

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—111th Cong., 2d Sess.

H. R. _____

To resolve the water rights claims of certain Indian tribes,
and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT In the Nature of a Substitute intended to be
proposed by Mr. BAUCUS (for himself and Mr. DORGAN)

Viz:

1 Strike all after the enacting clause and insert the fol-

2 lowing:

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the

5 “Claims Resolution Act of 2010”.

6 (b) **TABLE OF CONTENTS.**—The table of contents of

7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—INDIVIDUAL INDIAN MONEY ACCOUNT LITIGATION
SETTLEMENT

Sec. 101. Individual Indian Money Account Litigation Settlement.

TITLE II—FINAL SETTLEMENT OF CLAIMS FROM IN RE BLACK
FARMERS DISCRIMINATION LITIGATION

- Sec. 201. Appropriation of funds for final settlement of claims from In re Black Farmers Discrimination Litigation.

TITLE III—WHITE MOUNTAIN APACHE TRIBE WATER RIGHTS
QUANTIFICATION

- Sec. 301. Short title.
Sec. 302. Purposes.
Sec. 303. Definitions.
Sec. 304. Approval of Agreement.
Sec. 305. Water rights.
Sec. 306. Contract.
Sec. 307. Authorization of WMAT rural water system.
Sec. 308. Satisfaction of claims.
Sec. 309. Waivers and releases of claims.
Sec. 310. White Mountain Apache Tribe Water Rights Settlement Subaccount.
Sec. 311. Miscellaneous provisions.
Sec. 312. Funding.
Sec. 313. Antideficiency.
Sec. 314. Compliance with environmental laws.

TITLE IV—CROW TRIBE WATER RIGHTS SETTLEMENT

- Sec. 401. Short title.
Sec. 402. Purposes.
Sec. 403. Definitions.
Sec. 404. Ratification of Compact.
Sec. 405. Rehabilitation and improvement of Crow Irrigation Project.
Sec. 406. Design and construction of MR&I System.
Sec. 407. Tribal water rights.
Sec. 408. Storage allocation from Bighorn Lake.
Sec. 409. Satisfaction of claims.
Sec. 410. Waivers and releases of claims.
Sec. 411. Crow Settlement Fund.
Sec. 412. Yellowtail Dam, Montana.
Sec. 413. Miscellaneous provisions.
Sec. 414. Funding.
Sec. 415. Repeal on failure to meet enforceability date.
Sec. 416. Antideficiency.

TITLE V—TAOS PUEBLO INDIAN WATER RIGHTS

- Sec. 501. Short title.
Sec. 502. Purposes.
Sec. 503. Definitions.
Sec. 504. Pueblo rights.
Sec. 505. Taos Pueblo Water Development Fund.
Sec. 506. Marketing.
Sec. 507. Mutual-Benefit Projects.
Sec. 508. San Juan-Chama Project contracts.
Sec. 509. Authorizations, ratifications, confirmations, and conditions precedent.
Sec. 510. Waivers and releases of claims.
Sec. 511. Interpretation and enforcement.
Sec. 512. Disclaimer.
Sec. 513. Antideficiency.

TITLE VI—AAMODT LITIGATION SETTLEMENT

3

- Sec. 601. Short title.
- Sec. 602. Definitions.

Subtitle A—Pojoaque Basin Regional Water System

- Sec. 611. Authorization of Regional Water System.
- Sec. 612. Operating Agreement.
- Sec. 613. Acquisition of Pueblo water supply for Regional Water System.
- Sec. 614. Delivery and allocation of Regional Water System capacity and water.
- Sec. 615. Aamodt Settlement Pueblos' Fund.
- Sec. 616. Environmental compliance.
- Sec. 617. Funding.

Subtitle B—Pojoaque Basin Indian Water Rights Settlement

- Sec. 621. Settlement Agreement and contract approval.
- Sec. 622. Environmental compliance.
- Sec. 623. Conditions precedent and enforcement date.
- Sec. 624. Waivers and releases of claims.
- Sec. 625. Effect.
- Sec. 626. Antideficiency.

TITLE VII—RECLAMATION WATER SETTLEMENTS FUND

- Sec. 701. Mandatory appropriation.

TITLE VIII—GENERAL PROVISIONS

Subtitle A—Unemployment Compensation Program Integrity

- Sec. 801. Collection of past-due, legally enforceable State debts.
- Sec. 802. Reporting of first day of earnings to directory of new hires.

Subtitle B—TANF

- Sec. 811. Extension of the Temporary Assistance for Needy Families program.
- Sec. 812. Modifications to TANF data reporting.

Subtitle C—Customs User Fees; Continued Dumping and Subsidy Offset

- Sec. 821. Customs user fees.
- Sec. 822. Limitation on distributions relating to repeal of continued dumping and subsidy offset.

Subtitle D—Emergency Fund for Indian Safety and Health

- Sec. 831. Emergency Fund for Indian Safety and Health.

Subtitle E—Rescission of Funds From WIC Program

- Sec. 841. Rescission of funds from WIC program.

Subtitle F—Budgetary Effects

- Sec. 851. Budgetary effects.

1 **TITLE I—INDIVIDUAL INDIAN**
2 **MONEY ACCOUNT LITIGATION**
3 **SETTLEMENT**

4 **SEC. 101. INDIVIDUAL INDIAN MONEY ACCOUNT LITIGA-**
5 **TION SETTLEMENT.**

6 (a) DEFINITIONS.—In this section:

7 (1) AGREEMENT ON ATTORNEYS’ FEES, EX-
8 PENSES, AND COSTS.—The term “Agreement on At-
9 torneys’ Fees, Expenses, and Costs” means the
10 agreement dated December 7, 2009, between Class
11 Counsel (as defined in the Settlement) and the De-
12 fendants (as defined in the Settlement) relating to
13 attorneys’ fees, expenses, and costs incurred by
14 Class Counsel in connection with the Litigation and
15 implementation of the Settlement, as modified by
16 the parties to the Litigation.

17 (2) AMENDED COMPLAINT.—The term
18 “Amended Complaint” means the Amended Com-
19 plaint attached to the Settlement.

20 (3) FINAL APPROVAL.—The term “final ap-
21 proval” has the meaning given the term in the Set-
22 tlement.

23 (4) LAND CONSOLIDATION PROGRAM.—The
24 term “Land Consolidation Program” means a pro-
25 gram conducted in accordance with the Settlement,

1 the Indian Land Consolidation Act (25 U.S.C. 2201
2 et seq.), and subsection (e)(2) under which the Sec-
3 retary may purchase fractional interests in trust or
4 restricted land.

5 (5) LITIGATION.—The term “Litigation” means
6 the case entitled *Elouise Cobell et al. v. Ken Salazar*
7 *et al.*, United States District Court, District of Co-
8 lumbia, Civil Action No. 96–1285 (TFH).

9 (6) PLAINTIFF.—The term “Plaintiff” means a
10 member of any class certified in the Litigation.

11 (7) SECRETARY.—The term “Secretary” means
12 the Secretary of the Interior.

13 (8) SETTLEMENT.—The term “Settlement”
14 means the Class Action Settlement Agreement dated
15 December 7, 2009, in the Litigation, as modified by
16 the parties to the Litigation.

17 (9) TRUST ADMINISTRATION ADJUSTMENT
18 FUND.—The term “Trust Administration Adjust-
19 ment Fund” means the \$100,000,000 deposited in
20 the Settlement Account (as defined in the Settle-
21 ment) pursuant to subsection (j)(1) for use in mak-
22 ing the adjustments authorized by that subsection.

23 (10) TRUST ADMINISTRATION CLASS.—The
24 term “Trust Administration Class” means the Trust
25 Administration Class as defined in the Settlement.

1 (b) PURPOSE.—The purpose of this section is to au-
2 thorize the Settlement.

3 (c) AUTHORIZATION.—

4 (1) IN GENERAL.—The Settlement is author-
5 ized, ratified, and confirmed.

6 (2) AMENDMENTS.—Any amendment to the
7 Settlement is authorized, ratified, and confirmed, to
8 the extent that such amendment is executed to make
9 the Settlement consistent with this section.

10 (d) JURISDICTIONAL PROVISIONS.—

11 (1) IN GENERAL.—Notwithstanding the limita-
12 tion on the jurisdiction of the district courts of the
13 United States in section 1346(a)(2) of title 28,
14 United States Code, the United States District
15 Court for the District of Columbia shall have juris-
16 diction of the claims asserted in the Amended Com-
17 plaint for purposes of the Settlement.

18 (2) CERTIFICATION OF TRUST ADMINISTRATION
19 CLASS.—

20 (A) IN GENERAL.—Notwithstanding the
21 requirements of the Federal Rules of Civil Pro-
22 cedure, the court in the Litigation may certify
23 the Trust Administration Class.

24 (B) TREATMENT.—On certification under
25 subparagraph (A), the Trust Administration

1 Class shall be treated as a class certified under
2 rule 23(b)(3) of the Federal Rules of Civil Pro-
3 cedure for purposes of the Settlement.

4 (e) TRUST LAND CONSOLIDATION.—

5 (1) TRUST LAND CONSOLIDATION FUND.—

6 (A) ESTABLISHMENT.—On final approval
7 of the Settlement, there shall be established in
8 the Treasury of the United States a fund, to be
9 known as the “Trust Land Consolidation
10 Fund”.

11 (B) AVAILABILITY OF AMOUNTS.—
12 Amounts in the Trust Land Consolidation
13 Fund shall be made available to the Secretary
14 during the 10-year period beginning on the date
15 of final approval of the Settlement—

16 (i) to conduct the Land Consolidation
17 Program; and

18 (ii) for other costs specified in the
19 Settlement.

20 (C) DEPOSITS.—

21 (i) IN GENERAL.—On final approval
22 of the Settlement, the Secretary of the
23 Treasury shall deposit in the Trust Land
24 Consolidation Fund \$1,900,000,000 out of
25 the amounts appropriated to pay final

1 judgments, awards, and compromise settle-
2 ments under section 1304 of title 31,
3 United States Code.

4 (ii) CONDITIONS MET.—The condi-
5 tions described in section 1304 of title 31,
6 United States Code, shall be deemed to be
7 met for purposes of clause (i).

8 (D) TRANSFERS.—In a manner designed
9 to encourage participation in the Land Consoli-
10 dation Program, the Secretary may transfer, at
11 the discretion of the Secretary, not more than
12 \$60,000,000 of amounts in the Trust Land
13 Consolidation Fund to the Indian Education
14 Scholarship Holding Fund established under
15 paragraph (3).

16 (2) OPERATION.—The Secretary shall consult
17 with Indian tribes to identify fractional interests
18 within the respective jurisdictions of the Indian
19 tribes for purchase in a manner that is consistent
20 with the priorities of the Secretary.

21 (3) INDIAN EDUCATION SCHOLARSHIP HOLDING
22 FUND.—

23 (A) ESTABLISHMENT.—On final approval
24 of the Settlement, there shall be established in
25 the Treasury of the United States a fund, to be

1 known as the “Indian Education Scholarship
2 Holding Fund”.

3 (B) AVAILABILITY.—Notwithstanding any
4 other provision of law governing competition,
5 public notification, or Federal procurement or
6 assistance, amounts in the Indian Education
7 Scholarship Holding Fund shall be made avail-
8 able, without further appropriation, to the Sec-
9 retary to contribute to an Indian Education
10 Scholarship Fund, as described in the Settle-
11 ment, to provide scholarships for Native Ameri-
12 cans.

13 (4) ACQUISITION OF TRUST OR RESTRICTED
14 LAND.—The Secretary may acquire, at the discre-
15 tion of the Secretary and in accordance with the
16 Land Consolidation Program, any fractional interest
17 in trust or restricted land.

18 (5) TREATMENT OF UNLOCATABLE PLAIN-
19 TIFFS.—A Plaintiff, the whereabouts of whom are
20 unknown and who, after reasonable efforts by the
21 Secretary, cannot be located during the 5-year pe-
22 riod beginning on the date of final approval of the
23 Settlement, shall be considered to have accepted an
24 offer made pursuant to the Land Consolidation Pro-
25 gram.

1 (f) TAXATION AND OTHER BENEFITS.—

2 (1) INTERNAL REVENUE CODE.—For purposes
3 of the Internal Revenue Code of 1986, amounts re-
4 ceived by an individual Indian as a lump sum or a
5 periodic payment pursuant to the Settlement shall
6 not be—

7 (A) included in gross income; or

8 (B) taken into consideration for purposes
9 of applying any provision of the Internal Rev-
10 enue Code that takes into account excludable
11 income in computing adjusted gross income or
12 modified adjusted gross income, including sec-
13 tion 86 of that Code (relating to Social Security
14 and tier 1 railroad retirement benefits).

15 (2) OTHER BENEFITS.—Notwithstanding any
16 other provision of law, for purposes of determining
17 initial eligibility, ongoing eligibility, or level of bene-
18 fits under any Federal or federally assisted program,
19 amounts received by an individual Indian as a lump
20 sum or a periodic payment pursuant to the Settle-
21 ment shall not be treated for any household member,
22 during the 1-year period beginning on the date of re-
23 ceipt—

24 (A) as income for the month during which
25 the amounts were received; or

1 (B) as a resource.

2 (g) INCENTIVE AWARDS AND AWARD OF ATTORNEYS'
3 FEES, EXPENSES, AND COSTS UNDER SETTLEMENT
4 AGREEMENT.—

5 (1) IN GENERAL.—Subject to paragraph (3),
6 the court in the Litigation shall determine the
7 amount to which the Plaintiffs in the Litigation may
8 be entitled for incentive awards and for attorneys'
9 fees, expenses, and costs—

10 (A) in accordance with controlling law, in-
11 cluding, with respect to attorneys' fees, ex-
12 penses, and costs, any applicable rule of law re-
13 quiring counsel to produce contemporaneous
14 time, expense, and cost records in support of a
15 motion for such fees, expenses, and costs; and

16 (B) giving due consideration to the special
17 status of Class Members (as defined in the Set-
18 tlement) as beneficiaries of a federally created
19 and administered trust.

20 (2) NOTICE OF AGREEMENT ON ATTORNEYS'
21 FEES, EXPENSES, AND COSTS.—The description of
22 the request of Class Counsel for an amount of attor-
23 neys' fees, expenses, and costs required under para-
24 graph C.1.d. of the Settlement shall include a de-

1 scription of all material provisions of the Agreement
2 on Attorneys' Fees, Expenses, and Costs.

3 (3) EFFECT ON AGREEMENT.—Nothing in this
4 subsection limits or otherwise affects the enforce-
5 ability of the Agreement on Attorneys' Fees, Ex-
6 penses, and Costs.

7 (h) SELECTION OF QUALIFYING BANK.—The United
8 States District Court for the District of Columbia, in exer-
9 cising the discretion of the Court to approve the selection
10 of any proposed Qualifying Bank (as defined in the Settle-
11 ment) under paragraph A.1. of the Settlement, may con-
12 sider any factors or circumstances regarding the proposed
13 Qualifying Bank that the Court determines to be appro-
14 priate to protect the rights and interests of Class Members
15 (as defined in the Settlement) in the amounts to be depos-
16 ited in the Settlement Account (as defined in the Settle-
17 ment).

18 (i) APPOINTEES TO SPECIAL BOARD OF TRUST-
19 EES.—The 2 members of the special board of trustees to
20 be selected by the Secretary under paragraph G.3. of the
21 Settlement shall be selected only after consultation with,
22 and after considering the names of possible candidates
23 timely offered by, federally recognized Indian tribes.

24 (j) TRUST ADMINISTRATION CLASS ADJUST-
25 MENTS.—

1 (1) FUNDS.—

2 (A) IN GENERAL.—In addition to the
3 amounts deposited pursuant to paragraph E.2.
4 of the Settlement, on final approval, the Sec-
5 retary of the Treasury shall deposit in the
6 Trust Administration Adjustment Fund of the
7 Settlement Account (as defined in the Settle-
8 ment) \$100,000,000 out of the amounts appro-
9 priated to pay final judgments, awards, and
10 compromise settlements under section 1304 of
11 title 31, United States Code, to be allocated
12 and paid by the Claims Administrator (as de-
13 fined in the Settlement and pursuant to para-
14 graph E.1.e of the Settlement) in accordance
15 with this subsection.

16 (B) CONDITIONS MET.—The conditions de-
17 scribed in section 1304 of title 31, United
18 States Code, shall be deemed to be met for pur-
19 poses of subparagraph (A).

20 (2) ADJUSTMENT.—

21 (A) IN GENERAL.—After the calculation of
22 the pro rata share in Section E.4.b of the Set-
23 tlement, the Trust Administration Adjustment
24 Fund shall be used to increase the minimum

1 payment to each Trust Administration Class
2 Member whose pro rata share is—

3 (i) zero; or

4 (ii) greater than zero, but who would,
5 after adjustment under this subparagraph,
6 otherwise receive a smaller Stage 2 pay-
7 ment than those Trust Administration
8 Class Members described in clause (i).

9 (B) RESULT.—The amounts in the Trust
10 Administration Adjustment Fund shall be ap-
11 plied in such a manner as to ensure, to the ex-
12 tent practicable (as determined by the court in
13 the Litigation), that each Trust Administration
14 Class Member receiving amounts from the
15 Trust Administration Adjustment Fund receives
16 the same total payment under Stage 2 of the
17 Settlement after making the adjustments re-
18 quired by this subsection.

19 (3) TIMING OF PAYMENTS.—The payments au-
20 thorized by this subsection shall be included with the
21 Stage 2 payments under paragraph E.4. of the Set-
22 tlement.

23 (k) EFFECT OF ADJUSTMENT PROVISIONS.—Not-
24 withstanding any provision of this section, in the event

1 that a court determines that the application of subsection
2 (j) is unfair to the Trust Administration Class—

3 (1) subsection (j) shall not go into effect; and

4 (2) on final approval of the Settlement, in addi-
5 tion to the amounts deposited into the Trust Land
6 Consolidation Fund pursuant to subsection (e), the
7 Secretary of the Treasury shall deposit in that Fund
8 \$100,000,000 out of amounts appropriated to pay
9 final judgments, awards, and compromise settle-
10 ments under section 1304 of title 31, United States
11 Code (the conditions of which section shall be
12 deemed to be met for purposes of this paragraph) to
13 be used by the Secretary in accordance with sub-
14 section (e).

15 **TITLE II—FINAL SETTLEMENT**
16 **OF CLAIMS FROM IN RE**
17 **BLACK FARMERS DISCRIMI-**
18 **NATION LITIGATION**

19 **SEC. 201. APPROPRIATION OF FUNDS FOR FINAL SETTLE-**
20 **MENT OF CLAIMS FROM IN RE BLACK FARM-**
21 **ERS DISCRIMINATION LITIGATION.**

22 (a) DEFINITIONS.—In this section:

23 (1) SETTLEMENT AGREEMENT.—The term
24 “Settlement Agreement” means the settlement
25 agreement dated February 18, 2010 (including any

1 modifications agreed to by the parties and approved
2 by the court under that agreement) between certain
3 plaintiffs, by and through their counsel, and the Sec-
4 retary of Agriculture to resolve, fully and forever,
5 the claims raised or that could have been raised in
6 the cases consolidated in *In re Black Farmers Dis-*
7 *crimination Litigation*, Misc. No. 08-mc-0511
8 (PLF), including Pigford claims asserted under sec-
9 tion 14012 of the Food, Conservation, and Energy
10 Act of 2008 (Public Law 110–246; 122 Stat. 2209).

11 (2) PIGFORD CLAIM.—The term “Pigford
12 claim” has the meaning given that term in section
13 14012(a)(3) of the Food, Conservation, and Energy
14 Act of 2008 (Public Law 110–246; 122 Stat. 2210).

15 (b) APPROPRIATION OF FUNDS.—There is appro-
16 priated to the Secretary of Agriculture \$1,150,000,000,
17 to remain available until expended, to carry out the terms
18 of the Settlement Agreement if the Settlement Agreement
19 is approved by a court order that is or becomes final and
20 nonappealable, and the court finds that the Settlement
21 Agreement is modified to incorporate the additional terms
22 contained in subsection (g). The funds appropriated by
23 this subsection are in addition to the \$100,000,000 of
24 funds of the Commodity Credit Corporation made avail-
25 able by section 14012(i) of the Food, Conservation, and

1 Energy Act of 2008 (Public Law 110–246; 122 Stat.
2 2212) and shall be available for obligation only after those
3 Commodity Credit Corporation funds are fully obligated.
4 If the Settlement Agreement is not approved as provided
5 in this subsection, the \$100,000,000 of funds of the Com-
6 modity Credit Corporation made available by section
7 14012(i) of the Food, Conservation, and Energy Act of
8 2008 shall be the sole funding available for Pigford claims.

9 (c) USE OF FUNDS.—The use of the funds appro-
10 priated by subsection (b) shall be subject to the express
11 terms of the Settlement Agreement.

12 (d) TREATMENT OF REMAINING FUNDS.—If any of
13 the funds appropriated by subsection (b) are not obligated
14 and expended to carry out the Settlement Agreement, the
15 Secretary of Agriculture shall return the unused funds to
16 the Treasury and may not make the unused funds avail-
17 able for any purpose related to section 14012 of the Food,
18 Conservation, and Energy Act of 2008, for any other set-
19 tlement agreement executed in *In re Black Farmers Dis-*
20 *crimination Litigation*, No. 08–511 (D.D.C.), or for any
21 other purpose.

22 (e) RULES OF CONSTRUCTION.—Nothing in this sec-
23 tion shall be construed as requiring the United States, any
24 of its officers or agencies, or any other party to enter into
25 the Settlement Agreement or any other settlement agree-

1 ment. Nothing in this section shall be construed as cre-
2 ating the basis for a Pigford claim.

3 (f) CONFORMING AMENDMENTS.—Section 14012 of
4 the Food, Conservation, and Energy Act of 2008 (Public
5 Law 110–246; 122 Stat. 2209) is amended—

6 (1) in subsection (c)(1)—

7 (A) by striking “subsection (h)” and in-
8 serting “subsection (g)”; and

9 (B) by striking “subsection (i)” and insert-
10 ing “subsection (h)”;

11 (2) by striking subsection (e);

12 (3) in subsection (g), by striking “subsection
13 (f)” and inserting “subsection (e)”;

14 (4) in subsection (i)—

15 (A) by striking “(1) IN GENERAL.—Of the
16 funds” and inserting “Of the funds”;

17 (B) by striking paragraph (2); and

18 (C) by striking “subsection (g)” and in-
19 serting “subsection (f)”;

20 (5) by striking subsection (j); and

21 (6) by redesignating subsections (f), (g), (h),
22 (i), and (k) as subsections (e), (f), (g), (h), and (i),
23 respectively.

1 (g) ADDITIONAL SETTLEMENT TERMS.—For the
2 purposes of this section and funding for the Settlement
3 Agreement, the following are additional terms:

4 (1) DEFINITIONS.—In this subsection:

5 (A) SETTLEMENT AGREEMENT.—The term
6 “Settlement Agreement” means the settlement,
7 including any modifications agreed to by the
8 parties and approved by the court, between the
9 Secretary of Agriculture and certain plaintiffs,
10 by and through their counsel in litigation titled
11 Black Farmers Discrimination Litigation, Misc.
12 No. 08-mc-0511 (PLF).

13 (B) NEUTRAL ADJUDICATOR.—

14 (i) IN GENERAL.—The term “Neutral
15 Adjudicator” means a Track A Neutral or
16 a Track B Neutral as those terms are de-
17 fined in the Settlement Agreement, who
18 have been hired by Lead Class Counsel as
19 that term is defined in the Settlement
20 Agreement.

21 (ii) REQUIREMENT.—The Track A
22 and B Neutrals called for in the Settle-
23 ment Agreement shall be approved by the
24 Secretary of the United States Department

1 of Agriculture, the Attorney General, and
2 the court.

3 (2) OATH.—Every Neutral Adjudicator shall
4 take an oath administered by the court prior to
5 hearing claims.

6 (3) ADDITIONAL DOCUMENTATION OR EVI-
7 DENCE.—Any Neutral Adjudicator may, during the
8 course of hearing claims, require claimants to pro-
9 vide additional documentation and evidence if, in the
10 Neutral Adjudicator’s judgment, the additional docu-
11 mentation and evidence would be necessary or help-
12 ful in deciding the merits of the claim, or if the ad-
13 judicator suspects fraud regarding the claim.

14 (4) ATTORNEYS FEES, EXPENSES, AND
15 COSTS.—

16 (A) IN GENERAL.—Subject to subpara-
17 graph (B) and the provisions of the Settlement
18 Agreement regarding attorneys’ fee caps and
19 maximum and minimum percentages for awards
20 of attorneys fees, the court shall make any de-
21 termination as to the amount of attorneys’ fees,
22 expenses, and costs in accordance with control-
23 ling law, including, with respect to attorneys’
24 fees, expenses, and costs, any applicable rule of
25 law requiring counsel to produce contempora-

1 neous time, expenses, and cost records in sup-
2 port of a motion for such fees, expenses, and
3 costs.

4 (B) EFFECT ON AGREEMENT.—Nothing in
5 this paragraph limits or otherwise affects the
6 enforceability of provisions regarding attorneys’
7 fees, expenses, and costs that may be contained
8 in the Settlement Agreement.

9 (5) CERTIFICATION.—An attorney filing a claim
10 on behalf of a claimant shall swear, under penalty
11 of perjury, that: “to the best of the attorney’s
12 knowledge, information, and belief formed after an
13 inquiry reasonable under the circumstances, the
14 claim is supported by existing law and the factual
15 contentions have evidentiary support”.

16 (6) DISTRIBUTION OF CLAIMS DETERMINA-
17 TIONS AND SETTLEMENT FUNDS.—In order to en-
18 sure full transparency of the administration of
19 claims under the Settlement Agreement, the Claims
20 Administrator as that term is defined in the Settle-
21 ment Agreement, shall provide to the Secretary of
22 Agriculture, the Inspector General of the Depart-
23 ment of Agriculture, the Attorney General, and Lead
24 Class Counsel as that term is defined in the Settle-
25 ment Agreement, all information regarding Distribu-

1 tion of Claims Determinations and Settlement
2 Funds described in the Settlement Agreement.

3 (h) REPORTS.—

4 (1) GOVERNMENT ACCOUNTABILITY OFFICE.—

5 (A) IN GENERAL.—The Comptroller Gen-
6 eral of the United States shall evaluate the in-
7 ternal controls (including internal controls con-
8 cerning fraud and abuse) created to carry out
9 the terms of the Settlement Agreement, and re-
10 port to the Congress at least 2 times through-
11 out the duration of the claims adjudication
12 process on the results of this evaluation.

13 (B) ACCESS TO INFORMATION.—Solely for
14 purposes of conducting the evaluation under
15 subparagraph (A), the Comptroller General
16 shall have access, upon request, to the claims
17 administrator, the claims adjudicators, and re-
18 lated officials, appointed in connection with the
19 aforementioned settlement, and to any informa-
20 tion and records generated, used, or received by
21 them, including names and addresses.

22 (2) USDA INSPECTOR GENERAL.—

23 (A) PERFORMANCE AUDIT.—The Inspector
24 General of the Department of Agriculture shall,
25 within 180 days of the initial adjudication of

1 claims, and subsequently as appropriate, per-
2 form a performance audit based on a statistical
3 sampling of adjudicated claims.

4 (B) AUDIT RECIPIENTS.—The audits de-
5 scribed in clause (i) shall be provided to Sec-
6 retary of Agriculture and the Attorney General.

7 **TITLE III—WHITE MOUNTAIN**
8 **APACHE TRIBE WATER**
9 **RIGHTS QUANTIFICATION**

10 **SEC. 301. SHORT TITLE.**

11 This title may be cited as the “White Mountain
12 Apache Tribe Water Rights Quantification Act of 2010”.

13 **SEC. 302. PURPOSES.**

14 The purposes of this title are—

15 (1) to authorize, ratify, and confirm the Agree-
16 ment;

17 (2) to authorize and direct the Secretary to exe-
18 cute the Agreement and take any other action nec-
19 essary to carry out all obligations of the Secretary
20 under the Agreement in accordance with this title;

21 (3) to authorize the amounts necessary for the
22 United States to meet the obligations of the United
23 States under the Agreement and this title; and

24 (4) to permanently resolve certain damage
25 claims and all water rights claims among—

- 1 (A) the Tribe and its members;
- 2 (B) the United States, acting as trustee
3 for the Tribe and its members;
- 4 (C) the parties to the Agreement; and
- 5 (D) all other claimants seeking to deter-
6 mine the nature and extent of the water rights
7 of the Tribe, its members, the United States,
8 acting as trustee for the Tribe and its members,
9 and other claimants in—

10 (i) the consolidated civil action in the
11 Superior Court of the State of Arizona for
12 the County of Maricopa styled In re the
13 General Adjudication of All Rights To Use
14 Water In The Gila River System and
15 Source, W-1 (Salt), W-2 (Verde), W-3
16 (Upper Gila), W-4 (San Pedro); and

17 (ii) the civil action pending in the Su-
18 perior Court of the State of Arizona for
19 the County of Apache styled In re the Gen-
20 eral Adjudication of All Rights to Use
21 Water in the Little Colorado River System
22 and Source and numbered CIV-6417.

23 **SEC. 303. DEFINITIONS.**

24 In this title:

1 (1) AGREEMENT.—The term “Agreement”
2 means—

3 (A) the WMAT Water Rights Quantifica-
4 tion Agreement dated January 13, 2009; and

5 (B) any amendment or exhibit (including
6 exhibit amendments) to that Agreement that
7 are—

8 (i) made in accordance with this title;

9 or

10 (ii) otherwise approved by the Sec-
11 retary.

12 (2) BUREAU.—The term “Bureau” means the
13 Bureau of Reclamation.

14 (3) CAP.—The term “CAP” means the rec-
15 lamation project authorized and constructed by the
16 United States in accordance with title III of the Col-
17 orado River Basin Project Act (43 U.S.C. 1521 et
18 seq.).

19 (4) CAP CONTRACTOR.—The term “CAP con-
20 tractor” means an individual or entity that has en-
21 tered into a long-term contract (as that term is used
22 in the repayment stipulation) with the United States
23 for delivery of water through the CAP system.

1 (5) CAP FIXED OM&R CHARGE.—The term
2 “CAP fixed OM&R charge” has the meaning given
3 the term in the repayment stipulation.

4 (6) CAP M&I PRIORITY WATER.—The term
5 “CAP M&I priority water” means the CAP water
6 having a municipal and industrial delivery priority
7 under the repayment contract.

8 (7) CAP SUBCONTRACTOR.—The term “CAP
9 subcontractor” means an individual or entity that
10 has entered into a long-term subcontract (as that
11 term is used in the repayment stipulation) with the
12 United States and the District for the delivery of
13 water through the CAP system.

14 (8) CAP SYSTEM.—The term “CAP system”
15 means—

16 (A) the Mark Wilmer Pumping Plant;

17 (B) the Hayden-Rhodes Aqueduct;

18 (C) the Fannin-McFarland Aqueduct;

19 (D) the Tucson Aqueduct;

20 (E) any pumping plant or appurtenant
21 works of a feature described in any of subpara-
22 graphs (A) through (D); and

23 (F) any extension of, addition to, or re-
24 placement for a feature described in any of sub-
25 paragraphs (A) through (E).

1 (9) CAP WATER.—The term “CAP water”
2 means “Project Water” (as that term is defined in
3 the repayment stipulation).

4 (10) CONTRACT.—The term “Contract”
5 means—

6 (A) the proposed contract between the
7 Tribe and the United States attached as exhibit
8 7.1 to the Agreement and numbered 08–XX–
9 30–W0529; and

10 (B) any amendments to that contract.

11 (11) DISTRICT.—The term “District” means
12 the Central Arizona Water Conservation District, a
13 political subdivision of the State that is the con-
14 tractor under the repayment contract.

15 (12) ENFORCEABILITY DATE.—The term “en-
16 forceability date” means the date described in sec-
17 tion 309(d)(1).

18 (13) INDIAN TRIBE.—The term “Indian tribe”
19 has the meaning given the term in section 4 of the
20 Indian Self-Determination and Education Assistance
21 Act (25 U.S.C. 450b).

22 (14) INJURY TO WATER RIGHTS.—

23 (A) IN GENERAL.—The term “injury to
24 water rights” means an interference with, dimi-

1 nution of, or deprivation of, a water right under
2 Federal, State, or other law.

3 (B) INCLUSIONS.—The term “injury to
4 water rights” includes—

5 (i) a change in the groundwater table;

6 and

7 (ii) any effect of such a change.

8 (C) EXCLUSION.—The term “injury to
9 water rights” does not include any injury to
10 water quality.

11 (15) LOWER COLORADO RIVER BASIN DEVELOP-
12 MENT FUND.—The term “Lower Colorado River
13 Basin Development Fund” means the fund estab-
14 lished by section 403 of the Colorado River Basin
15 Project Act (43 U.S.C. 1543).

16 (16) OFF-RESERVATION TRUST LAND.—The
17 term “off-reservation trust land” means land—

18 (A) located outside the exterior boundaries
19 of the reservation that is held in trust by the
20 United States for the benefit of the Tribe as of
21 the enforceability date; and

22 (B) depicted on the map attached to the
23 Agreement as exhibit 2.57.

24 (17) OPERATING AGENCY.—The term “Oper-
25 ating Agency” means the 1 or more entities author-

1 ized to assume responsibility for the care, operation,
2 maintenance, and replacement of the CAP system.

3 (18) REPAYMENT CONTRACT.—The term “re-
4 payment contract” means—

5 (A) the contract between the United States
6 and the District for delivery of water and re-
7 payment of the costs of the CAP, numbered
8 14–06–W–245 (Amendment No. 1), and dated
9 December 1, 1988; and

10 (B) any amendment to, or revision of, that
11 contract.

12 (19) REPAYMENT STIPULATION.—The term
13 “repayment stipulation” means the stipulated judg-
14 ment and the stipulation for judgment (including
15 any exhibits to those documents) entered on Novem-
16 ber 21, 2007, in the United States District Court
17 for the District of Arizona in the consolidated civil
18 action styled Central Arizona Water Conservation
19 District v. United States, et al., and numbered CIV
20 95–625–TUC–WDB (EHC) and CIV 95–1720–
21 PHX–EHC.

22 (20) RESERVATION.—

23 (A) IN GENERAL.—The term “reservation”
24 means the land within the exterior boundary of
25 the White Mountain Indian Reservation estab-

1 lished by the Executive order dated November
2 9, 1871, as modified by subsequent Executive
3 orders and Acts of Congress—

4 (i) known on the date of enactment of
5 this Act as the “Fort Apache Reservation”
6 pursuant to chapter 3 of the Act of June
7 7, 1897 (30 Stat. 62); and

8 (ii) generally depicted on the map at-
9 tached to the Agreement as exhibit 2.81.

10 (B) NO EFFECT ON DISPUTE OR AS ADMIS-
11 SION.—The depiction of the reservation de-
12 scribed in subparagraph (A)(ii) shall not—

13 (i) be used to affect any dispute be-
14 tween the Tribe and the United States
15 concerning the legal boundary of the res-
16 ervation; or

17 (ii) constitute an admission by the
18 Tribe with regard to any dispute between
19 the Tribe and the United States con-
20 cerning the legal boundary of the reserva-
21 tion.

22 (21) SECRETARY.—The term “Secretary”
23 means the Secretary of the Interior.

24 (22) STATE.—The term “State” means the
25 State of Arizona.

1 (23) TRIBAL CAP WATER.—The term “tribal
2 CAP water” means the CAP water to which the
3 Tribe is entitled pursuant to the Contract.

4 (24) TRIBAL WATER RIGHTS.—The term “tribal
5 water rights” means the water rights of the Tribe
6 described in paragraph 4.0 of the Agreement.

7 (25) TRIBE.—The term “Tribe” means the
8 White Mountain Apache Tribe organized under sec-
9 tion 16 of the Act of June 18, 1934 (commonly
10 known as the “Indian Reorganization Act”) (25
11 U.S.C. 476).

12 (26) WATER RIGHT.—The term “water right”
13 means any right in or to groundwater, surface
14 water, or effluent under Federal, State, or other law.

15 (27) WMAT RURAL WATER SYSTEM.—The
16 term “WMAT rural water system” means the mu-
17 nicipal, rural, and industrial water diversion, stor-
18 age, and delivery system described in section 307.

19 (28) YEAR.—The term “year” means a cal-
20 endar year.

21 **SEC. 304. APPROVAL OF AGREEMENT.**

22 (a) APPROVAL.—

23 (1) IN GENERAL.—Except to the extent that
24 any provision of the Agreement conflicts with a pro-

1 vision of this title, the Agreement is authorized, rati-
2 fied, and confirmed.

