 year, the lesser of—

(A) 37,760 acre-feet of water; or

(B) the quantity of water necessary to supply a depletion from the San Juan River of 35,890 acre-feet.

(2) PROJECT DELIVERY CAPACITY ALLOCATIONS.—

(A) IN GENERAL.—The capacity of the Project shall be allocated to the Project Participants in accordance with subparagraphs (B) through (E), other provisions of this subtitle, and other applicable law.

(B) DELIVERY CAPACITY ALLOCATION TO THE CITY.—The Project may deliver at the point of diversion from the San Juan River not more than 7,500 acre-feet of water in any 1 year for which the City has secured rights for the use of the City.

(C) DELIVERY CAPACITY ALLOCATION TO NAVAJO NATION COMMUNITIES IN NEW MEXICO.—For use by the Nation in the State of
New Mexico, the Project may deliver water out of the water rights held by the Secretary for the Nation and confirmed under this subtitle, at the points of diversion from the San Juan River or at Navajo Reservoir in any 1 year, the lesser of—

(i) 22,650 acre-feet of water; or

(ii) the quantity of water necessary to supply a depletion from the San Juan River of 20,780 acre-feet of water.

(D) DELIVERY CAPACITY ALLOCATION TO NAVAJO NATION COMMUNITIES IN ARIZONA.— Subject to subsection (c), the Project may deliver at the point of diversion from the San Juan River not more than 6,411 acre-feet of water in any 1 year for use by the Nation in the State of Arizona.

(E) DELIVERY CAPACITY ALLOCATION TO JICARILLA APACHE NATION.—The Project may deliver at Navajo Reservoir not more than 1,200 acre-feet of water in any 1 year of the water rights of the Jicarilla Apache Nation, held by the Secretary and confirmed by the Jicarilla Apache Tribe Water Rights Settlement Act (Public Law 102–441; 106 Stat. 2237), for
use by the Jicarilla Apache Nation in the southern portion of the Jicarilla Apache Nation Reservation in the State of New Mexico.

(3) USE IN EXCESS OF DELIVERY CAPACITY ALLOCATION QUANTITY.—Notwithstanding each delivery capacity allocation quantity limit described in subparagraphs (B), (C), and (E) of paragraph (2), the Secretary may authorize a Project Participant to exceed the delivery capacity allocation quantity limit of that Project Participant if—

(A) delivery capacity is available without impairing any water delivery to any other Project Participant; and

(B) the Project Participant benefitting from the increased allocation of delivery capacity—

(i) has the right under applicable law to use the additional water;

(ii) agrees to pay the operation, maintenance, and replacement costs relating to the additional use of any Project facility; and

(iii) agrees, if the Project title is held by the Secretary, to pay a fee established by the Secretary to assist in recovering
capital costs relating to that additional
use.

(c) CONDITIONS FOR USE IN ARIZONA.—

(1) REQUIREMENTS.—Project water shall not
be delivered for use by any community of the Nation
located in the State of Arizona under subsection
(b)(2)(D) until—

(A) the Nation and the State of Arizona
have entered into a water rights settlement
agreement approved by an Act of Congress that
settles and waives the Nation’s claims to water
in the Lower Basin and the Little Colorado
River Basin in the State of Arizona, including
those of the United States on the Nation’s be-
half; and

(B) the Secretary and the Navajo Nation
have entered into a Navajo Reservoir water
supply delivery contract for the physical deliv-
ery and diversion of water via the Project from
the San Juan River system to supply uses in
the State of Arizona.

(2) ACCOUNTING OF USES IN ARIZONA.—

(A) IN GENERAL.—Pursuant to paragraph
(1) and notwithstanding any other provision of
law, water may be diverted by the Project from
the San Juan River in the State of New Mexico in accordance with an appropriate permit issued under New Mexico law for use in the State of Arizona within the Navajo Reservation in the Lower Basin; provided that any depletion of water that results from the diversion of water by the Project from the San Juan River in the State of New Mexico for uses within the State of Arizona (including depletion incidental to the diversion, impounding, or conveyance of water in the State of New Mexico for uses in the State of Arizona) shall be administered and accounted for as either—

(i) a part of, and charged against, the available consumptive use apportionment made to the State of Arizona by Article III(a) of the Compact and to the Upper Basin by Article III(a) of the Colorado River Compact, in which case any water so diverted by the Project into the Lower Basin for use within the State of Arizona shall not be credited as water reaching Lee Ferry pursuant to Article III(e) and III(d) of the Colorado River Compact; or
(ii) subject to subparagraph (B), a part of, and charged against, the consumptive use apportionment made to the Lower Basin by Article III(a) of the Colorado River Compact, in which case it shall—

(I) be a part of the Colorado River water that is apportioned to the State of Arizona in Article II(B) of the Consolidated Decree of the Supreme Court of the United States in Arizona v. California (547 U.S. 150) (as may be amended or supplemented);

(II) be credited as water reaching Lee Ferry pursuant to Article III(c) and III(d) of the Colorado River Compact; and

(III) be accounted as the water identified in section 104(a)(1)(B)(ii) of the Arizona Water Settlements Act, (118 Stat. 3478);

(B) LIMITATION.—Notwithstanding subparagraph (B), no water diverted by the Project shall be accounted for pursuant to subparagraph (B) until such time that—
(i) the Secretary has developed and, as necessary and appropriate, modified, in consultation with the Upper Colorado River Commission and the Governors’ Representatives on Colorado River Operations from each State signatory to the Colorado River Compact, all operational and decisional criteria, policies, contracts, guidelines or other documents that control the operations of the Colorado River System reservoirs and diversion works, so as to adjust, account for, and offset the diversion of water apportioned to the State of Arizona, pursuant to the Boulder Canyon Project Act (43 U.S.C. 617 et seq.), from a point of diversion on the San Juan River in New Mexico; provided that all such modifications shall be consistent with the provisions of this Section, and the modifications made pursuant to this clause shall be applicable only for the duration of any such diversions pursuant to section 10603(c)(2)(B); and 

(ii) Article II(B) of the Decree of the Supreme Court of the United States in Ar-
izona v. California (547 U.S. 150 as may be amended or supplemented) is adminis-
tered so that diversions from the main stream for the Central Arizona Project, as served under existing contracts with the United States by diversion works here-
tofore constructed, shall be limited and re-
duced to offset any diversions made pursu-
ant to section 10603(c)(2)(B) of this Act. This clause shall not affect, in any man-
ner, the amount of water apportioned to Arizona pursuant to the Boulder Canyon Project Act (43 U.S.C. 617 et seq.), or amend any provisions of said decree or the Colorado River Basin Project Act (43 U.S.C. 1501 et. seq.).

(3) UPPER BASIN PROTECTIONS.—

(A) CONSULTATIONS.—Henceforth, in any consultation pursuant to 16 U.S.C. 1536(a) with respect to water development in the San Juan River Basin, the Secretary shall confer with the States of Colorado and New Mexico, consistent with the provisions of section 5 of the “Principles for Conducting Endangered Species Act Section 7 Consultations on Water
Development and Water Management Activities
Affecting Endangered Fish Species in the San
Juan River Basin" as adopted by the Coordina-
tion Committee, San Juan River Basin Recov-
ery Implementation Program, on June 19,
2001, and as may be amended or modified.

