

111<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 1105

To authorize the Secretary of the Interior, acting through the Commissioner of Reclamation, to develop water infrastructure in the Rio Grande Basin, and to approve the settlement of the water rights claims of the Pueblos of Nambe, Pojoaque, San Ildefonso, and Tesuque.

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## IN THE SENATE OF THE UNITED STATES

MAY 20, 2009

Mr. BINGAMAN (for himself and Mr. UDALL of New Mexico) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

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## A BILL

To authorize the Secretary of the Interior, acting through the Commissioner of Reclamation, to develop water infrastructure in the Rio Grande Basin, and to approve the settlement of the water rights claims of the Pueblos of Nambe, Pojoaque, San Ildefonso, and Tesuque.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

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

4       (a) **SHORT TITLE.**—This Act may be cited as the  
5       “Aamodt Litigation Settlement Act”.

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

- Sec. 1. Short title; table of contents.  
 Sec. 2. Definitions.

TITLE I—POJOAQUE BASIN REGIONAL WATER SYSTEM

- Sec. 101. Authorization of Regional Water System.  
 Sec. 102. Operating Agreement.  
 Sec. 103. Acquisition of Pueblo water supply for the Regional Water System.  
 Sec. 104. Delivery and allocation of Regional Water System capacity and water.  
 Sec. 105. Aamodt Settlement Pueblos' Fund.  
 Sec. 106. Environmental compliance.  
 Sec. 107. Authorization of appropriations.

TITLE II—POJOAQUE BASIN INDIAN WATER RIGHTS  
 SETTLEMENT

- Sec. 201. Settlement Agreement and contract approval.  
 Sec. 202. Environmental compliance.  
 Sec. 203. Conditions precedent and enforcement date.  
 Sec. 204. Waivers and releases.  
 Sec. 205. Effect.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) AAMODT CASE.—The term “Aamodt Case”  
 4 means the civil action entitled State of New Mexico,  
 5 ex rel. State Engineer and United States of Amer-  
 6 ica, Pueblo de Nambe, Pueblo de Pojoaque, Pueblo  
 7 de San Ildefonso, and Pueblo de Tesuque v. R. Lee  
 8 Aamodt, et al., No. 66 CV 6639 MV/LCS (D.N.M.).

9 (2) ACRE-FEET.—The term “acre-feet” means  
 10 acre-feet of water per year.

11 (3) AUTHORITY.—The term “Authority” means  
 12 the Pojoaque Basin Regional Water Authority de-  
 13 scribed in section 9.5 of the Settlement Agreement  
 14 or an alternate entity acceptable to the Pueblos and  
 15 the County to operate and maintain the diversion  
 16 and treatment facilities, certain transmission pipe-

1 lines, and other facilities of the Regional Water Sys-  
2 tem.

3 (4) CITY.—The term “City” means the city of  
4 Santa Fe, New Mexico.

5 (5) COST-SHARING AND SYSTEM INTEGRATION  
6 AGREEMENT.—The term “Cost-Sharing and System  
7 Integration Agreement” means the agreement to be  
8 executed by the United States, the State, the Pueb-  
9 los, the County, and the City that—

10 (A) describes the location, capacity, and  
11 management (including the distribution of  
12 water to customers) of the Regional Water Sys-  
13 tem; and

14 (B) allocates the costs of the Regional  
15 Water System with respect to—

16 (i) the construction, operation, main-  
17 tenance, and repair of the Regional Water  
18 System;

19 (ii) rights-of-way for the Regional  
20 Water System; and

21 (iii) the acquisition of water rights.

22 (6) COUNTY.—The term “County” means  
23 Santa Fe County, New Mexico.

24 (7) COUNTY DISTRIBUTION SYSTEM.—The term  
25 “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 101(d)(2).

17 (10) FUND.—The term “Fund” means the  
 18 Aamodt Settlement Pueblos’ Fund established by  
 19 section 105(a).

20 (11) OPERATING AGREEMENT.—The term “Op-  
 21 erating Agreement” means the agreement between  
 22 the Pueblos and the County executed under section  
 23 102(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 101(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 stipulated and  
14          binding agreement among the State, the Pueblos,  
15          the United States, the County, and the City dated  
16          January 19, 2006, and signed by all of the govern-  
17          ment parties to the Settlement Agreement (other  
18          than the United States) on May 3, 2006, and as  
19          amended in conformity with this Act.

20          (23) STATE.—The term “State” means the  
21          State of New Mexico.

1           **TITLE I—POJOAQUE BASIN**  
2           **REGIONAL WATER SYSTEM**

3   **SEC. 101. 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 106  
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 107(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 203 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.—The costs of  
14 constructing the Pueblo Water Facilities, as deter-  
15 mined by the final project design and the Engineer-  
16 ing Report—

17 (A) shall be at full Federal expense subject  
18 to the amount authorized in section 107(a)(1);  
19 and

20 (B) shall be nonreimbursable to the United  
21 States.