3 (2) AMENDMENTS.—Any amendment to the
4 Agreement is authorized, ratified, and confirmed, to
5 the extent that such amendment is executed to make
6 the Agreement consistent with this title.

7 (b) EXECUTION OF AGREEMENT.—

8 (1) IN GENERAL.—To the extent that the
9 Agreement does not conflict with this title, the Sec-
10 retary shall promptly—

11 (A) execute the Agreement, including all
12 exhibits to the Agreement requiring the signa-
13 ture of the Secretary; and

14 (B) in accordance with the Agreement,
15 execute any amendment to the Agreement, in-
16 cluding any amendment to any exhibit to the
17 Agreement requiring the signature of the Sec-
18 retary, that is not inconsistent with this title;
19 and

20 (2) DISCRETION OF THE SECRETARY.—The
21 Secretary may execute any other amendment to the
22 Agreement, including any amendment to any exhibit
23 to the Agreement requiring the signature of the Sec-
24 retary, that is not inconsistent with this title if the
25 amendment does not require congressional approval

1 pursuant to the Trade and Intercourse Act (25
2 U.S.C. 177) or other applicable Federal law (includ-
3 ing regulations).

4 (c) NATIONAL ENVIRONMENTAL POLICY ACT.—

5 (1) ENVIRONMENTAL COMPLIANCE.—In imple-
6 menting the Agreement and carrying out this title,
7 the Secretary shall promptly comply with all applica-
8 ble requirements of—

9 (A) the National Environmental Policy Act
10 of 1969 (42 U.S.C. 4321 et seq.);

11 (B) the Endangered Species Act of 1973
12 (16 U.S.C. 1531 et seq.);

13 (C) all other applicable Federal environ-
14 mental laws; and

15 (D) all regulations promulgated under the
16 laws described in subparagraphs (A) through
17 (C).

18 (2) EXECUTION OF AGREEMENT.—

19 (A) IN GENERAL.—Execution of the Agree-
20 ment by the Secretary under this section shall
21 not constitute a major Federal action under the
22 National Environmental Policy Act of 1969 (42
23 U.S.C. 4321 et seq.).

24 (B) ENVIRONMENTAL COMPLIANCE.—The
25 Secretary shall carry out all necessary environ-

1 mental compliance activities required by Fed-
2 eral law in implementing the Agreement.

3 (3) LEAD AGENCY.—The Bureau shall serve as
4 the lead agency with respect to ensuring environ-
5 mental compliance associated with the WMAT rural
6 water system.

7 **SEC. 305. WATER RIGHTS.**

8 (a) TREATMENT OF TRIBAL WATER RIGHTS.—The
9 tribal water rights—

10 (1) shall be held in trust by the United States
11 on behalf of the Tribe; and

12 (2) shall not be subject to forfeiture or aban-
13 donment.

14 (b) REALLOCATION.—

15 (1) IN GENERAL.—In accordance with this title
16 and the Agreement, the Secretary shall reallocate to
17 the Tribe, and offer to enter into a contract with the
18 Tribe for the delivery in accordance with this section
19 of—

20 (A) an entitlement to 23,782 acre-feet per
21 year of CAP water that has a non-Indian agri-
22 cultural delivery priority (as defined in the Con-
23 tract) in accordance with section
24 104(a)(1)(A)(iii) of the Arizona Water Settle-

1 ments Act (Public Law 108–451; 118 Stat.
2 3488), of which—

3 (i) 3,750 acre-feet per year shall be
4 firmed by the United States for the benefit
5 of the Tribe for the 100-year period begin-
6 ning on January 1, 2008, with priority
7 equivalent to CAP M&I priority water, in
8 accordance with section 105(b)(1)(B) of
9 that Act (118 Stat. 3492); and

10 (ii) 3,750 acre-feet per year shall be
11 firmed by the State for the benefit of the
12 Tribe for the 100-year period beginning on
13 January 1, 2008, with priority equivalent
14 to CAP M&I priority water, in accordance
15 with section 105(b)(2)(B) of that Act (118
16 Stat. 3492); and

17 (B) an entitlement to 1,218 acre-feet per
18 year of the water—

19 (i) acquired by the Secretary through
20 the permanent relinquishment of the
21 Harquahala Valley Irrigation District CAP
22 subcontract entitlement in accordance with
23 the contract numbered 3–07–30–W0290
24 among the District, Harquahala Valley Ir-

1 rigation District, and the United States;
2 and

3 (ii) converted to CAP Indian Priority
4 water (as defined in the Contract) pursu-
5 ant to the Fort McDowell Indian Commu-
6 nity Water Rights Settlement Act of 1990
7 (Public Law 101–628; 104 Stat. 4480).

8 (2) AUTHORITY OF TRIBE.—Subject to approval
9 by the Secretary under section 306(a)(1), the Tribe
10 shall have the sole authority to lease, distribute, ex-
11 change, or allocate the tribal CAP water described
12 in paragraph (1).

13 (c) WATER SERVICE CAPITAL CHARGES.—The Tribe
14 shall not be responsible for any water service capital
15 charge for tribal CAP water.

16 (d) ALLOCATION AND REPAYMENT.—For the pur-
17 pose of determining the allocation and repayment of costs
18 of any stage of the CAP constructed after November 21,
19 2007, the costs associated with the delivery of water de-
20 scribed in subsection (b), regardless of whether the water
21 is delivered for use by the Tribe or in accordance with
22 any assignment, exchange, lease, option to lease, or other
23 agreement for the temporary disposition of water entered
24 into by the Tribe, shall be—

25 (1) nonreimbursable; and

1 (2) excluded from the repayment obligation of
2 the District.

3 (e) WATER CODE.—Not later than 18 months after
4 the enforceability date, the Tribe shall enact a water code
5 that—

6 (1) governs the tribal water rights; and

7 (2) includes, at a minimum—

8 (A) provisions requiring the measurement,
9 calculation, and recording of all diversions and
10 depletions of water on the reservation and on
11 off-reservation trust land;

12 (B) terms of a water conservation plan, in-
13 cluding objectives, conservation measures, and
14 an implementation timeline;

15 (C) provisions requiring the approval of
16 the Tribe for the severance and transfer of
17 rights to the use of water from historically irri-
18 gated land identified in paragraph 11.3.2.1 of
19 the Agreement to diversions and depletions on
20 other non-historically irrigated land not located
21 on the watershed of the same water source; and

22 (D) provisions requiring the authorization
23 of the Tribe for all diversions of water on the
24 reservation and on off-reservation trust land by
25 any individual or entity other than the Tribe.

1 **SEC. 306. CONTRACT.**

2 (a) IN GENERAL.—The Secretary shall enter into the
3 Contract, in accordance with the Agreement, to provide,
4 among other things, that—

5 (1) the Tribe, on approval of the Secretary,
6 may—

7 (A) enter into contracts or options to lease,
8 contracts to exchange, or options to exchange
9 tribal CAP water in Maricopa, Pinal, Pima, and
10 Yavapai Counties in the State providing for the
11 temporary delivery to any individual or entity of
12 any portion of the tribal CAP water, subject to
13 the condition that—

14 (i) the term of the contract or option
15 to lease shall not be longer than 100 years;

16 (ii) the contracts or options to ex-
17 change shall be for the term provided in
18 the contract or option; and

19 (iii) a lease or option to lease pro-
20 viding for the temporary delivery of tribal
21 CAP water shall require the lessee to pay
22 to the Operating Agency all CAP fixed
23 OM&R charges and all CAP pumping en-
24 ergy charges (as defined in the repayment
25 stipulation) associated with the leased
26 water; and

1 (B) renegotiate any lease at any time dur-
2 ing the term of the lease, subject to the condi-
3 tion that the term of the renegotiated lease
4 shall not exceed 100 years;

5 (2) no portion of the tribal CAP water may be
6 permanently alienated;

7 (3)(A) the Tribe (and not the United States in
8 any capacity) shall be entitled to all consideration
9 due to the Tribe under any contract or option to
10 lease or exchange tribal CAP water entered into by
11 the Tribe; and

12 (B) the United States (in any capacity) has no
13 trust or other obligation to monitor, administer, or
14 account for, in any manner—

15 (i) any funds received by the Tribe as con-
16 sideration under a contract or option to lease or
17 exchange tribal CAP water; or

18 (ii) the expenditure of those funds;

19 (4)(A) all tribal CAP water shall be delivered
20 through the CAP system; and

21 (B) if the delivery capacity of the CAP system
22 is significantly reduced or anticipated to be signifi-
23 cantly reduced for an extended period of time, the
24 Tribe shall have the same CAP delivery rights as a
25 CAP contractor or CAP subcontractor that is al-

1 lowed to take delivery of water other than through
2 the CAP system;

3 (5) the Tribe may use tribal CAP water on or
4 off the reservation for any purpose;

5 (6) as authorized by subsection (f)(2)(A) of sec-
6 tion 403 of the Colorado River Basin Project Act
7 (43 U.S.C. 1543) and to the extent that funds are
8 available in the Lower Colorado River Basin Devel-
9 opment Fund established by subsection (a) of that
10 section, the United States shall pay to the Operating
11 Agency the CAP fixed OM&R charges associated
12 with the delivery of tribal CAP water (except in the
13 case of tribal CAP water leased by any individual or
14 entity);

15 (7) the Secretary shall waive the right of the
16 Secretary to capture all return flow from project ex-
17 change water flowing from the exterior boundary of
18 the reservation; and

19 (8) no CAP water service capital charge shall
20 be due or payable for the tribal CAP water, regard-
21 less of whether the water is delivered for use by the
22 Tribe or pursuant to a contract or option to lease
23 or exchange tribal CAP water entered into by the
24 Tribe.

25 (b) REQUIREMENTS.—The Contract shall be—

1 (1) for permanent service (within the meaning
2 of section 5 of the Boulder Canyon Project Act (43
3 U.S.C. 617d)); and

4 (2) without limit as to term.

5 (c) RATIFICATION.—

6 (1) IN GENERAL.—Except to the extent that
7 any provision of the Contract conflicts with a provi-
8 sion of this title, the Contract is authorized, ratified,
9 and confirmed.

10 (2) AMENDMENTS.—Any amendment to the
11 Contract is authorized, ratified, and confirmed, to
12 the extent that such amendment is executed to make
13 the Contract consistent with this title.

14 (d) EXECUTION OF CONTRACT.—To the extent that
15 the Contract does not conflict with this title, the Secretary
16 shall execute the Contract.

17 (e) PAYMENT OF CHARGES.—The Tribe, and any re-
18 cipient of tribal CAP water through a contract or option
19 to lease or exchange, shall not be obligated to pay a water
20 service capital charge or any other charge, payment, or
21 fee for CAP water, except as provided in an applicable
22 lease or exchange agreement.

23 (f) PROHIBITIONS.—

24 (1) USE OUTSIDE STATE.—No tribal CAP
25 water may be leased, exchanged, forborne, or other-

1 wise transferred by the Tribe in any way for use di-
2 rectly or indirectly outside the State.

3 (2) USE OFF RESERVATION.—Except as author-
4 ized by this section and paragraph 4.7 of the Agree-
5 ment, no tribal water rights under this title may be
6 sold, leased, transferred, or used outside the bound-
7 aries of the reservation or off-reservation trust land
8 other than pursuant to an exchange.

9 (3) AGREEMENTS WITH ARIZONA WATER BANK-
10 ING AUTHORITY.—Nothing in this title or the Agree-
11 ment limits the right of the Tribe to enter into an
12 agreement with the Arizona Water Banking Author-
13 ity (or any successor entity) established by section
14 45–2421 of the Arizona Revised Statutes in accord-
15 ance with State law.

16 (g) LEASES.—

17 (1) IN GENERAL.—To the extent that the leases
18 of tribal CAP Water by the Tribe to the District and
19 to any of the cities in the State, attached as exhibits
20 to the Agreement, are not in conflict with the provi-
21 sions of this title—

22 (A) those leases are authorized, ratified,
23 and confirmed; and

24 (B) the Secretary shall execute the leases.

1 communities described in paragraph (2) that may be
2 necessary to accommodate increased demand and
3 flow rates (and any associated changes in water
4 quality);

5 (4) connections to additional communities along
6 the pipeline, provided that the additional connections
7 may be added to the distribution system described in
8 paragraph (2) at the expense of the Tribe;

9 (5) appurtenant buildings and access roads;

10 (6) electrical power transmission and distribu-
11 tion facilities necessary for operation of the project;
12 and

13 (7) any other project components that the Sec-
14 retary, in consultation with the Tribe, determines to
15 be necessary.

16 (b) MODIFICATIONS.—The Secretary and the Tribe—

17 (1) may modify the components of the WMAT
18 rural water system described in subsection (a) by
19 mutual agreement; and

20 (2) shall make all modifications required under
21 subsection (c)(2).

22 (c) FINAL PROJECT DESIGN.—

23 (1) IN GENERAL.—The Secretary shall issue a
24 final project design of the WMAT rural water sys-
25 tem, including the dam, pumping plants, pipeline,

1 and treatment plant, that is generally consistent
2 with the project extension report dated February
3 2007 after the completion of—

4 (A) any appropriate environmental compli-
5 ance activity; and

6 (B) the review process described in para-
7 graph (2).

8 (2) REVIEW.—

9 (A) IN GENERAL.—The Secretary shall re-
10 view the proposed design of the WMAT rural
11 water system and perform value engineering
12 analyses.

13 (B) RESULTS.—Taking into consideration
14 the review under subparagraph (A), the Sec-
15 retary, in consultation with the Tribe, shall re-
16 quire appropriate changes to the design, so that
17 the final design—

18 (i) meets Bureau of Reclamation de-
19 sign standards;

20 (ii) to the maximum extent prac-
21 ticable, incorporates any changes that
22 would improve the cost-effectiveness of the
23 delivery of water through the WMAT rural
24 water system; and

1 (iii) may be constructed for the
2 amounts made available under section 312.

3 (d) CONVEYANCE OF TITLE.—

4 (1) IN GENERAL.—Title to the WMAT rural
5 water system shall be held by the United States
6 until title to the WMAT rural water system is con-
7 veyed by the Secretary to the Tribe pursuant to
8 paragraph (2).

9 (2) CONVEYANCE TO TRIBE.—The Secretary
10 shall convey to the Tribe title to the WMAT rural
11 water system not later than 30 days after the date
12 on which the Secretary publishes in the Federal
13 Register a statement of findings that—

14 (A) the operating criteria, standing oper-
15 ating procedures, emergency action plan, and
16 first filling and monitoring criteria of the de-
17 signers have been established and are in place;

18 (B) the WMAT rural water system has op-
19 erated under the standing operating procedures
20 of the designers, with the participation of the
21 Tribe, for a period of 3 years;

22 (C) the Secretary has provided the Tribe
23 with technical assistance on the manner by
24 which to operate and maintain the WMAT rural
25 water system;

1 (D) the funds made available under section
2 312(b)(3)(B) have been deposited in the
3 WMAT Maintenance Fund; and

4 (E) the WMAT rural water system—
5 (i) is substantially complete, as deter-
6 mined by the Secretary; and

7 (ii) satisfies the requirement that—

8 (I) the infrastructure constructed
9 is capable of storing, diverting, treat-
10 ing, transmitting, and distributing a
11 supply of water as set forth in the
12 final project design described in sub-
13 section (c); and

14 (II) the Secretary has consulted
15 with the Tribe regarding the proposed
16 finding that the WMAT rural water
17 system is substantially complete.

18 (e) ALIENATION AND TAXATION.—

19 (1) IN GENERAL.—Conveyance of title to the
20 Tribe pursuant to subsection (d) does not waive or
21 alter any applicable Federal law (including regula-
22 tions) prohibiting alienation or taxation of the
23 WMAT rural water system or the underlying res-
24 ervation land.

1 (2) ALIENATION OF WMAT RURAL WATER SYS-
2 TEM.—The WMAT rural water system, including
3 the components of the WMAT rural water system,
4 shall not be alienated, encumbered, or conveyed in
5 any manner by the Tribe, unless a reconveyance is
6 authorized by an Act of Congress enacted after the
7 date of enactment of this Act.

8 (f) OPERATION AND MAINTENANCE.—

9 (1) IN GENERAL.—Consistent with subsections
10 (d) and (e) of section 312, the Secretary, acting
11 through the Bureau and in cooperation with the
12 Tribe, shall operate, maintain, and replace the
13 WMAT rural water system until the date on which
14 title to the WMAT rural water system is transferred
15 to the Tribe pursuant to subsection (d)(2).

16 (2) LIMITATION.—

17 (A) IN GENERAL.—Beginning on the date
18 on which title to the WMAT rural water system
19 is transferred to the Tribe pursuant to sub-
20 section (d)(2), the United States shall have no
21 obligation to pay for the operation, mainte-
22 nance, or replacement costs of the WMAT rural
23 water system.

24 (B) LIMITATION ON LIABILITY.—Effective
25 on the date on which the Secretary publishes a

1 statement of findings in the Federal Register
2 pursuant to subsection (d)(2), the United
3 States shall not be held liable by any court for
4 damages arising out of any act, omission, or oc-
5 currence relating to the land or facilities con-
6 veyed, other than damages caused by any inten-
7 tional act or act of negligence committed by the
8 United States, or by employees or agents of the
9 United States, prior to the date on which the
10 Secretary publishes a statement of findings in
11 the Federal Register pursuant to subsection
12 (d)(2).

13 (g) RIGHT TO REVIEW.—

14 (1) IN GENERAL.—The statement of findings
15 published by the Secretary pursuant to subsection
16 (d)(2) shall be considered to be a final agency action
17 subject to judicial review under sections 701 through
18 706 of title 5, United States Code.

19 (2) EFFECT OF TITLE.—Nothing in this title
20 gives the Tribe or any other party the right to judi-
21 cial review of the determination by the Secretary
22 under subsection (d) except under subchapter II of
23 chapter 5, and chapter 7, of title 5, United States
24 Code (commonly known as the “Administrative Pro-
25 cedure Act”).

1 (h) APPLICABILITY OF ISDEAA.—

2 (1) AGREEMENT FOR SPECIFIC ACTIVITIES.—

3 On receipt of a request of the Tribe, and in accord-
4 ance with the Indian Self-Determination and Edu-
5 cation Assistance Act (25 U.S.C. 450 et seq.), the
6 Secretary shall enter into 1 or more agreements with
7 the Tribe to carry out the activities authorized by
8 this section.

9 (2) CONTRACTS.—Any contract entered into
10 pursuant to the Indian Self-Determination and Edu-
11 cation Assistance Act (25 U.S.C. 450 et seq.) for the
12 purpose of carrying out any provision of this title
13 shall incorporate such provisions regarding periodic
14 payment of funds, timing for use of funds, trans-
15 parency, oversight, reporting, and accountability as
16 the Secretary determines to be necessary (at the sole
17 discretion of the Secretary) to ensure appropriate
18 stewardship of Federal funds.

19 (i) FINAL DESIGNS; PROJECT CONSTRUCTION.—

20 (1) FINAL DESIGNS.—All designs for the
21 WMAT rural water system shall—

22 (A) conform to Bureau design standards;
23 and

24 (B) be subject to review and approval by
25 the Secretary.

1 (2) PROJECT CONSTRUCTION.—Each project
2 component of the WMAT rural water system shall
3 be constructed pursuant to designs and specifica-
4 tions approved by the Secretary, and all construction
5 work shall be subject to inspection and approval by
6 the Secretary.

7 (j) CONDITION.—As a condition of construction of
8 the facilities authorized by this section, the Tribe shall
9 provide, at no cost to the Secretary, all land or interests
10 in land that the Secretary identifies as necessary for the
11 construction, operation, and maintenance of those facili-
12 ties.

13 **SEC. 308. SATISFACTION OF CLAIMS.**

14 (a) IN GENERAL.—Except as set forth in the Agree-
15 ment, the benefits realized by the Tribe and its members
16 under this title shall be in full satisfaction of all claims
17 of the Tribe, its members, and the United States, acting
18 as trustee for the benefit of the Tribe and its members,
19 for water rights and injury to water rights under Federal,
20 State, or other law with respect to the reservation and off-
21 reservation trust land.

22 (b) USES OF WATER.—All uses of water on land out-
23 side of the reservation, if and when that land is subse-
24 quently and finally determined to be part of the reserva-
25 tion through resolution of any dispute between the Tribe

1 and the United States over the location of the reservation
2 boundary, and any fee land within the reservation placed
3 into trust and made part of the reservation, shall be sub-
4 ject to the maximum annual diversion amounts and the
5 maximum annual depletion amounts specified in the
6 Agreement.

7 (c) NO RECOGNITION OF WATER RIGHTS.—Notwith-
8 standing subsection (a), nothing in this title recognizes or
9 establishes any right of a member of the Tribe to water
10 on the reservation.

11 **SEC. 309. WAIVERS AND RELEASES OF CLAIMS.**

12 (a) IN GENERAL.—

13 (1) CLAIMS AGAINST THE STATE AND OTH-
14 ERS.—Except for the specifically retained claims de-
15 scribed in subsection (b)(1), the Tribe, on behalf of
16 itself and its members, and the United States, act-
17 ing in its capacity as trustee for the Tribe and its
18 members, as part of the performance of the respec-
19 tive obligations of the United States and the Tribe
20 under the Agreement, are authorized to execute a
21 waiver and release of any claims against the State
22 (or any agency or political subdivision of the State),
23 or any other person, entity, corporation, or munic-
24 ipal corporation under Federal, State, or other law
25 for all—

1 (A)(i) past, present, and future claims for
2 water rights for the reservation and off-reserva-
3 tion trust land arising from time immemorial
4 and, thereafter, forever; and

5 (ii) past, present, and future claims for
6 water rights arising from time immemorial and,
7 thereafter, forever, that are based on aboriginal
8 occupancy of land by the Tribe, its members, or
9 their predecessors;

10 (B)(i) past and present claims for injury to
11 water rights for the reservation and off-reserva-
12 tion trust land arising from time immemorial
13 through the enforceability date;

14 (ii) past, present, and future claims for in-
15 jury to water rights arising from time immemo-
16 rial and, thereafter, forever, that are based on
17 aboriginal occupancy of land by the Tribe, its
18 members, or their predecessors; and

19 (iii) claims for injury to water rights aris-
20 ing after the enforceability date for the reserva-
21 tion and off-reservation trust land resulting
22 from off-reservation diversion or use of water in
23 a manner that is not in violation of the Agree-
24 ment or State law; and

1 (C) past, present, and future claims arising out of, or relating in any manner to, the negotiation, execution, or adoption of the Agreement, an applicable settlement judgement or decree, or this title.

2 (2) CLAIMS AGAINST TRIBE.—Except for the specifically retained claims described in subsection (b)(3), the United States, in all capacities (except as trustee for an Indian tribe other than the Tribe), as part of the performance of its obligations under the Agreement, is authorized to execute a waiver and release of any and all claims against the Tribe, its members, or any agency, official, or employee of the Tribe, under Federal, State, or any other law for all—

3 (A) past and present claims for injury to water rights resulting from the diversion or use of water on the reservation and on off-reservation trust land arising from time immemorial through the enforceability date;

4 (B) claims for injury to water rights arising after the enforceability date resulting from the diversion or use of water on the reservation and on off-reservation trust land in a manner that is not in violation of the Agreement; and

1 (C) past, present, and future claims arising out of or related in any manner to the negotiation, execution, or adoption of the Agreement, an applicable settlement judgement or decree, or this title.

2 (3) CLAIMS AGAINST UNITED STATES.—Except for the specifically retained claims described in subsection (b)(2), the Tribe, on behalf of itself and its members, as part of the performance of the obligations of the Tribe under the Agreement, is authorized to execute a waiver and release of any claim against the United States, including agencies, officials, or employees of the United States (except in the capacity of the United States as trustee for other Indian tribes), under Federal, State, or other law for any and all—

3 (A)(i) past, present, and future claims for water rights for the reservation and off-reservation trust land arising from time immemorial and, thereafter, forever; and

4 (ii) past, present, and future claims for water rights arising from time immemorial and, thereafter, forever that are based on aboriginal occupancy of land by the Tribe, its members, or their predecessors;

1 (B)(i) past and present claims relating in
2 any manner to damages, losses, or injuries to
3 water, water rights, land, or other resources
4 due to loss of water or water rights (including
5 damages, losses, or injuries to hunting, fishing,
6 gathering, or cultural rights due to loss of
7 water or water rights, claims relating to inter-
8 ference with, diversion, or taking of water, or
9 claims relating to failure to protect, acquire, or
10 develop water, water rights, or water infrastruc-
11 ture) within the reservation and off-reservation
12 trust land that first accrued at any time prior
13 to the enforceability date;

14 (ii) past, present, and future claims for in-
15 jury to water rights arising from time immemo-
16 rial and, thereafter, forever that are based on
17 aboriginal occupancy of land by the Tribe, its
18 members, or their predecessors; and

19 (iii) claims for injury to water rights aris-
20 ing after the enforceability date for the reserva-
21 tion and off-reservation trust land resulting
22 from the off-reservation diversion or use of
23 water in a manner that is not in violation of the
24 Agreement or applicable law;

1 (C) past, present, and future claims arising out of, or relating in any manner to, the negotiation, execution, or adoption of the Agreement, an applicable settlement judgment or decree, or this title;

2 (D) past and present claims relating in any manner to pending litigation of claims relating to the water rights of the Tribe for the reservation and off-reservation trust land;

3 (E) past and present claims relating to the operation, maintenance, and replacement of existing irrigation systems on the reservation constructed prior to the enforceability date that first accrued at any time prior to the enforceability date, which waiver shall only become effective on the full appropriation and payment to the Tribe of \$4,950,000 of the amounts made available under section 312(b)(2)(B);

4 (F) any claims relating to operation, maintenance, and replacement of the WMAT rural water system, which waiver shall only become effective on the date on which funds are made available under section 312(b)(3)(B) and deposited in the WMAT Maintenance Fund;

1 (G) past and present breach of trust and
2 negligence claims for damage to the land and
3 natural resources of the Tribe caused by ripar-
4 ian and other vegetative manipulation by the
5 United States for the purpose of increasing
6 water runoff from the reservation that first ac-
7 crued at any time prior to the enforceability
8 date; and

9 (H) past and present claims for trespass,
10 use, and occupancy of the reservation in, on,
11 and along the Black River that first accrued at
12 any time prior to the enforceability date.

13 (4) EFFECT ON BOUNDARY CLAIMS.—Nothing
14 in this title expands, diminishes, or impacts any
15 claims the Tribe may assert, or any defense the
16 United States may assert, concerning title to land
17 outside the most current survey, as of the date of
18 enactment of this Act, of the northern boundary of
19 the reservation.

20 (b) RESERVATION OF RIGHTS AND RETENTION OF
21 CLAIMS.—

22 (1) RESERVATION OF RIGHTS AND RETENTION
23 OF CLAIMS BY TRIBE AND UNITED STATES.—

24 (A) IN GENERAL.—Notwithstanding the
25 waiver and release of claims authorized under

1 subsection (a)(1), the Tribe, on behalf of itself
2 and its members, and the United States, acting
3 as trustee for the Tribe and its members, shall
4 retain any right—

5 (i) subject to subparagraph 16.9 of
6 the Agreement, to assert claims for inju-
7 ries to, and seek enforcement of, the rights
8 of the Tribe and its members under the
9 Agreement or this title in any Federal or
10 State court of competent jurisdiction;

11 (ii) to assert claims for injuries to,
12 and seek enforcement of, the rights of the
13 Tribe under the judgment and decree en-
14 tered by the court in the Gila River adju-
15 dication proceedings;

16 (iii) to assert claims for injuries to,
17 and seek enforcement of, the rights of the
18 Tribe under the judgment and decree en-
19 tered by the court in the Little Colorado
20 River adjudication proceedings;

21 (iv) to object to any claims by or for
22 any other Indian tribe, Indian community
23 or nation, or dependent Indian community,
24 or the United States on behalf of such a
25 tribe, community, or nation;

1 (v) to participate in the Gila River ad-
2 judication proceedings and the Little Colo-
3 rado River adjudication proceedings to the
4 extent provided in subparagraph 14.1 of
5 the Agreement;

6 (vi) to assert any claims arising after
7 the enforceability date for injury to water
8 rights not specifically waived under this
9 section;

10 (vii) to assert any past, present, or fu-
11 ture claim for injury to water rights
12 against any other Indian tribe, Indian
13 community or nation, dependent Indian
14 community, allottee, or the United States
15 on behalf of such a tribe, community, na-
16 tion, or allottee;

17 (viii) to assert any past, present, or
18 future claim for trespass, use, and occu-
19 pancy of the reservation in, on, or along
20 the Black River against Freeport-
21 McMoRan Copper & Gold, Inc., Phelps
22 Dodge Corporation, or Phelps Dodge
23 Morenci, Inc. (or a predecessor or suc-
24 cessor of those entities), including all sub-

1 sidiaries and affiliates of those entities;
2 and

3 (ix) to assert claims arising after the
4 enforceability date for injury to water
5 rights resulting from the pumping of water
6 from land located within national forest
7 land as of the date of the Agreement in the
8 south $\frac{1}{2}$ of T. 9 N., R. 24 E., the south
9 $\frac{1}{2}$ of T. 9 N., R. 25 E., the north $\frac{1}{2}$ of
10 T. 8 N., R. 24 E., or the north $\frac{1}{2}$ of T.
11 8 N., R. 25 E., if water from the land is
12 used on the land or is transported off the
13 land for municipal, commercial, or indus-
14 trial use.

15 (B) AGREEMENT.—On terms acceptable to
16 the Tribe and the United States, the Tribe and
17 the United States are authorized to enter into
18 an agreement with Freeport-McMoRan Copper
19 & Gold, Inc., Phelps Dodge Corporation, or
20 Phelps Dodge Morenci, Inc. (or a predecessor
21 or successor of those entities), including all sub-
22 sidiaries and affiliates of those entities, to re-
23 solve the claims of the Tribe relating to the
24 trespass, use, and occupancy of the reservation
25 in, on, and along the Black River.

1 (2) RESERVATION OF RIGHTS AND RETENTION
2 OF CLAIMS BY TRIBE AGAINST UNITED STATES.—
3 Notwithstanding the waiver and release of claims
4 authorized under subsection (a)(3), the Tribe, on be-
5 half of itself and its members, shall retain any
6 right—

7 (A) subject to subparagraph 16.9 of the
8 Agreement, to assert claims for injuries to, and
9 seek enforcement of, the rights of the Tribe and
10 its members under the Agreement or this title,
11 in any Federal or State court of competent ju-
12 risdiction;

13 (B) to assert claims for injuries to, and
14 seek enforcement of, the rights of the Tribe and
15 members under the judgment and decree en-
16 tered by the court in the Gila River adjudica-
17 tion proceedings;

18 (C) to assert claims for injuries to, and
19 seek enforcement of, the rights of the Tribe and
20 members under the judgment and decree en-
21 tered by the court in the Little Colorado River
22 adjudication proceedings;

23 (D) to object to any claims by or for any
24 other Indian tribe, Indian community or nation,
25 or dependent Indian community, or the United

1 States on behalf of such a tribe, community, or
2 nation;

3 (E) to assert past, present, or future
4 claims for injury to water rights or any other
5 claims other than a claim to water rights,
6 against any other Indian tribe, Indian commu-
7 nity or nation, or dependent Indian community,
8 or the United States on behalf of such a tribe,
9 community, or nation;

10 (F) to assert claims arising after the en-
11 forceability date for injury to water rights re-
12 sulting from the pumping of water from land
13 located within national forest land as of the
14 date of the Agreement in the south $\frac{1}{2}$ of T. 9
15 N., R. 24 E., the south $\frac{1}{2}$ of T. 9 N., R. 25
16 E., the north $\frac{1}{2}$ of T. 8 N., R. 24 E., or the
17 north $\frac{1}{2}$ of T. 8 N., R. 25 E., if water from
18 that land is used on the land or is transported
19 off the land for municipal, commercial, or in-
20 dustrial use;

21 (G) to assert any claims arising after the
22 enforceability date for injury to water rights not
23 specifically waived under this section;

1 (H) to seek remedies and to assert any
2 other claims not specifically waived under this
3 section; and

4 (I) to assert any claim arising after the en-
5 forceability date for a future taking by the
6 United States of reservation land, off-reserva-
7 tion trust land, or any property rights appur-
8 tenant to that land, including any water rights
9 set forth in paragraph 4.0 of the Agreement.

10 (3) RESERVATION OF RIGHTS AND RETENTION
11 OF CLAIMS BY UNITED STATES.—Notwithstanding
12 the waiver and release of claims authorized under
13 subsection (a)(2), the United States shall retain any
14 right to assert any claim not specifically waived in
15 that subsection.

16 (c) EFFECTIVENESS OF WAIVER AND RELEASES.—
17 Except as otherwise specifically provided in subparagraphs
18 (E) and (F) of subsection (a)(3), the waivers and releases
19 under subsection (a) shall become effective on the enforce-
20 ability date.

21 (d) ENFORCEABILITY DATE.—

22 (1) IN GENERAL.—This section takes effect on
23 the date on which the Secretary publishes in the
24 Federal Register a statement of findings that—

1 (A)(i) to the extent that the Agreement
2 conflicts with this title, the Agreement has been
3 revised through an amendment to eliminate the
4 conflict; and

5 (ii) the Agreement, as so revised, has been
6 executed by the Secretary, the Tribe, and the
7 Governor of the State;

8 (B) the Secretary has fulfilled the require-
9 ments of sections 305 and 306;

10 (C) the amount made available under sec-
11 tion 312(a) has been deposited in the White
12 Mountain Apache Tribe Water Rights Settle-
13 ment Subaccount;

14 (D) the State funds described in subpara-
15 graph 13.3 of the Agreement have been depos-
16 ited in the White Mountain Apache Tribe
17 Water Rights Settlement Subaccount;

18 (E) the Secretary has issued a record of
19 decision approving the construction of the
20 WMAT rural water system in a configuration
21 substantially similar to that described in section
22 307;

23 (F) the judgments and decrees substan-
24 tially in the form of those attached to the
25 Agreement as exhibits 12.9.6.1 and 12.9.6.2

1 have been approved by the respective trial
2 courts; and

3 (G) the waivers and releases authorized
4 and set forth in subsection (a) have been exe-
5 cuted by the Tribe and the Secretary.

6 (2) FAILURE OF ENFORCEABILITY DATE TO
7 OCCUR.—If the Secretary does not publish a state-
8 ment of findings under paragraph (1) by April 30,
9 2021—

10 (A) this title is repealed effective May 1,
11 2021, and any activity by the Secretary to carry
12 out this title shall cease;

13 (B) any amounts made available under sec-
14 tion 312 shall immediately revert to the general
15 fund of the Treasury;

16 (C) any other amounts deposited in the
17 White Mountain Apache Tribe Water Rights
18 Settlement Subaccount (including any amounts
19 paid by the State in accordance with the Agree-
20 ment), together with any interest accrued on
21 those amounts, shall immediately be returned to
22 the respective sources of those funds; and

23 (D) the Tribe and its members, and the
24 United States, acting as trustee for the Tribe
25 and its members, shall retain the right to assert

1 past, present, and future water rights claims
2 and claims for injury to water rights for the
3 reservation and off-reservation trust land.

4 (3) NO ADDITIONAL RIGHTS TO WATER.—Be-
5 ginning on the enforceability date, all land held by
6 the United States in trust for the Tribe and its
7 members shall have no rights to water other than
8 those specifically quantified for the Tribe and the
9 United States, acting as trustee for the Tribe and
10 its members, for the reservation and off-reservation
11 trust land pursuant to paragraph 4.0 of the Agree-
12 ment.

13 (e) UNITED STATES ENFORCEMENT AUTHORITY.—
14 Nothing in this title or the Agreement affects any right
15 of the United States to take any action, including environ-
16 mental actions, under any laws (including regulations and
17 the common law) relating to human health, safety, or the
18 environment.

19 (f) NO EFFECT ON WATER RIGHTS.—Except as pro-
20 vided in paragraphs (1)(A)(ii), (1)(B)(ii), (3)(A)(ii), and
21 (3)(B)(ii) of subsection (a), nothing in this title affects
22 any rights to water of the Tribe, its members, or the
23 United States, acting as trustee for the Tribe and its
24 members, for land outside the boundaries of the reserva-
25 tion or the off-reservation trust land.