(B) PRESERVATION OF EXISTING
RIGHTS.—Rights to the consumptive use of
water available to the Upper Basin from the
Colorado River System under the Colorado
River Compact and the Compact shall not be
reduced or prejudiced by any use of water pur-
suant to subsection 10603(c). Nothing in this
Act shall be construed so as to impair, conflict
with, or otherwise change the duties and powers
of the Upper Colorado River Commission.

(d) FORBEARANCE.—

(1) IN GENERAL.—Subject to paragraphs (2)
and (3), during any year in which a shortage to the
normal diversion requirement for any use relating to
the Project within the State of Arizona occurs (as
determined under section 11 of Public Law 87–483
(76 Stat. 99)), the Nation may temporarily forbear
the delivery of the water supply of the Navajo Res-
ervoir for uses in the State of New Mexico under the
apportionments of water to the Navajo Indian Irrigation Project and the normal diversion requirements of the Project to allow an equivalent quantity of water to be delivered from the Navajo Reservoir water supply for municipal and domestic uses of the Nation in the State of Arizona under the Project.

(2) LIMITATION OF FORBEARANCE.—The Nation may forebear the delivery of water under paragraph (1) of a quantity not exceeding the quantity of the shortage to the normal diversion requirement for any use relating to the Project within the State of Arizona.

(3) EFFECT.—The forbearance of the delivery of water under paragraph (1) shall be subject to the requirements in subsection (e).

(e) EFFECT.—Nothing in this subtitle—

(1) authorizes the marketing, leasing, or transfer of the water supplies made available to the Nation under the Contract to non-Navajo water users in States other than the State of New Mexico; or

(2) authorizes the forbearance of water uses in the State of New Mexico to allow uses of water in other States other than as authorized under subsection (d).
(f) COLORADO RIVER COMPACTS.—Notwithstanding any other provision of law—

(1) water may be diverted by the Project from the San Juan River in the State of New Mexico for use within New Mexico in the lower basin, as that term is used in the Colorado River Compact;

(2) any water diverted under paragraph (1) shall be a part of, and charged against, the consumptive use apportionment made to the State of New Mexico by Article III(a) of the Compact and to the upper basin by Article III(a) of the Colorado River Compact; and

(3) any water so diverted by the Project into the lower basin within the State of New Mexico shall not be credited as water reaching Lee Ferry pursuant to Articles III(c) and III(d) of the Colorado River Compact.

(g) PAYMENT OF OPERATION, MAINTENANCE, AND REPLACEMENT COSTS.—

(1) IN GENERAL.—The Secretary is authorized to pay the operation, maintenance, and replacement costs of the Project allocable to the Project Participants under section 10604 until the date on which the Secretary declares any section of the Project to be substantially complete and delivery of water gen-
erated by, and through, that section of the Project
can be made to a Project participant.

(2) PROJECT PARTICIPANT PAYMENTS.—Beginning
ning on the date described in paragraph (1), each
Project Participant shall pay all allocated operation,
maintenance, and replacement costs for that sub-
stantially completed section of the Project, in ac-
cordance with contracts entered into pursuant to
section 10604, except as provided in section
10604(f).

(h) NO PRECEDENT.—Nothing in this Act shall be
construed as authorizing or establishing a precedent for
any type of transfer of Colorado River System water be-
tween the Upper Basin and Lower Basin. Nor shall any-
thing in this Act be construed as expanding the Sec-
retary's authority in the Upper Basin.

(i) UNIQUE SITUATION.—Diversions by the Project
consistent with this section address critical tribal and non-
Indian water supply needs under unique circumstances,
which include, among other things—

(1) the intent to benefit an American Indian
tribe;

(2) the Navajo Nation's location in both the
Upper and Lower Basin;
(3) the intent to address critical Indian water needs in the State of Arizona and Indian and non-
Indian water needs in the State of New Mexico,

(4) the location of the Navajo Nation's capital city of Window Rock in the State of Arizona in close proximity to the border of the State of New Mexico and the pipeline route for the Project;

(5) the lack of other reasonable options available for developing a firm, sustainable supply of municipal water for the Navajo Nation at Window Rock in the State of Arizona; and

(6) the limited volume of water to be diverted by the Project to supply municipal uses in the Window Rock area in the State of Arizona.

(j) CONSENSUS.—Congress notes the consensus of the Governors' Representatives on Colorado River Operations of the States that are signatory to the Colorado River Compact regarding the diversions authorized for the Project under this section.

(k) EFFICIENT USE.—The diversions and uses authorized for the Project under this Section represent unique and efficient uses of Colorado River apportionments in a manner that Congress has determined would be consistent with the obligations of the United States to the Navajo Nation.
SEC. 10604. PROJECT CONTRACTS.

(a) Navajo Nation Contract.—

(1) Hydrologic Determination.—Congress recognizes that the Hydrologic Determination necessary to support approval of the Contract has been completed.

(2) Contract Approval.—

(A) Approval.—

(i) In General.—Except to the extent that any provision of the Contract conflicts with this subtitle, Congress approves, ratifies, and confirms the Contract.

(ii) Amendments.—To the extent any amendment is executed to make the Contract consistent with this subtitle, that amendment is authorized, ratified, and confirmed.

(B) Execution of Contract.—The Secretary, acting on behalf of the United States, shall enter into the Contract to the extent that the Contract does not conflict with this subtitle (including any amendment that is required to make the Contract consistent with this subtitle).

(3) Nonreimbursability of Allocated Costs.—The following costs shall be nonreimburs-
able and not subject to repayment by the Nation or any other Project beneficiary:

(A) Any share of the construction costs of the Nation relating to the Project authorized by section 10602(a).

(B) Any costs relating to the construction of the Navajo Indian Irrigation Project that may otherwise be allocable to the Nation for use of any facility of the Navajo Indian Irrigation Project to convey water to each Navajo community under the Project.

(C) Any costs relating to the construction of Navajo Dam that may otherwise be allocable to the Nation for water deliveries under the Contract.

(4) OPERATION, MAINTENANCE, AND REPLACEMENT OBLIGATION.—Subject to subsection (f), the Contract shall include provisions under which the Nation shall pay any costs relating to the operation, maintenance, and replacement of each facility of the Project that are allocable to the Nation.

(5) LIMITATION, CANCELLATION, TERMINATION, AND RESCISSION.—The Contract may be limited by a term of years, canceled, terminated, or rescinded only by an Act of Congress.
(b) City of Gallup Contract.—

(1) Contract Authorization.—Consistent with this subtitle, the Secretary is authorized to enter into a repayment contract with the City that requires the City—

(A) to repay, within a 50-year period, the share of the construction costs of the City relating to the Project, with interest as provided under section 10305; and

(B) consistent with section 10603(g), to pay the operation, maintenance, and replacement costs of the Project that are allocable to the City.