22 (2) COUNTY DISTRIBUTION SYSTEM.—The costs  
23 of constructing the County Distribution System shall  
24 be at State and local expense.

1 (g) STATE AND LOCAL CAPITAL OBLIGATIONS.—The  
 2 State and local capital obligations for the Regional Water  
 3 System described in the Cost-Sharing and System Integra-  
 4 tion Agreement shall be satisfied on the payment of the  
 5 State and local capital obligations described in the Cost-  
 6 Sharing and System Integration Agreement.

7 (h) CONVEYANCE OF REGIONAL WATER SYSTEM FA-  
 8 CILITIES.—

9 (1) IN GENERAL.—Subject to paragraph (2), on  
 10 completion of the construction of the Regional Water  
 11 System, the Secretary, in accordance with the Oper-  
 12 ating Agreement, shall convey to—

13 (A) each Pueblo the portion of any Pueblo  
 14 Water Facility that is located within the bound-  
 15 aries of the Pueblo, including any land or inter-  
 16 est in land located within the boundaries of the  
 17 Pueblo that is acquired by the United States  
 18 for the construction of the Pueblo Water Facil-  
 19 ity;

20 (B) the County the County Distribution  
 21 System, including any land or interest in land  
 22 acquired by the United States for the construc-  
 23 tion of the County Distribution System; and

24 (C) the Authority any portions of the Re-  
 25 gional Water System that remain after making

1           the conveyances under subparagraphs (A) and  
2           (B), including any land or interest in land ac-  
3           quired by the United States for the construc-  
4           tion of the portions of the Regional Water Sys-  
5           tem.

6           (2) CONDITIONS FOR CONVEYANCE.—The Sec-  
7           retary shall not convey any portion of the Regional  
8           Water System facilities under paragraph (1) until  
9           the date on which—

10                   (A) construction of the Regional Water  
11                   System is complete; and

12                   (B) the Operating Agreement is executed  
13                   in accordance with section 102.

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) LIABILITY.—

11 (A) IN GENERAL.—Effective on the date of  
12 conveyance of any land or facility under this  
13 section, the United States shall not be held lia-  
14 ble by any court for damages of any kind aris-  
15 ing out of any act, omission, or occurrence re-  
16 lating to the land and facilities conveyed, other  
17 than damages caused by acts of negligence by  
18 the United States, or by employees or agents of  
19 the United States, prior to the date of convey-  
20 ance.

21 (B) TORT CLAIMS.—Nothing in this sec-  
22 tion increases the liability of the United States  
23 beyond the liability provided in chapter 171 of  
24 title 28, United States Code (commonly known  
25 as the “Federal Tort Claims Act”).



1           (7) EFFECT.—Nothing in any transfer of own-  
2           ership provided or any conveyance thereto as pro-  
3           vided in this section shall extinguish the right of any  
4           Pueblo, the County, or the Regional Water Author-  
5           ity to the continuous use and benefit of each ease-  
6           ment or right of way for the use, operation, mainte-  
7           nance, repair, and replacement of Pueblo Water Fa-  
8           cilities, the County Distribution System or the Re-  
9           gional Water System or for wastewater purposes as  
10          provided in the Cost-Sharing and System Integra-  
11          tion Agreement.

12 **SEC. 102. OPERATING AGREEMENT.**

13          (a) IN GENERAL.—The Pueblos and the County shall  
14          submit to the Secretary an executed Operating Agreement  
15          for the Regional Water System that is consistent with this  
16          Act, the Settlement Agreement, and the Cost-Sharing and  
17          System Integration Agreement not later than 180 days  
18          after the later of—

19                (1) the date of completion of environmental  
20                compliance and permitting; or

21                (2) the date of issuance of a final project design  
22                for the Regional Water System under section  
23                101(b).

24          (b) APPROVAL.—Not later than 180 days after re-  
25          ceipt of the operating agreement described in subsection

1 (a), the Secretary shall approve the Operating Agreement  
2 upon determination that the Operating Agreement is con-  
3 sistent with this Act, the Settlement Agreement, and the  
4 Cost-Sharing and System Integration Agreement.

5 (c) CONTENTS.—The Operating Agreement shall in-  
6 clude—

7 (1) provisions consistent with the Settlement  
8 Agreement and the Cost-Sharing and System Inte-  
9 gration Agreement and necessary to implement the  
10 intended benefits of the Regional Water System de-  
11 scribed in those documents;

12 (2) provisions for—

13 (A) the distribution of water conveyed  
14 through the Regional Water System, including  
15 a delineation of—

16 (i) distribution lines for the County  
17 Distribution System;

18 (ii) distribution lines for the Pueblo  
19 Water Facilities; and

20 (iii) distribution lines that serve  
21 both—

22 (I) the County Distribution Sys-  
23 tem; and

24 (II) the Pueblo Water Facilities;

1 (B) the allocation of the Regional Water  
2 System capacity;

3 (C) the terms of use of unused water ca-  
4 pacity in the Regional Water System;