1 (g) ENTITLEMENTS.—Any entitlement to water of
2 the Tribe, its members, or the United States, acting as
3 trustee for the Tribe and its members, relating to the res-
4 ervation or off-reservation trust land shall be satisfied
5 from the water resources granted, quantified, confirmed,
6 or recognized with respect to the Tribe, its members, and
7 the United States by the Agreement and this title.

8 (h) OBJECTION PROHIBITED.—Except as provided in
9 paragraphs (1)(A)(ix) and (2)(F) of subsection (b), the
10 Tribe and the United States, acting as trustee for the
11 Tribe shall not—

12 (1) object to the use of any well located outside
13 the boundaries of the reservation or the off-reserva-
14 tion trust land in existence on the enforceability
15 date; or

16 (2) object to, dispute, or challenge after the en-
17 forceability date the drilling of any well or the with-
18 drawal and use of water from any well in the Little
19 Colorado River adjudication proceedings, the Gila
20 River adjudication proceedings, or any other judicial
21 or administrative proceeding.

22 **SEC. 310. WHITE MOUNTAIN APACHE TRIBE WATER RIGHTS**
23 **SETTLEMENT SUBACCOUNT.**

24 (a) ESTABLISHMENT.—There is established in the
25 Lower Colorado River Basin Development Fund a sub-

1 account to be known as the “White Mountain Apache
2 Tribe Water Rights Settlement Subaccount”, consisting
3 of—

4 (1) the amounts deposited in the subaccount
5 pursuant to section 312(a); and

6 (2) such other amounts as are available, includ-
7 ing the amounts provided in subparagraph 13.3 of
8 the Agreement.

9 (b) USE OF FUNDS.—

10 (1) IN GENERAL.—Subject to paragraph (2),
11 the Secretary shall use amounts from the White
12 Mountain Apache Tribe Water Rights Settlement
13 Subaccount for the planning, design, and construc-
14 tion of the WMAT rural water system, in accordance
15 with section 307(a).

16 (2) REQUIREMENTS.—In carrying out the ac-
17 tivities described in paragraph (1), the Secretary
18 shall use such sums as are necessary from the White
19 Mountain Apache Tribe Water Rights Settlement
20 Subaccount—

21 (A) to provide the Bureau with amounts
22 sufficient to carry out oversight of the planning,
23 design, and construction of the WMAT rural
24 water system;

1 (B) to repay to the Treasury (or the
2 United States) any outstanding balance on the
3 loan authorized by the White Mountain Apache
4 Tribe Rural Water System Loan Authorization
5 Act (Public Law 110–390; 122 Stat. 4191),
6 after which repayment, the Tribe shall have no
7 further liability for the balance on that loan;
8 and

9 (C) to carry out all required environmental
10 compliance activities associated with the plan-
11 ning, design, and construction of the WMAT
12 rural water system.

13 (c) ISDEAA CONTRACT.—

14 (1) IN GENERAL.—If the Tribe so requests, the
15 planning, design, and construction of the WMAT
16 rural water system shall be carried out pursuant to
17 the terms of an agreement or agreements entered
18 into under section 307(h).

19 (2) ENFORCEMENT.—The Secretary may pur-
20 sue any judicial remedies and carry out any adminis-
21 trative actions that are necessary to enforce an
22 agreement described in paragraph (1) to ensure that
23 amounts in the White Mountain Apache Tribe Water
24 Rights Settlement Subaccount are used in accord-
25 ance with this section.

1 (d) PROHIBITION ON PER CAPITA DISTRIBUTIONS.—
2 No amount of the principal, or the interest or income ac-
3 cruing on the principal, of the White Mountain Apache
4 Tribe Water Rights Settlement Subaccount shall be dis-
5 tributed to any member of the Tribe on a per capita basis.

6 (e) AVAILABILITY OF FUNDS.—

7 (1) IN GENERAL.—Amounts in the White
8 Mountain Apache Tribe Water Rights Settlement
9 Subaccount shall not be available for expenditure by
10 the Secretary until the enforceability date.

11 (2) INVESTMENT.—The Secretary shall invest
12 the amounts in the White Mountain Apache Tribe
13 Water Rights Settlement Subaccount in accordance
14 with section 403(f)(4) of the Colorado River Basin
15 Project Act (43 U.S.C. 1543(f)(4)).

16 (3) USE OF INTEREST.—The interest accrued
17 on amounts invested under paragraph (2) shall not
18 be available for expenditure or withdrawal until the
19 enforceability date.

20 **SEC. 311. MISCELLANEOUS PROVISIONS.**

21 (a) LIMITED WAIVER OF SOVEREIGN IMMUNITY.—

22 (1) IN GENERAL.—In the case of a civil action
23 described in paragraph (2)—

24 (A) the United States or the Tribe, or
25 both, may be joined in the civil action; and

1 (B) any claim by the United States or the
2 Tribe to sovereign immunity from the civil ac-
3 tion is waived for the sole purpose of resolving
4 any issue regarding the interpretation or en-
5 forcement of this title or the Agreement.

6 (2) DESCRIPTION OF CIVIL ACTION.—A civil ac-
7 tion referred to in paragraph (1) is a civil action
8 filed—

9 (A) by any party to the Agreement or sig-
10 natory to an exhibit to the Agreement in a
11 United States or State court that—

12 (i) relates solely and directly to the in-
13 terpretation or enforcement of this title or
14 the Agreement; and

15 (ii) names as a party the United
16 States or the Tribe; or

17 (B) by a landowner or water user in the
18 Gila River basin or Little Colorado River basin
19 in the State that—

20 (i) relates solely and directly to the in-
21 terpretation or enforcement of section 309
22 of this title and paragraph 12.0 of the
23 Agreement; and

24 (ii) names as a party the United
25 States or the Tribe.

1 (b) EFFECT OF TITLE.—Nothing in this title quan-
2 tifies or otherwise affects any water right or claim or enti-
3 tlement to water of any Indian tribe, band, or community
4 other than the Tribe.

5 (c) LIMITATION ON LIABILITY OF UNITED
6 STATES.—

7 (1) IN GENERAL.—The United States shall
8 have no trust or other obligation—

9 (A) to monitor, administer, or account for,
10 in any manner, any amount paid to the Tribe
11 by any party to the Agreement other than the
12 United States; or

13 (B) to review or approve the expenditure of
14 those funds.

15 (2) INDEMNIFICATION.—The Tribe shall indem-
16 nify the United States, and hold the United States
17 harmless, with respect to any claim (including claims
18 for takings or breach of trust) arising out of the re-
19 ceipt or expenditure of funds described in paragraph
20 (1)(A).

21 (d) APPLICABILITY OF RECLAMATION REFORM
22 ACT.—The Reclamation Reform Act of 1982 (43 U.S.C.
23 390aa et seq.) and any other acreage limitation or full-
24 cost pricing provision under Federal law shall not apply
25 to any individual, entity, or land solely on the basis of—

- 1 (1) receipt of any benefit under this title;
- 2 (2) the execution or performance of the Agree-
3 ment; or
- 4 (3) the use, storage, delivery, lease, or exchange
5 of CAP water.

6 (e) SECRETARIAL POWER SITES.—The portions of
7 the following named secretarial power site reserves that
8 are located on the Fort Apache Indian Reservation or the
9 San Carlos Apache Reservation, as applicable, shall be
10 transferred and restored into the name of the Tribe or
11 the San Carlos Apache Tribe, respectively:

- 12 (1) Lower Black River (T. 3 N., R. 26 E.; T.
13 3 N., R. 27 E.).
- 14 (2) Black River Pumps (T. 2 N., R. 25 E.; T.
15 2 N., R. 26 E.; T. 3 N., R. 26 E.).
- 16 (3) Carrizo (T. 4 N., R. 20 E.; T. 4 N., R. 21
17 E.; T. 4½ N., R. 19 E.; T. 4½ N., R. 20 E.; T.
18 4½ N., R. 21 E.; T. 5 N., R. 19 E.).
- 19 (4) Knob (T. 5 N., R. 18 E.; T. 5 N., R. 19
20 E.).
- 21 (5) Walnut Canyon (T. 5 N., R. 17 E.; T. 5 N.,
22 R. 18 E.).
- 23 (6) Gleason Flat (T. 4½ N., R. 16 E.; T. 5 N.,
24 R. 16 E.).

1 (f) NO EFFECT ON FUTURE ALLOCATIONS.—Water
2 received under a lease or exchange of tribal CAP water
3 under this title shall not affect any future allocation or
4 reallocation of CAP water by the Secretary.

5 (g) AFTER-ACQUIRED TRUST LAND.—

6 (1) REQUIREMENT OF ACT OF CONGRESS.—

7 (A) LEGAL TITLE.—Subject to subpara-
8 graph (B), after the enforceability date, if the
9 Tribe seeks to have legal title to additional land
10 in the State located outside the exterior bound-
11 aries of the reservation taken into trust by the
12 United States for the benefit of the Tribe, the
13 Tribe may do so only pursuant to an Act of
14 Congress specifically authorizing the transfer
15 for the benefit of the Tribe.

16 (B) EXCEPTIONS.—Subparagraph (A)
17 shall not apply to—

18 (i) the restoration of land to the res-
19 ervation subsequently and finally deter-
20 mined to be part of the reservation
21 through resolution of any dispute between
22 the Tribe and the United States over the
23 location of the reservation boundary, un-
24 less required by Federal law; or

1 (ii) off-reservation trust land acquired
2 prior to January 1, 2008.

3 (2) WATER RIGHTS.—

4 (A) IN GENERAL.—After-acquired trust
5 land that is located outside the reservation shall
6 not include federally reserved rights to surface
7 water or groundwater.

8 (B) RESTORED LAND.—Land that is re-
9 stored to the reservation as the result of the
10 resolution of any reservation boundary dispute
11 between the Tribe and the United States, or
12 any fee simple land within the reservation that
13 is placed into trust, shall have water rights pur-
14 suant to section 308(b).

15 (3) ACCEPTANCE OF LAND IN TRUST STATUS.—

16 (A) IN GENERAL.—If the Tribe acquires
17 legal fee title to land that is located within the
18 exterior boundaries of the reservation, the Sec-
19 retary shall accept the land in trust status for
20 the benefit of the Tribe in accordance with ap-
21 plicable Federal law (including regulations) for
22 such real estate acquisitions.

23 (B) RESERVATION STATUS.—Land held in
24 trust by the Secretary under subparagraph (A),
25 or restored to the reservation as a result of res-

1 olution of a boundary dispute between the Tribe
2 and the United States, shall be deemed to be
3 part of the reservation.

4 (h) CONFORMING AMENDMENT.—Section 3(b)(2) of
5 the White Mountain Apache Tribe Rural Water System
6 Loan Authorization Act (Public Law 110–390; 122 Stat.
7 4191) is amended by striking “January 1, 2013” and in-
8 serting “May 1, 2021”.

9 **SEC. 312. FUNDING.**

10 (a) RURAL WATER SYSTEM.—

11 (1) MANDATORY APPROPRIATIONS.—Subject to
12 paragraph (2), out of any funds in the Treasury not
13 otherwise appropriated, the Secretary of the Treas-
14 ury shall transfer to the Secretary to carry out the
15 planning, engineering, design, environmental compli-
16 ance, and construction of the WMAT rural water
17 system \$126,193,000.

18 (2) INCLUSIONS.—The amount made available
19 under paragraph (1) shall include such sums as are
20 necessary, but not to exceed 4 percent of the con-
21 struction contract costs, for the Bureau to carry out
22 oversight of activities for planning, design, environ-
23 mental compliance, and construction of the rural
24 water system.

1 (b) WMAT SETTLEMENT AND MAINTENANCE
2 FUNDS.—

3 (1) DEFINITION OF FUNDS.—In this sub-
4 section, the term “Funds” means—

5 (A) the WMAT Settlement Fund estab-
6 lished by paragraph (2)(A); and

7 (B) the WMAT Maintenance Fund estab-
8 lished by paragraph (3)(A).

9 (2) WMAT SETTLEMENT FUND.—

10 (A) ESTABLISHMENT.—There is estab-
11 lished in the Treasury of the United States a
12 fund to be known as the “WMAT Settlement
13 Fund”, to be administered by the Secretary,
14 consisting of the amounts deposited in the fund
15 under subparagraph (B), together with any in-
16 terest accrued on those amounts, for use by the
17 Tribe in accordance with subparagraph (C).

18 (B) TRANSFERS TO FUND.—

19 (i) IN GENERAL.—There are author-
20 ized to be appropriated to the Secretary
21 for deposit in the WMAT Settlement
22 Fund—

23 (I) \$78,500,000; and

24 (II) any additional amounts de-
25 scribed in clause (ii), if applicable.

1 (ii) AUTHORIZATION OF ADDITIONAL
2 AMOUNTS.—In accordance with subsection
3 (e)(4)(B), if the WMAT rural water sys-
4 tem is conveyed to the Tribe before the
5 date on which the \$35,000,000 described
6 in subsection (e)(2) is completely made
7 available, there is authorized to be appro-
8 priated to the Secretary, for deposit in the
9 WMAT Settlement Fund, any remaining
10 amounts that would otherwise have been
11 made available for expenditure from the
12 Cost Overrun Subaccount.

13 (C) USE OF FUNDS.—

14 (i) IN GENERAL.—The Tribe shall use
15 amounts in the WMAT Settlement Fund
16 for any of the following purposes:

17 (I) Fish production, including
18 hatcheries.

19 (II) Rehabilitation of recreational
20 lakes and existing irrigation systems.

21 (III) Water-related economic de-
22 velopment projects.

23 (IV) Protection, restoration, and
24 economic development of forest and
25 watershed health.

1 (ii) EXISTING IRRIGATION SYSTEMS.—

2 Of the amounts deposited in the Fund
3 under subparagraph (B), not less than
4 \$4,950,000 shall be used for the rehabilita-
5 tion of existing irrigation systems.

6 (3) WMAT MAINTENANCE FUND.—

7 (A) ESTABLISHMENT.—There is estab-
8 lished in the Treasury of the United States a
9 fund to be known as the “WMAT Maintenance
10 Fund”, to be administered by the Secretary,
11 consisting of the amounts deposited in the fund
12 under subparagraph (B), together with any in-
13 terest accrued on those amounts, for use by the
14 Tribe in accordance with subparagraph (C).

15 (B) MANDATORY APPROPRIATIONS.—Out
16 of any funds in the Treasury not otherwise ap-
17 propriated, the Secretary of the Treasury shall
18 transfer to the Secretary \$50,000,000 for de-
19 posit in the WMAT Maintenance Fund.

20 (C) USE OF FUNDS.—The Tribe shall use
21 amounts in the WMAT Maintenance Fund only
22 for the operation, maintenance, and replace-
23 ment costs associated with the delivery of water
24 through the WMAT rural water system.

1 (4) ADMINISTRATION.—The Secretary shall
2 manage the Funds in accordance with the American
3 Indian Trust Fund Management Reform Act of
4 1994 (25 U.S.C. 4001 et seq.), including by invest-
5 ing amounts in the Funds in accordance with—

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

8 (B) the first section of the Act of June 24,
9 1938 (25 U.S.C. 162a).

10 (5) AVAILABILITY OF AMOUNTS FROM
11 FUNDS.—Amounts in the Funds shall be available
12 for expenditure or withdrawal only after the enforce-
13 ability date and in accordance with subsection (f).

14 (6) EXPENDITURE AND WITHDRAWAL.—

15 (A) TRIBAL MANAGEMENT PLAN.—

16 (i) IN GENERAL.—The Tribe may
17 withdraw all or part of the amounts in the
18 Funds on approval by the Secretary of a
19 tribal management plan, as described in
20 the American Indian Trust Fund Manage-
21 ment Reform Act of 1994 (25 U.S.C. 4001
22 et seq.).

23 (ii) REQUIREMENTS.—In addition to
24 the requirements under the American In-
25 dian Trust Fund Management Reform Act

1 of 1994 (25 U.S.C. 4001 et seq.), a tribal
2 management plan under this subparagraph
3 shall require the Tribe to use any amounts
4 withdrawn from the Funds in accordance
5 with paragraph (2)(C) or (3)(C), as appli-
6 cable.

7 (iii) ENFORCEMENT.—The Secretary
8 may take judicial or administrative action
9 to enforce the provisions of a tribal man-
10 agement plan described in clause (i) to en-
11 sure that any amounts withdrawn from the
12 Funds under the tribal management plan
13 are used in accordance with this title and
14 the Agreement.

15 (iv) LIABILITY.—If the Tribe exer-
16 cises the right to withdraw amounts from
17 the Funds, neither the Secretary nor the
18 Secretary of the Treasury shall retain any
19 liability for the expenditure or investment
20 of the amounts.

21 (B) EXPENDITURE PLAN.—

22 (i) IN GENERAL.—The Tribe shall
23 submit to the Secretary for approval an ex-
24 penditure plan for any portion of the
25 amounts in the Funds that the Tribe does

1 not withdraw under the tribal management
2 plan.

3 (ii) DESCRIPTION.—The expenditure
4 plan shall describe the manner in which,
5 and the purposes for which, amounts re-
6 maining in the Funds will be used.

7 (iii) APPROVAL.—On receipt of an ex-
8 penditure plan under clause (i), the Sec-
9 retary shall approve the plan, if the Sec-
10 retary determines that the plan is reason-
11 able and consistent with this title and the
12 Agreement.

13 (iv) ANNUAL REPORT.—For each of
14 the Funds, the Tribe shall submit to the
15 Secretary an annual report that describes
16 all expenditures from the Fund during the
17 year covered by the report.

18 (C) CERTAIN PER CAPITA DISTRIBUTIONS
19 PROHIBITED.—No amount in the Funds shall
20 be distributed to any member of the Tribe on
21 a per capita basis.

22 (c) COST INDEXING.—All amounts made available
23 under subsections (a), (b), and (e) shall be adjusted as
24 necessary to reflect the changes since October 1, 2007,
25 in the construction cost indices applicable to the types of

1 construction involved in the construction of the WMAT
2 rural water supply system, the maintenance of the rural
3 water supply system, and the construction or rehabilita-
4 tion of the other development projects described in sub-
5 section (b)(2)(C).

6 (d) OPERATION, MAINTENANCE, AND REPLACE-
7 MENT.—Out of any funds in the Treasury not otherwise
8 appropriated, the Secretary of the Treasury shall transfer
9 to the Secretary \$2,500,000 for the operation, mainte-
10 nance, and replacement costs of the WMAT rural water
11 system, to remain available until the conditions described
12 in section 307(f) have been met.

13 (e) COST OVERRUN SUBACCOUNT.—

14 (1) ESTABLISHMENT.—There is established in
15 the Lower Colorado River Basin Development Fund
16 a subaccount to be known as the “WMAT Cost
17 Overrun Subaccount”, to be administered by the
18 Secretary, consisting of the amounts deposited in the
19 subaccount under paragraph (2), together with any
20 interest accrued on those amounts, for use by the
21 Secretary in accordance with paragraph (4).

22 (2) MANDATORY APPROPRIATIONS; AUTHORIZA-
23 TION OF APPROPRIATIONS.—

24 (A) MANDATORY APPROPRIATIONS.—Out
25 of any funds in the Treasury not otherwise ap-

1 appropriated, the Secretary of the Treasury shall
2 transfer to the Secretary \$24,000,000 for de-
3 posit in the WMAT Cost Overrun Subaccount.

4 (B) AUTHORIZATION OF APPROPRIA-
5 TIONS.—There is authorized to be appropriated
6 for deposit in the WMAT Cost Overrun Sub-
7 account \$11,000,000.

8 (3) AVAILABILITY OF FUNDS.—

9 (A) IN GENERAL.—Amounts in the WMAT
10 Cost Overrun Subaccount shall not be available
11 for expenditure by the Secretary until the en-
12 forceability date.

13 (B) INVESTMENT.—The Secretary shall in-
14 vest the amounts in the WMAT Cost Overrun
15 Subaccount in accordance with section
16 403(f)(4) of the Colorado River Basin Project
17 Act (43 U.S.C. 1543(f)(4)).

18 (C) USE OF INTEREST.—The interest ac-
19 crued on the amounts invested under subpara-
20 graph (B) shall not be available for expenditure
21 or withdrawal until the enforceability date.

22 (4) USE OF COST OVERRUN SUBACCOUNT.—

23 (A) INITIAL USE.—The Secretary shall use
24 the amounts in the WMAT Cost Overrun Sub-
25 account to complete the WMAT rural water

1 system or to carry out activities relating to the
2 operation, maintenance, or replacement of fa-
3 cilities of the WMAT rural water system, as ap-
4 plicable, if the Secretary determines that the
5 amounts made available under subsections (a)
6 and (d) will be insufficient in the period before
7 title to the WMAT rural water system is con-
8 veyed to the Tribe—

9 (i) to complete the WMAT rural water
10 system; or

11 (ii) to operate and maintain the
12 WMAT rural water system.

13 (B) TRANSFER OF FUNDS.—All unobli-
14 gated amounts remaining in the Cost Overrun
15 Subaccount on the date on which title to the
16 WMAT rural water system is conveyed to the
17 Tribe shall be—

18 (i) returned to the general fund of the
19 Treasury; and

20 (ii) on an appropriation pursuant to
21 subsection (b)(2)(B)(ii), deposited in the
22 WMAT Settlement Fund and made avail-
23 able to the Tribe for use in accordance
24 with subsection (b)(2)(C).

1 (f) CONDITIONS.—The amounts made available to
2 the Secretary for deposit in the WMAT Maintenance
3 Fund, together with any interest accrued on those
4 amounts under subsection (b)(3) and any interest accru-
5 ing on the WMAT Settlement Fund under subsection
6 (b)(2), shall not be available for expenditure or withdrawal
7 until the WMAT rural water system is transferred to the
8 Tribe under section 307(d)(2).

9 (g) RECEIPT AND ACCEPTANCE.—The Secretary
10 shall be entitled to receive, shall accept, and shall use to
11 carry out this title the funds transferred under subsections
12 (a), (b), (d), and (e), without further appropriation, to re-
13 main available until expended.

14 **SEC. 313. ANTIDEFICIENCY.**

15 The United States shall not be liable for failure to
16 carry out any obligation or activity authorized to be car-
17 ried out under this title (including any such obligation or
18 activity under the Agreement) if adequate appropriations
19 are not provided by Congress expressly to carry out the
20 purposes of this title.

21 **SEC. 314. COMPLIANCE WITH ENVIRONMENTAL LAWS.**

22 In implementing the Agreement and carrying out this
23 title, the Secretary shall promptly comply with all applica-
24 ble requirements of—

1 (1) the National Environmental Policy Act of
2 1969 (42 U.S.C. 4321 et seq.);

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

5 (3) all other applicable Federal environmental
6 laws; and

7 (4) all regulations promulgated under the laws
8 described in paragraphs (1) through (3).

9 **TITLE IV—CROW TRIBE WATER**
10 **RIGHTS SETTLEMENT**

11 **SEC. 401. SHORT TITLE.**

12 This title may be cited as the “Crow Tribe Water
13 Rights Settlement Act of 2010”.

14 **SEC. 402. PURPOSES.**

15 The purposes of this title are—

16 (1) to achieve a fair, equitable, and final settle-
17 ment of claims to water rights in the State of Mon-
18 tana for—

19 (A) the Crow Tribe; and

20 (B) the United States for the benefit of
21 the Tribe and allottees;

22 (2) to authorize, ratify, and confirm the Crow
23 Tribe-Montana Water Rights Compact entered into
24 by the Tribe and the State of Montana on June 22,
25 1999;

1 (3) to authorize and direct the Secretary of the
2 Interior—

3 (A) to execute the Crow Tribe-Montana
4 Water Rights Compact; and

5 (B) to take any other action necessary to
6 carry out the Compact in accordance with this
7 title; and

8 (4) to ensure the availability of funds necessary
9 for the implementation of the Compact and this
10 title.

11 **SEC. 403. DEFINITIONS.**

12 In this title:

13 (1) ALLOTTEE.—The term “allottee” means
14 any individual who holds a beneficial real property
15 interest in an allotment of Indian land that is—

16 (A) located within the Reservation or the
17 ceded strip; and

18 (B) held in trust by the United States.

19 (2) CEDED STRIP.—The term “ceded strip”
20 means the area identified as the ceded strip on the
21 map included in appendix 5 of the Compact.

22 (3) CIP OM&R.—The term “CIP OM&R”
23 means—

1 (A) any recurring or ongoing activity asso-
2 ciated with the day-to-day operation of the
3 Crow Irrigation Project;

4 (B) any activity relating to scheduled or
5 unscheduled maintenance of the Crow Irrigation
6 Project; and

7 (C) any activity relating to replacement of
8 a feature of the Crow Irrigation Project.

9 (4) COMPACT.—The term “Compact” means
10 the water rights compact between the Tribe and the
11 State of Montana contained in section 85-20-901 of
12 the Montana Code Annotated (2009) (including any
13 exhibit, part, or amendment to the Compact).

14 (5) CROW IRRIGATION PROJECT.—

15 (A) IN GENERAL.—The term “Crow Irri-
16 gation Project” means the irrigation project—

17 (i) authorized by section 31 of the Act
18 of March 3, 1891 (26 Stat. 1040);

19 (ii) managed by the Secretary (acting
20 through the Bureau of Indian Affairs); and

21 (iii) consisting of the project units
22 of—

23 (I) Agency;

24 (II) Bighorn;

25 (III) Forty Mile;

- 1 (IV) Lodge Grass #1;
2 (V) Lodge Grass #2;
3 (VI) Pryor;
4 (VII) Reno;
5 (VIII) Soap Creek; and
6 (IX) Upper Little Horn.

7 (B) INCLUSION.—The term “Crow Irriga-
8 tion Project” includes land held in trust by the
9 United States for the Tribe and the allottees in
10 the Bozeman Trail and Two Leggins irrigation
11 districts.

12 (6) ENFORCEABILITY DATE.—The term “en-
13 forceability date” means the date on which the Sec-
14 retary publishes in the Federal Register the state-
15 ment of findings described in section 410(e).

16 (7) FINAL.—The term “final” with reference to
17 approval of the decree described in section
18 410(e)(1)(A), means—

19 (A) completion of any direct appeal to the
20 Montana Supreme Court of a decree by the
21 Montana Water Court pursuant to section 85-
22 2-235 of the Montana Code Annotated (2009),
23 including the expiration of time for filing of any
24 such appeal; or

1 (B) completion of any appeal to the appro-
2 priate United States Court of Appeals, includ-
3 ing the expiration of time in which a petition
4 for certiorari may be filed in the United States
5 Supreme Court, denial of such petition, or
6 issuance of a final judgment of the United
7 States Supreme Court, whichever occurs last.

8 (8) FUND.—The term “Fund” means the Crow
9 Settlement Fund established by section 411.

10 (9) INDIAN TRIBE.—The term “Indian tribe”
11 has the meaning given the term in section 4 of the
12 Indian Self-Determination and Education Assistance
13 Act (25 U.S.C. 450b).

14 (10) JOINT STIPULATION OF SETTLEMENT.—
15 The term “joint stipulation of settlement” means
16 the joint stipulation of settlement relating to the
17 civil action styled Crow Tribe of Indians v. Norton,
18 No. 02–284 (D.D.C. 2006).

19 (11) MR&I SYSTEM.—

20 (A) IN GENERAL.—The term “MR&I Sys-
21 tem” means the municipal, rural, and industrial
22 water system of the Reservation, generally de-
23 scribed in the document entitled “Crow Indian
24 Reservation Municipal, Rural and Industrial
25 Water System Engineering Report” prepared

1 by DOWL HKM, and dated July 2008 and up-
2 dated in a status report prepared by DOWL
3 HKM dated December 2009.

4 (B) INCLUSIONS.—The term “MR&I Sys-
5 tem” includes—

6 (i) the raw water intake, water treat-
7 ment plant, pipelines, storage tanks, pump-
8 ing stations, pressure-reducing valves, elec-
9 trical transmission facilities, and other
10 items (including real property and ease-
11 ments necessary to deliver potable water to
12 the Reservation) appurtenant to the sys-
13 tem described in subparagraph (A); and

14 (ii) in descending order of construc-
15 tion priority—

16 (I) the Bighorn River Valley Sub-
17 system;

18 (II) the Little Bighorn River Val-
19 ley Subsystem; and

20 (III) Pryor Extension.

21 (12) MR&I SYSTEM OM&R.—The term “MR&I
22 System OM&R” means—

23 (A) any recurring or ongoing activity asso-
24 ciated with the day-to-day operation of the
25 MR&I System;

1 (B) any activity relating to scheduled or
2 unscheduled maintenance of the MR&I System;
3 and

4 (C) any activity relating to replacement of
5 project features of the MR&I System.

6 (13) RESERVATION.—The term “Reservation”
7 means the area identified as the Reservation on the
8 map in appendix 4 of the Compact.

9 (14) SECRETARY.—The term “Secretary”
10 means the Secretary of the Interior.

11 (15) TRIBAL COMPACT ADMINISTRATION.—The
12 term “Tribal Compact Administration” means any
13 activity relating to—

14 (A) the development or enactment by the
15 Tribe of the tribal water code;

16 (B) establishment by the Tribe of a water
17 resources department; and

18 (C) the operation by the Tribe of that
19 water resources department (or a successor
20 agency) during the 10-year period beginning on
21 the date of establishment of the department.

22 (16) TRIBAL WATER CODE.—The term “tribal
23 water code” means a water code adopted by the
24 Tribe in accordance with section 407(f).

1 (17) TRIBAL WATER RIGHTS.—The term “tribal
2 water rights” means—

3 (A) the water rights of the Tribe described
4 in article III of the Compact; and

5 (B) the water rights provided to the Tribe
6 under section 408.

7 (18) TRIBE.—The term “Tribe” means the
8 Crow Tribe of Indians of the State of Montana on
9 behalf of itself and its members (but not its mem-
10 bers in their capacities as allottees).

11 **SEC. 404. RATIFICATION OF COMPACT.**

12 (a) RATIFICATION OF COMPACT.—

13 (1) IN GENERAL.—Except as modified by this
14 title, and to the extent the Compact does not conflict
15 with this title, the Compact is authorized, ratified,
16 and confirmed.

17 (2) AMENDMENTS TO COMPACT.—If amend-
18 ments are executed to make the Compact consistent
19 with this title, those amendments are also author-
20 ized, ratified, and confirmed to the extent such
21 amendments are consistent with this title.

22 (b) EXECUTION OF COMPACT.—

23 (1) IN GENERAL.—To the extent that the Com-
24 pact does not conflict with this title, the Secretary
25 is directed to and shall promptly execute the Com-

1 pact, including all exhibits to or parts of the Com-
2 pact requiring the signature of the Secretary.

3 (2) MODIFICATIONS.—Nothing in this title pre-
4 cludes the Secretary from approving modifications to
5 appendices or exhibits to the Compact not incon-
6 sistent with this title, to the extent such modifica-
7 tions do not otherwise require Congressional ap-
8 proval pursuant to section 2116 of the Revised Stat-
9 utes (25 U.S.C. 177) or other applicable Federal
10 law.

11 (c) ENVIRONMENTAL COMPLIANCE.—

12 (1) IN GENERAL.—In implementing the Com-
13 pact, the Secretary shall promptly comply with all
14 applicable aspects of the National Environmental
15 Policy Act of 1969 (42 U.S.C. 4321 et seq.), the
16 Endangered Species Act of 1973 (16 U.S.C. 1531 et
17 seq.), and all other applicable environmental Acts
18 and regulations.

19 (2) EXECUTION OF THE COMPACT.—

20 (A) IN GENERAL.—Execution of the Com-
21 pact by the Secretary under this section shall
22 not constitute a major Federal action under the
23 National Environmental Policy Act of 1969 (42
24 U.S.C. 4321 et seq.).

1 (B) COMPLIANCE.—The Secretary shall
2 carry out all Federal compliance activities nec-
3 essary to implement the Compact.

4 **SEC. 405. REHABILITATION AND IMPROVEMENT OF CROW**
5 **IRRIGATION PROJECT.**

6 (a) IN GENERAL.—Notwithstanding any other provi-
7 sion of law, and without altering applicable law (including
8 regulations) under which the Bureau of Indian Affairs col-
9 lects assessments and carries out CIP OM&R, other than
10 the rehabilitation and improvement carried out under this
11 section, the Secretary, acting through the Commissioner
12 of Reclamation, shall carry out such activities as are nec-
13 essary to rehabilitate and improve the water diversion and
14 delivery features of the Crow Irrigation Project, in accord-
15 ance with an agreement to be negotiated between the Sec-
16 retary and the Tribe.

17 (b) LEAD AGENCY.—The Bureau of Reclamation
18 shall serve as the lead agency with respect to any activity
19 to rehabilitate or improve the water diversion or delivery
20 features of the Crow Irrigation Project.

21 (c) SCOPE.—

22 (1) IN GENERAL.—The scope of the rehabilita-
23 tion and improvement under this section shall be as
24 generally described in the document entitled “Engi-
25 neering Evaluation of Existing Conditions, Crow

1 Agency Rehabilitation Study” prepared by DOWL
2 HKM, and dated August 2007 and updated in a sta-
3 tus report dated December 2009 by DOWL HKM,
4 on the condition that prior to beginning construction
5 activities, the Secretary shall review the design of
6 the proposed rehabilitation or improvement and per-
7 form value engineering analyses.

8 (2) NEGOTIATION WITH TRIBE.—On the basis
9 of the review described in paragraph (1), the Sec-
10 retary shall negotiate with the Tribe appropriate
11 changes to the final design so that the final design
12 meets applicable industry standards, as well as
13 changes, if any, that would improve the cost-effec-
14 tiveness of the delivery of irrigation water and take
15 into consideration the equitable distribution of water
16 to allottees.

17 (d) NONREIMBURSABILITY OF COSTS.—All costs in-
18 curred by the Secretary in carrying out this section shall
19 be nonreimbursable.

20 (e) FUNDING.—The total amount of obligations in-
21 curred by the Secretary in carrying out this section shall
22 not exceed \$131,843,000, except that the total amount of
23 \$131,843,000 shall be increased or decreased, as appro-
24 priate, based on ordinary fluctuations from May 1, 2008,

1 in construction cost indices applicable to the types of con-
2 struction involved in the rehabilitation and improvement.

3 (f) TRIBAL IMPLEMENTATION AGREEMENT.—

4 (1) IN GENERAL.—At the request of the Tribe,
5 in accordance with applicable Federal law, the Sec-
6 retary shall enter into 1 or more agreements with
7 the Tribe to implement the provisions of this section
8 by which the Tribe shall plan, design, and construct
9 any or all of the rehabilitation and improvement re-
10 quired by this section.

11 (2) OVERSIGHT COSTS.—The Bureau of Rec-
12 lamation and the Tribe shall negotiate the cost of
13 any oversight activities carried out by the Bureau of
14 Reclamation for each agreement under this section,
15 provided that the total cost for that oversight shall
16 not exceed 4 percent of the total project costs.

17 (g) ACQUISITION OF LAND.—

18 (1) TRIBAL EASEMENTS AND RIGHTS-OF-
19 WAY.—

20 (A) IN GENERAL.—Upon request, and in
21 partial consideration for the funding provided
22 under section 414(a), the Tribe shall consent to
23 the grant of such easements and rights-of-way
24 over tribal land as may be necessary for the re-
25 habilitation and improvement of the Crow Irri-

1 gation Project authorized by this section at no
2 cost to the United States.

3 (B) JURISDICTION.—The Tribe shall re-
4 tain criminal and civil jurisdiction over any
5 lands that were subject to tribal jurisdiction
6 prior to the granting of an easement or right-
7 of-way in connection with the rehabilitation and
8 improvement of the Crow Irrigation Project.

9 (2) USER EASEMENTS AND RIGHTS-OF-WAY.—
10 In partial consideration of the rehabilitation and im-
11 provement of the Crow Irrigation Project authorized
12 by this section and as a condition of continued serv-
13 ice from the Crow Irrigation Project after the en-
14 forceability date, any water user of the Crow Irriga-
15 tion Project shall consent to the grant of such ease-
16 ments and rights-of-way as may be necessary for the
17 rehabilitation and improvements authorized under
18 this section at no cost to the Secretary.

19 (3) LAND ACQUIRED BY THE UNITED
20 STATES.—Land acquired by the United States in
21 connection with rehabilitation and improvement of
22 the Crow Irrigation Project authorized by this sec-
23 tion shall be held in trust by the United States on
24 behalf of the Tribe as part of the Reservation of the
25 Tribe.