(2) Contract Prepayment.—

(A) In General.—The contract authorized under paragraph (1) may allow the City to satisfy the repayment obligation of the City for construction costs of the Project on the payment of the share of the City prior to the initiation of construction.

(B) Amount.—The amount of the share of the City described in subparagraph (A) shall be determined by agreement between the Secretary and the City.
(C) Repayment Obligation.—Any repayment obligation established by the Secretary and the City pursuant to subparagraph (A) shall be subject to a final cost allocation by the Secretary on project completion and to the limitations set forth in paragraph (3).

(3) Share of Construction Costs.—

(A) In General.—Subject to subparagraph (B), the Secretary shall determine the share of the construction costs of the Project allocable to the City and establish the percentage of the allocated construction costs that the City shall be required to repay pursuant to the contract entered into under paragraph (1), based on the ability of the City to pay.

(B) Minimum Percentage.—Notwithstanding subparagraph (A), the repayment obligation of the City shall be at least 25 percent of the construction costs of the Project that are allocable to the City, but shall in no event exceed 35 percent.

(4) Excess Construction Costs.—Any construction costs of the Project allocable to the City in excess of the repayment obligation of the City, as
determined under paragraph (3), shall be nonreim-
bursable.

(5) **GRANT FUNDS.**—A grant from any other
Federal source shall not be credited toward the
amount required to be repaid by the City under a
repayment contract.

(6) **TITLE TRANSFER.**—If title is transferred to
the City prior to repayment under section 10602(f),
the City shall be required to provide assurances sat-
sfactory to the Secretary of fulfillment of the re-
mainning repayment obligation of the City.

(7) **WATER DELIVERY SUBCONTRACT.**—The
Secretary shall not enter into a contract under para-
graph (1) with the City until the City has secured
a water supply for the City's portion of the Project
described in section 10603(b)(2)(B), by entering
into, as approved by the Secretary, a water delivery
subcontract for a period of not less than 40 years
beginning on the date on which the construction of
any facility of the Project serving the City is com-
pleted, with—

(A) the Nation, as authorized by the Con-
tract;

(B) the Jicarilla Apache Nation, as author-
ized by the settlement contract between the
United States and the Jicarilla Apache Tribe, authorized by the Jicarilla Apache Tribe Water Rights Settlement Act (Public Law 102–441; 106 Stat. 2237); or

(C) an acquired alternate source of water, subject to approval of the Secretary and the State of New Mexico, acting through the New Mexico Interstate Stream Commission and the New Mexico State Engineer.

(c) JICARILLA APACHE NATION CONTRACT.—

(1) CONTRACT AUTHORIZATION.—Consistent with this subtitle, the Secretary is authorized to enter into a repayment contract with the Jicarilla Apache Nation that requires the Jicarilla Apache Nation—

(A) to repay, within a 50-year period, the share of any construction cost of the Jicarilla Apache Nation relating to the Project, with interest as provided under section 10305; and

(B) consistent with section 10603(g), to pay the operation, maintenance, and replacement costs of the Project that are allocable to the Jicarilla Apache Nation.

(2) CONTRACT PREPAYMENT.—
(A)INGENERAL.—Thecontractauthorizedunderparagraph(1)mayallowthe
JicarillaApacheNationtosatisfythe repayment obligation of the Jicarilla Apache Nation
for construction costs of the Project on the pay-
ment of the share of the Jicarilla Apache Na-
tion prior to the initiation of construction.

(B)AMOUNT.—Theamountoftheshare
ofJicarillaApacheNationdescribedin sub-
paragraph(A)shallbedeterminedbyagree-
ment between the Secretary and the Jicarilla
Apache Nation.

(C)REPAYMENTOBLIGATION.—Anyrepay-
ment obligation established by the Secretary
and the Jicarilla Apache Nation pursuant to
subparagraph(A)shallbesubjecttoafinal
cost allocation by the Secretary on project com-
pletion and to the limitations set forth in para-
graph (3).

(3)SHAREOFCONSTRUCTIONCOSTS.—

(A)INGENERAL.—Subjecttousubpara-
graph (B), the Secretary shall determine the
share of the construction costs of the Project
allocable to the Jicarilla Apache Nation and es-
establish the percentage of the allocated construc-

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tion costs of the Jicarilla Apache Nation that
the Jicarilla Apache Nation shall be required to
repay based on the ability of the Jicarilla
Apache Nation to pay.

(B) MINIMUM PERCENTAGE.—Notwith-
standing subparagraph (A), the repayment obli-
gation of the Jicarilla Apache Nation shall be
at least 25 percent of the construction costs of
the Project that are allocable to the Jicarilla
Apache Nation, but shall in no event exceed 35
percent.

(4) EXCESS CONSTRUCTION COSTS.—Any con-
struction costs of the Project allocable to the
Jicarilla Apache Nation in excess of the repayment
obligation of the Jicarilla Apache Nation as deter-
mined under paragraph (3), shall be nonreimburs-
able.

(5) GRANT FUNDS.—A grant from any other
Federal source shall not be credited toward the
share of the Jicarilla Apache Nation of construction
costs.

(6) NAVAJO INDIAN IRRIGATION PROJECT
COSTS.—The Jicarilla Apache Nation shall have no
obligation to repay any Navajo Indian Irrigation
Project construction costs that might otherwise be
allocable to the Jicarilla Apache Nation for use of the Navajo Indian Irrigation Project facilities to convey water to the Jicarilla Apache Nation, and any such costs shall be nonreimbursable.

(d) **CAPITAL COST ALLOCATIONS.**—

(1) IN GENERAL.—For purposes of estimating the capital repayment requirements of the Project Participants under this section, the Secretary shall review and, as appropriate, update the Draft Impact Statement allocating capital construction costs for the Project.

(2) **FINAL COST ALLOCATION.**—The repayment contracts entered into with Project Participants under this section shall require that the Secretary perform a final cost allocation when construction of the Project is determined to be substantially complete.

(3) **REPAYMENT OBLIGATION.**—The Secretary shall determine the repayment obligation of the Project Participants based on the final cost allocation identifying reimbursable and nonreimbursable capital costs of the Project consistent with this subtitle.

(e) **OPERATION, MAINTENANCE, AND REPLACEMENT COST ALLOCATIONS.**—For purposes of determining the
operation, maintenance, and replacement obligations of
the Project Participants under this section, the Secretary
shall review and, as appropriate, update the Draft Impact
Statement that allocates operation, maintenance, and re-
placement costs for the Project.

(f) TEMPORARY WAIVERS OF PAYMENTS.—

(1) IN GENERAL.—On the date on which the
Secretary declares a section of the Project to be sub-
stantially complete and delivery of water generated
by and through that section of the Project can be
made to the Nation, the Secretary may waive, for a
period of not more than 10 years, the operation,
maintenance, and replacement costs allocable to the
Nation for that section of the Project that the Sec-
retary determines are in excess of the ability of the
Nation to pay.

(2) SUBSEQUENT PAYMENT BY NATION.—After
a waiver under paragraph (1), the Nation shall pay
all allocated operation, maintenance, and replace-
ment costs of that section of the Project.