1 (h) PROJECT MANAGEMENT COMMITTEE.—The Sec-
2 retary shall facilitate the formation of a project manage-
3 ment committee composed of representatives from the Bu-
4 reau of Reclamation, the Bureau of Indian Affairs, and
5 the Tribe—

6 (1) to review cost factors and budgets for con-
7 struction, operation, and maintenance activities re-
8 lating to the Crow Irrigation Project;

9 (2) to improve management of inherently gov-
10 ernmental activities through enhanced communica-
11 tion; and

12 (3) to seek additional ways to reduce overall
13 costs for the rehabilitation and improvement of the
14 Crow Irrigation Project.

15 **SEC. 406. DESIGN AND CONSTRUCTION OF MR&I SYSTEM.**

16 (a) IN GENERAL.—The Secretary, acting through the
17 Commissioner of Reclamation, shall plan, design, and con-
18 struct the water diversion and delivery features of the
19 MR&I System, in accordance with 1 or more agreements
20 between the Secretary and the Tribe.

21 (b) LEAD AGENCY.—The Bureau of Reclamation
22 shall serve as the lead agency with respect to any activity
23 to design and construct the water diversion and delivery
24 features of the MR&I System.

25 (c) SCOPE.—

1 (1) IN GENERAL.—The scope of the design and
2 construction under this section shall be as generally
3 described in the document entitled “Crow Indian
4 Reservation Municipal, Rural and Industrial Water
5 System Engineering Report” prepared by DOWL
6 HKM, and dated July 2008 and updated in a status
7 report dated December 2009 by DOWL HKM, on
8 the condition that prior to beginning construction
9 activities, the Secretary shall review the design of
10 the proposed MR&I System and perform value engi-
11 neering analyses.

12 (2) NEGOTIATION WITH TRIBE.—On the basis
13 of the review described in paragraph (1), the Sec-
14 retary shall negotiate with the Tribe appropriate
15 changes to the final design so that the final design
16 meets applicable industry standards, as well as
17 changes, if any, that would improve the cost-effec-
18 tiveness of the delivery of MR&I System water and
19 take into consideration the equitable distribution of
20 water to allottees.

21 (d) NONREIMBURSABILITY OF COSTS.—All costs in-
22 curred by the Secretary in carrying out this section shall
23 be nonreimbursable.

24 (e) FUNDING.—The total amount of obligations in-
25 curred by the Secretary in carrying out this section shall

1 not exceed \$246,381,000, except that the total amount of
2 \$246,381,000 shall be increased or decreased, as appro-
3 priate, based on ordinary fluctuations from May 1, 2008,
4 in construction cost indices applicable to the types of con-
5 struction involved in the design and construction of the
6 MR&I System.

7 (f) TRIBAL IMPLEMENTATION AGREEMENT.—

8 (1) IN GENERAL.—At the request of the Tribe,
9 in accordance with applicable Federal law, the Sec-
10 retary shall enter into 1 or more agreements with
11 the Tribe to implement the provisions of this section
12 by which the Tribe shall plan, design, and construct
13 any or all of the rehabilitation and improvement re-
14 quired by this section.

15 (2) OVERSIGHT COSTS.—The Bureau of Rec-
16 lamation and the Tribe shall negotiate the cost of
17 any oversight activities carried out by the Bureau of
18 Reclamation for each agreement under this section,
19 provided that the total cost for that oversight shall
20 not exceed 4 percent of the total project costs.

21 (g) ACQUISITION OF LAND.—

22 (1) TRIBAL EASEMENTS AND RIGHTS-OF-
23 WAY.—

24 (A) IN GENERAL.—Upon request, and in
25 partial consideration for the funding provided

1 under section 414(b), the Tribe shall consent to
2 the grant of such easements and rights-of-way
3 over tribal land as may be necessary for the
4 construction of the MR&I System authorized by
5 this section at no cost to the United States.

6 (B) JURISDICTION.—The Tribe shall re-
7 tain criminal and civil jurisdiction over any
8 lands that were subject to tribal jurisdiction
9 prior to the granting of an easement or right-
10 of-way in connection with the construction of
11 the MR&I System.

12 (2) LAND ACQUIRED BY THE UNITED
13 STATES.—Land acquired by the United States in
14 connection with the construction of the MR&I Sys-
15 tem authorized by this section shall be held in trust
16 by the United States on behalf of the Tribe as part
17 of the Reservation of the Tribe.

18 (h) CONVEYANCE OF TITLE TO MR&I SYSTEM FA-
19 CILITIES.—

20 (1) IN GENERAL.—The Secretary shall convey
21 title to each MR&I System facility or section of a
22 MR&I System facility authorized under subsection
23 (a) to the Tribe after completion of construction of
24 a MR&I System facility or a section of a MR&I Sys-
25 tem facility that is operating and delivering water.

1 (2) LIABILITY.—

2 (A) IN GENERAL.—Effective on the date of
3 the conveyance authorized by this subsection,
4 the United States shall not be held liable by
5 any court for damages of any kind arising out
6 of any act, omission, or occurrence relating to
7 the land, buildings, or facilities conveyed under
8 this subsection, other than damages caused by
9 acts of negligence committed by the United
10 States, or by employees or agents of the United
11 States, prior to the date of conveyance.

12 (B) TORT CLAIMS.—Nothing in this sec-
13 tion increases the liability of the United States
14 beyond the liability provided in chapter 171 of
15 title 28, United States Code (commonly known
16 as the “Federal Tort Claims Act”).

17 (3) NOTICE OF PROPOSED CONVEYANCE.—Not
18 later than 45 days before the date of a proposed
19 conveyance of title to any MR&I System facility, the
20 Secretary shall submit to the Committee on Natural
21 Resources of the House of Representatives and to
22 the Committee on Energy and Natural Resources of
23 the Senate notice of the conveyance of each such
24 MR&I System facility or section of a MR&I System
25 facility.

1 (4) MR&I SYSTEM OM&R OBLIGATION OF THE
2 FEDERAL GOVERNMENT AFTER CONVEYANCE.—The
3 Federal Government shall have no obligation to pay
4 for the operation, maintenance, or replacement costs
5 of the MR&I System beginning on the date on
6 which—

7 (A) title to any MR&I System facility or
8 section of a MR&I System facility under this
9 subsection is conveyed to the Tribe; and

10 (B) the amounts required to be deposited
11 in the MR&I System OM&R Account pursuant
12 to section 411 have been deposited in that ac-
13 count.

14 (i) AUTHORITY OF TRIBE.—Upon transfer of title to
15 the MR&I System or any section of a MR&I System facil-
16 ity to the Tribe in accordance with subsection (h), the
17 Tribe is authorized to collect water use charges from cus-
18 tomers of the MR&I System to cover—

19 (1) MR&I System OM&R costs; and

20 (2) any other costs relating to the construction
21 and operation of the MR&I System.

22 (j) ALIENATION AND TAXATION.—Conveyance of title
23 to the Tribe pursuant to subsection (h) does not waive
24 or alter any applicable Federal law prohibiting alienation

1 or taxation of the MR&I System or the underlying Res-
2 ervation land.

3 (k) TECHNICAL ASSISTANCE.—The Secretary shall
4 provide technical assistance to prepare the Tribe for oper-
5 ation of the MR&I System, including operation and man-
6 agement training.

7 (l) PROJECT MANAGEMENT COMMITTEE.—The Sec-
8 retary shall facilitate the formation of a project manage-
9 ment committee composed of representatives from the Bu-
10 reau of Reclamation, the Bureau of Indian Affairs, and
11 the Tribe—

12 (1) to review cost factors and budgets for con-
13 struction, operation and maintenance activities for
14 the MR&I System;

15 (2) to improve management of inherently gov-
16 ernmental activities through enhanced communica-
17 tion; and

18 (3) to seek additional ways to reduce overall
19 costs for the MR&I System.

20 (m) NON-FEDERAL CONTRIBUTION.—

21 (1) IN GENERAL.—Prior to completion of the
22 final design of the MR&I System required by sub-
23 section (c), the Secretary shall consult with the
24 Tribe, the State of Montana, and other affected non-
25 Federal parties to discuss the possibility of receiving

1 non-Federal contributions to the cost of the MR&I
2 System.

3 (2) NEGOTIATIONS.—If, based on the extent to
4 which non-Federal parties are expected to use the
5 MR&I System, a non-Federal contribution to the
6 MR&I System is determined by the parties described
7 in paragraph (1) to be appropriate, the Secretary
8 shall initiate negotiations for an agreement on the
9 means by which such contributions may be provided.

10 **SEC. 407. TRIBAL WATER RIGHTS.**

11 (a) INTENT OF CONGRESS.—It is the intent of Con-
12 gress to provide to each allottee benefits that are equiva-
13 lent to or exceed the benefits allottees possess as of the
14 date of enactment of this Act, taking into consideration—

15 (1) the potential risks, cost, and time delay as-
16 sociated with litigation that would be resolved by the
17 Compact and this title;

18 (2) the availability of funding under this title
19 and from other sources;

20 (3) the availability of water from the tribal
21 water rights; and

22 (4) the applicability of section 7 of the Act of
23 February 8, 1887 (25 U.S.C. 381) and this title to
24 protect the interests of allottees.

25 (b) CONFIRMATION OF TRIBAL WATER RIGHTS.—

1 (1) IN GENERAL.—The tribal water rights are
2 ratified, confirmed, and declared to be valid.

3 (2) USE.—Use of the tribal water rights shall
4 be subject to the terms and conditions established by
5 the Compact.

6 (c) HOLDING IN TRUST.—The tribal water rights—

7 (1) shall be held in trust by the United States
8 for the use and benefit of the Tribe and the allottees
9 in accordance with this section; and

10 (2) shall not be subject to forfeiture or aban-
11 donment.

12 (d) ALLOTTEES.—

13 (1) APPLICABILITY OF ACT OF FEBRUARY 8,
14 1887.—The provisions of section 7 of the Act of Feb-
15 ruary 8, 1887 (25 U.S.C. 381), relating to the use
16 of water for irrigation purposes shall apply to the
17 tribal water rights.

18 (2) ENTITLEMENT TO WATER.—Any entitle-
19 ment to water of an allottee under Federal law shall
20 be satisfied from the tribal water rights.

21 (3) ALLOCATIONS.—Allottees shall be entitled
22 to a just and equitable allocation of water for irriga-
23 tion purposes.

24 (4) EXHAUSTION OF REMEDIES.—Before as-
25 serting any claim against the United States under

1 section 7 of the Act of February 8, 1887 (25 U.S.C.
2 381), or any other applicable law, an allottee shall
3 exhaust remedies available under the tribal water
4 code or other applicable tribal law.

5 (5) CLAIMS.—Following exhaustion of remedies
6 available under the tribal water code or other appli-
7 cable tribal law, an allottee may seek relief under
8 section 7 of the Act of February 8, 1887 (25 U.S.C.
9 381), or other applicable law.

10 (6) AUTHORITY.—The Secretary shall have the
11 authority to protect the rights of allottees as speci-
12 fied in this section.

13 (e) AUTHORITY OF TRIBE.—

14 (1) IN GENERAL.—Except as provided in para-
15 graph (2), the Tribe shall have authority to allocate,
16 distribute, and lease the tribal water rights—

17 (A) in accordance with the Compact; and

18 (B) subject to approval of the Secretary of
19 the tribal water code under subsection
20 (f)(3)(B).

21 (2) LEASES BY ALLOTTEES.—Notwithstanding
22 paragraph (1), an allottee may lease any interest in
23 land held by the allottee, together with any water
24 right determined to be appurtenant to the interest in
25 land.

1 (f) TRIBAL WATER CODE.—

2 (1) IN GENERAL.—Notwithstanding the time
3 period set forth in article IV(A)(2)(b) of the Com-
4 pact, not later than 3 years after the date on which
5 the Tribe ratifies the Compact as set forth in section
6 410(e)(1)(E), the Tribe shall enact a tribal water
7 code, that provides for—

8 (A) the management, regulation, and gov-
9 ernance of all uses of the tribal water rights in
10 accordance with the Compact; and

11 (B) establishment by the Tribe of condi-
12 tions, permit requirements, and other limita-
13 tions relating to the storage, recovery, and use
14 of the tribal water rights in accordance with the
15 Compact.

16 (2) INCLUSIONS.—Subject to the approval of
17 the Secretary, the tribal water code shall provide
18 that—

19 (A) tribal allocations of water to allottees
20 shall be satisfied with water from the tribal
21 water rights;

22 (B) charges for delivery of water for irriga-
23 tion purposes for allottees shall be assessed on
24 a just and equitable basis;

1 (C) there is a process by which an allottee
2 may request that the Tribe provide water for ir-
3 rigation use in accordance with this title;

4 (D) there is a due process system for the
5 consideration and determination by the Tribe of
6 any request by an allottee, or any successor in
7 interest to an allottee, for an allocation of such
8 water for irrigation purposes on allotted land,
9 including a process for—

10 (i) appeal and adjudication of any de-
11 nied or disputed distribution of water; and

12 (ii) resolution of any contested admin-
13 istrative decision; and

14 (E) there is a requirement that any allot-
15 tee with a claim relating to the enforcement of
16 rights of the allottee under the tribal water
17 code or relating to the amount of water allo-
18 cated to land of the allottee must first exhaust
19 remedies available to the allottee under tribal
20 law and the tribal water code before initiating
21 an action against the United States or peti-
22 tioning the Secretary pursuant to subsection
23 (d)(6).

24 (3) ACTION BY SECRETARY.—

1 (A) IN GENERAL.—The Secretary shall ad-
2 minister the tribal water rights until the tribal
3 water code is enacted in accordance with para-
4 graph (1) and those provisions requiring ap-
5 proval pursuant to paragraph (2).

6 (B) APPROVAL.—The tribal water code
7 shall not be valid unless—

8 (i) the provisions of the tribal water
9 code required by paragraph (2) are ap-
10 proved by the Secretary; and

11 (ii) each amendment to the tribal
12 water code that affects a right of an allot-
13 tee is approved by the Secretary.

14 (C) APPROVAL PERIOD.—The Secretary
15 shall approve or disapprove the tribal water
16 code within a reasonable period of time after
17 the date on which the Tribe submits it to the
18 Secretary.

19 (g) EFFECT.—Except as otherwise specifically pro-
20 vided in this section, nothing in this title—

21 (1) authorizes any action by an allottee against
22 any individual or entity, or against the Tribe, under
23 Federal, State, tribal, or local law; or

1 (2) alters or affects the status of any action
2 pursuant to section 1491(a) of title 28, United
3 States Code.

4 **SEC. 408. STORAGE ALLOCATION FROM BIGHORN LAKE.**

5 (a) STORAGE ALLOCATION TO TRIBE.—

6 (1) IN GENERAL.—As described in and subject
7 to article III(A)(1)(b) of the Compact, the Secretary
8 shall allocate to the Tribe 300,000 acre-feet per year
9 of water stored in Bighorn Lake, Yellowtail Unit,
10 Lower Bighorn Division, Pick Sloan Missouri Basin
11 Program, Montana, under a water right held by the
12 United States and managed by the Bureau of Rec-
13 lamation, as measured at the outlet works of
14 Yellowtail Dam, including—

15 (A) not more than 150,000 acre-feet per
16 year of the allocation, which may be used in ad-
17 dition to the natural flow right described in ar-
18 ticle III(A)(1)(a) of the Compact; and

19 (B) 150,000 acre-feet per year of the allo-
20 cation, which may be used only as supplemental
21 water for the natural flow right described in ar-
22 ticle III(A)(1)(a) of the Compact for use in
23 times of natural flow shortage.

24 (2) TREATMENT.—

1 (A) IN GENERAL.—The allocation under
2 paragraph (1) shall be considered to be part of
3 the tribal water rights.

4 (B) PRIORITY DATE.—The priority date of
5 the allocation under paragraph (1) shall be the
6 priority date of the water right held by the Bu-
7 reau of Reclamation.

8 (C) ADMINISTRATION.—

9 (i) IN GENERAL.—The Tribe shall ad-
10 minister the water allocated under para-
11 graph (1) in accordance with the Compact.

12 (ii) TEMPORARY TRANSFER.—In ac-
13 cordance with subsection (c), the Tribe
14 may temporarily transfer by service con-
15 tract, lease, exchange, or other agreement,
16 not more than 50,000 acre-feet of water
17 allocated under paragraph (1)(A) off the
18 Reservation, subject to the approval of the
19 Secretary and the requirements of the
20 Compact.

21 (b) ALLOCATION AGREEMENT.—

22 (1) IN GENERAL.—As a condition of receiving
23 an allocation under this section, the Tribe shall
24 enter into an allocation agreement with the Sec-
25 retary to establish the terms and conditions of the

1 allocation, in accordance with the terms and condi-
2 tions of the Compact and this title.

3 (2) INCLUSIONS.—The allocation agreement
4 under paragraph (1) shall include, among other
5 things, a provision that—

6 (A) the agreement is without limit as to
7 term;

8 (B) the Tribe, and not the United States,
9 shall be entitled to all consideration due to the
10 Tribe under any lease, contract, or agreement
11 the Tribe may enter into pursuant to the au-
12 thority in subsection (c);

13 (C) the United States shall have no trust
14 obligation or other obligation to monitor, ad-
15 minister, or account for—

16 (i) any funds received by the Tribe as
17 consideration under any lease, contract, or
18 agreement the Tribe may enter into pursu-
19 ant to the authority in subsection (c); or

20 (ii) the expenditure of such funds;

21 (D) if the facilities at Yellowtail Dam are
22 significantly reduced or are anticipated to be
23 significantly reduced for an extended period of
24 time, the Tribe shall have the same storage

1 rights as other storage contractors with respect
2 to the allocation under this section;

3 (E) the costs associated with the construc-
4 tion of the storage facilities at Yellowtail Dam
5 allocable to the Tribe—

6 (i) shall be nonreimbursable; and

7 (ii) shall be excluded from any repay-
8 ment obligation of the Tribe;

9 (F) no water service capital charges shall
10 be due or payable for any water allocated to the
11 Tribe pursuant to this title and the allocation
12 agreement, regardless of whether that water is
13 delivered for use by the Tribe or is delivered
14 under any leases, contracts, or agreements the
15 Tribe may enter into pursuant to the authority
16 in subsection (c);

17 (G) the Tribe shall not be required to
18 make payments to the United States for any
19 water allocated to the Tribe pursuant to this
20 title and the allocation agreement except for
21 each acre-foot of stored water leased or sold for
22 industrial purposes; and

23 (H) for each acre-foot of stored water
24 leased or sold by the Tribe for industrial pur-
25 poses—

1 (i) the Tribe shall pay annually to the
2 United States an amount to cover the pro-
3 portionate share of the annual operation,
4 maintenance, and replacement costs for the
5 Yellowtail Unit allocable to the amount of
6 water for industrial purposes leased or sold
7 by the Tribe; and

8 (ii) the annual payments of the Tribe
9 shall be reviewed and adjusted, as appro-
10 priate, to reflect the actual operation,
11 maintenance, and replacement costs for the
12 Yellowtail Unit.

13 (c) TEMPORARY TRANSFER FOR USE OFF RESERVA-
14 TION.—

15 (1) IN GENERAL.—Notwithstanding any other
16 provision of statutory or common law and subject to
17 paragraph (2), on approval of the Secretary and
18 subject to the terms and conditions of the Compact,
19 the Tribe may enter into a service contract, lease,
20 exchange, or other agreement providing for the tem-
21 porary delivery, use, or transfer of not more than
22 50,000 acre-feet per year of water allocated under
23 subsection (a)(1)(A) for use off the Reservation.

1 (2) REQUIREMENT.—An agreement under para-
2 graph (1) shall not permanently alienate any portion
3 of the water allocated under subsection (a)(1)(A).

4 (d) REMAINING STORAGE.—

5 (1) IN GENERAL.—As of the date of enactment
6 of this Act, water in Bighorn Lake shall be consid-
7 ered to be fully allocated and no further storage allo-
8 cations shall be made by the Secretary.

9 (2) EFFECT OF SUBSECTION.—Nothing in this
10 subsection prevents the Secretary from—

11 (A) renewing the storage contract with
12 Pennsylvania Power and Light Company con-
13 sistent with the allocation to Pennsylvania
14 Power and Light Company in existence on the
15 date of enactment of this Act; or

16 (B) entering into future agreements with
17 either the Northern Cheyenne Tribe or the
18 Crow Tribe facilitating either tribe's use of its
19 respective allocation of water from Bighorn
20 Lake.

21 **SEC. 409. SATISFACTION OF CLAIMS.**

22 (a) IN GENERAL.—

23 (1) SATISFACTION OF TRIBAL CLAIMS.—The
24 benefits realized by the Tribe under this title shall
25 be in complete replacement of and substitution for,

1 and full satisfaction of, all claims of the Tribe
2 against the United States under paragraphs (1) and
3 (3) of section 410(a).

4 (2) SATISFACTION OF ALLOTTEE CLAIMS.—The
5 benefits realized by the allottees under this title shall
6 be in complete replacement of and substitution for,
7 and full satisfaction of—

8 (A) all claims waived and released under
9 section 410(a)(2); and

10 (B) any claims of the allottees against the
11 United States that the allottees have or could
12 have asserted that are similar in nature to
13 those described in section 410(a)(3).

14 (b) SATISFACTION OF CLAIMS RELATING TO CROW
15 IRRIGATION PROJECT.—

16 (1) IN GENERAL.—Subject to paragraph (3),
17 the funds made available under subsections (a) and
18 (f) of section 414 shall be used to satisfy any claim
19 of the Tribe or the allottees with respect to the ap-
20 propriation of funds for the rehabilitation, expan-
21 sion, improvement, repair, operation, or maintenance
22 of the Crow Irrigation Project.

23 (2) SATISFACTION OF CLAIMS.—Upon complete
24 transfer of the funds described in subsections (a)
25 and (f) of section 414 any claim of the Tribe or the

1 allottees with respect to the transfer of funds for the
2 rehabilitation, expansion, improvement, repair, oper-
3 ation, or maintenance of the Crow Irrigation Project
4 shall be deemed to have been satisfied.

5 (3) EFFECT.—Except as provided in section
6 405, nothing in this title affects any applicable law
7 (including regulations) under which the United
8 States collects irrigation assessments from—

9 (A) non-Indian users of the Crow Irriga-
10 tion Project; and

11 (B) the Tribe, tribal entities and instru-
12 mentalities, tribal members, allottees, and enti-
13 ties owned by the Tribe, tribal members, or
14 allottees, to the extent that annual irrigation
15 assessments on such tribal water users exceed
16 the amount of funds available under section
17 411(e)(3)(D) for costs relating to CIP OM&R.

18 (c) NO RECOGNITION OF WATER RIGHTS.—Notwith-
19 standing subsection (a) and except as provided in section
20 407, nothing in this title recognizes or establishes any
21 right of a member of the Tribe or an allottee to water
22 within the Reservation or the ceded strip.

23 **SEC. 410. WAIVERS AND RELEASES OF CLAIMS.**

24 (a) IN GENERAL.—

1 (1) WAIVER AND RELEASE OF CLAIMS BY THE
2 TRIBE AND THE UNITED STATES ACTING IN ITS CA-
3 PACITY AS TRUSTEE FOR THE TRIBE.—Subject to
4 the retention of rights set forth in subsection (c), in
5 return for recognition of the tribal water rights and
6 other benefits as set forth in the Compact and this
7 title, the Tribe, on behalf of itself and the members
8 of the Tribe (but not tribal members in their capaci-
9 ties as allottees), and the United States, acting as
10 trustee for the Tribe and the members of the Tribe
11 (but not tribal members in their capacities as
12 allottees), are authorized and directed to execute a
13 waiver and release of all claims for water rights
14 within the State of Montana that the Tribe, or the
15 United States acting as trustee for the Tribe, as-
16 serted, or could have asserted, in any proceeding, in-
17 cluding the State of Montana stream adjudication,
18 prior to and including the enforceability date, except
19 to the extent that such rights are recognized in the
20 Compact or this title.

21 (2) WAIVER AND RELEASE OF CLAIMS BY THE
22 UNITED STATES ACTING IN ITS CAPACITY AS TRUST-
23 EE FOR ALLOTTEES.—Subject to the retention of
24 rights set forth in subsection (c), in return for rec-
25 ognition of the water rights of the Tribe and other

1 benefits as set forth in the Compact and this title,
2 the United States, acting as trustee for allottees, is
3 authorized and directed to execute a waiver and re-
4 lease of all claims for water rights within the Res-
5 ervation and the ceded strip that the United States,
6 acting as trustee for the allottees, asserted, or could
7 have asserted, in any proceeding, including the State
8 of Montana stream adjudication, prior to and includ-
9 ing the enforceability date, except to the extent that
10 such rights are recognized in the Compact or this
11 title.

12 (3) WAIVER AND RELEASE OF CLAIMS BY THE
13 TRIBE AGAINST THE UNITED STATES.—Subject to
14 the retention of rights set forth in subsection (c), the
15 Tribe, on behalf of itself and the members of the
16 Tribe (but not Tribal members in their capacities as
17 allottees), is authorized to execute a waiver and re-
18 lease of—

19 (A) all claims against the United States,
20 including the agencies and employees of the
21 United States, relating to claims for water
22 rights within the State of Montana that the
23 United States, acting as trustee for the Tribe,
24 asserted, or could have asserted, in any pro-
25 ceeding, including the State of Montana stream

1 adjudication, except to the extent that such
2 rights are recognized as tribal water rights in
3 this title, including all claims relating in any
4 manner to the claims reserved against the
5 United States or agencies or employees of the
6 United States in section 4(e) of the joint stipu-
7 lation of settlement;

8 (B) all claims against the United States,
9 including the agencies and employees of the
10 United States, relating to damages, losses, or
11 injuries to water, water rights, land, or natural
12 resources due to loss of water or water rights
13 (including damages, losses, or injuries to hunt-
14 ing, fishing, gathering, or cultural rights due to
15 loss of water or water rights, claims relating to
16 interference with, diversion or taking of water,
17 or claims relating to failure to protect, acquire,
18 replace, or develop water, water rights, or water
19 infrastructure) within the State of Montana
20 that first accrued at any time prior to and in-
21 cluding the enforceability date, including all
22 claims relating to the failure to establish or pro-
23 vide a municipal rural or industrial water deliv-
24 ery system on the Reservation and all claims re-
25 lating to the failure to provide for, operate, or

1 maintain the Crow Irrigation Project, or any
2 other irrigation system or irrigation project on
3 the Reservation;

4 (C) all claims against the United States,
5 including the agencies and employees of the
6 United States, relating to the pending litigation
7 of claims relating to the water rights of the
8 Tribe in the State of Montana;

9 (D) all claims against the United States,
10 including the agencies and employees of the
11 United States, relating to the negotiation, exe-
12 cution, or the adoption of the Compact (includ-
13 ing exhibits) or this title;

14 (E) subject to the retention of rights set
15 forth in subsection (c), all claims for monetary
16 damages against the United States that first
17 accrued at any time prior to and including the
18 enforceability date with respect to—

19 (i) the failure to recognize or enforce
20 the claim of the Tribe of title to land cre-
21 ated by the movement of the Bighorn
22 River; and

23 (ii) the failure to make productive use
24 of that land created by the movement of

1 the Bighorn River to which the Tribe has
2 claimed title;

3 (F) all claims against the United States
4 that first accrued at any time prior to and in-
5 cluding the enforceability date arising from the
6 taking or acquisition of the land of the Tribe or
7 resources for the construction of the Yellowtail
8 Dam;

9 (G) all claims against the United States
10 that first accrued at any time prior to and in-
11 cluding the enforceability date relating to the
12 construction and operation of Yellowtail Dam
13 and the management of Bighorn Lake; and

14 (H) all claims that first accrued at any
15 time prior to and including the enforceability
16 date relating to the generation, or the lack
17 thereof, of power from Yellowtail Dam.

18 (b) EFFECTIVENESS OF WAIVERS AND RELEASES.—
19 The waivers under subsection (a) shall take effect on the
20 enforceability date.

21 (c) RESERVATION OF RIGHTS AND RETENTION OF
22 CLAIMS.—Notwithstanding the waivers and releases au-
23 thorized in this title, the Tribe on behalf of itself and the
24 members of the Tribe and the United States, acting as
25 trustee for the Tribe and allottees, retain—

1 (1) all claims for enforcement of the Compact,
2 any final decree, or this title;

3 (2) all rights to use and protect water rights ac-
4 quired after the date of enactment of this Act;

5 (3) all claims relating to activities affecting the
6 quality of water, including any claims the Tribe may
7 have under—

8 (A) the Comprehensive Environmental Re-
9 sponse, Compensation, and Liability Act of
10 1980 (42 U.S.C. 9601 et seq.), including for
11 damages to natural resources;

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

14 (C) the Federal Water Pollution Control
15 Act (33 U.S.C. 1251 et seq.); and

16 (D) any regulations implementing the Acts
17 described in subparagraphs (A) through (C);

18 (4) all claims relating to damages, losses, or in-
19 juries to land or natural resources not due to loss
20 of water or water rights (including hunting, fishing,
21 gathering, or cultural rights);

22 (5) all rights, remedies, privileges, immunities,
23 and powers not specifically waived and released pur-
24 suant to this title or article VII(E) of the Compact;

1 (6) all claims against any person or entity other
2 than the United States, including claims for mone-
3 tary damages, with respect to—

4 (A) the claim of the Tribe of title to land
5 created by the movement of the Bighorn River;
6 and

7 (B) the productive use of that land created
8 by the movement of the Bighorn River to which
9 the Tribe has claimed title; and

10 (7) all claims that first accrued after the en-
11 forceability date with respect to claims otherwise
12 waived in accordance with subparagraphs (B) and
13 (E) through (H) of subsection (a)(3).

14 (d) EFFECT OF COMPACT AND TITLE.—Nothing in
15 the Compact or this title—

16 (1) affects the ability of the United States, act-
17 ing as sovereign, to take actions authorized by law,
18 including any laws relating to health, safety, or the
19 environment, including—

20 (A) the Comprehensive Environmental Re-
21 sponse, Compensation, and Liability Act of
22 1980 (42 U.S.C. 9601 et seq.);

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

1 (C) the Federal Water Pollution Control
2 Act (33 U.S.C. 1251 et seq.); and

3 (D) any regulations implementing the Acts
4 described in subparagraphs (A) through (C);

5 (2) affects the ability of the United States to
6 take actions acting as trustee for any other Indian
7 tribe or allottee of any other Indian tribe;

8 (3) confers jurisdiction on any State court—

9 (A) to interpret Federal law regarding
10 health, safety, or the environment;

11 (B) to determine the duties of the United
12 States or other parties pursuant to Federal law
13 regarding health, safety, or the environment; or

14 (C) to conduct judicial review of Federal
15 agency action;

16 (4) waives any claim of a member of the Tribe
17 in an individual capacity that does not derive from
18 a right of the Tribe; or

19 (5) revives any claims waived by the Tribe in
20 the joint stipulation of settlement.

21 (e) ENFORCEABILITY DATE.—

22 (1) IN GENERAL.—The enforceability date shall
23 be the date on which the Secretary publishes in the
24 Federal Register a statement of findings that—

1 (A)(i) the Montana Water Court has
2 issued a final judgment and decree approving
3 the Compact; or

4 (ii) if the Montana Water Court is found
5 to lack jurisdiction, the district court of juris-
6 diction has approved the Compact as a consent
7 decree and such approval is final;

8 (B) all of the funds made available under
9 subsections (c) through (f) of section 414 have
10 been deposited in the Fund;

11 (C) the Secretary has executed the agree-
12 ments with the Tribe required by sections
13 405(a) and 406(a);

14 (D) the State of Montana has appropriated
15 and paid into an interest-bearing escrow ac-
16 count any payments due as of the date of en-
17 actment of this Act to the Tribe under the
18 Compact;

19 (E)(i) the Tribe has ratified the Compact
20 by submitting this title and the Compact to a
21 vote by the tribal membership for approval or
22 disapproval; and

23 (ii) the tribal membership has voted to ap-
24 prove this title and the Compact by a majority

1 of votes cast on the day of the vote, as certified
2 by the Secretary and the Tribe;

3 (F) the Secretary has fulfilled the require-
4 ments of section 408(a); and

5 (G) the waivers and releases authorized
6 and set forth in subsection (a) have been exe-
7 cuted by the Tribe and the Secretary.

8 (f) TOLLING OF CLAIMS.—

9 (1) IN GENERAL.—Each applicable period of
10 limitation and time-based equitable defense relating
11 to a claim described in this section shall be tolled for
12 the period beginning on the date of enactment of
13 this Act and ending on the date on which the
14 amounts made available to carry out this title are
15 transferred to the Secretary.

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

20 (g) EXPIRATION AND TOLLING.—In the event that
21 all appropriations authorized by this Act have not been
22 made available to the Secretary by June 30, 2030—

23 (1) the waivers authorized in this section shall
24 expire and be of no further force or effect; and

1 (2) all statutes of limitations applicable to any
2 claim otherwise waived shall be tolled until June 30,
3 2030.

4 (h) VOIDING OF WAIVERS.—If the waivers pursuant
5 to this section are void under subsection (g)—

6 (1) the United States' approval of the Compact
7 under section 404 shall no longer be effective;

8 (2) any unexpended Federal funds appropriated
9 or made available to carry out the activities author-
10 ized in this Act, together with any interest earned on
11 those funds, and any water rights or contracts to
12 use water and title to other property acquired or
13 constructed with Federal funds appropriated or
14 made available to carry out the activities authorized
15 in this Act shall be returned to the Federal Govern-
16 ment, unless otherwise agreed to by the Tribe and
17 the United States and approved by Congress; and

18 (3) except for Federal funds used to acquire or
19 develop property that is returned to the Federal
20 Government under paragraph (2), the United States
21 shall be entitled to set off any Federal funds appro-
22 priated or made available to carry out the activities
23 authorized in this Act that were expended or with-
24 drawn, together with any interest accrued, against
25 any claims against the United States relating to

1 water rights in the State of Montana asserted by the
2 Tribe or in any future settlement of the water rights
3 of the Crow Tribe.

4 **SEC. 411. CROW SETTLEMENT FUND.**

5 (a) ESTABLISHMENT.—There is established in the
6 Treasury of the United States a fund to be known as “the
7 Crow Settlement Fund”, to be administered by the Sec-
8 retary for the purpose of carrying out this title.

9 (b) TRANSFERS TO FUND.—The Fund shall consist
10 of such amounts as are deposited in the Fund under sub-
11 sections (c) through (h) of section 414.

12 (c) ACCOUNTS OF CROW SETTLEMENT FUND.—The
13 Secretary shall establish in the Fund the following ac-
14 counts:

15 (1) The Tribal Compact Administration ac-
16 count, consisting of amounts made available pursu-
17 ant to section 414(c).

18 (2) The Energy Development Projects account,
19 consisting of amounts made available pursuant to
20 section 414(d).

21 (3) The MR&I System OM&R Account, con-
22 sisting of amounts made available pursuant to sec-
23 tion 414(e).

24 (4) The CIP OM&R Account, consisting of
25 amounts made available pursuant to section 414(f).

1 (d) DEPOSITS TO CROW SETTLEMENT FUND.—

2 (1) IN GENERAL.—The Secretary of the Treas-
3 ury shall promptly deposit in the Fund any amounts
4 appropriated for that purpose.

5 (2) PRIORITY OF DEPOSITS TO ACCOUNTS.—Of
6 the amounts appropriated for deposit in the Fund,
7 the Secretary of the Treasury shall deposit amounts
8 in the accounts listed in subsection (c)—

9 (A) in full; and

10 (B) in the order listed in subsection (c).

11 (e) MANAGEMENT.—

12 (1) IN GENERAL.—The Secretary shall manage
13 the Fund, make investments from the Fund, and
14 make amounts available from the Fund for distribu-
15 tion to the Tribe consistent with the American In-
16 dian Trust Fund Management Reform Act of 1994
17 (25 U.S.C. 4001 et seq.).

18 (2) INVESTMENT OF CROW SETTLEMENT
19 FUND.—Beginning on the enforceability date, the
20 Secretary shall invest amounts in the Fund in ac-
21 cordance with—

22 (A) the Act of April 1, 1880 (25 U.S.C.
23 161);

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

1 (C) the obligations of Federal corporations
2 and Federal Government-sponsored entities, the
3 charter documents of which provide that the ob-
4 ligations of the entities are lawful investments
5 for federally managed funds, including—

6 (i) the obligations of the United
7 States Postal Service described in section
8 2005 of title 39, United States Code;

9 (ii) bonds and other obligations of the
10 Tennessee Valley Authority described in
11 section 15d of the Tennessee Valley Au-
12 thority Act of 1933 (16 U.S.C. 831n-4);

13 (iii) mortgages, obligations, and other
14 securities of the Federal Home Loan Mort-
15 gage Corporation described in section 303
16 of the Federal Home Loan Mortgage Cor-
17 poration Act (12 U.S.C. 1452); and

18 (iv) bonds, notes, and debentures of
19 the Commodity Credit Corporation de-
20 scribed in section 4 of the Act of March 8,
21 1938 (15 U.S.C. 713a-4).

22 (3) DISTRIBUTIONS FROM CROW SETTLEMENT
23 FUND.—

1 (A) IN GENERAL.—Amounts from the
2 Fund shall be used for each purpose described
3 in subparagraphs (B) through (E).

4 (B) TRIBAL COMPACT ADMINISTRATION
5 ACCOUNT.—The Tribal Compact Administration
6 account shall be used for expenditures by the
7 Tribe for Tribal Compact Administration.

8 (C) ENERGY DEVELOPMENT PROJECTS AC-
9 COUNT.—The Energy Development Projects ac-
10 count shall be used for expenditures by the
11 Tribe for the following types of energy develop-
12 ment on the Reservation, the ceded strip, and
13 land owned by the Tribe:

14 (i) Development and marketing of
15 power generation on the Yellowtail
16 Afterbay Dam authorized in section
17 412(b).

18 (ii) Development of clean coal conver-
19 sion projects.

20 (iii) Renewable energy projects other
21 than the project described in clause (i).

22 (D) CIP OM&R ACCOUNT.—

23 (i) IN GENERAL.—Amounts in the
24 CIP OM&R Account shall be used for CIP
25 OM&R costs.

1 (ii) REDUCTION OF COSTS TO TRIBAL
2 WATER USERS.—

3 (I) IN GENERAL.—Subject to
4 subclause (II), the funds described in
5 clause (i) shall be used to reduce the
6 CIP OM&R costs to all tribal water
7 users on a proportional basis for a
8 given year.

9 (II) LIMITATION ON USE OF
10 FUNDS.—Funds in the CIP OM&R
11 Account shall be used to pay irriga-
12 tion assessments only for the Tribe,
13 tribal entities and instrumentalities,
14 tribal members, allottees, and entities
15 owned by the Tribe, tribal members,
16 or allottees.

17 (E) MR&I SYSTEM OM&R ACCOUNT.—
18 Funds from the MR&I System OM&R Account
19 shall be used to assist the Tribe in paying
20 MR&I System OM&R costs.

21 (4) WITHDRAWALS BY TRIBE.—

22 (A) IN GENERAL.—The Tribe may with-
23 draw any portion of amounts in the Fund on
24 approval by the Secretary of a tribal manage-
25 ment plan in accordance with the American In-

1 dian Trust Fund Management Reform Act of
2 1994 (25 U.S.C. 4001 et seq.).

3 (B) REQUIREMENTS.—

4 (i) IN GENERAL.—In addition to the
5 requirements under the American Indian
6 Trust Fund Management Reform Act of
7 1994 (25 U.S.C. 4001 et seq.), the tribal
8 management plan of the Tribe under sub-
9 paragraph (A) shall require that the Tribe
10 spend any amounts withdrawn from the
11 Fund in accordance with this title.

12 (ii) ENFORCEMENT.—The Secretary
13 may carry out such judicial or administra-
14 tive actions as the Secretary determines to
15 be necessary to enforce a tribal manage-
16 ment plan to ensure that amounts with-
17 drawn by the Tribe from the Fund under
18 this paragraph are used in accordance with
19 this title.

20 (C) LIABILITY.—The Secretary and the
21 Secretary of the Treasury shall not be liable for
22 the expenditure or investment of amounts with-
23 drawn from the Fund by the Tribe under this
24 paragraph.

25 (D) EXPENDITURE PLAN.—

1 (i) IN GENERAL.—For each fiscal
2 year, the Tribe shall submit to the Sec-
3 retary for approval an expenditure plan for
4 any portion of the amounts described in
5 subparagraph (A) that the Tribe elects not
6 to withdraw under this paragraph during
7 the fiscal year.

8 (ii) INCLUSION.—An expenditure plan
9 under clause (i) shall include a description
10 of the manner in which, and the purposes
11 for which, amounts of the Tribe remaining
12 in the Fund will be used during subse-
13 quent fiscal years.

14 (iii) APPROVAL.—On receipt of an ex-
15 penditure plan under clause (i), the Sec-
16 retary shall approve the plan if the Sec-
17 retary determines that the plan is—

18 (I) reasonable; and

19 (II) consistent with this title.

20 (5) ANNUAL REPORTS.—The Tribe shall submit
21 to the Secretary annual reports describing each ex-
22 penditure by the Tribe of amounts in the Fund dur-
23 ing the preceding calendar year.

24 (6) CERTAIN PER CAPITA DISTRIBUTIONS PRO-
25 HIBITED.—No amount in the Fund shall be distrib-

1 uted to any member of the Tribe on a per capita
2 basis.

3 (f) AVAILABILITY.—

4 (1) IN GENERAL.—Except as provided in para-
5 graph (2), the amounts in the Fund shall be avail-
6 able for use by the Secretary and withdrawal by the
7 Tribe beginning on the enforceability date.

8 (2) EXCEPTION.—The amounts made available
9 under section 414(c) shall be available for use by the
10 Secretary and withdrawal by the Tribe beginning on
11 the date on which the Tribe ratifies the Compact as
12 provided in section 410(e)(1)(E).

13 (g) STATE CONTRIBUTION.—The State of Montana
14 contribution to the Fund shall be provided in accordance
15 with article VI(A) of the Compact.

16 (h) SEPARATE APPROPRIATIONS ACCOUNT.—Section
17 1105(a) of title 31, United States Code, is amended—

18 (1) by redesignating paragraphs (35) and (36)
19 as paragraphs (36) and (37), respectively;

20 (2) by redesignating the second paragraph (33)
21 (relating to obligational authority and outlays re-
22 quested for homeland security) as paragraph (35);
23 and

24 (3) by adding at the end the following:

1 “(38) a separate statement for the Crow Settle-
2 ment Fund established under section 411 of the
3 Crow Tribe Water Rights Settlement Act of 2010,
4 which shall include the estimated amount of deposits
5 into the Fund, obligations, and outlays from the
6 Fund.”.

7 **SEC. 412. YELLOWTAIL DAM, MONTANA.**

8 (a) STREAMFLOW AND LAKE LEVEL MANAGEMENT
9 PLAN.—

10 (1) IN GENERAL.—Nothing in this title, the
11 Compact, or the Streamflow and Lake Level Man-
12 agement Plan referred to in article III(A)(7) of the
13 Compact—

14 (A) limits the discretion of the Secretary
15 under the section 4F of that plan; or

16 (B) requires the Secretary to give priority
17 to any factor described in section 4F of that
18 plan over any other factor described in that sec-
19 tion.

20 (2) BIGHORN LAKE MANAGEMENT.—Bighorn
21 Lake water management, including the Streamflow
22 and Lake Level Management Plan, is a Federal ac-
23 tivity, and the review and enforcement of any water
24 management decisions relating to Bighorn Lake
25 shall be as provided by Federal law.

1 (3) APPLICABILITY OF PARAGRAPHS (1) AND
2 (2).—The Streamflow and Lake Level Management
3 Plan referred to in and part of the Compact shall be
4 interpreted to clearly reflect paragraphs (1) and (2).

5 (4) APPLICABILITY OF INSTREAM FLOW RE-
6 QUIREMENTS IN PLAN.—Notwithstanding any term
7 (including any defined term) or provision in the
8 Streamflow and Lake Level Management Plan, for
9 purposes of this title, the Compact, and the
10 Streamflow and Lake Level Management Plan, any
11 requirement in the Streamflow and Lake Level Man-
12 agement Plan that the Tribe dedicate a specified
13 percentage, portion, or number of acre-feet of water
14 per year of the tribal water rights to instream flow
15 means (and is limited in meaning and effect to) an
16 obligation on the part of the Tribe to withhold from
17 development or otherwise refrain from diverting or
18 removing from the Bighorn River the specified quan-
19 tity of water for the duration, at the locations, and
20 under the conditions set forth in the applicable re-
21 quirement.

22 (b) POWER GENERATION.—

23 (1) IN GENERAL.—Notwithstanding any other
24 provision of law, the Tribe shall have the exclusive
25 right to develop and market power generation on the

1 Yellowtail Afterbay Dam, provided that this exclu-
2 sive right shall expire 15 years after the date of en-
3 actment of this Act if construction has not been sub-
4 stantially completed on the power generation project
5 of the Tribe.

6 (2) BUREAU OF RECLAMATION COOPERA-
7 TION.—The Bureau of Reclamation shall cooperate
8 with the Tribe on the development of any power gen-
9 eration project under this subsection.

10 (3) AGREEMENT.—Before construction of a
11 power generation project under this subsection, the
12 Tribe shall enter into an agreement with the Bureau
13 of Reclamation that contains provisions that—

14 (A) allocate the responsibilities for the de-
15 sign, construction, and operations of the
16 project;

17 (B) assure the compatibility of the power
18 generation project with the operations of the
19 Yellowtail Unit and the Yellowtail Afterbay
20 Dam, which shall include entering into agree-
21 ments—

22 (i) regarding operating criteria and
23 emergency procedures, as they relate to
24 dam safety; and

1 agreement and at 5 year intervals there-
2 after; and

3 (ii) may increase or decrease the
4 charges in proportion to the amount of any
5 increase or decrease in the costs of oper-
6 ation, maintenance, and replacement for
7 the Yellowtail Afterbay Dam, provided that
8 any increase in operation, maintenance,
9 and replacement costs assessed to the
10 Tribe may not exceed—

11 (I) 5 percent in any 5 year pe-
12 riod; and

13 (II) 3 percent of the gross annual
14 revenue produced by the sale of elec-
15 tricity generated by such project.

16 (4) USE OF POWER BY TRIBE.—Any hydro-
17 electric power generated in accordance with this sub-
18 section shall be used or marketed by the Tribe.

19 (5) REVENUES.—The Tribe shall retain any
20 revenues from the sale of hydroelectric power gen-
21 erated by a project under this subsection.

22 (6) LIABILITY OF UNITED STATES.—The
23 United States shall have no trust obligation to mon-
24 itor, administer, or account for—

1 (A) the revenues received by the Tribe
2 under this subsection; or

3 (B) the expenditure of the revenues re-
4 ceived by the Tribe under this subsection.

5 (c) CONSULTATION WITH TRIBE.—The Bureau of
6 Reclamation shall consult with the Tribe on at least a
7 quarterly basis on all issues relating to the management
8 of Yellowtail Dam by the Bureau of Reclamation.

9 (d) AMENDMENTS TO COMPACT AND PLAN.—The
10 provisions of subsection (a) apply to any amendment to—

11 (1) the Compact; or

12 (2) the Streamflow and Lake Level Manage-
13 ment Plan.

14 **SEC. 413. MISCELLANEOUS PROVISIONS.**

15 (a) WAIVER OF SOVEREIGN IMMUNITY BY THE
16 UNITED STATES.—Except as provided in subsections (a)
17 through (c) of section 208 of the Department of Justice
18 Appropriation Act, 1953 (43 U.S.C. 666), nothing in this
19 title waives the sovereign immunity of the United States.

20 (b) OTHER TRIBES NOT ADVERSELY AFFECTED.—
21 Nothing in this title quantifies or diminishes any land or
22 water right, or any claim or entitlement to land or water,
23 of an Indian tribe, band, or community other than the
24 Tribe.

1 (c) LIMITATION ON CLAIMS FOR REIMBURSEMENT.—

2 With respect to Indian land within the Reservation or the
3 ceded strip—

4 (1) the United States shall not submit against
5 any Indian-owned land located within the Reserva-
6 tion or the ceded strip any claim for reimbursement
7 of the cost to the United States of carrying out this
8 title and the Compact; and

9 (2) no assessment of any Indian-owned land lo-
10 cated within the Reservation or the ceded strip shall
11 be made regarding that cost.

12 (d) LIMITATION ON LIABILITY OF UNITED
13 STATES.—

14 (1) IN GENERAL.—The United States has no
15 trust or other obligation—

16 (A) to monitor, administer, or account for,
17 in any manner, any funds provided to the Tribe
18 by any party to the Compact other than the
19 United States; or

20 (B) to review or approve any expenditure
21 of those funds.

22 (2) INDEMNIFICATION.—The Tribe shall indem-
23 nify the United States, and hold the United States
24 harmless, with respect to all claims (including claims
25 for takings or breach of trust) arising from the re-

1 receipt or expenditure of amounts described in para-
2 graph (1)(A).

3 (e) EFFECT ON CURRENT LAW.—Nothing in this sec-
4 tion affects any provision of law (including regulations)
5 in effect on the day before the date of enactment of this
6 Act with respect to preenforcement review of any Federal
7 environmental enforcement action.

8 (f) LIMITATIONS ON EFFECT.—

9 (1) IN GENERAL.—Nothing in this title, the
10 Compact, or the Streamflow and Lake Level Man-
11 agement Plan referred to in article III(A)(7) of the
12 Compact—

13 (A) limits, expands, alters, or otherwise af-
14 fects—

15 (i) the meaning, interpretation, imple-
16 mentation, application, or effect of any ar-
17 ticle, provision, or term of the Yellowstone
18 River Compact;

19 (ii) any right, requirement, or obliga-
20 tion under the Yellowstone River Compact;

21 (iii) any allocation (or manner of de-
22 termining any allocation) of water under
23 the Yellowstone River Compact; or

24 (iv) any present or future claim, de-
25 fense, or other position asserted in any

1 legal, administrative, or other proceeding
2 arising under or relating to the Yellow-
3 stone River Compact (including the origi-
4 nal proceeding between the State of Mon-
5 tana and the State of Wyoming pending as
6 of the date of enactment of this Act before
7 the United States Supreme Court);

8 (B) makes an allocation or apportionment
9 of water between or among States;

10 (C) addresses or implies whether, how, or
11 to what extent (if any)—

12 (i) the tribal water rights, or any por-
13 tion of the tribal water rights, should be
14 accounted for as part of or otherwise
15 charged against any allocation of water
16 made to a State under the provisions of
17 the Yellowstone River Compact; or

18 (ii) the Yellowstone River Compact in-
19 cludes the tribal water rights or the water
20 right of any Indian tribe as part of any al-
21 location or other disposition of water under
22 that compact; or

23 (D) waives the sovereign immunity from
24 suit of any State under the Eleventh Amend-
25 ment to the Constitution of the United States,

1 except as expressly authorized in Article
2 IV(F)(8) of the Compact.

3 (2) EFFECT OF CERTAIN PROVISIONS IN COM-
4 PACT.—The provisions in paragraphs (1) and (2) of
5 article III (A)(6)(a), paragraphs (1) and (2) of arti-
6 cle III(B)(6)(a), paragraphs (1) and (2) of article
7 III(E)(6)(a), and paragraphs (1) and (2) of article
8 III (F)(6)(a) of the Compact that provide protec-
9 tions to certain water rights recognized under the
10 laws of the State of Montana do not affect in any
11 way, either directly or indirectly, existing or future
12 water rights (including the exercise of any such
13 rights) outside of the State of Montana.

14 (g) EFFECT ON RECLAMATION LAW.—The activities
15 carried out by the Bureau of Reclamation under this title
16 shall not establish a precedent or impact the authority
17 provided under any other provision of Federal reclamation
18 law, including—

19 (1) the Rural Supply Act of 2006 (Public Law
20 109–451; 120 Stat. 3345); and

21 (2) the Omnibus Public Land Management Act
22 of 2009 (Public Law 111-11; 123 Stat. 991).

23 **SEC. 414. FUNDING.**

24 (a) REHABILITATION AND IMPROVEMENT OF CROW
25 IRRIGATION PROJECT.—

1 (1) MANDATORY APPROPRIATION.—Out of any
2 funds in the Treasury not otherwise appropriated,
3 the Secretary of the Treasury shall transfer to the
4 Secretary \$73,843,000, adjusted to reflect changes
5 since May 1, 2008, in construction cost indices ap-
6 plicable to the types of construction involved in the
7 rehabilitation and improvement of the Crow Irriga-
8 tion Project, for the rehabilitation and improvement
9 of the Crow Irrigation Project.

10 (2) AUTHORIZATION OF APPROPRIATIONS.—In
11 addition to the amount made available under para-
12 graph (1), there is authorized to be appropriated to
13 the Secretary for the rehabilitation and improvement
14 of the Crow Irrigation Project \$58,000,000, ad-
15 justed to reflect changes since May 1, 2008, in con-
16 struction cost indices applicable to the types of con-
17 struction involved in the rehabilitation and improve-
18 ment of the Crow Irrigation Project.

19 (b) DESIGN AND CONSTRUCTION OF MR&I SYS-
20 TEM.—

21 (1) MANDATORY APPROPRIATION.—Out of any
22 funds in the Treasury not otherwise appropriated,
23 the Secretary of the Treasury shall transfer to the
24 Secretary \$146,000,000, adjusted to reflect changes
25 since May 1, 2008, in construction cost indices ap-

1 plicable to the types of construction involved in the
2 design and construction of the MR&I System, for
3 the design and construction of the MR&I System.

4 (2) AUTHORIZATION OF APPROPRIATIONS.—In
5 addition to the amount made available under para-
6 graph (1), there is authorized to be appropriated to
7 the Secretary for the design and construction of the
8 MR&I System \$100,381,000, adjusted to reflect
9 changes since May 1, 2008, in construction cost in-
10 dices applicable to the types of construction involved
11 in the design and construction of the MR&I System.

12 (c) TRIBAL COMPACT ADMINISTRATION.—Out of any
13 funds in the Treasury not otherwise appropriated, the Sec-
14 retary of the Treasury shall transfer to the Secretary
15 \$4,776,000, adjusted to reflect changes in appropriate
16 cost indices during the period beginning on the date of
17 enactment of this Act and ending on the date of the trans-
18 fer, for Tribal Compact Administration.

19 (d) ENERGY DEVELOPMENT PROJECTS.—Out of any
20 funds in the Treasury not otherwise appropriated, the Sec-
21 retary of the Treasury shall transfer to the Secretary
22 \$20,000,000, adjusted to reflect changes in appropriate
23 cost indices during the period beginning on the date of
24 enactment of this Act and ending on the date of the trans-

1 fer, for Energy Development Projects as set forth in sec-
2 tion 411(e)(3)(C).

3 (e) MR&I SYSTEM OM&R.—Out of any funds in the
4 Treasury not otherwise appropriated, the Secretary of the
5 Treasury shall transfer to the Secretary \$47,000,000, ad-
6 justed to reflect changes in appropriate cost indices during
7 the period beginning on the date of enactment of this Act
8 and ending on the date of the transfer, for MR&I System
9 OM&R.

10 (f) CIP OM&R.—Out of any funds in the Treasury
11 not otherwise appropriated, the Secretary of the Treasury
12 shall transfer to the Secretary \$10,000,000, adjusted to
13 reflect changes in appropriate cost indices during the pe-
14 riod beginning on the date of enactment of this Act and
15 ending on the date of the transfer, for CIP OM&R.

16 (g) USE.—In addition to the uses authorized under
17 subsections (a) and (b), such amounts as may be nec-
18 essary of the amounts made available under those sub-
19 sections may be used to carry out related activities nec-
20 essary to comply with Federal environmental and cultural
21 resource laws.

22 (h) ACCOUNT TRANSFERS.—

23 (1) IN GENERAL.—The Secretary may transfer
24 from the amounts made available under subsection
25 (a) such amounts as the Secretary, with the concur-

1 rence of the Tribe, determines to be necessary to
2 supplement the amounts made available under sub-
3 section (b), on a determination of the Secretary, in
4 consultation with the Tribe, that such a transfer is
5 in the best interest of the Tribe.

6 (2) OTHER APPROVED TRANSFERS.—The Sec-
7 retary may transfer from the amounts made avail-
8 able under subsection (b) such amounts as the Sec-
9 retary, with the concurrence of the Tribe, determines
10 to be necessary to supplement the amounts made
11 available under subsection (a), on a determination of
12 the Secretary, in consultation with the Tribe, that
13 such a transfer is in the best interest of the Tribe.

14 (i) RECEIPT AND ACCEPTANCE.—The Secretary shall
15 be entitled to receive, shall accept, and shall use to carry
16 out this section the funds transferred under subsections
17 (a) through (f), without further appropriation.

18 **SEC. 415. REPEAL ON FAILURE TO MEET ENFORCEABILITY**

19 **DATE.**

20 If the Secretary does not publish a statement of find-
21 ings under section 410(e) not later than March 31, 2016,
22 or the extended date agreed to by the Tribe and the Sec-
23 retary, after reasonable notice to the State of Montana,
24 as applicable—

1 (1) this title is repealed effective April 1, 2016,
2 or the day after the extended date agreed to by the
3 Tribe and the Secretary after reasonable notice to
4 the State of Montana, whichever is later;

5 (2) any action taken by the Secretary and any
6 contract or agreement pursuant to the authority pro-
7 vided under any provision of this title shall be void;

8 (3) any amounts made available under section
9 414, together with any interest on those amounts,
10 shall immediately revert to the general fund of the
11 Treasury;

12 (4) any amounts made available under section
13 414 that remain unexpended shall immediately re-
14 vert to the general fund of the Treasury; and

15 (5) the United States shall be entitled to set off
16 against any claims asserted by the Tribe against the
17 United States relating to water rights—

18 (A) any funds expended or withdrawn from
19 the amounts made available pursuant to this
20 title; and

21 (B) any funds made available to carry out
22 the activities authorized in this title from other
23 authorized sources.

1 **SEC. 416. ANTIDEFICIENCY.**

2 The United States shall not be liable for any failure
3 to carry out any obligation or activity authorized by this
4 title (including any such obligation or activity under the
5 Settlement Agreement) if adequate appropriations are not
6 provided expressly by Congress to carry out the purposes
7 of this title in the Reclamation Water Settlements Fund
8 established under section 10501 of Public Law 111–11 or
9 the “Emergency Fund for Indian Safety and Health” es-
10 tablished by section 601(a) of the Tom Lantos and Henry
11 J. Hyde United States Global Leadership Against HIV/
12 AIDS, Tuberculosis, and Malaria Reauthorization Act of
13 2008 (25 U.S.C. 443c(a)).

14 **TITLE V—TAOS PUEBLO INDIAN**
15 **WATER RIGHTS**

16 **SEC. 501. SHORT TITLE.**

17 This title may be cited as the “Taos Pueblo Indian
18 Water Rights Settlement Act”.

19 **SEC. 502. PURPOSES.**

20 The purposes of this title are—

- 21 (1) to approve, ratify, and confirm the Taos
22 Pueblo Indian Water Rights Settlement Agreement;
23 (2) to authorize and direct the Secretary to exe-
24 cute the Settlement Agreement and to perform all
25 obligations of the Secretary under the Settlement
26 Agreement and this title; and

1 (3) to authorize all actions and appropriations
2 necessary for the United States to meet its obliga-
3 tions under the Settlement Agreement and this title.

4 **SEC. 503. DEFINITIONS.**

5 In this title:

6 (1) **ELIGIBLE NON-PUEBLO ENTITIES.**—The
7 term “Eligible Non-Pueblo Entities” means the
8 Town of Taos, the El Prado Water and Sanitation
9 District, and the New Mexico Department of Fi-
10 nance and Administration Local Government Divi-
11 sion on behalf of the Acequia Madre del Rio Lucero
12 y del Arroyo Seco, the Acequia Madre del Prado, the
13 Acequia del Monte, the Acequia Madre del Rio
14 Chiquito, the Upper Ranchitos Mutual Domestic
15 Water Consumers Association, the Upper Arroyo
16 Hondo Mutual Domestic Water Consumers Associa-
17 tion, and the Llano Quemado Mutual Domestic
18 Water Consumers Association.

19 (2) **ENFORCEMENT DATE.**—The term “Enforce-
20 ment Date” means the date upon which the Sec-
21 retary publishes the notice required by section
22 509(f)(1).

23 (3) **MUTUAL-BENEFIT PROJECTS.**—The term
24 “Mutual-Benefit Projects” means the projects de-

1 scribed and identified in articles 6 and 10.1 of the
2 Settlement Agreement.

3 (4) PARTIAL FINAL DECREE.—The term “Par-
4 tial Final Decree” means the Decree entered in New
5 Mexico v. Abeyta and New Mexico v. Arellano, Civil
6 Nos. 7896–BB (U.S.6 D.N.M.) and 7939–BB (U.S.
7 D.N.M.) (consolidated), for the resolution of the
8 Pueblo’s water right claims and which is substan-
9 tially in the form agreed to by the Parties and at-
10 tached to the Settlement Agreement as Attachment
11 5.

12 (5) PARTIES.—The term “Parties” means the
13 Parties to the Settlement Agreement, as identified in
14 article 1 of the Settlement Agreement.

15 (6) PUEBLO.—The term “Pueblo” means the
16 Taos Pueblo, a sovereign Indian tribe duly recog-
17 nized by the United States of America.

18 (7) PUEBLO LANDS.—The term “Pueblo lands”
19 means those lands located within the Taos Valley to
20 which the Pueblo, or the United States in its capac-
21 ity as trustee for the Pueblo, holds title subject to
22 Federal law limitations on alienation. Such lands in-
23 clude Tracts A, B, and C, the Pueblo’s land grant,
24 the Blue Lake Wilderness Area, and the Tenorio

1 and Karavas Tracts and are generally depicted in
2 Attachment 2 to the Settlement Agreement.

3 (8) SAN JUAN-CHAMA PROJECT.—The term
4 “San Juan-Chama Project” means the Project au-
5 thORIZED by section 8 of the Act of June 13, 1962
6 (76 Stat. 96 and 97), and the Act of April 11, 1956
7 (70 Stat. 105).

8 (9) SECRETARY.—The term “Secretary” means
9 the Secretary of the Interior.

10 (10) SETTLEMENT AGREEMENT.—The term
11 “Settlement Agreement” means the contract dated
12 March 31, 2006, between and among—

13 (A) the United States, acting solely in its
14 capacity as trustee for Taos Pueblo;

15 (B) the Taos Pueblo, on its own behalf;

16 (C) the State of New Mexico;

17 (D) the Taos Valley Acequia Association
18 and its 55 member ditches;

19 (E) the Town of Taos;

20 (F) the El Prado Water and Sanitation
21 District; and

22 (G) the 12 Taos area Mutual Domestic
23 Water Consumers Associations, as amended to
24 conform with this title.

1 (11) STATE ENGINEER.—The term “State En-
2 gineer” means the New Mexico State Engineer.

3 (12) TAOS VALLEY.—The term “Taos Valley”
4 means the geographic area depicted in Attachment 4
5 of the Settlement Agreement.

6 **SEC. 504. PUEBLO RIGHTS.**

7 (a) IN GENERAL.—Those rights to which the Pueblo
8 is entitled under the Partial Final Decree shall be held
9 in trust by the United States on behalf of the Pueblo and
10 shall not be subject to forfeiture, abandonment, or perma-
11 nent alienation.

12 (b) SUBSEQUENT ACT OF CONGRESS.—The Pueblo
13 shall not be denied all or any part of its rights held in
14 trust absent its consent unless such rights are explicitly
15 abrogated by an Act of Congress hereafter enacted.

16 **SEC. 505. TAOS PUEBLO WATER DEVELOPMENT FUND.**

17 (a) ESTABLISHMENT.—There is established in the
18 Treasury of the United States a fund to be known as the
19 “Taos Pueblo Water Development Fund” (referred to in
20 this section as the “Fund”) to be used to pay or reimburse
21 costs incurred by the Pueblo for—

22 (1) acquiring water rights;

23 (2) planning, permitting, designing, engineer-
24 ing, constructing, reconstructing, replacing, rehabili-
25 tating, operating, or repairing water production,

1 treatment or delivery infrastructure, on-farm im-
2 provements, or wastewater infrastructure;

3 (3) restoring, preserving and protecting the
4 Buffalo Pasture, including planning, permitting, de-
5 signing, engineering, constructing, operating, man-
6 aging and replacing the Buffalo Pasture Recharge
7 Project;

8 (4) administering the Pueblo's water rights ac-
9 quisition program and water management and ad-
10 ministration system; and

11 (5) watershed protection and enhancement, sup-
12 port of agriculture, water-related Pueblo community
13 welfare and economic development, and costs related
14 to the negotiation, authorization, and implementa-
15 tion of the Settlement Agreement.

16 (b) MANAGEMENT OF FUND.—The Secretary shall
17 manage the Fund, invest amounts in the Fund, and make
18 monies available from the Fund for distribution to the
19 Pueblo consistent with the American Indian Trust Fund
20 Management Reform Act of 1994 (25 U.S.C. 4001 et seq.)
21 (hereinafter, “Trust Fund Reform Act”), this title, and
22 the Settlement Agreement.

23 (c) INVESTMENT OF FUND.—Upon the Enforcement
24 Date, the Secretary shall invest amounts in the Fund in
25 accordance with—

1 (1) the Act of April 1, 1880 (21 Stat. 70, ch.
2 41, 25 U.S.C. 161);

3 (2) the first section of the Act of June 24,
4 1938 (52 Stat. 1037, ch. 648, 25 U.S.C. 162a); and

5 (3) the American Indian Trust Fund Manage-
6 ment Reform Act of 1994 (25 U.S.C. 4001 et seq.).

7 (d) AVAILABILITY OF AMOUNTS FROM FUND.—Upon
8 the Enforcement Date, all monies deposited in the Fund
9 pursuant to section 509(c)(1) or made available from
10 other authorized sources shall be available to the Pueblo
11 for expenditure or withdrawal after the requirements of
12 subsection (e) have been met.

13 (e) EXPENDITURES AND WITHDRAWAL.—

14 (1) TRIBAL MANAGEMENT PLAN.—

15 (A) IN GENERAL.—The Pueblo may with-
16 draw all or part of the Fund on approval by the
17 Secretary of a tribal management plan as de-
18 scribed in the Trust Fund Reform Act.

19 (B) REQUIREMENTS.—In addition to the
20 requirements under the Trust Fund Reform
21 Act, the tribal management plan shall require
22 that the Pueblo spend any funds in accordance
23 with the purposes described in subsection (a).

24 (2) ENFORCEMENT.—The Secretary may take
25 judicial or administrative action to enforce the re-

1 requirement that monies withdrawn from the Fund
2 are used for the purposes specified in subsection (a).

3 (3) LIABILITY.—If the Pueblo exercises the
4 right to withdraw monies from the Fund, neither the
5 Secretary nor the Secretary of the Treasury shall re-
6 tain any liability for the expenditure or investment
7 of the monies withdrawn.

8 (4) EXPENDITURE PLAN.—

9 (A) IN GENERAL.—The Pueblo shall sub-
10 mit to the Secretary for approval an expendi-
11 ture plan for any portions of the funds made
12 available under this title that the Pueblo does
13 not withdraw under paragraph (1)(A).

14 (B) DESCRIPTION.—The expenditure plan
15 shall describe the manner in which, and the
16 purposes for which, amounts remaining in the
17 Fund will be used.

18 (C) APPROVAL.—On receipt of an expendi-
19 ture plan under subparagraph (A), the Sec-
20 retary shall approve the plan if the Secretary
21 determines that the plan is reasonable and con-
22 sistent with this title.

23 (5) ANNUAL REPORT.—The Pueblo shall submit
24 to the Secretary an annual report that describes all

1 expenditures from the Fund during the year covered
2 by the report.

3 (f) AMOUNTS AVAILABLE ON APPROPRIATION.—Not-
4 withstanding subsection (d), \$15,000,000 of the monies
5 deposited in the Fund—

6 (1) shall be available upon appropriation or
7 availability of the funds from other authorized
8 sources for the Pueblo's acquisition of water rights
9 pursuant to Article 5.1.1.2.3 of the Settlement
10 Agreement, the Buffalo Pasture Recharge Project,
11 implementation of the Pueblo's water rights acqui-
12 sition program and water management and adminis-
13 tration system, the design, planning, engineering,
14 permitting or construction of water or wastewater
15 infrastructure eligible for funding under subsection
16 (a), or costs related to the negotiation, authoriza-
17 tion, and implementation of the Settlement Agree-
18 ment, provided that such funds may be expended
19 prior to the Enforcement Date only for activities
20 which are determined by the Secretary to be more
21 cost effective when implemented as early as possible;
22 and

23 (2) shall be distributed by the Secretary to the
24 Pueblo on receipt by the Secretary from the Pueblo
25 of a written notice and a Tribal Council resolution

1 that describes the purposes under paragraph (1) for
2 which the monies will be used after a cost-effective-
3 ness determination by the Secretary has been made
4 as described in paragraph (1). The Secretary shall
5 make the determination described in paragraph (1)
6 within a reasonable period of time after receipt of
7 the notice and resolution.

8 (g) NO PER CAPITA DISTRIBUTIONS.—No portion of
9 the Fund shall be distributed on a per capita basis to
10 members of the Pueblo.

11 **SEC. 506. MARKETING.**

12 (a) PUEBLO WATER RIGHTS.—Subject to the ap-
13 proval of the Secretary in accordance with subsection (e),
14 the Pueblo may market water rights secured to it under
15 the Settlement Agreement and Partial Final Decree, pro-
16 vided that such marketing is in accordance with this sec-
17 tion.

18 (b) PUEBLO CONTRACT RIGHTS TO SAN JUAN-
19 CHAMA PROJECT WATER.—Subject to the approval of the
20 Secretary in accordance with subsection (e), the Pueblo
21 may subcontract water made available to the Pueblo under
22 the contract authorized under section 508(b)(1)(A) to
23 third parties to supply water for use within or without the
24 Taos Valley, provided that the delivery obligations under
25 such subcontract are not inconsistent with the Secretary's

1 existing San Juan-Chama Project obligations and such
2 subcontract is in accordance with this section.

3 (c) LIMITATION.—

4 (1) IN GENERAL.—Diversion or use of water off
5 Pueblo lands pursuant to Pueblo water rights or
6 Pueblo contract rights to San Juan-Chama Project
7 water shall be subject to and not inconsistent with
8 the same requirements and conditions of State law,
9 any applicable Federal law, and any applicable inter-
10 state compact as apply to the exercise of water
11 rights or contract rights to San Juan-Chama Project
12 water held by non-Federal, non-Indian entities, in-
13 cluding all applicable State Engineer permitting and
14 reporting requirements.

15 (2) EFFECT ON WATER RIGHTS.—Such diver-
16 sion or use off Pueblo lands under paragraph (1)
17 shall not impair water rights or increase surface
18 water depletions within the Taos Valley.

19 (d) MAXIMUM TERM.—

20 (1) IN GENERAL.—The maximum term of any
21 water use lease or subcontract, including all renew-
22 als, shall not exceed 99 years in duration.

23 (2) ALIENATION OF RIGHTS.—The Pueblo shall
24 not permanently alienate any rights it has under the

1 Settlement Agreement, the Partial Final Decree,
2 and this title.

3 (e) APPROVAL OF SECRETARY.—The Secretary shall
4 approve or disapprove any lease or subcontract submitted
5 by the Pueblo for approval within a reasonable period of
6 time after submission, provided that no Secretarial ap-
7 proval shall be required for any water use lease for less
8 than 10 acre-feet per year with a term of less than 7 years,
9 including all renewals.

10 (f) NO FORFEITURE OR ABANDONMENT.—The non-
11 use by a lessee or subcontractor of the Pueblo of any right
12 to which the Pueblo is entitled under the Partial Final
13 Decree shall in no event result in a forfeiture, abandon-
14 ment, relinquishment, or other loss of all or any part of
15 those rights.

16 (g) NO PREEMPTION.—

17 (1) IN GENERAL.—The approval authority of
18 the Secretary provided under subsection (e) shall not
19 amend, construe, supersede, or preempt any State or
20 Federal law, interstate compact, or international
21 treaty that pertains to the Colorado River, the Rio
22 Grande, or any of their tributaries, including the ap-
23 propriation, use, development, storage, regulation,
24 allocation, conservation, exportation, or quantity of
25 those waters.

1 (2) APPLICABLE LAW.—The provisions of sec-
2 tion 2116 of the Revised Statutes (25 U.S.C. 177)
3 shall not apply to any water made available under
4 the Settlement Agreement.

5 (h) NO PREJUDICE.—Nothing in this title shall be
6 construed to establish, address, prejudice, or prevent any
7 party from litigating whether or to what extent any appli-
8 cable State law, Federal law, or interstate compact does
9 or does not permit, govern, or apply to the use of the
10 Pueblo's water outside of New Mexico.