(3) PAYMENT BY UNITED STATES.—Any oper-
ation, maintenance, or replacement costs waived by
the Secretary under paragraph (1) shall be paid by
the United States and shall be nonreimbursable.
(4) **Effect on contracts.**—Failure of the Secretary to waive costs under paragraph (1) because of a lack of availability of Federal funding to pay the costs under paragraph (3) shall not alter the obligations of the Nation or the United States under a repayment contract.

(5) **Termination of authority.**—The authority of the Secretary to waive costs under paragraph (1) with respect to a Project facility transferred to the Nation under section 10602(f) shall terminate on the date on which the Project facility is transferred.

(g) **Project construction committee.**—The Secretary shall facilitate the formation of a project construction committee with the Project Participants and the State of New Mexico—

(1) to review cost factors and budgets for construction and operation and maintenance activities;

(2) to improve construction management through enhanced communication; and

(3) to seek additional ways to reduce overall Project costs.

**SEC. 10605. NAVAJO NATION MUNICIPAL PIPELINE.**

(a) **Use of NAVAJO NATION PIPELINE.**—In addition to use of the Navajo Nation Municipal Pipeline to convey
the Animas-La Plata Project water of the Nation, the Na-

tion may use the Navajo Nation Municipal Pipeline to con-
vey non-Animas La Plata Project water for municipal and
industrial purposes.

(b) CONVEYANCE OF TITLE TO PIPELINE.—

(1) IN GENERAL.—On completion of the Navajo
Nation Municipal Pipeline, the Secretary may enter
into separate agreements with the City of Farm-
ington, New Mexico and the Nation to convey title
to each portion of the Navajo Nation Municipal
Pipeline facility or section of the Pipeline to the City
of Farmington and the Nation after execution of a
Project operations agreement approved by the Sec-
retary, the Nation, and the City of Farmington that
sets forth any terms and conditions that the Sec-
retary determines are necessary.

(2) CONVEYANCE TO THE CITY OF FARMINGTON
OR NAVAJO NATION.—In conveying title to the Nav-
ajo Nation Municipal Pipeline under this subsection,
the Secretary shall convey—

(A) to the City of Farmington, the facili-
ties and any land or interest in land acquired
by the United States for the construction, oper-
ation, and maintenance of the Pipeline that are
located within the corporate boundaries of the City; and
(B) to the Nation, the facilities and any land or interests in land acquired by the United States for the construction, operation, and maintenance of the Pipeline that are located outside the corporate boundaries of the City of Farmington.

(3) **EFFECT OF CONVEYANCE.**—The conveyance of title to the Pipeline shall not affect the application of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) relating to the use of water associated with the Animas-La Plata Project.

(4) **LIABILITY.**—

(A) **IN GENERAL.**—Effective on the date of the conveyance authorized by this subsection, the United States shall not be held liable by any court for damages of any kind arising out of any act, omission, or occurrence relating to the land, buildings, or facilities conveyed under this subsection, other than damages caused by acts of negligence committed by the United States or by employees or agents of the United States prior to the date of conveyance.
(B) TORT CLAIMS.—Nothing in this subsection increases the liability of the United States beyond the liability provided under chapter 171 of title 28, United States Code (commonly known as the "Federal Tort Claims Act").

(5) NOTICE OF PROPOSED CONVEYANCE.—Not later than 45 days before the date of a proposed conveyance of title to the Pipeline, the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, notice of the conveyance of the Pipeline.

SEC. 10606. AUTHORIZATION OF CONJUNCTIVE USE WELLS.

(a) CONJUNCTIVE GROUNDWATER DEVELOPMENT PLAN.—Not later than 1 year after the date of enactment of this Act, the Nation, in consultation with the Secretary, shall complete a conjunctive groundwater development plan for the wells described in subsections (b) and (c).

(b) WELLS IN THE SAN JUAN RIVER BASIN.—In accordance with the conjunctive groundwater development plan, the Secretary may construct or rehabilitate wells and related pipeline facilities to provide capacity for the diversion and distribution of not more than 1,670 acre-feet of
groundwater in the San Juan River Basin in the State
of New Mexico for municipal and domestic uses.

(c) Wells in the Little Colorado and Rio
Grande Basins.—

(1) In general.—In accordance with the
Project and conjunctive groundwater development
plan for the Nation, the Secretary may construct or
rehabilitate wells and related pipeline facilities to
provide capacity for the diversion and distribution
of—

(A) not more than 680 acre-feet of ground-
water in the Little Colorado River Basin in the
State of New Mexico;

(B) not more than 80 acre-feet of ground-
water in the Rio Grande Basin in the State of
New Mexico; and

(C) not more than 770 acre-feet of ground-
water in the Little Colorado River Basin in the
State of Arizona.

(2) Use.—Groundwater diverted and distrib-
uted under paragraph (1) shall be used for munic-
ipal and domestic uses.

(d) Acquisition of Land.—

(1) In general.—Except as provided in para-
graph (2), the Secretary may acquire any land or in-
terest in land that is necessary for the construction,
operation, and maintenance of the wells and related
pipeline facilities authorized under subsections (b)
and (e).

(2) LIMITATION.—Nothing in this subsection
authorizes the Secretary to condemn water rights for
the purposes described in paragraph (1).

(e) CONDITION.—The Secretary shall not commence
any construction activity relating to the wells described in
 subsections (b) and (e) until the Secretary executes the
Agreement.

(f) CONVEYANCE OF WELLS.—

(1) IN GENERAL.—On the determination of the
Secretary that the wells and related facilities are
substantially complete and delivery of water gen-
erated by the wells can be made to the Nation, an
agreement with the Nation shall be entered into, to
convey to the Nation title to—

(A) any well or related pipeline facility
constructed or rehabilitated under subsections
(a) and (b) after the wells and related facilities
have been completed; and

(B) any land or interest in land acquired
by the United States for the construction, oper-
ation, and maintenance of the well or related pipeline facility.

(2) Operation, Maintenance, and Replacement.—

(A) In General.—The Secretary is authorized to pay operation and maintenance costs for the wells and related pipeline facilities authorized under this subsection until title to the facilities is conveyed to the Nation.

(B) Subsequent Assumption by Nation.—On completion of a conveyance of title under paragraph (1), the Nation shall assume all responsibility for the operation and maintenance of the well or related pipeline facility conveyed.

(3) Effect of Conveyance.—The conveyance of title to the Nation of the conjunctive use wells under paragraph (1) shall not affect the application of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(g) Use of Project Facilities.—The capacities of the treatment facilities, main pipelines, and lateral pipelines of the Project authorized by section 10602(b) may be used to treat and convey groundwater to Nation communities if the Nation provides for payment of the oper-
ation, maintenance, and replacement costs associated with
the use of the facilities or pipelines.

(h) LIMITATIONS.—The diversion and use of ground-
water by wells constructed or rehabilitated under this sec-
tion shall be made in a manner consistent with applicable
Federal and State law.

SEC. 10607. SAN JUAN RIVER NAVAJO IRRIGATION
PROJECTS.