11 **SEC. 507. MUTUAL-BENEFIT PROJECTS.**

12 (a) IN GENERAL.—Upon the Enforcement Date, the
13 Secretary, acting through the Commissioner of Reclama-
14 tion, shall provide financial assistance in the form of
15 grants on a nonreimbursable basis to Eligible Non-Pueblo
16 Entities to plan, permit, design, engineer, and construct
17 the Mutual-Benefit Projects in accordance with the Settle-
18 ment Agreement—

19 (1) to minimize adverse impacts on the Pueblo's
20 water resources by moving future non-Indian ground
21 water pumping away from the Pueblo's Buffalo Pas-
22 ture; and

23 (2) to implement the resolution of a dispute
24 over the allocation of certain surface water flows be-
25 tween the Pueblo and non-Indian irrigation water

1 right owners in the community of Arroyo Seco
2 Arriba.

3 (b) COST-SHARING.—

4 (1) FEDERAL SHARE.—The Federal share of
5 the total cost of planning, designing, and con-
6 structing the Mutual-Benefit Projects authorized in
7 subsection (a) shall be 75 percent and shall be non-
8 reimbursable.

9 (2) NON-FEDERAL SHARE.—The non-Federal
10 share of the total cost of planning, designing, and
11 constructing the Mutual-Benefit Projects shall be 25
12 percent and may be in the form of in-kind contribu-
13 tions, including the contribution of any valuable
14 asset or service that the Secretary determines would
15 substantially contribute to completing the Mutual-
16 Benefit Projects.

17 (3) ADDITIONAL STATE CONTRIBUTION.—As a
18 condition of expenditure by the Secretary of the
19 funds made available under section 509(c)(2), the
20 State shall—

21 (A) appropriate and make available the
22 non-Federal share described in paragraph (2);
23 and

24 (B) agree to provide additional funding as-
25 sociated with the Mutual-Benefit Projects as

1 described in paragraph 10 of the Settlement
2 Agreement.

3 **SEC. 508. SAN JUAN-CHAMA PROJECT CONTRACTS.**

4 (a) IN GENERAL.—Contracts issued under this sec-
5 tion shall be in accordance with this title and the Settle-
6 ment Agreement.

7 (b) CONTRACTS FOR SAN JUAN-CHAMA PROJECT
8 WATER.—

9 (1) IN GENERAL.—The Secretary shall enter
10 into 3 repayment contracts within a reasonable pe-
11 riod after the date of enactment of this Act, for the
12 delivery of San Juan-Chama Project water in the
13 following amounts:

14 (A) 2,215 acre-feet/annum to the Pueblo.

15 (B) 366 acre-feet/annum to the Town of
16 Taos.

17 (C) 40 acre-feet/annum to the El Prado
18 Water and Sanitation District.

19 (2) REQUIREMENTS.—Each such contract shall
20 provide that if the conditions precedent set forth in
21 section 509(f)(2) have not been fulfilled by March
22 31, 2017, the contract shall expire on that date.

23 (3) APPLICABLE LAW.—Public Law 87–483 (76
24 Stat. 97) applies to the contracts entered into under
25 paragraph (1) and no preference shall be applied as

1 a result of section 504(a) with regard to the delivery
2 or distribution of San Juan-Chama Project water or
3 the management or operation of the San Juan-
4 Chama Project.

5 (c) WAIVER.—With respect to the contract author-
6 ized and required by subsection (b)(1)(A) and notwith-
7 standing the provisions of Public Law 87–483 (76 Stat.
8 96) or any other provision of law—

9 (1) the Secretary shall waive the entirety of the
10 Pueblo’s share of the construction costs, both prin-
11 cipal and the interest, for the San Juan-Chama
12 Project and pursuant to that waiver, the Pueblo’s
13 share of all construction costs for the San Juan-
14 Chama Project, inclusive of both principal and inter-
15 est shall be nonreimbursable; and

16 (2) the Secretary’s waiver of the Pueblo’s share
17 of the construction costs for the San Juan-Chama
18 Project will not result in an increase in the pro rata
19 shares of other San Juan-Chama Project water con-
20 tractors, but such costs shall be absorbed by the
21 United States Treasury or otherwise appropriated to
22 the Department of the Interior.

23 **SEC. 509. AUTHORIZATIONS, RATIFICATIONS, CONFIRMA-**
24 **TIONS, AND CONDITIONS PRECEDENT.**

25 (a) RATIFICATION.—

1 (1) IN GENERAL.—Except to the extent that
2 any provision of the Settlement Agreement conflicts
3 with any provision of this title, the Settlement
4 Agreement is authorized, ratified, and confirmed.

5 (2) AMENDMENTS.—To the extent amendments
6 are executed to make the Settlement Agreement con-
7 sistent with this title, such amendments are also au-
8 thorized, ratified, and confirmed.

9 (b) EXECUTION OF SETTLEMENT AGREEMENT.—To
10 the extent that the Settlement Agreement does not conflict
11 with this title, the Secretary shall execute the Settlement
12 Agreement, including all exhibits to the Settlement Agree-
13 ment requiring the signature of the Secretary and any
14 amendments necessary to make the Settlement Agreement
15 consistent with this title, after the Pueblo has executed
16 the Settlement Agreement and any such amendments.

17 (c) FUNDING.—

18 (1) TAOS PUEBLO WATER DEVELOPMENT
19 FUND.—

20 (A) MANDATORY APPROPRIATION.—Out of
21 any funds in the Treasury not otherwise appro-
22 priated, the Secretary of the Treasury shall
23 transfer to the Secretary for deposit in the
24 Taos Pueblo Water Development Fund estab-
25 lished by section 505(a), for the period of fiscal

1 years 2011 through 2016, \$50,000,000, as ad-
2 justed by such amounts as may be required due
3 to increases since April 1, 2007, in construction
4 costs, as indicated by engineering cost indices
5 applicable to the types of construction or reha-
6 bilitation involved.

7 (B) AUTHORIZATION OF APPROPRIA-
8 TIONS.—In addition to the amount made avail-
9 able under subparagraph (A), there is author-
10 ized to be appropriated to the Secretary for de-
11 posit in the Taos Pueblo Water Development
12 Fund established by section 505(a)
13 \$38,000,000, as adjusted by such amounts as
14 may be required due to increases since April 1,
15 2007, in construction costs, as indicated by en-
16 gineering cost indices applicable to the types of
17 construction or rehabilitation involved, for the
18 period of fiscal years 2011 through 2016.

19 (2) MUTUAL-BENEFIT PROJECTS FUNDING.—

20 (A) FUNDING.—

21 (i) MANDATORY APPROPRIATION.—

22 Out of any funds in the Treasury not oth-
23 erwise appropriated, the Secretary of the
24 Treasury shall transfer to the Secretary to
25 provide grants pursuant to section 507

1 \$16,000,000 for the period of fiscal years
2 2011 through 2016.

3 (ii) AUTHORIZATION OF APPROPRIA-
4 TIONS.—In addition to the amount made
5 available under clause (i), there is author-
6 ized to be appropriated to the Secretary to
7 provide grants pursuant to section 507
8 \$20,000,000 for the period of fiscal years
9 2011 through 2016.

10 (B) DEPOSIT IN FUND.—The Secretary
11 shall deposit the funds made available pursuant
12 to subparagraph (A) into a noninterest-bearing
13 fund, to be known as the “Taos Settlement
14 Fund”, to be established in the Treasury of the
15 United States so that such funds may be made
16 available on the Enforcement Date as set forth
17 in section 507(a).

18 (3) RECEIPT AND ACCEPTANCE.—The Sec-
19 retary shall be entitled to receive, shall accept, and
20 shall use to carry out this title the funds transferred
21 under paragraphs (1)(A) and (2)(A)(i), without fur-
22 ther appropriation, to remain available until ex-
23 pended.

24 (d) AUTHORITY OF SECRETARY.—The Secretary is
25 authorized to enter into such agreements and to take such

1 measures as the Secretary may deem necessary or appro-
2 priate to fulfill the intent of the Settlement Agreement
3 and this title.

4 (e) ENVIRONMENTAL COMPLIANCE.—

5 (1) EFFECT OF EXECUTION OF SETTLEMENT
6 AGREEMENT.—The Secretary's execution of the Set-
7 tlement Agreement shall not constitute a major Fed-
8 eral action under the National Environmental Policy
9 Act of 1969 (42 U.S.C. 4321 et seq.).

10 (2) COMPLIANCE WITH ENVIRONMENTAL
11 LAWS.—In carrying out this title, the Secretary shall
12 comply with each law of the Federal Government re-
13 lating to the protection of the environment, includ-
14 ing—

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

17 (B) the Endangered Species Act of 1973
18 (16 U.S.C. 1531 et seq.).

19 (f) CONDITIONS PRECEDENT AND SECRETARIAL
20 FINDING.—

21 (1) IN GENERAL.—Upon the fulfillment of the
22 conditions precedent described in paragraph (2), the
23 Secretary shall publish in the Federal Register a
24 statement of finding that the conditions have been
25 fulfilled.

1 (2) CONDITIONS.—The conditions precedent re-
2 ferred to in paragraph (1) are the following:

3 (A) The President has signed into law the
4 Taos Pueblo Indian Water Rights Settlement
5 Act.

6 (B) To the extent that the Settlement
7 Agreement conflicts with this title, the Settle-
8 ment Agreement has been revised to conform
9 with this title.

10 (C) The Settlement Agreement, so revised,
11 including waivers and releases pursuant to sec-
12 tion 510, has been executed by the Parties and
13 the Secretary prior to the Parties' motion for
14 entry of the Partial Final Decree.

15 (D) Congress has fully appropriated or the
16 Secretary has provided from other authorized
17 sources all funds made available under para-
18 graphs (1) and (2) of subsection (c).

19 (E) The Legislature of the State of New
20 Mexico has fully appropriated the funds for the
21 State contributions as specified in the Settle-
22 ment Agreement, and those funds have been de-
23 posited in appropriate accounts.

24 (F) The State of New Mexico has enacted
25 legislation that amends NMSA 1978, section

1 72-6-3 to state that a water use due under a
2 water right secured to the Pueblo under the
3 Settlement Agreement or the Partial Final De-
4 cree may be leased for a term, including all re-
5 newals, not to exceed 99 years, provided that
6 this condition shall not be construed to require
7 that said amendment state that any State law
8 based water rights acquired by the Pueblo or by
9 the United States on behalf of the Pueblo may
10 be leased for said term.

11 (G) A Partial Final Decree that sets forth
12 the water rights and contract rights to water to
13 which the Pueblo is entitled under the Settle-
14 ment Agreement and this title and that sub-
15 stantially conforms to the Settlement Agree-
16 ment and Attachment 5 thereto has been ap-
17 proved by the Court and has become final and
18 nonappealable.

19 (g) ENFORCEMENT DATE.—The Settlement Agree-
20 ment shall become enforceable, and the waivers and re-
21 leases executed pursuant to section 510 and the limited
22 waiver of sovereign immunity set forth in section 511(a)
23 shall become effective, as of the date that the Secretary
24 publishes the notice required by subsection (f)(1).

25 (h) EXPIRATION DATE.—

1 (1) IN GENERAL.—If all of the conditions
2 precedent described in section (f)(2) have not been
3 fulfilled by March 31, 2017, the Settlement Agree-
4 ment shall be null and void, the waivers and releases
5 executed pursuant to section 510 and the sovereign
6 immunity waivers in section 511(a) shall not become
7 effective, and any unexpended Federal funds, to-
8 gether with any income earned thereon, and title to
9 any property acquired or constructed with expended
10 Federal funds, shall be returned to the Federal Gov-
11 ernment, unless otherwise agreed to by the Parties
12 in writing and approved by Congress.

13 (2) EXCEPTION.—Notwithstanding subsection
14 (h)(1) or any other provision of law, except as pro-
15 vided in subsection (i), title to any property acquired
16 or constructed with expended Federal funds made
17 available under section 505(f) shall be retained by
18 the Pueblo.

19 (i) RIGHT TO SET-OFF.—If the conditions precedent
20 described in subsection (f)(2) have not been fulfilled by
21 March 31, 2017, and the Settlement Agreement is null
22 and void under subsection (h)(1)—

23 (1) the United States shall be entitled to set off
24 any Federal funds made available under section
25 505(f) that were used for purposes other than the

1 purchase of water rights against any claim of the
2 Pueblo against the United States described in sec-
3 tion 510(b) (but excluding any claim retained under
4 section 510(c)); and

5 (2) the Pueblo shall have the option either—

6 (A) to accept an equitable credit for any
7 water rights acquired with funds made available
8 under section 505(f) against any water rights
9 secured for the Pueblo by the Pueblo, or by the
10 United States on behalf of the Pueblo, in any
11 litigation or future settlement of the case styled
12 New Mexico v. Abeyta and New Mexico v.
13 Arellano, Civil Nos. 7896-BB (U.S.6 D.N.M.)
14 and 7939-BB (U.S. D.N.M.) (consolidated); or

15 (B) to convey to the United States any
16 water rights acquired with funds made available
17 under section 505(f).

18 (j) EXTENSION.—The dates in subsections (h) and
19 (i) and section 510(e) may be extended if the Parties agree
20 that an extension is reasonably necessary.

21 **SEC. 510. WAIVERS AND RELEASES OF CLAIMS.**

22 (a) CLAIMS BY THE PUEBLO AND THE UNITED
23 STATES.—In return for recognition of the Pueblo's water
24 rights and other benefits, including but not limited to the
25 commitments by non-Pueblo parties, as set forth in the

1 Settlement Agreement and this title, the Pueblo, on behalf
2 of itself and its members, and the United States acting
3 in its capacity as trustee for the Pueblo are authorized
4 to execute a waiver and release of claims against the par-
5 ties to *New Mexico v. Abeyta* and *New Mexico v. Arellano*,
6 Civil Nos. 7896–BB (U.S.6 D.N.M.) and 7939–BB (U.S.
7 D.N.M.) (consolidated) from—

8 (1) all claims for water rights in the Taos Val-
9 ley that the Pueblo, or the United States acting in
10 its capacity as trustee for the Pueblo, asserted, or
11 could have asserted, in any proceeding, including but
12 not limited to in *New Mexico v. Abeyta* and *New*
13 *Mexico v. Arellano*, Civil Nos. 7896–BB (U.S.6
14 D.N.M.) and 7939–BB (U.S. D.N.M.) (consoli-
15 dated), up to and including the Enforcement Date,
16 except to the extent that such rights are recognized
17 in the Settlement Agreement or this title;

18 (2) all claims for water rights, whether for con-
19 sumptive or nonconsumptive use, in the Rio Grande
20 mainstream or its tributaries that the Pueblo, or the
21 United States acting in its capacity as trustee for
22 the Pueblo, asserted or could assert in any water
23 rights adjudication proceedings except those claims
24 based on Pueblo or United States ownership of lands
25 or water rights acquired after the Enforcement

1 Date, provided that nothing in this paragraph shall
2 prevent the Pueblo or the United States from fully
3 participating in the inter se phase of any such water
4 rights adjudication proceedings;

5 (3) all claims for damages, losses or injuries to
6 water rights or claims of interference with, diversion
7 or taking of water (including but not limited to
8 claims for injury to lands resulting from such dam-
9 ages, losses, injuries, interference with, diversion, or
10 taking) in the Rio Grande mainstream or its tribu-
11 taries or for lands within the Taos Valley that ac-
12 crued at any time up to and including the Enforce-
13 ment Date; and

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

17 (b) CLAIMS BY THE PUEBLO AGAINST THE UNITED
18 STATES.—The Pueblo, on behalf of itself and its members,
19 is authorized to execute a waiver and release of—

20 (1) all claims against the United States, its
21 agencies, or employees relating to claims for water
22 rights in or water of the Taos Valley that the United
23 States acting in its capacity as trustee for the Pueb-
24 lo asserted, or could have asserted, in any pro-
25 ceeding, including but not limited to in New Mexico

1 v. Abeyta and New Mexico v. Arellano, Civil Nos.
2 7896–BB (U.S.6 D.N.M.) and 7939–BB (U.S.
3 D.N.M.) (consolidated);

4 (2) all claims against the United States, its
5 agencies, or employees relating to damages, losses,
6 or injuries to water, water rights, land, or natural
7 resources due to loss of water or water rights (in-
8 cluding but not limited to damages, losses or injuries
9 to hunting, fishing, gathering, or cultural rights due
10 to loss of water or water rights, claims relating to
11 interference with, diversion or taking of water or
12 water rights, or claims relating to failure to protect,
13 acquire, replace, or develop water, water rights or
14 water infrastructure) in the Rio Grande mainstream
15 or its tributaries or within the Taos Valley that first
16 accrued at any time up to and including the En-
17 forcement Date;

18 (3) all claims against the United States, its
19 agencies, or employees for an accounting of funds
20 appropriated by the Act of March 4, 1929 (45 Stat.
21 1562), the Act of March 4, 1931 (46 Stat. 1552),
22 the Act of June 22, 1936 (49 Stat. 1757), the Act
23 of August 9, 1937 (50 Stat. 564), and the Act of
24 May 9, 1938 (52 Stat. 291), as authorized by the
25 Pueblo Lands Act of June 7, 1924 (43 Stat. 636),

1 and the Pueblo Lands Act of May 31, 1933 (48
2 Stat. 108), and for breach of trust relating to funds
3 for water replacement appropriated by said Acts
4 that first accrued before the date of enactment of
5 this Act;

6 (4) all claims against the United States, its
7 agencies, or employees relating to the pending litiga-
8 tion of claims relating to the Pueblo's water rights
9 in *New Mexico v. Abeyta* and *New Mexico v.*
10 *Arellano*, Civil Nos. 7896–BB (U.S.6 D.N.M.) and
11 7939–BB (U.S. D.N.M.) (consolidated); and

12 (5) all claims against the United States, its
13 agencies, or employees relating to the negotiation,
14 Execution or the adoption of the Settlement Agree-
15 ment, exhibits thereto, the Final Decree, or this
16 title.

17 (c) RESERVATION OF RIGHTS AND RETENTION OF
18 CLAIMS.—Notwithstanding the waivers and releases au-
19 thorized in this title, the Pueblo on behalf of itself and
20 its members and the United States acting in its capacity
21 as trustee for the Pueblo retain—

22 (1) all claims for enforcement of the Settlement
23 Agreement, the Final Decree, including the Partial
24 Final Decree, the San Juan-Chama Project contract

1 between the Pueblo and the United States, or this
2 title;

3 (2) all claims against persons other than the
4 Parties to the Settlement Agreement for damages,
5 losses or injuries to water rights or claims of inter-
6 ference with, diversion or taking of water rights (in-
7 cluding but not limited to claims for injury to lands
8 resulting from such damages, losses, injuries, inter-
9 ference with, diversion, or taking of water rights)
10 within the Taos Valley arising out of activities oc-
11 ccurring outside the Taos Valley or the Taos Valley
12 Stream System;

13 (3) all rights to use and protect water rights ac-
14 quired after the date of enactment of this Act;

15 (4) all rights to use and protect water rights ac-
16 quired pursuant to State law, to the extent not in-
17 consistent with the Partial Final Decree and the
18 Settlement Agreement (including water rights for
19 the land the Pueblo owns in Questa, New Mexico);

20 (5) all claims relating to activities affecting the
21 quality of water including but not limited to any
22 claims the Pueblo might have under the Comprehen-
23 sive Environmental Response, Compensation, and
24 Liability Act of 1980 (42 U.S.C. 9601 et seq.) (in-
25 cluding but not limited to claims for damages to nat-

1 ural resources), the Safe Drinking Water Act (42
2 U.S.C. 300f et seq.), the Federal Water Pollution
3 Control Act (33 U.S.C. 1251 et seq.), and the regu-
4 lations implementing those Acts;

5 (6) all claims relating to damages, losses, or in-
6 juries to land or natural resources not due to loss
7 of water or water rights (including but not limited
8 to hunting, fishing, gathering, or cultural rights);
9 and

10 (7) all rights, remedies, privileges, immunities,
11 powers, and claims not specifically waived and re-
12 leased pursuant to this title and the Settlement
13 Agreement.

14 (d) EFFECT.—Nothing in the Settlement Agreement
15 or this title—

16 (1) affects the ability of the United States act-
17 ing in its sovereign capacity to take actions author-
18 ized by law, including but not limited to any laws re-
19 lating to health, safety, or the environment, includ-
20 ing but not limited to the Federal Water Pollution
21 Control Act (33 U.S.C. 1251 et seq.), the Safe
22 Drinking Water Act (42 U.S.C. 300f et seq.), the
23 Comprehensive Environmental Response, Compensa-
24 tion, and Liability Act of 1980 (42 U.S.C. 9601 et
25 seq.), the Solid Waste Disposal Act (42 U.S.C. 6901

1 et seq.), and the regulations implementing such
2 Acts;

3 (2) affects the ability of the United States to
4 take actions acting in its capacity as trustee for any
5 other Indian tribe or allottee;

6 (3) confers jurisdiction on any State court to—

7 (A) interpret Federal law regarding health,
8 safety, or the environment or determine the du-
9 ties of the United States or other parties pursu-
10 ant to such Federal law; or

11 (B) conduct judicial review of Federal
12 agency action; or

13 (4) waives any claim of a member of the Pueblo
14 in an individual capacity that does not derive from
15 a right of the Pueblo.

16 (e) TOLLING OF CLAIMS.—

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

22 (A) March 31, 2017; or

23 (B) the Enforcement Date.

24 (2) EFFECT OF SUBSECTION.—Nothing in this
25 subsection revives any claim or tolls any period of

1 limitation or time-based equitable defense that ex-
2 pired before the date of enactment of this Act.

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

7 **SEC. 511. INTERPRETATION AND ENFORCEMENT.**

8 (a) LIMITED WAIVER OF SOVEREIGN IMMUNITY.—
9 Upon and after the Enforcement Date, if any Party to
10 the Settlement Agreement brings an action in any court
11 of competent jurisdiction over the subject matter relating
12 only and directly to the interpretation or enforcement of
13 the Settlement Agreement or this title, and names the
14 United States or the Pueblo as a party, then the United
15 States, the Pueblo, or both may be added as a party to
16 any such action, and any claim by the United States or
17 the Pueblo to sovereign immunity from the action is
18 waived, but only for the limited and sole purpose of such
19 interpretation or enforcement, and no waiver of sovereign
20 immunity is made for any action against the United States
21 or the Pueblo that seeks money damages.

22 (b) SUBJECT MATTER JURISDICTION NOT AF-
23 FECTED.—Nothing in this title shall be deemed as confer-
24 ring, restricting, enlarging, or determining the subject
25 matter jurisdiction of any court, including the jurisdiction

1 of the court that enters the Partial Final Decree adjudi-
2 cating the Pueblo's water rights.

3 (c) REGULATORY AUTHORITY NOT AFFECTED.—

4 Nothing in this title shall be deemed to determine or limit
5 any authority of the State or the Pueblo to regulate or
6 administer waters or water rights now or in the future.

7 **SEC. 512. DISCLAIMER.**

8 Nothing in the Settlement Agreement or this title
9 shall be construed in any way to quantify or otherwise ad-
10 versely affect the land and water rights, claims, or entitle-
11 ments to water of any other Indian tribe.

12 **SEC. 513. ANTIDEFICIENCY.**

13 The United States shall not be liable for failure to
14 carry out any obligation or activity authorized to be car-
15 ried out under this title (including any such obligation or
16 activity under the Agreement) if adequate appropriations
17 are not provided expressly to carry out the purposes of
18 this title by Congress or there are not enough monies
19 available to carry out the purposes of this title in the Rec-
20 lamation Water Settlements Fund established under sec-
21 tion 10501 of Public Law 111–11 or the “Emergency
22 Fund for Indian Safety and Health” established by section
23 601(a) of the Tom Lantos and Henry J. Hyde United
24 States Global Leadership Against HIV/AIDS, Tuber-

1 culosis, and Malaria Reauthorization Act of 2008 (25
2 U.S.C. 443c(a)).

3 **TITLE VI—AAMODT LITIGATION**
4 **SETTLEMENT**

5 **SEC. 601. SHORT TITLE.**

6 This title may be cited as the “Aamodt Litigation
7 Settlement Act”.

8 **SEC. 602. DEFINITIONS.**

9 In this title:

10 (1) **AAMODT CASE.**—The term “Aamodt Case”
11 means the civil action entitled State of New Mexico,
12 ex rel. State Engineer and United States of Amer-
13 ica, Pueblo de Nambe, Pueblo de Pojoaque, Pueblo
14 de San Ildefonso, and Pueblo de Tesuque v. R. Lee
15 Aamodt, et al., No. 66 CV 6639 MV/LCS (D.N.M.).

16 (2) **ACRE-FEET.**—The term “acre-feet” means
17 acre-feet of water per year.

18 (3) **AUTHORITY.**—The term “Authority” means
19 the Pojoaque Basin Regional Water Authority de-
20 scribed in section 9.5 of the Settlement Agreement
21 or an alternate entity acceptable to the Pueblos and
22 the County to operate and maintain the diversion
23 and treatment facilities, certain transmission pipe-
24 lines, and other facilities of the Regional Water Sys-
25 tem.

1 (4) CITY.—The term “City” means the city of
2 Santa Fe, New Mexico.

3 (5) COST-SHARING AND SYSTEM INTEGRATION
4 AGREEMENT.—The term “Cost-Sharing and System
5 Integration Agreement” means the agreement, dated
6 August 27, 2009, to be executed by the United
7 States, the State, the Pueblos, the County, and the
8 City that—

9 (A) describes the location, capacity, and
10 management (including the distribution of
11 water to customers) of the Regional Water Sys-
12 tem; and

13 (B) allocates the costs of the Regional
14 Water System with respect to—

15 (i) the construction, operation, main-
16 tenance, and repair of the Regional Water
17 System;

18 (ii) rights-of-way for the Regional
19 Water System; and

20 (iii) the acquisition of water rights.

21 (6) COUNTY.—The term “County” means
22 Santa Fe County, New Mexico.

23 (7) COUNTY DISTRIBUTION SYSTEM.—The term
24 “County Distribution System” means the portion of

1 the Regional Water System that serves water cus-
2 tomers on non-Pueblo land in the Pojoaque Basin.

3 (8) COUNTY WATER UTILITY.—The term
4 “County Water Utility” means the water utility or-
5 ganized by the County to—

6 (A) receive water distributed by the Au-
7 thority; and

8 (B) provide the water received under sub-
9 paragraph (A) to customers on non-Pueblo land
10 in the Pojoaque Basin.

11 (9) ENGINEERING REPORT.—The term “Engi-
12 neering Report” means the report entitled
13 “Pojoaque Regional Water System Engineering Re-
14 port” dated September 2008 and any amendments
15 thereto, including any modifications which may be
16 required by section 611(d)(2).

17 (10) FUND.—The term “Fund” means the
18 Aamodt Settlement Pueblos’ Fund established by
19 section 615(a).

20 (11) OPERATING AGREEMENT.—The term “Op-
21 erating Agreement” means the agreement between
22 the Pueblos and the County executed under section
23 612(a).

24 (12) OPERATIONS, MAINTENANCE, AND RE-
25 PLACEMENT COSTS.—

1 (A) IN GENERAL.—The term “operations,
2 maintenance, and replacement costs” means all
3 costs for the operation of the Regional Water
4 System that are necessary for the safe, effi-
5 cient, and continued functioning of the Regional
6 Water System to produce the benefits described
7 in the Settlement Agreement.

8 (B) EXCLUSION.—The term “operations,
9 maintenance, and replacement costs” does not
10 include construction costs or costs related to
11 construction design and planning.

12 (13) POJOAQUE BASIN.—

13 (A) IN GENERAL.—The term “Pojoaque
14 Basin” means the geographic area limited by a
15 surface water divide (which can be drawn on a
16 topographic map), within which area rainfall
17 and runoff flow into arroyos, drainages, and
18 named tributaries that eventually drain to—

19 (i) the Rio Pojoaque; or

20 (ii) the 2 unnamed arroyos imme-
21 diately south; and

22 (iii) 2 arroyos (including the Arroyo
23 Alamo) that are north of the confluence of
24 the Rio Pojoaque and the Rio Grande.

1 (B) INCLUSION.—The term “Pojoaque
2 Basin” includes the San Ildefonso Eastern Res-
3 ervation recognized by section 8 of Public Law
4 87–231 (75 Stat. 505).

5 (14) PUEBLO.—The term “Pueblo” means each
6 of the pueblos of Nambe, Pojoaque, San Ildefonso,
7 or Tesuque.

8 (15) PUEBLOS.—The term “Pueblos” means
9 collectively the Pueblos of Nambe, Pojoaque, San
10 Ildefonso, and Tesuque.

11 (16) PUEBLO LAND.—The term “Pueblo land”
12 means any real property that is—

13 (A) held by the United States in trust for
14 a Pueblo within the Pojoaque Basin;

15 (B)(i) owned by a Pueblo within the
16 Pojoaque Basin before the date on which a
17 court approves the Settlement Agreement; or

18 (ii) acquired by a Pueblo on or after the
19 date on which a court approves the Settlement
20 Agreement, if the real property is located—

21 (I) within the exterior boundaries of
22 the Pueblo, as recognized and conformed
23 by a patent issued under the Act of De-
24 cember 22, 1858 (11 Stat. 374, chapter
25 V); or

1 (II) within the exterior boundaries of
2 any territory set aside for the Pueblo by
3 law, executive order, or court decree;

4 (C) owned by a Pueblo or held by the
5 United States in trust for the benefit of a
6 Pueblo outside the Pojoaque Basin that is lo-
7 cated within the exterior boundaries of the
8 Pueblo as recognized and confirmed by a patent
9 issued under the Act of December 22, 1858 (11
10 Stat. 374, chapter V); or

11 (D) within the exterior boundaries of any
12 real property located outside the Pojoaque
13 Basin set aside for a Pueblo by law, executive
14 order, or court decree, if the land is within or
15 contiguous to land held by the United States in
16 trust for the Pueblo as of January 1, 2005.

17 (17) PUEBLO WATER FACILITY.—

18 (A) IN GENERAL.—The term “Pueblo
19 Water Facility” means—

20 (i) a portion of the Regional Water
21 System that serves only water customers
22 on Pueblo land; and

23 (ii) portions of a Pueblo water system
24 in existence on the date of enactment of
25 this Act that serve water customers on

1 non-Pueblo land, also in existence on the
2 date of enactment of this Act, or their suc-
3 cessors, that are—

4 (I) depicted in the final project
5 design, as modified by the drawings
6 reflecting the completed Regional
7 Water System; and

8 (II) described in the Operating
9 Agreement.

10 (B) INCLUSIONS.—The term “Pueblo
11 Water Facility” includes—

12 (i) the barrier dam and infiltration
13 project on the Rio Pojoaque described in
14 the Engineering Report; and

15 (ii) the Tesuque Pueblo infiltration
16 pond described in the Engineering Report.

17 (18) REGIONAL WATER SYSTEM.—

18 (A) IN GENERAL.—The term “Regional
19 Water System” means the Regional Water Sys-
20 tem described in section 611(a).

21 (B) EXCLUSIONS.—The term “Regional
22 Water System” does not include the County or
23 Pueblo water supply delivered through the Re-
24 gional Water System.

1 (19) SAN JUAN-CHAMA PROJECT.—The term
2 “San Juan-Chama Project” means the Project au-
3 thorized by section 8 of the Act of June 13, 1962
4 (76 Stat. 96, 97), and the Act of April 11, 1956 (70
5 Stat. 105).

6 (20) SAN JUAN-CHAMA PROJECT ACT.—The
7 term “San Juan-Chama Project Act” means sections
8 8 through 18 of the Act of June 13, 1962 (76 Stat.
9 96, 97).

10 (21) SECRETARY.—The term “Secretary”
11 means the Secretary of the Interior.

12 (22) SETTLEMENT AGREEMENT.—The term
13 “Settlement Agreement” means the agreement
14 among the State, the Pueblos, the United States, the
15 County, and the City dated January 19, 2006, and
16 signed by all of the government parties to the Settle-
17 ment Agreement (other than the United States) on
18 May 3, 2006, as amended in conformity with this
19 title.

20 (23) STATE.—The term “State” means the
21 State of New Mexico.

1 **Subtitle A—Pojoaque Basin**
2 **Regional Water System**

3 **SEC. 611. AUTHORIZATION OF REGIONAL WATER SYSTEM.**

4 (a) IN GENERAL.—The Secretary, acting through the
5 Commissioner of Reclamation, shall plan, design, and con-
6 struct a regional water system in accordance with the Set-
7 tlement Agreement, to be known as the “Regional Water
8 System”—

9 (1) to divert and distribute water to the Pueb-
10 los and to the County Water Utility, in accordance
11 with the Engineering Report; and

12 (2) that consists of—

13 (A) surface water diversion facilities at
14 San Ildefonso Pueblo on the Rio Grande; and

15 (B) any treatment, transmission, storage
16 and distribution facilities and wellfields for the
17 County Distribution System and Pueblo Water
18 Facilities that are necessary to supply 4,000
19 acre-feet of water within the Pojoaque Basin,
20 unless modified in accordance with subsection
21 (d)(2).

22 (b) FINAL PROJECT DESIGN.—The Secretary shall
23 issue a final project design within 90 days of completion
24 of the environmental compliance described in section 616
25 for the Regional Water System that—

1 (1) is consistent with the Engineering Report;
2 and

3 (2) includes a description of any Pueblo Water
4 Facilities.

5 (c) ACQUISITION OF LAND; WATER RIGHTS.—

6 (1) ACQUISITION OF LAND.—Upon request, and
7 in exchange for the funding which shall be provided
8 in section 617(c), the Pueblos shall consent to the
9 grant of such easements and rights-of-way as may
10 be necessary for the construction of the Regional
11 Water System at no cost to the Secretary. To the
12 extent that the State or County own easements or
13 rights-of-way that may be used for construction of
14 the Regional Water System, the State or County
15 shall provide that land or interest in land as nec-
16 essary for construction at no cost to the Secretary.
17 The Secretary shall acquire any other land or inter-
18 est in land that is necessary for the construction of
19 the Regional Water System.

20 (2) WATER RIGHTS.—The Secretary shall not
21 condemn water rights for purposes of the Regional
22 Water System.

23 (d) CONDITIONS FOR CONSTRUCTION.—

1 (1) IN GENERAL.—The Secretary shall not
2 begin construction of the Regional Water System fa-
3 cilities until the date on which—

4 (A) the Secretary executes—

5 (i) the Settlement Agreement; and

6 (ii) the Cost-Sharing and System In-
7 tegration Agreement; and

8 (B) the State and the County have entered
9 into an agreement with the Secretary to con-
10 tribute the non-Federal share of the costs of the
11 construction in accordance with the Cost-Shar-
12 ing and System Integration Agreement.

13 (2) MODIFICATIONS TO REGIONAL WATER SYS-
14 TEM.—

15 (A) IN GENERAL.—The State and the
16 County, in agreement with the Pueblos, the
17 City, and other signatories to the Cost-Sharing
18 and System Integration Agreement, may modify
19 the extent, size, and capacity of the County
20 Distribution System as set forth in the Cost-
21 Sharing and System Integration Agreement.

22 (B) EFFECT.—A modification under sub-
23 paragraph (A)—

1 (i) shall not affect implementation of
2 the Settlement Agreement so long as the
3 provisions in section 623 are satisfied; and

4 (ii) may result in an adjustment of
5 the State and County cost-share allocation
6 as set forth in the Cost-Sharing and Sys-
7 tem Integration Agreement.

8 (e) APPLICABLE LAW.—The Indian Self-Determina-
9 tion and Education Assistance Act (25 U.S.C. 450 et seq.)
10 shall not apply to the design and construction of the Re-
11 gional Water System.

12 (f) CONSTRUCTION COSTS.—

13 (1) PUEBLO WATER FACILITIES.—

14 (A) IN GENERAL.—Except as provided in
15 subparagraph (B), the expenditures of the Sec-
16 retary to construct the Pueblo Water Facilities
17 under this section shall not exceed
18 \$106,400,000.

19 (B) EXCEPTION.—The amount described
20 in subparagraph (A) shall be increased or de-
21 creased, as appropriate, based on ordinary fluc-
22 tuations in construction costs since October 1,
23 2006, as determined using applicable engineer-
24 ing cost indices.

1 (2) COSTS TO PUEBLO.—The costs incurred by
2 the Secretary in carrying out activities to construct
3 the Pueblo Water Facilities under this section shall
4 not be reimbursable to the United States.

5 (3) COUNTY DISTRIBUTION SYSTEM.—As a con-
6 dition of the Secretary using the funds made avail-
7 able pursuant to section 617(a)(1), the costs of con-
8 structing the County Distribution System shall be a
9 State and local expense pursuant to the Cost-Shar-
10 ing and System Integration Agreement.

11 (g) INITIATION OF DISCUSSIONS.—

12 (1) IN GENERAL.—If the Secretary determines
13 that the cost of constructing the Regional Water
14 System exceed the amounts described in the Cost-
15 Sharing and System Integration Agreement for con-
16 struction of the Regional Water System and would
17 necessitate funds in excess of the amount made
18 available pursuant to section 617(a)(1), the Sec-
19 retary shall initiate negotiations with the parties to
20 the Cost-Sharing and System Integration Agreement
21 for an agreement regarding non-Federal contribu-
22 tions to ensure that the Regional Water System can
23 be completed as required by section 623(e).

24 (2) JOINT RESPONSIBILITIES.—The United
25 States shall not bear the entire amount of any cost

1 overrun, nor shall the State be responsible to pay
2 any amounts in addition to the amounts specified in
3 the Cost-Sharing and System Integration Agree-
4 ment.

5 (h) CONVEYANCE OF REGIONAL WATER SYSTEM FA-
6 CILITIES.—

7 (1) IN GENERAL.—Subject to paragraph (2), on
8 completion of the construction of the Regional Water
9 System as defined in section 623(e), the Secretary,
10 in accordance with the Operating Agreement, shall
11 convey to—

12 (A) each Pueblo the portion of any Pueblo
13 Water Facility that is located within the bound-
14 aries of the Pueblo, including any land or inter-
15 est in land located within the boundaries of the
16 Pueblo that is acquired by the United States
17 for the construction of the Pueblo Water Facil-
18 ity;

19 (B) the County the County Distribution
20 System, including any land or interest in land
21 acquired by the United States for the construc-
22 tion of the County Distribution System; and

23 (C) the Authority any portions of the Re-
24 gional Water System that remain after making
25 the conveyances under subparagraphs (A) and

1 (B), including any land or interest in land ac-
2 quired by the United States for the construc-
3 tion of the portions of the Regional Water Sys-
4 tem.

5 (2) CONDITIONS FOR CONVEYANCE.—The Sec-
6 retary shall not convey any portion of the Regional
7 Water System facilities under paragraph (1) until
8 the date on which—

9 (A) construction of the Regional Water
10 System is substantially complete, as defined in
11 section 623(e); and

12 (B) the Operating Agreement is executed
13 in accordance with section 612.

14 (3) SUBSEQUENT CONVEYANCE.—On convey-
15 ance by the Secretary under paragraph (1), the
16 Pueblos, the County, and the Authority shall not re-
17 convey any portion of the Regional Water System
18 conveyed to the Pueblos, the County, and the Au-
19 thority, respectively, unless the reconveyance is au-
20 thorized by an Act of Congress enacted after the
21 date of enactment of this Act.

22 (4) INTEREST OF THE UNITED STATES.—On
23 conveyance of a portion of the Regional Water Sys-
24 tem under paragraph (1), the United States shall

1 have no further right, title, or interest in and to the
2 portion of the Regional Water System conveyed.

3 (5) ADDITIONAL CONSTRUCTION.—On convey-
4 ance of a portion of the Regional Water System
5 under paragraph (1), the Pueblos, County, or the
6 Authority, as applicable, may, at the expense of the
7 Pueblos, County, or the Authority, construct any ad-
8 ditional infrastructure that is necessary to fully use
9 the water delivered by the Regional Water System.

10 (6) TAXATION.—Conveyance of title to any por-
11 tion of the Regional Water System, the Pueblo
12 Water Facilities, or the County Distribution System
13 under paragraph (1) does not waive or alter any ap-
14 plicable Federal law prohibiting taxation of such fa-
15 cilities or the underlying land.

16 (7) LIABILITY.—

17 (A) IN GENERAL.—Effective on the date of
18 conveyance of any land or facility under this
19 section, the United States shall not be held lia-
20 ble by any court for damages of any kind aris-
21 ing out of any act, omission, or occurrence re-
22 lating to the land and facilities conveyed, other
23 than damages caused by acts of negligence by
24 the United States, or by employees or agents of

1 the United States, prior to the date of convey-
2 ance.

3 (B) TORT CLAIMS.—Nothing in this sec-
4 tion increases the liability of the United States
5 beyond the liability provided in chapter 171 of
6 title 28, United States Code (commonly known
7 as the “Federal Tort Claims Act”).

8 (8) EFFECT.—Nothing in any transfer of own-
9 ership provided or any conveyance thereto as pro-
10 vided in this section shall extinguish the right of any
11 Pueblo, the County, or the Regional Water Author-
12 ity to the continuous use and benefit of each ease-
13 ment or right of way for the use, operation, mainte-
14 nance, repair, and replacement of Pueblo Water Fa-
15 cilities, the County Distribution System or the Re-
16 gional Water System or for wastewater purposes as
17 provided in the Cost-Sharing and System Integra-
18 tion Agreement.

19 **SEC. 612. OPERATING AGREEMENT.**

20 (a) IN GENERAL.—The Pueblos and the County shall
21 submit to the Secretary an executed Operating Agreement
22 for the Regional Water System that is consistent with this
23 title, the Settlement Agreement, and the Cost-Sharing and
24 System Integration Agreement not later than 180 days
25 after the later of—

1 (1) the date of completion of environmental
2 compliance and permitting; or

3 (2) the date of issuance of a final project design
4 for the Regional Water System under section
5 611(b).

6 (b) APPROVAL.—The Secretary shall approve or dis-
7 approve the Operating Agreement within a reasonable pe-
8 riod of time after the Pueblos and the County submit the
9 Operating Agreement described in subsection (a) and
10 upon making a determination that the Operating Agree-
11 ment is consistent with this title, the Settlement Agree-
12 ment, and the Cost-Sharing and System Integration
13 Agreement.

14 (c) CONTENTS.—The Operating Agreement shall in-
15 clude—

16 (1) provisions consistent with the Settlement
17 Agreement and the Cost-Sharing and System Inte-
18 gration Agreement and necessary to implement the
19 intended benefits of the Regional Water System de-
20 scribed in those documents;

21 (2) provisions for—

22 (A) the distribution of water conveyed
23 through the Regional Water System, including
24 a delineation of—

- 1 (i) distribution lines for the County
2 Distribution System;
- 3 (ii) distribution lines for the Pueblo
4 Water Facilities; and
- 5 (iii) distribution lines that serve
6 both—
- 7 (I) the County Distribution Sys-
8 tem; and
- 9 (II) the Pueblo Water Facilities;
- 10 (B) the allocation of the Regional Water
11 System capacity;
- 12 (C) the terms of use of unused water ca-
13 pacity in the Regional Water System;
- 14 (D) terms of interim use of County unused
15 capacity, in accordance with section 614(d);
- 16 (E) the construction of additional infra-
17 structure and the acquisition of associated
18 rights-of-way or easements necessary to enable
19 any of the Pueblos or the County to fully use
20 water allocated to the Pueblos or the County
21 from the Regional Water System, including pro-
22 visions addressing when the construction of
23 such additional infrastructure requires approval
24 by the Authority;

1 (F) the allocation and payment of annual
2 operation, maintenance, and replacement costs
3 for the Regional Water System, including the
4 portions of the Regional Water System that are
5 used to treat, transmit, and distribute water to
6 both the Pueblo Water Facilities and the Coun-
7 ty Water Utility;

8 (G) the operation of wellfields located on
9 Pueblo land;

10 (H) the transfer of any water rights nec-
11 essary to provide the Pueblo water supply de-
12 scribed in section 613(a);

13 (I) the operation of the Regional Water
14 System with respect to the water supply, includ-
15 ing the allocation of the water supply in accord-
16 ance with section 3.1.8.4.2 of the Settlement
17 Agreement so that, in the event of a shortage
18 of supply to the Regional Water System, the
19 supply to each of the Pueblos' and to the Coun-
20 ty's distribution system shall be reduced on a
21 pro rata basis, in proportion to each distribu-
22 tion system's most current annual use; and

23 (J) dispute resolution; and

24 (3) provisions for operating and maintaining
25 the Regional Water System facilities before and

1 after conveyance under section 611(h), including
2 provisions to—

3 (A) ensure that—

4 (i) the operation of, and the diversion
5 and conveyance of water by, the Regional
6 Water System is in accordance with the
7 Settlement Agreement;

8 (ii) the wells in the Regional Water
9 System are used in conjunction with the
10 surface water supply of the Regional
11 Water System to ensure a reliable firm
12 supply of water to all users of the Regional
13 Water System, consistent with the intent
14 of the Settlement Agreement that surface
15 supplies will be used to the maximum ex-
16 tent feasible;

17 (iii) the respective obligations regard-
18 ing delivery, payment, operation, and man-
19 agement are enforceable; and

20 (iv) the County has the right to serve
21 any new water users located on non-Pueblo
22 land in the Pojoaque Basin; and

23 (B) allow for any aquifer storage and re-
24 covery projects that are approved by the Office
25 of the New Mexico State Engineer.

1 (d) EFFECT.—Nothing in this title precludes the Op-
2 erating Agreement from authorizing phased or interim op-
3 erations if the Regional Water System is constructed in
4 phases.

5 **SEC. 613. ACQUISITION OF PUEBLO WATER SUPPLY FOR**
6 **REGIONAL WATER SYSTEM.**

7 (a) IN GENERAL.—For the purpose of providing a
8 reliable firm supply of water from the Regional Water Sys-
9 tem for the Pueblos in accordance with the Settlement
10 Agreement, the Secretary, on behalf of the Pueblos,
11 shall—

12 (1) acquire water rights to—

13 (A) 302 acre-feet of Nambe reserved water
14 described in section 2.6.2 of the Settlement
15 Agreement; and

16 (B) 1141 acre-feet from water acquired by
17 the County for water rights commonly referred
18 to as “Top of the World” rights in the Aamodt
19 Case;

20 (2) enter into a contract with the Pueblos for
21 1,079 acre-feet in accordance with section 11 of the
22 San Juan-Chama Project Act; and

23 (3) by application to the State Engineer, seek
24 approval to divert the water acquired and made
25 available under paragraphs (1) and (2) at the points

1 of diversion for the Regional Water System, con-
2 sistent with the Settlement Agreement and the Cost-
3 Sharing and System Integration Agreement.

4 (b) FORFEITURE.—The nonuse of the water supply
5 secured by the Secretary for the Pueblos under subsection
6 (a) shall in no event result in forfeiture, abandonment, re-
7 linquishment, or other loss thereof.

8 (c) TRUST.—The Pueblo water rights secured under
9 subsection (a) shall be held by the United States in trust
10 for the Pueblos.

11 (d) APPLICABLE LAW.—The water supply made
12 available pursuant to subsection (a)(2) shall be subject to
13 the San Juan-Chama Project Act, and no preference shall
14 be provided to the Pueblos as a result of subsection (c)
15 with regard to the delivery or distribution of San Juan-
16 Chama Project water or the management or operation of
17 the San Juan-Chama Project.

18 (e) CONTRACT FOR SAN JUAN-CHAMA PROJECT
19 WATER SUPPLY.—With respect to the contract for the
20 water supply required by subsection (a)(2), such San
21 Juan-Chama Project contract shall be pursuant to the fol-
22 lowing terms:

23 (1) WAIVERS.—Notwithstanding the provisions
24 of the San Juan-Chama Project Act, or any other
25 provision of law—

1 (A) the Secretary shall waive the entirety
2 of the Pueblos' share of the construction costs
3 for the San Juan-Chama Project, and pursuant
4 to that waiver, the Pueblos' share of all con-
5 struction costs for the San Juan-Chama
6 Project, inclusive of both principal and interest,
7 due from 1972 to the execution of the contract
8 required by subsection (a)(2), shall be nonreim-
9 bursable;

10 (B) the Secretary's waiver of each Pueblo's
11 share of the construction costs for the San
12 Juan-Chama Project will not result in an in-
13 crease in the pro rata shares of other San
14 Juan-Chama Project water contractors, but
15 such costs shall be absorbed by the United
16 States Treasury or otherwise appropriated to
17 the Department of the Interior; and

18 (C) the construction costs associated with
19 any water made available from the San Juan-
20 Chama Project which were determined nonreim-
21 bursable and nonreturnable pursuant to Public
22 Law No. 88-293, 78 Stat. 171 (March 26,
23 1964), shall remain nonreimbursable and non-
24 returnable.

1 (2) TERMINATION.—The contract shall provide
2 that it shall terminate only on—

3 (A) failure of the United States District
4 Court for the District of New Mexico to enter
5 a final decree for the Aamodt Case by the expi-
6 ration date described in section 623(b), or with-
7 in the time period of any extension of that
8 deadline granted by the court; or

9 (B) entry of an order by the United States
10 District Court for the District of New Mexico
11 voiding the final decree and Settlement Agree-
12 ment for the Aamodt Case pursuant to section
13 10.3 of the Settlement Agreement.

14 (f) LIMITATION.—The Secretary shall use the water
15 supply secured under subsection (a) only for the purposes
16 described in the Settlement Agreement.

17 (g) FULFILLMENT OF WATER SUPPLY ACQUISITION
18 OBLIGATIONS.—Compliance with subsections (a) through
19 (f) shall satisfy any and all obligations of the Secretary
20 to acquire or secure a water supply for the Pueblos pursu-
21 ant to the Settlement Agreement.

22 (h) RIGHTS OF PUEBLOS IN SETTLEMENT AGREE-
23 MENT UNAFFECTED.—Notwithstanding the provisions of
24 subsections (a) through (g), the Pueblos, the County or
25 the Regional Water Authority may acquire any additional

1 water rights to ensure all parties to the Settlement Agree-
2 ment receive the full allocation of water provided by the
3 Settlement Agreement and nothing in this title amends or
4 modifies the quantities of water allocated to the Pueblos
5 thereunder.

6 **SEC. 614. DELIVERY AND ALLOCATION OF REGIONAL**
7 **WATER SYSTEM CAPACITY AND WATER.**

8 (a) ALLOCATION OF REGIONAL WATER SYSTEM CA-
9 PACITY.—

10 (1) IN GENERAL.—The Regional Water System
11 shall have the capacity to divert from the Rio
12 Grande a quantity of water sufficient to provide—

13 (A) up to 4,000 acre-feet of consumptive
14 use of water; and

15 (B) the requisite peaking capacity de-
16 scribed in—

17 (i) the Engineering Report; and

18 (ii) the final project design.

19 (2) ALLOCATION TO THE PUEBLOS AND COUN-
20 TY WATER UTILITY.—Of the capacity described in
21 paragraph (1)—

22 (A) there shall be allocated to the Pueb-
23 los—

1 (i) sufficient capacity for the convey-
2 ance of 2,500 acre-feet consumptive use;
3 and

4 (ii) the requisite peaking capacity for
5 the quantity of water described in clause
6 (i); and

7 (B) there shall be allocated to the County
8 Water Utility—

9 (i) sufficient capacity for the convey-
10 ance of up to 1,500 acre-feet consumptive
11 use; and

12 (ii) the requisite peaking capacity for
13 the quantity of water described in clause
14 (i).

15 (3) APPLICABLE LAW.—Water shall be allo-
16 cated to the Pueblos and the County Water Utility
17 under this subsection in accordance with—

18 (A) this subtitle;

19 (B) the Settlement Agreement; and

20 (C) the Operating Agreement.

21 (b) DELIVERY OF REGIONAL WATER SYSTEM
22 WATER.—The Authority shall deliver water from the Re-
23 gional Water System—

24 (1) to the Pueblos water in a quantity sufficient
25 to allow full consumptive use of up to 2,500 acre-

1 feet per year of water rights by the Pueblos in ac-
2 cordance with—

3 (A) the Settlement Agreement;

4 (B) the Operating Agreement; and

5 (C) this subtitle; and

6 (2) to the County water in a quantity sufficient
7 to allow full consumptive use of up to 1,500 acre-
8 feet per year of water rights by the County Water
9 Utility in accordance with—

10 (A) the Settlement Agreement;

11 (B) the Operating Agreement; and

12 (C) this subtitle.

13 (c) ADDITIONAL USE OF ALLOCATION QUANTITY
14 AND UNUSED CAPACITY.—The Regional Water System
15 may be used to—

16 (1) provide for use of return flow credits to
17 allow for full consumptive use of the water allocated
18 in the Settlement Agreement to each of the Pueblos
19 and to the County; and

20 (2) convey water allocated to one of the Pueblos
21 or the County Water Utility for the benefit of an-
22 other Pueblo or the County Water Utility or allow
23 use of unused capacity by each other through the
24 Regional Water System in accordance with an inter-
25 governmental agreement between the Pueblos, or be-

1 tween a Pueblo and County Water Utility, as appli-
2 cable, if—

3 (A) such intergovernmental agreements are
4 consistent with the Operating Agreement, the
5 Settlement Agreement, and this title;

6 (B) capacity is available without reducing
7 water delivery to any Pueblo or the County
8 Water Utility in accordance with the Settlement
9 Agreement, unless the County Water Utility or
10 Pueblo contracts for a reduction in water deliv-
11 ery or Regional Water System capacity;

12 (C) the Pueblo or County Water Utility
13 contracting for use of the unused capacity or
14 water has the right to use the water under ap-
15 plicable law; and

16 (D) any agreement for the use of unused
17 capacity or water provides for payment of the
18 operation, maintenance, and replacement costs
19 associated with the use of capacity or water.

20 (d) INTERIM USE OF COUNTY CAPACITY.—In accord-
21 ance with section 9.6.4 of the Settlement Agreement, the
22 County may use unused capacity and water rights of the
23 County Water Utility to supply water within the County
24 outside of the Pojoaque Basin—

1 (1) on approval by the State and the Authority;

2 and

3 (2) subject to the issuance of a permit by the

4 New Mexico State Engineer.

5 **SEC. 615. AAMODT SETTLEMENT PUEBLOS' FUND.**

6 (a) ESTABLISHMENT OF THE AAMODT SETTLEMENT

7 PUEBLOS' FUND.—There is established in the Treasury

8 of the United States a fund, to be known as the “Aamodt

9 Settlement Pueblos' Fund,” consisting of—

10 (1) such amounts as are made available to the

11 Fund under section 617(c) or other authorized

12 sources; and

13 (2) any interest earned from investment of

14 amounts in the Fund under subsection (b).

15 (b) MANAGEMENT OF THE FUND.—The Secretary

16 shall manage the Fund, invest amounts in the Fund, and

17 make amounts available from the Fund for distribution

18 to the Pueblos in accordance with—

19 (1) the American Indian Trust Fund Manage-

20 ment Reform Act of 1994 (25 U.S.C. 4001 et seq.);

21 and

22 (2) this title.

23 (c) INVESTMENT OF THE FUND.—On the date on

24 which the waivers become effective as set forth in section

1 623(d), the Secretary shall invest amounts in the Fund
2 in accordance with—

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

4 (2) the first section of the Act of June 24,
5 1938 (25 U.S.C. 162a); and

6 (3) the American Indian Trust Fund Manage-
7 ment Reform Act of 1994 (25 U.S.C. 4001 et seq.).

8 (d) TRIBAL MANAGEMENT PLAN.—

9 (1) IN GENERAL.—A Pueblo may withdraw all
10 or part of the Pueblo's portion of the Fund on ap-
11 proval by the Secretary of a tribal management plan
12 as described in the American Indian Trust Fund
13 Management Reform Act of 1994 (25 U.S.C. 4001
14 et seq.).

15 (2) REQUIREMENTS.—In addition to the re-
16 quirements under the American Indian Trust Fund
17 Management Reform Act of 1994 (25 U.S.C. 4001
18 et seq.), the tribal management plan shall require
19 that a Pueblo spend any amounts withdrawn from
20 the Fund in accordance with the purposes described
21 in section 617(c).

22 (3) ENFORCEMENT.—The Secretary may take
23 judicial or administrative action to enforce the provi-
24 sions of any tribal management plan to ensure that
25 any amounts withdrawn from the Fund under an

1 approved tribal management plan are used in ac-
2 cordance with this subtitle.

3 (4) LIABILITY.—If a Pueblo or the Pueblos ex-
4 ercise the right to withdraw amounts from the
5 Fund, neither the Secretary nor the Secretary of the
6 Treasury shall retain any liability for the expendi-
7 ture or investment of the amounts withdrawn.

8 (5) EXPENDITURE PLAN.—

9 (A) IN GENERAL.—The Pueblos shall sub-
10 mit to the Secretary for approval an expendi-
11 ture plan for any portion of the amounts in the
12 Fund that the Pueblos do not withdraw under
13 this subsection.

14 (B) DESCRIPTION.—The expenditure plan
15 shall describe the manner in which, and the
16 purposes for which, amounts remaining in the
17 Fund will be used.

18 (C) APPROVAL.—On receipt of an expendi-
19 ture plan under subparagraph (A), the Sec-
20 retary shall approve the plan if the Secretary
21 determines that the plan is reasonable and con-
22 sistent with this title, the Settlement Agree-
23 ment, and the Cost-Sharing and System Inte-
24 gration Agreement.

1 (D) ANNUAL REPORT.—The Pueblos shall
2 submit to the Secretary an annual report that
3 describes all expenditures from the Fund during
4 the year covered by the report.

5 (6) NO PER CAPITA PAYMENTS.—No part of
6 the principal of the Fund, or the interest or income
7 accruing on the principal shall be distributed to any
8 member of a Pueblo on a per capita basis.

9 (7) AVAILABILITY OF AMOUNTS FROM THE
10 FUND.—

11 (A) APPROVAL OF SETTLEMENT AGREE-
12 MENT.—

13 (i) IN GENERAL.—Except as provided
14 in clause (ii), amounts made available
15 under section 617(c)(1), or from other au-
16 thorized sources, shall be available for ex-
17 penditure or withdrawal only after the pub-
18 lication of the statement of findings re-
19 quired by section 623(a)(1).

20 (ii) EXCEPTION.—Notwithstanding
21 clause (i), the amounts described in that
22 clause may be expended before the date of
23 publication of the statement of findings
24 under section 623(a)(1) for any activity
25 that is more cost-effective when imple-

1 mented in conjunction with the construc-
2 tion of the Regional Water System, as de-
3 termined by the Secretary.

4 (B) COMPLETION OF CERTAIN PORTIONS
5 OF REGIONAL WATER SYSTEM.—Amounts made
6 available under section 617(c)(1) or from other
7 authorized sources shall be available for expend-
8 iture or withdrawal only after those portions of
9 the Regional Water System described in section
10 1.5.24 of the Settlement Agreement have been
11 declared substantially complete by the Sec-
12 retary.

13 **SEC. 616. ENVIRONMENTAL COMPLIANCE.**

14 (a) IN GENERAL.—In carrying out this subtitle, the
15 Secretary shall comply with each law of the Federal Gov-
16 ernment relating to the protection of the environment, in-
17 cluding—

18 (1) the National Environmental Policy Act of
19 1969 (42 U.S.C. 4321 et seq.); and

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

22 (b) NATIONAL ENVIRONMENTAL POLICY ACT.—
23 Nothing in this title affects the outcome of any analysis
24 conducted by the Secretary or any other Federal official

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

3 **SEC. 617. FUNDING.**

4 (a) REGIONAL WATER SYSTEM.—

5 (1) FUNDING.—

6 (A) MANDATORY APPROPRIATION.—Sub-
7 ject to paragraph (5), out of any funds in the
8 Treasury not otherwise appropriated, the Sec-
9 retary of the Treasury shall transfer to the Sec-
10 retary for the planning, design, and construc-
11 tion of the Regional Water System and the con-
12 duct of environmental compliance activities
13 under section 616 an amount not to exceed
14 \$56,400,000, as adjusted under paragraph (4),
15 for the period of fiscal years 2011 through
16 2016, to remain available until expended.

17 (B) AUTHORIZATION OF APPROPRIA-
18 TIONS.—In addition to the amount made avail-
19 able under subparagraph (A), there is author-
20 ized to be appropriated to the Secretary for the
21 planning, design, and construction of the Re-
22 gional Water System and the conduct of envi-
23 ronmental compliance activities under section
24 616 \$50,000,000, as adjusted under paragraph

1 (4), for the period of fiscal years 2011 through
2 2024.

3 (2) RECEIPT AND ACCEPTANCE.—The Sec-
4 retary shall be entitled to receive, shall accept, and
5 shall use to carry out this title the funds transferred
6 under paragraph (1)(A), without further appropria-
7 tion, to remain available until expended.

8 (3) PRIORITY OF FUNDING.—Of the amounts
9 made available under paragraph (1), the Secretary
10 shall give priority to funding—

11 (A) the construction of the San Ildefonso
12 portion of the Regional Water System, con-
13 sisting of—

14 (i) the surface water diversion, treat-
15 ment, and transmission facilities at San
16 Ildefonso Pueblo; and

17 (ii) the San Ildefonso Pueblo portion
18 of the Pueblo Water Facilities; and

19 (B) that part of the Regional Water Sys-
20 tem providing 475 acre-feet to Pojoaque Pueblo
21 pursuant to section 2.2 of the Settlement
22 Agreement.

23 (4) ADJUSTMENT.—The amounts made avail-
24 able under paragraph (1) shall be adjusted annually
25 to account for increases in construction costs since

1 October 1, 2006, as determined using applicable en-
2 gineering cost indices.

3 (5) LIMITATIONS.—

4 (A) IN GENERAL.—No amounts shall be
5 made available under paragraph (1) for the
6 construction of the Regional Water System
7 until the date on which the United States Dis-
8 trict Court for the District of New Mexico
9 issues an order approving the Settlement Agree-
10 ment.

11 (B) RECORD OF DECISION.—No amounts
12 made available under paragraph (1) shall be ex-
13 pended for construction unless the record of de-
14 cision issued by the Secretary after completion
15 of an environmental impact statement provides
16 for a preferred alternative that is in substantial
17 compliance with the proposed Regional Water
18 System, as defined in the Engineering Report.

19 (b) ACQUISITION OF WATER RIGHTS.—

20 (1) IN GENERAL.—Out of any funds in the
21 Treasury not otherwise appropriated, the Secretary
22 of the Treasury shall transfer to the Secretary for
23 the acquisition of the water rights under section
24 613(a)(1)(B) \$5,400,000.

1 uary 1, 2011, and any interest on that
2 amount, which shall be allocated to the
3 Pueblo of Nambe only for the acquisition
4 land, other real property interests, or eco-
5 nomic development for the Nambe reserved
6 water rights in accordance with section
7 613(a)(1)(A).

8 (B) AUTHORIZATION OF APPROPRIA-
9 TIONS.—In addition to the amounts made avail-
10 able under clauses (i) and (ii) of subparagraph
11 (A), respectively, there are authorized to be ap-
12 propriated to the Secretary for the period of fis-
13 cal years 2011 through 2024, \$37,500,000 to
14 assist the Pueblos in paying the Pueblos' share
15 of the cost of operating, maintaining, and re-
16 placing the Pueblo Water Facilities and the Re-
17 gional Water System.

18 (2) OPERATION, MAINTENANCE, AND REPLACE-
19 MENT COSTS.—

20 (A) IN GENERAL.—Prior to conveyance of
21 the Regional Water System pursuant to section
22 611, the Secretary is authorized to and shall
23 pay any operation, maintenance, and replace-
24 ment costs associated with the Pueblo Water
25 Facilities or the Regional Water System, up to

1 the amount made available under subparagraph
2 (B).

3 (B) AUTHORIZATION OF APPROPRIA-
4 TIONS.—There is authorized to be appropriated
5 to the Secretary to carry out subparagraph (A)
6 \$5,000,000.

7 (C) OBLIGATION OF FEDERAL GOVERN-
8 MENT AFTER COMPLETION.—After the date on
9 which construction of the Regional Water Sys-
10 tem is completed and the amounts required to
11 be deposited in the Aamodt Settlement Pueblos'
12 Fund pursuant to paragraph (1) have been de-
13 posited by the Federal Government—

14 (i) the Federal Government shall have
15 no obligation to pay for the operation,
16 maintenance, and replacement costs associ-
17 ated with the Pueblo Water Facilities or
18 the Regional Water System; and

19 (ii) the authorization for the Secretary
20 to expend funds for the operation, mainte-
21 nance, and replacement costs of those sys-
22 tems under subparagraph (A) shall expire.

23 (3) RECEIPT AND ACCEPTANCE.—The Sec-
24 retary shall be entitled to receive, shall accept, and
25 shall use to carry out this title the funds transferred

1 under paragraphs (1)(A), without further appropria-
2 tion, to remain available until expended or until the
3 authorization for the Secretary to expend funds pur-
4 suant to paragraph (2) expires.

5 **Subtitle B—Pojoaque Basin Indian**
6 **Water Rights Settlement**

7 **SEC. 621. SETTLEMENT AGREEMENT AND CONTRACT AP-**
8 **PROVAL.**

9 (a) APPROVAL.—To the extent the Settlement Agree-
10 ment and the Cost-Sharing and System Integration Agree-
11 ment do not conflict with this title, the Settlement Agree-
12 ment and the Cost-Sharing and System Integration Agree-
13 ment (including any amendments to the Settlement Agree-
14 ment and the Cost-Sharing and System Integration Agree-
15 ment that are executed to make the Settlement Agreement
16 or the Cost-Sharing and System Integration Agreement
17 consistent with this title) are authorized, ratified, and con-
18 firmed.

19 (b) EXECUTION.—To the extent the Settlement
20 Agreement and the Cost-Sharing and System Integration
21 Agreement do not conflict with this title, the Secretary
22 shall execute the Settlement Agreement and the Cost-
23 Sharing and System Integration Agreement (including
24 any amendments that are necessary to make the Settle-

1 ment Agreement or the Cost-Sharing and System Integra-
2 tion Agreement consistent with this title).

3 (c) AUTHORITIES OF THE PUEBLOS.—

4 (1) IN GENERAL.—Each of the Pueblos may
5 enter into leases or contracts to exchange water
6 rights or to forebear undertaking new or expanded
7 water uses for water rights recognized in section 2.1
8 of the Settlement Agreement for use within the
9 Pojoaque Basin, in accordance with the other limita-
10 tions of section 2.1.5 of the Settlement Agreement,
11 provided that section 2.1.5 is amended accordingly.

12 (2) APPROVAL BY SECRETARY.—Consistent
13 with the Settlement Agreement, the Secretary shall
14 approve or disapprove a lease or contract entered
15 into under paragraph (1).

16 (3) PROHIBITION ON PERMANENT ALIEN-
17 ATION.—No lease or contract under paragraph (1)
18 shall be for a term exceeding 99 years, nor shall any
19 such lease or contract provide for permanent alien-
20 ation of any portion of the water rights made avail-
21 able to the Pueblos under the Settlement Agreement.

22 (4) APPLICABLE LAW.—Section 2116 of the Re-
23 vised Statutes (25 U.S.C. 177) shall not apply to
24 any lease or contract entered into under paragraph
25 (1).

1 (5) LEASING OR MARKETING OF WATER SUP-
2 PLY.—The water supply provided on behalf of the
3 Pueblos pursuant to section 613(a)(1) may only be
4 leased or marketed by any of the Pueblos pursuant
5 to the intergovernmental agreements described in
6 section 614(c)(2).

7 (d) AMENDMENTS TO CONTRACTS.—The Secretary
8 shall amend the contracts relating to the Nambe Falls
9 Dam and Reservoir that are necessary to use water sup-
10 plied from the Nambe Falls Dam and Reservoir in accord-
11 ance with the Settlement Agreement.

12 **SEC. 622. ENVIRONMENTAL COMPLIANCE.**

13 (a) EFFECT OF EXECUTION OF SETTLEMENT
14 AGREEMENT.—The execution of the Settlement Agree-
15 ment under section 611(b) shall not constitute a major
16 Federal action under the National Environmental Policy
17 Act of 1969 (42 U.S.C. 4321 et seq.).

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

22 (1) the National Environmental Policy Act of
23 1969 (42 U.S.C. 4321 et seq.); and

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

1 **SEC. 623. CONDITIONS PRECEDENT AND ENFORCEMENT**

2 **DATE.**

3 (a) CONDITIONS PRECEDENT.—

4 (1) IN GENERAL.—Upon the fulfillment of the
5 conditions precedent described in paragraph (2), the
6 Secretary shall publish in the Federal Register by
7 September 15, 2017, a statement of findings that
8 the conditions have been fulfilled.

9 (2) REQUIREMENTS.—The conditions precedent
10 referred to in paragraph (1) are the conditions
11 that—

12 (A) to the extent that the Settlement
13 Agreement conflicts with this subtitle, the Set-
14 tlement Agreement has been revised to conform
15 with this subtitle;

16 (B) the Settlement Agreement, so revised,
17 including waivers and releases pursuant to sec-
18 tion 624, has been executed by the appropriate
19 parties and the Secretary;

20 (C) Congress has fully appropriated, or the
21 Secretary has provided from other authorized
22 sources, all funds authorized by section 617,
23 with the exception of subsection (a)(1) of that
24 section;

1 (D) the Secretary has acquired and en-
2 tered into appropriate contracts for the water
3 rights described in section 613(a);

4 (E) for purposes of section 613(a), permits
5 have been issued by the New Mexico State En-
6 gineer to the Regional Water Authority to
7 change the points of diversion to the mainstem
8 of the Rio Grande for the diversion and con-
9 sumptive use of at least 2,381 acre-feet by the
10 Pueblos as part of the water supply for the Re-
11 gional Water System, subject to the conditions
12 that—

13 (i) the permits shall be free of any
14 condition that materially adversely affects
15 the ability of the Pueblos or the Regional
16 Water Authority to divert or use the Pueb-
17 lo water supply described in section
18 613(a), including water rights acquired in
19 addition to those described in section
20 613(a), in accordance with section 613(g);
21 and

22 (ii) the Settlement Agreement shall
23 establish the means to address any permit
24 conditions to ensure the ability of the
25 Pueblos to fully divert and consume at

1 least 2,381 acre-feet as part of the water
2 supply for the Regional Water System, in-
3 cluding defining the conditions that will
4 not constitute a material adverse affect;

5 (F) the State has enacted any necessary
6 legislation and provided any funding that may
7 be required under the Settlement Agreement;

8 (G) a partial final decree that sets forth
9 the water rights and other rights to water to
10 which the Pueblos are entitled under the Settle-
11 ment Agreement and this subtitle and that sub-
12 stantially conforms to the Settlement Agree-
13 ment has been approved by the United States
14 District Court for the District of New Mexico;

15 (H) a final decree that sets forth the water
16 rights for all parties to the Aamodt Case and
17 that substantially conforms to the Settlement
18 Agreement has been approved by the United
19 States District Court for the District of New
20 Mexico; and

21 (I) the waivers and releases described in
22 section 624 have been executed.

23 (b) EXPIRATION DATE.—If all the conditions prece-
24 dent described in subsection (a)(2) have not been fulfilled
25 by September 15, 2017—

1 (1) the Settlement Agreement shall no longer
2 be effective;

3 (2) the waivers and releases described in the
4 Settlement Agreement and section 624 shall not be
5 effective;

6 (3) any unexpended Federal funds appropriated
7 or made available to carry out the activities author-
8 ized by this title, together with any interest earned
9 on those funds, any water rights or contracts to use
10 water, and title to other property acquired or con-
11 structed with Federal funds appropriated or made
12 available to carry out the activities authorized by
13 this title shall be returned to the Federal Govern-
14 ment, unless otherwise agreed to by the Pueblos and
15 the United States and approved by Congress; and

16 (4) except for Federal funds used to acquire or
17 develop property that is returned to the Federal
18 Government under paragraph (3), the United States
19 shall be entitled to set off any Federal funds appro-
20 priated or made available to carry out the activities
21 authorized by this title that were expended or with-
22 drawn, together with any interest accrued on those
23 funds, against any claims against the United
24 States—

1 (A) relating to water rights in the
2 Pojoaque Basin asserted by any Pueblo that
3 benefitted from the use of expended or with-
4 drawn Federal funds; or

5 (B) in any future settlement of the
6 Aamodt Case.

7 (c) ENFORCEMENT DATE.—The Settlement Agree-
8 ment shall become enforceable beginning on the date on
9 which the United States District Court for the District
10 of New Mexico enters a partial final decree pursuant to
11 subsection (a)(2)(G) and an Interim Administrative Order
12 consistent with the Settlement Agreement.

13 (d) EFFECTIVENESS OF WAIVERS.—The waivers and
14 releases executed pursuant to section 624 shall become ef-
15 fective as of the date that the Secretary publishes the no-
16 tice required by subsection (a)(1).