(a) REHABILITATION.—Subject to subsection (b), the
Secretary shall rehabilitate—

(1) the Fruitland-Cambridge Irrigation Project
to serve not more than 3,335 acres of land, which
shall be considered to be the total serviceable area
of the project; and

(2) the Hogback-Cudei Irrigation Project to
serve not more than 8,830 acres of land, which shall
be considered to be the total serviceable area of the
project.

(b) CONDITION.—The Secretary shall not commence
any construction activity relating to the rehabilitation of
the Fruitland-Cambridge Irrigation Project or the Hog-
back-Cudei Irrigation Project under subsection (a) until
the Secretary executes the Agreement.

(c) OPERATION, MAINTENANCE, AND REPLACEMENT
OBLIGATION.—The Nation shall continue to be respon-
sible for the operation, maintenance, and replacement of
each facility rehabilitated under this section.

SEC. 10608. OTHER IRRIGATION PROJECTS.

(a) In General.—Not later than 2 years after the
date of enactment of this Act, the Secretary, in consulta-
tion with the State of New Mexico (acting through the
Interstate Stream Commission) and the Non-Navajo Irri-
gation Districts that elect to participate, shall—
(1) conduct a study of Non-Navajo Irrigation
District diversion and ditch facilities; and
(2) based on the study, identify and prioritize
a list of projects, with associated cost estimates, that
are recommended to be implemented to repair, reha-
bilitate, or reconstruct irrigation diversion and ditch
facilities to improve water use efficiency.

(b) Grants.—The Secretary may provide grants to,
and enter into cooperative agreements with, the Non-Nav-
ajo Irrigation Districts to plan, design, or otherwise imple-
ment the projects identified under subsection (a)(2).

(c) Cost-Sharing.—
(1) Federal Share.—The Federal share of
the total cost of carrying out a project under sub-
section (b) shall be not more than 50 percent, and
shall be nonreimbursable.
(2) **FORM.**—The non-Federal share required under paragraph (1) may be in the form of in-kind contributions, including the contribution of any valuable asset or service that the Secretary determines would substantially contribute to a project carried out under subsection (b).

(3) **STATE CONTRIBUTION.**—The Secretary may accept from the State of New Mexico a partial or total contribution toward the non-Federal share for a project carried out under subsection (b).

**SEC. 10609. AUTHORIZATION OF APPROPRIATIONS.**

(a) **AUTHORIZATION OF APPROPRIATIONS FOR NAVAJO-GALLUP WATER SUPPLY PROJECT.**—

(1) **IN GENERAL.**—There is authorized to be appropriated to the Secretary to plan, design, and construct the Project $870,000,000 for the period of fiscal years 2009 through 2024, to remain available until expended.

(2) **ADJUSTMENTS.**—The amount under paragraph (1) shall be adjusted by such amounts as may be required by reason of changes since 2007 in construction costs, as indicated by engineering cost indices applicable to the types of construction involved.

(3) **USE.**—In addition to the uses authorized under paragraph (1), amounts made available under
that paragraph may be used for the conduct of re-
lated activities to comply with Federal environmental
laws.

(4) OPERATION AND MAINTENANCE.—

(A) IN GENERAL.—There are authorized to
be appropriated such sums as are necessary to
operate and maintain the Project consistent
with this subtitle.

(B) EXPIRATION.—The authorization
under subparagraph (A) shall expire 10 years
after the year the Secretary declares the Project
to be substantially complete.

(b) APPROPRIATIONS FOR CONJUNCTIVE USE
WELLS.—

(1) SAN JUAN WELLS.—There is authorized to
be appropriated to the Secretary for the construction
or rehabilitation and operation and maintenance of
conjunctive use wells under section 10606(b)
$30,000,000, as adjusted under paragraph (3), for
the period of fiscal years 2009 through 2019.

(2) WELLS IN THE LITTLE COLORADO AND RIO
GRANDE BASINS.—There are authorized to be appro-
priated to the Secretary for the construction or reha-
bilitation and operation and maintenance of conjunc-
tive use wells under section 10606(c) such sums as
are necessary for the period of fiscal years 2009 through 2024.

(3) ADJUSTMENTS.—The amount under paragraph (1) shall be adjusted by such amounts as may be required by reason of changes since 2008 in construction costs, as indicated by engineering cost indices applicable to the types of construction or rehabilitation involved.

(4) NONREIMBURSABLE EXPENDITURES.—Amounts made available under paragraphs (1) and (2) shall be nonreimbursable to the United States.

(5) USE.—In addition to the uses authorized under paragraphs (1) and (2), amounts made available under that paragraph may be used for the conduct of related activities to comply with Federal environmental laws.

(6) LIMITATION.—Appropriations authorized under paragraph (1) shall not be used for operation or maintenance of any conjunctive use wells at a time in excess of 3 years after the well is declared substantially complete.

(e) SAN JUAN RIVER IRRIGATION PROJECTS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary—

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(A) to carry out section 10607(a)(1), not more than $7,700,000, as adjusted under paragraph (2), for the period of fiscal years 2009 through 2016, to remain available until expended; and

(B) to carry out section 10607(a)(2), not more than $15,400,000, as adjusted under paragraph (2), for the period of fiscal years 2009 through 2019, to remain available until expended.

(2) ADJUSTMENT.—The amounts made available under paragraph (1) shall be adjusted by such amounts as may be required by reason of changes since January 1, 2004, in construction costs, as indicated by engineering cost indices applicable to the types of construction involved in the rehabilitation.

(3) NONREIMBURSABLE EXPENDITURES.—Amounts made available under this subsection shall be nonreimbursable to the United States.

(d) OTHER IRRIGATION PROJECTS.—There are authorized to be appropriated to the Secretary to carry out section 10608 $11,000,000 for the period of fiscal years 2009 through 2019.

(e) CULTURAL RESOURCES.—
(1) **In General.**—The Secretary may use not more than 2 percent of amounts made available under subsections (a), (b), and (c) for the survey, recovery, protection, preservation, and display of archaeological resources in the area of a Project facility or conjunctive use well.

(2) **Nonreimbursable Expenditures.**—Any amounts made available under paragraph (1) shall be nonreimbursable.

(f) **Fish and Wildlife Facilities.**—

(1) **In General.**—In association with the development of the Project, the Secretary may use not more than 4 percent of amounts made available under subsections (a), (b), and (c) to purchase land and construct and maintain facilities to mitigate the loss of, and improve conditions for the propagation of, fish and wildlife if any such purchase, construction, or maintenance will not affect the operation of any water project or use of water.

(2) **Nonreimbursable Expenditures.**—Any amounts expended under paragraph (1) shall be nonreimbursable.

**PART IV—NAVAJO NATION WATER RIGHTS**

**SEC. 10701. AGREEMENT.**

(a) **Agreement Approval.**—
(1) APPROVAL BY CONGRESS.—Except to the extent that any provision of the Agreement conflicts with this subtitle, Congress approves, ratifies, and confirms the Agreement (including any amendments to the Agreement that are executed to make the Agreement consistent with this subtitle).

(2) EXECUTION BY SECRETARY.—The Secretary shall enter into the Agreement to the extent that the Agreement does not conflict with this subtitle, including—

(A) any exhibits to the Agreement requiring the signature of the Secretary; and

(B) any amendments to the Agreement necessary to make the Agreement consistent with this subtitle.

(3) AUTHORITY OF SECRETARY.—The Secretary may carry out any action that the Secretary determines is necessary or appropriate to implement the Agreement, the Contract, and this section.

(4) ADMINISTRATION OF NAVAJO RESERVOIR RELEASES.—The State of New Mexico may administer water that has been released from storage in Navajo Reservoir in accordance with subparagraph 9.1 of the Agreement.

(b) WATER AVAILABLE UNDER CONTRACT.—
(1) Quantities of water available.—

(A) In general.—Water shall be made available annually under the Contract for projects in the State of New Mexico supplied from the Navajo Reservoir and the San Juan River (including tributaries of the River) under New Mexico State Engineer File Numbers 2849, 2883, and 3215 in the quantities described in subparagraph (B).

(B) Water quantities.—The quantities of water referred to in subparagraph (A) are as follows:

<table>
<thead>
<tr>
<th>Project</th>
<th>Diversions (acre-feet/year)</th>
<th>Depletions (acre-feet/year)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Navajo Indian Irrigation Project</td>
<td>508,000</td>
<td>270,000</td>
</tr>
<tr>
<td>Navajo-Gallup Water Supply Project</td>
<td>22,650</td>
<td>20,780</td>
</tr>
<tr>
<td>Animas-La Plata Project</td>
<td>4,680</td>
<td>2,340</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>535,330</strong></td>
<td><strong>293,120</strong></td>
</tr>
</tbody>
</table>

(C) Maximum quantity.—A diversion of water to the Nation under the Contract for a project described in subparagraph (B) shall not exceed the quantity of water necessary to supply the amount of depletion for the project.

(D) Terms, conditions, and limitations.—The diversion and use of water under the Contract shall be subject to and consistent
with the terms, conditions, and limitations of
the Agreement, this subtitle, and any other ap-
plicable law.

(2) AMENDMENTS TO CONTRACT.—The Sec-
retary, with the consent of the Nation, may amend
the Contract if the Secretary determines that the
amendment is—

(A) consistent with the Agreement; and
(B) in the interest of conserving water or
facilitating beneficial use by the Nation or a
subcontractor of the Nation.

(3) RIGHTS OF THE NATION.—The Nation may,
under the Contract—

(A) use tail water, wastewater, and return
flows attributable to a use of the water by the
Nation or a subcontractor of the Nation if—
(i) the depletion of water does not ex-
ceed the quantities described in paragraph
(1); and
(ii) the use of tail water, wastewater,
or return flows is consistent with the
terms, conditions, and limitations of the
Agreement, and any other applicable law;
and
(B) change a point of diversion, change a purpose or place of use, and transfer a right for depletion under this subtitle (except for a point of diversion, purpose or place of use, or right for depletion for use in the State of Arizona under section 10603(b)(2)(D)), to another use, purpose, place, or depletion in the State of New Mexico to meet a water resource or economic need of the Nation if—

(i) the change or transfer is subject to and consistent with the terms of the Agreement, the Partial Final Decree described in paragraph 3.0 of the Agreement, the Contract, and any other applicable law; and

(ii) a change or transfer of water use by the Nation does not alter any obligation of the United States, the Nation, or another party to pay or repay project construction, operation, maintenance, or replacement costs under this subtitle and the Contract.

(e) SUBCONTRACTS.—

(1) IN GENERAL.—
(A) **Subcontracts between Nation and third parties.**—The Nation may enter into subcontracts for the delivery of Project water under the Contract to third parties for any beneficial use in the State of New Mexico (on or off land held by the United States in trust for the Nation or a member of the Nation or land held in fee by the Nation).

(B) **Approval required.**—A subcontract entered into under subparagraph (A) shall not be effective until approved by the Secretary in accordance with this subsection and the Contract.

(C) **Submittal.**—The Nation shall submit to the Secretary for approval or disapproval any subcontract entered into under this subsection.

(D) **Deadline.**—The Secretary shall approve or disapprove a subcontract submitted to the Secretary under subparagraph (C) not later than the later of—

(i) the date that is 180 days after the date on which the subcontract is submitted to the Secretary; and
(ii) the date that is 60 days after the
date on which a subcontractor complies
with—

(I) section 102(2)(C) of the Na-
tional Environmental Policy Act of
1969 (42 U.S.C. 4332(2)(C)); and
(II) any other requirement of
Federal law.

(E) ENFORCEMENT.—A party to a sub-
contract may enforce the deadline described in
subparagraph (D) under section 1361 of title
28, United States Code.

(F) COMPLIANCE WITH OTHER LAW.—A
subcontract described in subparagraph (A) shall
comply with the Agreement, the Partial Final
Decree described in paragraph 3.0 of the Agree-
ment, and any other applicable law.

(G) NO LIABILITY.—The Secretary shall
not be liable to any party, including the Nation,
for any term of, or any loss or other detriment
resulting from, a lease, contract, or other agree-
ment entered into pursuant to this subsection.

(2) ALIENATION.—
(A) PERMANENT ALIENATION.—The Nation shall not permanently alienate any right granted to the Nation under the Contract.

(B) MAXIMUM TERM.—The term of any water use subcontract (including a renewal) under this subsection shall be not more than 99 years.

(3) NONINTERCOURSE ACT COMPLIANCE.—This subsection—

(A) provides congressional authorization for the subcontracting rights of the Nation; and

(B) is deemed to fulfill any requirement that may be imposed by section 2116 of the Revised Statutes (25 U.S.C. 177).

(4) FORFEITURE.—The nonuse of the water supply secured by a subcontractor of the Nation under this subsection shall not result in forfeiture, abandonment, relinquishment, or other loss of any part of a right decreed to the Nation under the Contract or this section.

(5) NO PER CAPITA PAYMENTS.—No part of the revenue from a water use subcontract under this subsection shall be distributed to any member of the Nation on a per capita basis.
(d) WATER LEASES NOT REQUIRING SUB-CONTRACTS.—

(1) AUTHORITY OF NATION.—

(A) IN GENERAL.—The Nation may lease, contract, or otherwise transfer to another party or to another purpose or place of use in the State of New Mexico (on or off land that is held by the United States in trust for the Nation or a member of the Nation or held in fee by the Nation) a water right that—

(i) is decreed to the Nation under the Agreement; and

(ii) is not subject to the Contract.

(B) COMPLIANCE WITH OTHER LAW.—In carrying out an action under this subsection, the Nation shall comply with the Agreement, the Partial Final Decree described in paragraph 3.0 of the Agreement, the Supplemental Partial Final Decree described in paragraph 4.0 of the Agreement, and any other applicable law.

(2) ALIENATION; MAXIMUM TERM.—

(A) ALIENATION.—The Nation shall not permanently alienate any right granted to the Nation under the Agreement.
(B) Maximum term.—The term of any water use lease, contract, or other arrangement (including a renewal) under this subsection shall be not more than 99 years.