17 (e) REQUIREMENTS FOR DETERMINATION OF SUB-
18 STANTIAL COMPLETION OF THE REGIONAL WATER SYS-
19 TEM.—

20 (1) CRITERIA FOR SUBSTANTIAL COMPLETION
21 OF REGIONAL WATER SYSTEM.—Subject to the pro-
22 visions in section 611(d) concerning the extent, size,
23 and capacity of the County Distribution System, the
24 Regional Water System shall be determined to be

1 substantially completed if the infrastructure has
2 been constructed capable of—

3 (A) diverting, treating, transmitting, and
4 distributing a supply of 2,500 acre-feet of water
5 to the Pueblos; and

6 (B) diverting, treating, and transmitting
7 the quantity of water specified in the Engineer-
8 ing Report to the County Distribution System.

9 (2) CONSULTATION.—On or after June 30,
10 2021, at the request of 1 or more of the Pueblos,
11 the Secretary shall consult with the Pueblos and
12 confer with the County and the State on whether the
13 criteria in paragraph (1) for substantial completion
14 of the Regional Water System have been met or will
15 be met by June 30, 2024.

16 (3) WRITTEN DETERMINATION BY SEC-
17 RETARY.—Not earlier than June 30, 2021, at the
18 request of 1 or more of the Pueblos and after the
19 consultation required by paragraph (2), the Sec-
20 retary shall—

21 (A) determine whether the Regional Water
22 System has been substantially completed based
23 on the criteria described in paragraph (1); and

24 (B) submit a written notice of the deter-
25 mination under subparagraph (A) to—

- 1 (i) the Pueblos;
2 (ii) the County; and
3 (iii) the State.

4 (4) RIGHT TO REVIEW.—

5 (A) IN GENERAL.—A determination by the
6 Secretary under paragraph (3)(A) shall be con-
7 sidered to be a final agency action subject to ju-
8 dicial review by the Decree Court under sec-
9 tions 701 through 706 of title 5, United States
10 Code.

11 (B) FAILURE TO MAKE TIMELY DETER-
12 MINATION.—

13 (i) IN GENERAL.—If a Pueblo re-
14 quests a written determination under para-
15 graph (3) and the Secretary fails to make
16 such a written determination by the date
17 described in clause (ii), there shall be a re-
18 buttable presumption that the failure con-
19 stitutes agency action unlawfully withheld
20 or unreasonably delayed under section 706
21 of title 5, United States Code.

22 (ii) DATE.—The date referred to in
23 clause (i) is the date that is the later of—

24 (I) the date that is 180 days
25 after the date of receipt by the Sec-

1 retary of the request by the Pueblo;
2 and

3 (II) June 30, 2023.

4 (C) EFFECT OF TITLE.—Nothing in this
5 title gives any Pueblo or Settlement Party the
6 right to judicial review of a determination of
7 the Secretary regarding whether the Regional
8 Water System has been substantially completed
9 except under subchapter II of chapter 5, and
10 chapter 7, of title 5, United States Code (com-
11 monly known as the “Administrative Procedure
12 Act”).

13 (5) RIGHT TO VOID FINAL DECREE.—

14 (A) IN GENERAL.—Not later than June
15 30, 2024, on a determination by the Secretary,
16 after consultation with the Pueblos, that the
17 Regional Water System is not substantially
18 complete, 1 or more of the Pueblos, or the
19 United States acting on behalf of a Pueblo,
20 shall have the right to notify the Decree Court
21 of the determination.

22 (B) EFFECT.—The Final Decree shall
23 have no force or effect on a finding by the De-
24 cree Court that a Pueblo, or the United States

1 acting on behalf of a Pueblo, has submitted
2 proper notification under subparagraph (A).

3 (f) VOIDING OF WAIVERS.—If the Final Decree is
4 void under subsection (e)(5)—

5 (1) the Settlement Agreement shall no longer
6 be effective;

7 (2) the waivers and releases executed pursuant
8 to section 624 shall no longer be effective;

9 (3) any unexpended Federal funds appropriated
10 or made available to carry out the activities author-
11 ized by this title, together with any interest earned
12 on those funds, any water rights or contracts to use
13 water, and title to other property acquired or con-
14 structed with Federal funds appropriated or made
15 available to carry out the activities authorized by
16 this title shall be returned to the Federal Govern-
17 ment, unless otherwise agreed to by the Pueblos and
18 the United States and approved by Congress; and

19 (4) except for Federal funds used to acquire or
20 develop property that is returned to the Federal
21 Government under paragraph (3), the United States
22 shall be entitled to set off any Federal funds appro-
23 priated or made available to carry out the activities
24 authorized by this title that were expended or with-
25 drawn, together with any interest accrued on those

1 funds, against any claims against the United
2 States—

3 (A) relating to water rights in the
4 Pojoaque Basin asserted by any Pueblo that
5 benefitted from the use of expended or with-
6 drawn Federal funds; or

7 (B) in any future settlement of the
8 Aamodt Case.

9 (g) EXTENSION.—The dates in subsections (a)(1)
10 and (b) may be extended if the parties to the Cost-Sharing
11 and System Integration Agreement agree that an exten-
12 sion is reasonably necessary.

13 **SEC. 624. WAIVERS AND RELEASES OF CLAIMS.**

14 (a) CLAIMS BY THE PUEBLOS AND THE UNITED
15 STATES.—In return for recognition of the Pueblos' water
16 rights and other benefits, including waivers and releases
17 by non-Pueblo parties, as set forth in the Settlement
18 Agreement and this title, the Pueblos, on behalf of them-
19 selves and their members, and the United States acting
20 in its capacity as trustee for the Pueblos are authorized
21 to execute a waiver and release of—

22 (1) all claims for water rights in the Pojoaque
23 Basin that the Pueblos, or the United States acting
24 in its capacity as trustee for the Pueblos, asserted,
25 or could have asserted, in any proceeding, including

1 the Aamodt Case, up to and including the waiver ef-
2 fectiveness date identified in section 623(d), except
3 to the extent that such rights are recognized in the
4 Settlement Agreement or this title;

5 (2) all claims for water rights for lands in the
6 Pojoaque Basin and for rights to use water in the
7 Pojoaque Basin that the Pueblos, or the United
8 States acting in its capacity as trustee for the Pueb-
9 los, might be able to otherwise assert in any pro-
10 ceeding not initiated on or before the date of enact-
11 ment of this Act, except to the extent that such
12 rights are recognized in the Settlement Agreement
13 or this title;

14 (3) all claims for damages, losses or injuries to
15 water rights or claims of interference with, diversion
16 or taking of water (including claims for injury to
17 land resulting from such damages, losses, injuries,
18 interference with, diversion, or taking) for land with-
19 in the Pojoaque Basin that accrued at any time up
20 to and including the waiver effectiveness date identi-
21 fied in section 623(d);

22 (4) their defenses in the Aamodt Case to the
23 claims previously asserted therein by other parties to
24 the Settlement Agreement;

1 (5) all pending and future inter se challenges to
2 the quantification and priority of water rights of
3 non-Pueblo wells in the Pojoaque Basin, except as
4 provided by section 2.8 of the Settlement Agree-
5 ment;

6 (6) all pending and future inter se challenges
7 against other parties to the Settlement Agreement;

8 (7) all claims for damages, losses, or injuries to
9 water rights or claims of interference with, diversion
10 or taking of water (including claims for injury to
11 land resulting from such damages, losses, injuries,
12 interference with, diversion, or taking of water) at-
13 tributable to City of Santa Fe pumping of ground-
14 water that has effects on the ground and surface
15 water supplies of the Pojoaque Basin, provided that
16 this waiver shall not be effective by the Pueblo of
17 Tesuque unless there is a water resources agreement
18 executed between the Pueblo of Tesuque and the
19 City of Santa Fe; and

20 (8) all claims for damages, losses, or injuries to
21 water rights or claims of interference with, diversion
22 or taking of water (including claims for injury to
23 land resulting from such damages, losses, injuries,
24 interference with, diversion, or taking of water) at-
25 tributable to County of Santa Fe pumping of

1 groundwater that has effects on the ground and sur-
2 face water supplies of the Pojoaque Basin.

3 (b) CLAIMS BY THE PUEBLOS AGAINST THE UNITED
4 STATES.—The Pueblos, on behalf of themselves and their
5 members, are authorized to execute a waiver and release
6 of—

7 (1) all claims against the United States, its
8 agencies, or employees, relating to claims for water
9 rights in or water of the Pojoaque Basin or for
10 rights to use water in the Pojoaque Basin that the
11 United States acting in its capacity as trustee for
12 the Pueblos asserted, or could have asserted, in any
13 proceeding, including the Aamodt Case;

14 (2) all claims against the United States, its
15 agencies, or employees relating to damages, losses,
16 or injuries to water, water rights, land, or natural
17 resources due to loss of water or water rights (in-
18 cluding damages, losses or injuries to hunting, fish-
19 ing, gathering or cultural rights due to loss of water
20 or water rights; claims relating to interference with,
21 diversion or taking of water or water rights; or
22 claims relating to failure to protect, acquire, replace,
23 or develop water, water rights or water infrastruc-
24 ture) within the Pojoaque Basin that first accrued

1 at any time up to and including the waiver effective-
2 ness date identified in section 623(d);

3 (3) all claims against the United States, its
4 agencies, or employees for an accounting of funds
5 appropriated by Acts, including the Act of December
6 22, 1927 (45 Stat. 2), the Act of March 4, 1929 (45
7 Stat. 1562), the Act of March 26, 1930 (46 Stat.
8 90), the Act of February 14, 1931 (46 Stat. 1115),
9 the Act of March 4, 1931 (46 Stat. 1552), the Act
10 of July 1, 1932 (47 Stat. 525), the Act of June 22,
11 1936 (49 Stat. 1757), the Act of August 9, 1937
12 (50 Stat. 564), and the Act of May 9, 1938 (52
13 Stat. 291), as authorized by the Pueblo Lands Act
14 of June 7, 1924 (43 Stat. 636), and the Pueblo
15 Lands Act of May 31, 1933 (48 Stat. 108), and for
16 breach of Trust relating to funds for water replace-
17 ment appropriated by said Acts that first accrued
18 before the date of enactment of this Act;

19 (4) all claims against the United States, its
20 agencies, or employees relating to the pending litiga-
21 tion of claims relating to the Pueblos' water rights
22 in the Aamodt Case; and

23 (5) all claims against the United States, its
24 agencies, or employees relating to the negotiation,
25 Execution or the adoption of the Settlement Agree-

1 ment, exhibits thereto, the Partial Final Decree, the
2 Final Decree, or this title.

3 (c) RESERVATION OF RIGHTS AND RETENTION OF
4 CLAIMS.—Notwithstanding the waivers and releases au-
5 thorized in this title, the Pueblos on behalf of themselves
6 and their members and the United States acting in its
7 capacity as trustee for the Pueblos retain.—

8 (1) all claims for enforcement of the Settlement
9 Agreement, the Cost-Sharing and System Integra-
10 tion Agreement, the Final Decree, including the Par-
11 tial Final Decree, the San Juan-Chama Project con-
12 tract between the Pueblos and the United States or
13 this title;

14 (2) all rights to use and protect water rights ac-
15 quired after the date of enactment of this Act;

16 (3) all rights to use and protect water rights ac-
17 quired pursuant to state law to the extent not incon-
18 sistent with the Partial Final Decree, Final Decree,
19 and the Settlement Agreement;

20 (4) all claims against persons other than Par-
21 ties to the Settlement Agreement for damages, losses
22 or injuries to water rights or claims of interference
23 with, diversion or taking of water (including claims
24 for injury to lands resulting from such damages,
25 losses, injuries, interference with, diversion, or tak-

1 ing of water) within the Pojoaque Basin arising out
2 of activities occurring outside the Pojoaque Basin;

3 (5) all claims relating to activities affecting the
4 quality of water including any claims the Pueblos
5 may have under the Comprehensive Environmental
6 Response, Compensation, and Liability Act of 1980
7 (42 U.S.C. 9601 et seq.) (including claims for dam-
8 ages to natural resources), the Safe Drinking Water
9 Act (42 U.S.C. 300f et seq.), the Federal Water Pol-
10 lution Control Act (33 U.S.C. 1251 et seq.), and the
11 regulations implementing those laws;

12 (6) all claims against the United States relating
13 to damages, losses, or injuries to land or natural re-
14 sources not due to loss of water or water rights (in-
15 cluding hunting, fishing, gathering or cultural
16 rights);

17 (7) all claims for water rights from water
18 sources outside the Pojoaque Basin for land outside
19 the Pojoaque Basin owned by a Pueblo or held by
20 the United States for the benefit of any of the Pueb-
21 los; and

22 (8) all rights, remedies, privileges, immunities,
23 powers and claims not specifically waived and re-
24 leased pursuant to this title or the Settlement Agree-
25 ment.

1 (d) EFFECT.—Nothing in the Settlement Agreement
2 or this title—

3 (1) affects the ability of the United States act-
4 ing in its sovereign capacity to take actions author-
5 ized by law, including any laws relating to health,
6 safety, or the environment, including the Com-
7 prehensive Environmental Response, Compensation,
8 and Liability Act of 1980 (42 U.S.C. 9601 et seq.),
9 the Safe Drinking Water Act (42 U.S.C. 300f et
10 seq.), the Federal Water Pollution Control Act (33
11 U.S.C. 1251 et seq.), the Solid Waste Disposal Act
12 (42 U.S.C. 6901 et seq.), and the regulations imple-
13 menting those laws;

14 (2) affects the ability of the United States to
15 take actions acting in its capacity as trustee for any
16 other Indian tribe or allottee; or

17 (3) confers jurisdiction on any State court to—

18 (A) interpret Federal law regarding health,
19 safety, or the environment or determine the du-
20 ties of the United States or other parties pursu-
21 ant to such Federal law; or

22 (B) conduct judicial review of Federal
23 agency action;

24 (e) TOLLING OF CLAIMS.—

1 (1) IN GENERAL.—Each applicable period of
2 limitation and time-based equitable defense relating
3 to a claim described in this section shall be tolled for
4 the period beginning on the date of enactment of
5 this Act and ending on June 30, 2021.

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

10 (3) LIMITATION.—Nothing in this section pre-
11 cludes the tolling of any period of limitations or any
12 time-based equitable defense under any other appli-
13 cable law.

14 **SEC. 625. EFFECT.**

15 Nothing in this title or the Settlement Agreement af-
16 fects the land and water rights, claims, or entitlements
17 to water of any Indian tribe, pueblo, or community other
18 than the Pueblos.

19 **SEC. 626. ANTIDEFICIENCY.**

20 The United States shall not be liable for any failure
21 to carry out any obligation or activity authorized by this
22 title (including any such obligation or activity under the
23 Settlement Agreement) if adequate appropriations are not
24 provided expressly by Congress to carry out the purposes
25 of this title in the Reclamation Water Settlements Fund

1 established under section 10501 of Public Law 111–11 or
2 the “Emergency Fund for Indian Safety and Health” es-
3 tablished by section 601(a) of the Tom Lantos and Henry
4 J. Hyde United States Global Leadership Against HIV/
5 AIDS, Tuberculosis, and Malaria Reauthorization Act of
6 2008 (25 U.S.C. 443c(a)).

7 **TITLE VII—RECLAMATION**
8 **WATER SETTLEMENTS FUND**

9 **SEC. 701. MANDATORY APPROPRIATION.**

10 (a) **IN GENERAL.**—Notwithstanding any other provi-
11 sion of law, out of any funds in the Treasury not otherwise
12 appropriated, for each of fiscal years 2012 through 2014,
13 the Secretary of the Treasury shall transfer to the Sec-
14 retary of the Interior \$60,000,000 for deposit in the Rec-
15 lamation Water Settlements Fund established in section
16 10501 of Public Law 111–11.

17 (b) **RECEIPT AND ACCEPTANCE.**—Starting in fiscal
18 year 2012, the Secretary of the Interior shall be entitled
19 to receive, shall accept, and shall use to carry out subtitle
20 B of title X of Public Law 111–11 the funds transferred
21 under subsection (a), without further appropriation, to re-
22 main available until expended.

1 **TITLE VIII—GENERAL**
2 **PROVISIONS**
3 **Subtitle A—Unemployment**
4 **Compensation Program Integrity**

5 **SEC. 801. COLLECTION OF PAST-DUE, LEGALLY ENFORCE-**
6 **ABLE STATE DEBTS.**

7 (a) UNEMPLOYMENT COMPENSATION DEBTS.—Sec-
8 tion 6402(f) of the Internal Revenue Code of 1986 is
9 amended—

10 (1) in the heading, by striking “RESULTING
11 FROM FRAUD”;

12 (2) by striking paragraphs (3) and (8) and re-
13 designating paragraphs (4) through (7) as para-
14 graphs (3) through (6), respectively;

15 (3) in paragraph (3), as so redesignated—

16 (A) in subparagraph (A), by striking “by
17 certified mail with return receipt”;

18 (B) in subparagraph (B), by striking “due
19 to fraud” and inserting “is not a covered unem-
20 ployment compensation debt”;

21 (C) in subparagraph (C), by striking “due
22 to fraud” and inserting “ is not a covered un-
23 employment compensation debt”; and

24 (4) in paragraph (4), as so redesignated—

25 (A) in subparagraph (A)—

1 (i) by inserting “or the person’s fail-
2 ure to report earnings” after “due to
3 fraud”; and

4 (ii) by striking “for not more than 10
5 years”; and

6 (B) in subparagraph (B)—

7 (i) by striking “due to fraud”; and

8 (ii) by striking “for not more than 10
9 years”.

10 (b) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to refunds payable under section
12 6402 of the Internal Revenue Code of 1986 on or after
13 the date of the enactment of this Act.

14 **SEC. 802. REPORTING OF FIRST DAY OF EARNINGS TO DI-**
15 **RECTORY OF NEW HIRES.**

16 (a) ADDITION OF REQUIREMENT.—Section
17 453A(b)(1)(A) of the Social Security Act (42 U.S.C.
18 653a(b)(1)(A)) is amended by inserting “the date services
19 for remuneration were first performed by the employee,”
20 after “of the employee,”.

21 (b) CONFORMING AMENDMENT REGARDING REPORT-
22 ING FORMAT AND METHOD.—Section 453A(c) of the So-
23 cial Security Act (42 U.S.C. 653a(c)) is amended by in-
24 serting “, to the extent practicable,” after “Each report
25 required by subsection (b) shall”.

1 (c) EFFECTIVE DATE.—

2 (1) IN GENERAL.—Subject to paragraph (2),
3 the amendments made by this section shall take ef-
4 fect 6 months after the date of the enactment of this
5 Act.

6 (2) COMPLIANCE TRANSITION PERIOD.—If the
7 Secretary of Health and Human Services determines
8 that State legislation (other than legislation appro-
9 priating funds) is required in order for a State plan
10 under part D of title IV of the Social Security Act
11 to meet the additional requirements imposed by the
12 amendment made by subsection (a), the plan shall
13 not be regarded as failing to meet such requirements
14 before the first day of the second calendar quarter
15 beginning after the close of the first regular session
16 of the State legislature that begins after the effective
17 date of such amendment. If the State has a 2-year
18 legislative session, each year of the session is deemed
19 to be a separate regular session of the State legisla-
20 ture.

21 **Subtitle B—TANF**

22 **SEC. 811. EXTENSION OF THE TEMPORARY ASSISTANCE**
23 **FOR NEEDY FAMILIES PROGRAM.**

24 (a) IN GENERAL.—Activities authorized by part A of
25 title IV and section 1108(b) of the Social Security Act

1 (other than the Emergency Contingency Fund for State
2 Temporary Assistance for Needy Families Programs es-
3 tablished under subsection (c) of section 403 of such Act)
4 shall continue through September 30, 2011, in the manner
5 authorized for fiscal year 2010, and out of any money in
6 the Treasury of the United States not otherwise appro-
7 priated, there are hereby appropriated such sums as may
8 be necessary for such purpose. Grants and payments may
9 be made pursuant to this authority on a quarterly basis
10 through fiscal year 2011 at the level provided for such
11 activities for the corresponding quarter of fiscal year
12 2010, except that—

13 (1) in the case of healthy marriage promotion
14 and responsible fatherhood grants under section
15 403(a)(2) of such Act, such grants and payments
16 shall be made in accordance with the amendments
17 made by subsection (b) of this section;

18 (2) in the case of supplemental grants under
19 section 403(a)(3) of such Act—

20 (A) such grants and payments for the pe-
21 riod beginning on October 1, 2010, and ending
22 on December 3, 2010, shall not exceed the level
23 provided for such grants and payments under
24 the Continuing Appropriations Act, 2011; and

1 (B) such grants and payments for the pe-
2 riod beginning on December 4, 2010, and end-
3 ing on June 30, 2011, shall not exceed the
4 amount equal to the difference between
5 \$490,000,000 and such sums as are necessary
6 for amounts obligated under section 403(b) of
7 the Social Security Act on or after October 1,
8 2010, and before the date of enactment of this
9 Act; and

10 (3) in the case of the Contingency Fund for
11 State Welfare Programs established under section
12 403(b) of such Act, grants and payments may be
13 made in the manner authorized for fiscal year 2010
14 through fiscal year 2012, in accordance with the
15 amendments made by subsection (c) of this section.

16 (b) HEALTHY MARRIAGE PROMOTION AND RESPON-
17 SIBLE FATHERHOOD GRANTS.—Section 403(a)(2) of the
18 Social Security Act (42 U.S.C. 603(a)(2)) is amended—

19 (1) in subparagraph (A)—

20 (A) in clause (i), by striking “and (C)”
21 and inserting “, (C), and (E)”;

22 (B) in clause (ii), in the matter preceding
23 subclause (I), by inserting “(or, in the case of
24 an entity seeking funding to carry out healthy
25 marriage promotion activities and activities pro-

1 moting responsible fatherhood, a combined ap-
2 plication that contains assurances that the enti-
3 ty will carry out such activities under separate
4 programs and shall not combine any funds
5 awarded to carry out either such activities)”
6 after “an application”; and

7 (C) in clause (iii), by striking subclause
8 (III) and inserting the following:

9 “(III) Marriage education, mar-
10 riage skills, and relationship skills
11 programs, that may include parenting
12 skills, financial management, conflict
13 resolution, and job and career ad-
14 vancement.”;

15 (2) in subparagraph (C)(i), by striking
16 “\$50,000,000” and inserting “\$75,000,000”;

17 (3) by striking subparagraph (D) and inserting
18 the following:

19 “(D) APPROPRIATION.—Out of any money
20 in the Treasury of the United States not other-
21 wise appropriated, there are appropriated for
22 fiscal year 2011 for expenditure in accordance
23 with this paragraph—

1 “(i) \$75,000,000 for awarding funds
2 for the purpose of carrying out healthy
3 marriage promotion activities; and

4 “(ii) \$75,000,000 for awarding funds
5 for the purpose of carrying out activities
6 promoting responsible fatherhood.

7 If the Secretary makes an award under sub-
8 paragraph (B)(i) for fiscal year 2011, the funds
9 for such award shall be taken in equal portion
10 from the amounts appropriated under clauses
11 (i) and (ii).”; and

12 (4) by adding at the end the following:

13 “(E) PREFERENCE.—In awarding funds
14 under this paragraph for fiscal year 2011, the
15 Secretary shall give preference to entities that
16 were awarded funds under this paragraph for
17 any prior fiscal year and that have dem-
18 onstrated the ability to successfully carry out
19 the programs funded under this paragraph.”.

20 (c) CONTINGENCY FUND.—Section 403(b)(2) of the
21 Social Security Act (42 U.S.C. 603(b)(2)), as amended by
22 section 131(b)(2)(A) of the Continuing Appropriations
23 Act, 2011, is amended—

24 (1) by striking “\$506,000,000” and inserting
25 “such sums as are necessary for amounts obligated

1 on or after October 1, 2010, and before the date of
2 enactment of the Claims Resolution Act of 2010,”;
3 and

4 (2) by striking “, reduced” and all that follows
5 up to the period.

6 (d) CONFORMING AMENDMENTS.—Section 403(a)(3)
7 of the Social Security Act (42 U.S.C. 603(a)(3)), as
8 amended by section 131(b)(1) of the Continuing Appro-
9 priations Act, 2011, is amended—

10 (1) in subparagraph (F)—

11 (A) by inserting “(or portion of a fiscal
12 year)” after “a fiscal year”; and

13 (B) by inserting “(or portion of the fiscal
14 year)” after “the fiscal year” each place it ap-
15 pears; and

16 (2) by striking clause (ii) of subparagraph (H)
17 and inserting the following:

18 “(ii) subparagraph (G) shall be ap-
19 plied as if ‘fiscal year 2011’ were sub-
20 stituted for ‘fiscal year 2001’;”.

21 **SEC. 812. MODIFICATIONS TO TANF DATA REPORTING.**

22 (a) IN GENERAL.—Section 411 of the Social Security
23 Act (42 U.S.C. 611) is amended by adding at the end the
24 following new subsection:

1 “(c) PRE-REAUTHORIZATION STATE-BY-STATE RE-
2 PORTS ON ENGAGEMENT IN ADDITIONAL WORK ACTIVI-
3 TIES AND EXPENDITURES FOR OTHER BENEFITS AND
4 SERVICES.—

5 “(1) STATE REPORTING REQUIREMENTS.—

6 “(A) REPORTING PERIODS AND DEAD-
7 LINES.—Each eligible State shall submit to the
8 Secretary the following reports:

9 “(i) MARCH 2011 REPORT.—Not later
10 than May 31, 2011, a report for the period
11 that begins on March 1, 2011, and ends on
12 March 31, 2011, that contains the infor-
13 mation specified in subparagraphs (B) and
14 (C).

15 “(ii) APRIL-JUNE, 2011 REPORT.—Not
16 later than August 31, 2011, a report for
17 the period that begins on April 1, 2011,
18 and ends on June 30, 2011, that contains
19 with respect to the 3 months that occur
20 during that period—

21 “(I) the average monthly num-
22 bers for the information specified in
23 subparagraph (B); and

24 “(II) the information specified in
25 subparagraph (C).

1 “(B) ENGAGEMENT IN ADDITIONAL WORK
2 ACTIVITIES.—

3 “(i) With respect to each work-eligible
4 individual in a family receiving assistance
5 during a reporting period specified in sub-
6 paragraph (A), whether the individual en-
7 gages in any activities directed toward at-
8 taining self-sufficiency during a month oc-
9 curring in a reporting period, and if so, the
10 specific activities—

11 “(I) that do not qualify as a
12 work activity under section 407(d) but
13 that are otherwise reasonably cal-
14 culated to help the family move to-
15 ward self-sufficiency; or

16 “(II) that are of a type that
17 would be counted toward the State
18 participation rates under section 407
19 but for the fact that—

20 “(aa) the work-eligible indi-
21 vidual did not engage in suffi-
22 cient hours of the activity;

23 “(bb) the work-eligible indi-
24 vidual has reached the maximum
25 time limit allowed for having par-

1 participation in the activity counted
2 toward the State's work partici-
3 pation rate; or

4 “(cc) the number of work-el-
5 igible individuals engaged in such
6 activity exceeds a limitation
7 under such section.

8 “(ii) Any other information that the
9 Secretary determines appropriate with re-
10 spect to the information required under
11 clause (i), including if the individual has
12 no hours of participation, the principal rea-
13 son or reasons for such non-participation.

14 “(C) EXPENDITURES ON OTHER BENEFITS
15 AND SERVICES.—

16 “(i) Detailed, disaggregated informa-
17 tion regarding the types of, and amounts
18 of, expenditures made by the State during
19 a reporting period specified in subpara-
20 graph (A) using—

21 “(I) Federal funds provided
22 under section 403 that are (or will be)
23 reported by the State on Form ACF-
24 196 (or any successor form) under the
25 category of other expenditures or the

1 category of benefits or services pro-
2 vided in accordance with the authority
3 provided under section 404(a)(2); or

4 “(II) State funds expended to
5 meet the requirements of section
6 409(a)(7) and reported by the State
7 in the category of other expenditures
8 on Form ACF-196 (or any successor
9 form).

10 “(ii) Any other information that the
11 Secretary determines appropriate with re-
12 spect to the information required under
13 clause (i).

14 “(2) PUBLICATION OF SUMMARY AND ANALYSIS
15 OF ENGAGEMENT IN ADDITIONAL ACTIVITIES.—Con-
16 current with the submission of each report required
17 under paragraph (1)(A), an eligible State shall pub-
18 lish on an Internet website maintained by the State
19 agency responsible for administering the State pro-
20 gram funded under this part (or such State-main-
21 tained website as the Secretary may approve)—

22 “(A) a summary of the information sub-
23 mitted in the report:

24 “(B) an analysis statement regarding the
25 extent to which the information changes meas-

1 ures of total engagement in work activities from
2 what was (or will be) reported by the State in
3 the quarterly report submitted under subsection
4 (a) for the comparable period; and

5 “(C) a narrative describing the most com-
6 mon activities contained in the report that are
7 not countable toward the State participation
8 rates under section 407.

9 “(3) APPLICATION OF AUTHORITY TO USE SAM-
10 PLING.—Subparagraph (B) of subsection (a)(1)
11 shall apply to the reports required under paragraph
12 (1) of this subsection in the same manner as sub-
13 paragraph (B) of subsection (a)(1) applies to reports
14 required under subparagraph (A) of subsection
15 (a)(1).

16 “(4) SECRETARIAL REPORTS TO CONGRESS.—

17 “(A) MARCH 2011 REPORT.—Not later
18 than June 30, 2011, the Secretary shall submit
19 to Congress a report on the information sub-
20 mitted by eligible States for the March 2011 re-
21 porting period under paragraph (1)(A)(i). The
22 report shall include a State-by-State summary
23 and analysis of such information, identification
24 of any States with missing or incomplete re-
25 ports, and recommendations for such adminis-

1 trative or legislative changes as the Secretary
2 determines are necessary to require eligible
3 States to report the information on a recurring
4 basis.

5 “(B) APRIL-JUNE, 2011 REPORT.—Not
6 later than September 30, 2011, the Secretary
7 shall submit to Congress a report on the infor-
8 mation submitted by eligible States for the
9 April-June 2011 reporting period under para-
10 graph (1)(A)(ii). The report shall include a
11 State-by-State summary and analysis of such
12 information, identification of any States with
13 missing or incomplete reports, and rec-
14 ommendations for such administrative or legis-
15 lative changes as the Secretary determines are
16 necessary to require eligible States to report the
17 information on a recurring basis

18 “(5) AUTHORITY FOR EXPEDITIOUS IMPLEMEN-
19 TATION.—The requirements of chapter 5 of title 5,
20 United States Code (commonly referred to as the
21 ‘Administrative Procedure Act’) or any other law re-
22 lating to rulemaking or publication in the Federal
23 Register shall not apply to the issuance of guidance
24 or instructions by the Secretary with respect to the
25 implementation of this subsection to the extent the

1 Secretary determines that compliance with any such
2 requirement would impede the expeditious implemen-
3 tation of this subsection.”.

4 (b) APPLICATION OF PENALTY FOR FAILURE TO
5 FILE REPORT.—

6 (1) IN GENERAL.—Section 409(a)(2) of such
7 Act (42 U.S.C. 609(a)(2)) is amended—

8 (A) by redesignating subparagraphs (A)
9 and (B) as clauses (i) and (ii), respectively,

10 (B) by inserting before clause (i) (as redesi-
11 gnated by paragraph (1)), the following:

12 “(A) QUARTERLY REPORTS.—”;

13 (C) in clause (ii) of subparagraph (A) (as
14 redesignated by paragraphs (1) and (2)), by
15 striking “subparagraph (A)” and inserting
16 “clause (i)”; and

17 (D) by adding at the end the following:

18 “(B) REPORT ON ENGAGEMENT IN ADDI-
19 TIONAL WORK ACTIVITIES AND EXPENDITURES
20 FOR OTHER BENEFITS AND SERVICES.—

21 “(i) IN GENERAL.—If the Secretary
22 determines that a State has not submitted
23 the report required by section
24 411(c)(1)(A)(i) by May 31, 2011, or the
25 report required by section 411(c)(1)(A)(ii)

1 by August 31, 2011, the Secretary shall
2 reduce the grant payable to the State
3 under section 403(a)(1) for the imme-
4 diately succeeding fiscal year by an amount
5 equal to not more than 4 percent of the
6 State family assistance grant.

7 “(ii) RESCISSION OF PENALTY.—The
8 Secretary shall rescind a penalty imposed
9 on a State under clause (i) with respect to
10 a report required by section 411(c)(1)(A)
11 if the State submits the report not later
12 than—

13 “(I) in the case of the report re-
14 quired under section 411(c)(1)(A)(i),
15 June 15, 2011; and

16 “(II) in the case of the report re-
17 quired under section 411(c)(1)(A)(ii),
18 September 15, 2011.

19 “(iii) PENALTY BASED ON SEVERITY
20 OF FAILURE.—The Secretary shall impose
21 a reduction under clause (i) with respect to
22 a fiscal year based on the degree of non-
23 compliance.”.

24 (2) APPLICATION OF REASONABLE CAUSE EX-
25 CEPTION.—Section 409(b)(2) of such Act (42 U.S.C.

1 609(b)(2)) is amended by inserting before the period
2 the following: “and, with respect to the penalty
3 under paragraph (2)(B) of subsection (a), shall only
4 apply to the extent the Secretary determines that
5 the reasonable cause for failure to comply with a re-
6 quirement of that paragraph is as a result of a one-
7 time, unexpected event, such as a widespread data
8 system failure or a natural or man-made disaster”.

9 (3) NONAPPLICATION OF CORRECTIVE COMPLI-
10 ANCE PLAN PROVISIONS.—Section 409(e)(4) of such
11 Act (42 U.S.C. 609(e)(4)) is amended by inserting
12 “(2)(B),” after “paragraph”.

13 **Subtitle C—Customs User Fees;**
14 **Continued Dumping and Sub-**
15 **sidy Offset**

16 **SEC. 821. CUSTOMS USER FEES.**

17 Section 13031(j)(3) of the Consolidated Omnibus
18 Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3))
19 is amended—

20 (1) in subparagraph (A), by striking “December
21 10, 2018” and inserting “September 30, 2019”; and

22 (2) in subparagraph (B)(i), by striking “No-
23 vember 30, 2018” and inserting “September 30,
24 2019”.

1 **SEC. 822. LIMITATION ON DISTRIBUTIONS RELATING TO**
2 **REPEAL OF CONTINUED DUMPING AND SUB-**
3 **SIDY OFFSET.**

4 Notwithstanding section 1701(b) of the Deficit Re-
5 duction Act of 2005 (Public Law 109–171; 120 Stat. 154
6 (19 U.S.C. 1675c note)) or any other provision of law,
7 no payments shall be distributed under section 754 of the
8 Tariff Act of 1930, as in effect on the day before the date
9 of the enactment of such section 1701, with respect to the
10 entries of any goods that are, on the date of the enactment
11 of this Act—

- 12 (1) unliquidated; and
13 (2)(A) not in litigation; or
14 (B) not under an order of liquidation from the
15 Department of Commerce.

16 **Subtitle D—Emergency Fund for**
17 **Indian Safety and Health**

18 **SEC. 831. EMERGENCY FUND FOR INDIAN SAFETY AND**
19 **HEALTH.**

20 Section 601 of the Tom Lantos and Henry J. Hyde
21 United States Global Leadership Against HIV/ AIDS, Tu-
22 berculosis, and Malaria Reauthorization Act of 2008 (25
23 U.S.C. 443e) is amended—

- 24 (1) in subsection (b)(1), by striking
25 “\$2,000,000,000” and inserting “\$1,602,619,000”;
26 and

1 (2) in subsection (f)(2)(B), by striking “50 per-
2 cent” and inserting “not more than \$602,619,000”.

3 **Subtitle E—Rescission of Funds**
4 **From WIC Program**

5 **SEC. 841. RESCISSION OF FUNDS FROM WIC PROGRAM.**

6 Notwithstanding any other provision of law, of the
7 amounts made available in appropriations Acts to provide
8 grants to States under the special supplemental nutrition
9 program for women, infants, and children established by
10 section 17 of the Child Nutrition Act of 1966 (42 U.S.C.
11 1786), \$562,000,000 is rescinded.

12 **Subtitle F—Budgetary Effects**

13 **SEC. 851. BUDGETARY EFFECTS.**

14 The budgetary effects of this Act, for the purpose of
15 complying with the Statutory Pay-As-You-Go-Act of 2010,
16 shall be determined by reference to the latest statement
17 titled “Budgetary Effects of PAYGO Legislation” for this
18 Act, submitted for printing in the Congressional Record
19 by the Chairman of the Senate Budget Committee, pro-
20 vided that such statement has been submitted prior to the
21 vote on passage.