(3) No liability.—The Secretary shall not be liable to any party, including the Nation, for any term of, or any loss or other detriment resulting from, a lease, contract, or other agreement entered into pursuant to this subsection.

(4) Nonintercourse Act compliance.—This subsection—

(A) provides congressional authorization for the lease, contracting, and transfer of any water right described in paragraph (1)(A); and

(B) is deemed to fulfill any requirement that may be imposed by the provisions of section 2116 of the Revised Statutes (25 U.S.C. 177).

(5) Forfeiture.—The nonuse of a water right of the Nation by a lessee or contractor to the Nation under this subsection shall not result in forfeiture, abandonment, relinquishment, or other loss of any part of a right decreed to the Nation under the Contract or this section.

(e) Nullification.—
(1) DEADLINES.—

(A) IN GENERAL.—In carrying out this section, the following deadlines apply with respect to implementation of the Agreement:

(i) AGREEMENT.—Not later than December 31, 2010, the Secretary shall execute the Agreement.

(ii) CONTRACT.—Not later than December 31, 2010, the Secretary and the Nation shall execute the Contract.

(iii) PARTIAL FINAL DECREE.—Not later than December 31, 2013, the court in the stream adjudication shall have entered the Partial Final Decree described in paragraph 3.0 of the Agreement.

(iv) FRUITLAND-CAMBRIDGE IRRIGATION PROJECT.—Not later than December 31, 2016, the rehabilitation construction of the Fruitland-Cambridge Irrigation Project authorized under section 10607(a)(1) shall be completed.

(v) SUPPLEMENTAL PARTIAL FINAL DECREE.—Not later than December 31, 2016, the court in the stream adjudication shall enter the Supplemental Partial Final
Decree described in subparagraph 4.0 of the Agreement.

(vi) **HOGBACK-CUDEI IRRIGATION PROJECT.**—Not later than December 31, 2019, the rehabilitation construction of the Hogback-Cudei Irrigation Project authorized under section 10607(a)(2) shall be completed.

(vii) **TRUST FUND.**—Not later than December 31, 2019, the United States shall make all deposits into the Trust Fund under section 10702.

(viii) **CONJUNCTIVE WELLS.**—Not later than December 31, 2019, the funds authorized to be appropriated under section 10609(b)(1) for the conjunctive use wells authorized under section 10606(b) should be appropriated.

(ix) **NAVAJO-GALLUP WATER SUPPLY PROJECT.**—Not later than December 31, 2024, the construction of all Project facilities shall be completed.

(B) EXTENSION.—A deadline described in subparagraph (A) may be extended if the Nation, the United States (acting through the Sec-
retary), and the State of New Mexico (acting through the New Mexico Interstate Stream Commission) agree that an extension is reasonably necessary.

(2) Revocability of Agreement, Contract and Authorizations.—

(A) Petition.—If the Nation determines that a deadline described in paragraph (1)(A) is not substantially met, the Nation may submit to the court in the stream adjudication a petition to enter an order terminating the Agreement and Contract.

(B) Termination.—On issuance of an order to terminate the Agreement and Contract under subparagraph (A)—

(i) the Trust Fund shall be terminated;

(ii) the balance of the Trust Fund shall be deposited in the general fund of the Treasury;

(iii) the authorizations for construction and rehabilitation of water projects under this subtitle shall be revoked and any Federal activity related to that con-
struction and rehabilitation shall be sus-
pended; and
(iv) this part and parts I and III shall
be null and void.

(3) CONDITIONS not causing nULLIFICATION
of settlement.—

(A) In general.—If a condition described
in subparagraph (B) occurs, the Agreement and
Contract shall not be nullified or terminated.

(B) CONDITIONS.—The conditions referred
to in subparagraph (A) are as follows:
(i) A lack of right to divert at the ca-
pacities of conjunctive use wells con-
structed or rehabilitated under section
10606.

(ii) A failure—
(I) to determine or resolve an ac-
counting of the use of water under
this subtitle in the State of Arizona;
(II) to obtain a necessary water
right for the consumptive use of water
in Arizona;
(III) to contract for the delivery
of water for use in Arizona; or
(IV) to construct and operate a lateral facility to deliver water to a community of the Nation in Arizona, under the Project.

(f) Effect on Rights of Indian Tribes.—

(1) In general.—Except as provided in paragraph (2), nothing in the Agreement, the Contract, or this section quantifies or adversely affects the land and water rights, or claims or entitlements to water, of any Indian tribe or community other than the rights, claims, or entitlements of the Nation in, to, and from the San Juan River Basin in the State of New Mexico.

(2) Exception.—The right of the Nation to use water under water rights the Nation has in other river basins in the State of New Mexico shall be forborne to the extent that the Nation supplies the uses for which the water rights exist by diversions of water from the San Juan River Basin under the Project consistent with subparagraph 9.13 of the Agreement.

SEC. 10702. TRUST FUND.

(a) Establishment.—There is established in the Treasury a fund to be known as the “Navajo Nation
Water Resources Development Trust Fund', consisting of—

(1) such amounts as are appropriated to the Trust Fund under subsection (f); and

(2) any interest earned on investment of amounts in the Trust Fund under subsection (d).

(b) USE OF FUNDS.—The Nation may use amounts in the Trust Fund—

(1) to investigate, construct, operate, maintain, or replace water project facilities, including facilities conveyed to the Nation under this subtitle and facilities owned by the United States for which the Nation is responsible for operation, maintenance, and replacement costs; and

(2) to investigate, implement, or improve a water conservation measure (including a metering or monitoring activity) necessary for the Nation to make use of a water right of the Nation under the Agreement.

(c) MANAGEMENT.—The Secretary shall manage the Trust Fund, invest amounts in the Trust Fund pursuant to subsection (d), and make amounts available from the Trust Fund for distribution to the Nation in accordance with the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.).
(d) INVESTMENT OF THE TRUST FUND.—Beginning on October 1, 2019, the Secretary shall invest amounts in the Trust Fund in accordance with—

(1) the Act of April 1, 1880 (25 U.S.C. 161);

(2) the first section of the Act of June 24, 1938 (25 U.S.C. 162a); and

(3) the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.).

(e) CONDITIONS FOR EXPENDITURES AND WITHDRAWALS.—

(1) TRIBAL MANAGEMENT PLAN.—

(A) IN GENERAL.—Subject to paragraph (7), on approval by the Secretary of a tribal management plan in accordance with the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.), the Nation may withdraw all or a portion of the amounts in the Trust Fund.

(B) REQUIREMENTS.—In addition to any requirements under the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.), the tribal management plan shall require that the Nation only use amounts in the Trust Fund for the purposes described in subsection (b), including the identi-
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1  specification of water conservation measures to be
2  implemented in association with the agricultural
3  water use of the Nation.
4
5  (2) ENFORCEMENT.—The Secretary may take
6  judicial or administrative action to enforce the provi-
7  sions of any tribal management plan to ensure that
8  any amounts withdrawn from the Trust Fund are
9  used in accordance with this subtitle.
10
11  (3) NO LIABILITY.—Neither the Secretary nor
12  the Secretary of the Treasury shall be liable for the
13  expenditure or investment of any amounts with-
14  drawn from the Trust Fund by the Nation.
15
16  (4) EXPENDITURE PLAN.—
17
18    (A) IN GENERAL.—The Nation shall sub-
19    mit to the Secretary for approval an expendi-
20    ture plan for any portion of the amounts in the
21    Trust Fund made available under this section
22    that the Nation does not withdraw under this
23    subsection.
24
25    (B) DESCRIPTION.—The expenditure plan
26    shall describe the manner in which, and the
27    purposes for which, funds of the Nation remain-
28    ing in the Trust Fund will be used.
29
30    (C) APPROVAL.—On receipt of an expendi-
31    ture plan under subparagraph (A), the Sec-
retary shall approve the plan if the Secretary
determines that the plan is reasonable and con-
sistent with this subtitle.

(5) **ANNUAL REPORT.**—The Nation shall sub-
mit to the Secretary an annual report that describes
any expenditures from the Trust Fund during the
year covered by the report.

(6) **LIMITATION.**—No portion of the amounts in
the Trust Fund shall be distributed to any Nation
member on a per capita basis.

(7) **CONDITIONS.**—Any amount authorized to
be appropriated to the Trust Fund under subsection
(f) shall not be available for expenditure or with-
drawal—

(A) before December 31, 2019; and

(B) until the date on which the court in
the stream adjudication has entered—

(i) the Partial Final Decree; and

(ii) the Supplemental Partial Final
Decree.

(f) **AUTHORIZATION OF APPROPRIATIONS.**—There
are authorized to be appropriated for deposit in the Trust
Fund—

(1) $6,000,000 for each of fiscal years 2010
through 2014; and
SEC. 10703. WAIVERS AND RELEASES.

(a) Claims by the Nation and the United States.—In return for recognition of the Nation’s water rights and other benefits, including but not limited to the commitments by other parties, as set forth in the Agreement and this subtitle, the Nation, on behalf of itself and members of the Nation (other than members in the capacity of the members as allottees), and the United States acting in its capacity as trustee for the Nation, shall execute a waiver and release of—

(1) all claims for water rights in, or for waters of, the San Juan River Basin in the State of New Mexico that the Nation, or the United States as trustee for the Nation, asserted, or could have asserted, in any proceeding, including but not limited to the stream adjudication, up to and including the effective date described in subsection (e), except to the extent that such rights are recognized in the Agreement or this subtitle;

(2) all claims for damages, losses, or injuries to water rights or claims of interference with, diversion, or taking of water (including but not limited to claims for injury to lands resulting from such dam-
ages, losses, injuries, interference with, diversion, or
taking) in the San Juan River Basin in the State of
New Mexico that accrued at any time up to and in-
cluding the effective date described in subsection (e);

(3) all claims of any damage, loss, or injury or
for injunctive or other relief because of the condition
of or changes in water quality related to, or arising
out of, the exercise of water rights; and

(4) all claims against the State of New Mexico,
its agencies, or employees relating to the negotiation
or the adoption of the Agreement.

(b) CLAIMS BY THE NATION AGAINST THE UNITED
STATES.—The Nation, on behalf of itself and its members
(other than in the capacity of the members as allottees),
shall execute a waiver and release of—

(1) all claims against the United States, its
agencies, or employees relating to claims for water
rights in or waters of the San Juan River Basin in
the State of New Mexico that the United States, act-
ing in its capacity as trustee for the Nation, as-
serted, or could have asserted, in any proceeding, in-
cluding but not limited to the stream adjudication;

(2) all claims against the United States, its
agencies, or employees relating to damages, losses,
or injuries to water, water rights, land, or natural
resources due to loss of water or water rights (includ- 
ing but not limited to damages, losses, or injuries to 
ibles, fishing, gathering, or cultural rights 
due to loss of water or water rights; claims relating 
to inference with, diversion, or taking of water or 
water rights; or claims relating to failure to protect, 
acquire, replace, or develop water or water rights) in 
the San Juan River Basin in the State of New Mex-
ico that first accrued at any time up to and includ-
ing the effective date described in subsection (e); 

(3) all claims against the United States, its 
agencies, or employees relating to the pending litiga-
tion of claims relating to the Nation’s water rights 
in the stream adjudication; and 

(4) all claims against the United States, its 
agencies, or employees relating to the negotiation, 
execution, or the adoption of the Agreement, the de-
crees, the Contract, or this subtitle. 

(c) RESERVATION OF CLAIMS.—Notwithstanding the 
waivers and releases authorized in this subtitle, the Nation 
on behalf of itself and its members (including members 
in the capacity of the members as allottees) and the 
United States acting in its capacity as trustee for the Na-
tion and allottees, retain—
(1) all claims for water rights or injuries to water rights arising out of activities occurring outside the San Juan River Basin in the State of New Mexico, subject to paragraphs 8.0, 9.3, 9.12, 9.13, and 13.9 of the Agreement;

(2) all claims for enforcement of the Agreement, the Contract, the Partial Final Decree, the Supplemental Partial Final Decree, or this subtitle, through any legal and equitable remedies available in any court of competent jurisdiction;

(3) all rights to use and protect water rights acquired pursuant to State law after the date of enactment of this Act;

(4) all claims relating to activities affecting the quality of water not related to the exercise of water rights, including but not limited to any claims the Nation might have under—

(A) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

(B) the Safe Drinking Water Act (42 U.S.C. 300f et seq.); and

(C) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);
(5) all claims relating to damages, losses, or injuries to land or natural resources not due to loss of water or water rights; and

(6) all rights, remedies, privileges, immunities, and powers not specifically waived and released under the terms of the Agreement or this subtitle.

(d) TOLLING OF CLAIMS.—

(1) IN GENERAL.—Each applicable period of limitation and time-based equitable defense relating to a claim described in this section shall be tolled for the period beginning on the date of enactment of this Act and ending on the earlier of—

(A) March 1, 2025; or

(B) the effective date described in subsection (e).

(2) EFFECT OF SUBSECTION.—Nothing in this subsection revives any claim or tolls any period of limitation or time-based equitable defense that expired before the date of enactment of this Act.

(3) LIMITATION.—Nothing in this section precludes the tolling of any period of limitations or any time-based equitable defense under any other applicable law.

(e) EFFECTIVE DATE.—
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(1) **IN GENERAL.**—The waivers and releases described in subsections (a) and (b) shall be effective on the date on which the Secretary publishes in the Federal Register a statement of findings documenting that each of the deadlines described in section 10701(e)(1) have been met.

(2) **DEADLINE.**—If the deadlines described in section 10701(e)(1)(A) have not been met by the later of March 1, 2025, or the date of any extension under section 10701(e)(1)(B)—

(A) the waivers and releases described in subsections (a) and (b) shall be of no effect; and

(B) section 10701(e)(2)(B) shall apply.

**SEC. 10704. WATER RIGHTS HELD IN TRUST.**

A tribal water right adjudicated and described in paragraph 3.0 of the Partial Final Decree and in paragraph 3.0 of the Supplemental Partial Final Decree shall be held in trust by the United States on behalf of the Nation.