5 (D) the construction of additional infra-  
6 structure and the acquisition of associated  
7 rights-of-way or easements necessary to enable  
8 any of the Pueblos or the County to fully use  
9 water allocated to the Pueblos or the County  
10 from the Regional Water System, including pro-  
11 visions addressing when the construction of  
12 such additional infrastructure requires approval  
13 by the Authority;

14 (E) the allocation and payment of annual  
15 operation, maintenance, and replacement costs  
16 for the Regional Water System, including the  
17 portions of the Regional Water System that are  
18 used to treat, transmit, and distribute water to  
19 both the Pueblo Water Facilities and the Coun-  
20 ty Water Utility;

21 (F) the operation of wellfields located on  
22 Pueblo land;

23 (G) the transfer of any water rights nec-  
24 essary to provide the Pueblo water supply de-  
25 scribed in section 103(a);

1           (H) the operation of the Regional Water  
2           System with respect to the water supply, includ-  
3           ing the allocation of the water supply in accord-  
4           ance with section 3.1.8.4.2 of the Settlement  
5           Agreement so that, in the event of a shortage  
6           of supply to the Regional Water System, the  
7           supply to each of the Pueblos' and to the Coun-  
8           ty's distribution system shall be reduced on a  
9           prorata basis, in proportion to each distribution  
10          system's most current annual use; and

11           (I) dispute resolution; and

12          (3) provisions for operating and maintaining  
13          the Regional Water System facilities before and  
14          after conveyance under section 101(h), including  
15          provisions to—

16           (A) ensure that—

17           (i) the operation of, and the diversion  
18           and conveyance of water by, the Regional  
19           Water System is in accordance with the  
20           Settlement Agreement;

21           (ii) the wells in the Regional Water  
22           System are used in conjunction with the  
23           surface water supply of the Regional  
24           Water System to ensure a reliable firm  
25           supply of water to all users of the Regional

1 Water System, consistent with the intent  
 2 of the Settlement Agreement that surface  
 3 supplies will be used to the maximum ex-  
 4 tent feasible;

5 (iii) the respective obligations regard-  
 6 ing delivery, payment, operation, and man-  
 7 agement are enforceable; and

8 (iv) the County has the right to serve  
 9 any new water users located on non-Pueblo  
 10 land in the Pojoaque Basin; and

11 (B) allow for any aquifer storage and re-  
 12 covery projects that are approved by the Office  
 13 of the New Mexico State Engineer.

14 (d) EFFECT.—Nothing in this Act precludes the Op-  
 15 erating Agreement from authorizing phased or interim op-  
 16 erations if the Regional Water System is constructed in  
 17 phases.

18 **SEC. 103. ACQUISITION OF PUEBLO WATER SUPPLY FOR**

19 **THE REGIONAL WATER SYSTEM.**

20 (a) IN GENERAL.—For the purpose of providing a  
 21 reliable firm supply of water from the Regional Water Sys-  
 22 tem for the Pueblos in accordance with the Settlement  
 23 Agreement, the Secretary, on behalf of the Pueblos,  
 24 shall—

25 (1) acquire water rights to—

1 (A) 302 acre-feet of Nambe reserved water  
2 described in section 2.6.2 of the Settlement  
3 Agreement pursuant to section 107(c)(1)(C);  
4 and

5 (B) 1141 acre-feet from water acquired by  
6 the County for water rights commonly referred  
7 to as “Top of the World” rights in the Aamodt  
8 Case;

9 (2) make available 1079 acre-feet to the Pueb-  
10 los pursuant to a contract entered into among the  
11 Pueblos and the Secretary in accordance with sec-  
12 tion 11 of the San Juan-Chama Project Act, under  
13 water rights held by the Secretary; and

14 (3) by application to the State Engineer, obtain  
15 approval to divert the water acquired and made  
16 available under paragraphs (1) and (2) at the points  
17 of diversion for the Regional Water System, con-  
18 sistent with the Settlement Agreement and the Cost-  
19 Sharing and System Integration Agreement.

20 (b) FORFEITURE.—The nonuse of the water supply  
21 secured by the Secretary for the Pueblos under subsection  
22 (a) shall in no event result in forfeiture, abandonment, re-  
23 linquishment, or other loss thereof.

1           (c) TRUST.—The Pueblo water supply secured under  
2 subsection (a) shall be held by the United States in trust  
3 for the Pueblos.

4           (d) APPLICABLE LAW.—The water supply made  
5 available pursuant to subsection (a)(2) shall be subject to  
6 the San Juan-Chama Project Act, and no preference shall  
7 be provided to the Pueblos as a result of subsection (c)  
8 with regard to the delivery or distribution of San Juan-  
9 Chama Project water or the management or operation of  
10 the San Juan-Chama Project.

11          (e) CONTRACT FOR SAN JUAN-CHAMA PROJECT  
12 WATER SUPPLY.—With respect to the contract for the  
13 water supply required by subsection (a)(2), such San  
14 Juan-Chama Project contract shall be pursuant to the fol-  
15 lowing terms:

16               (1) WAIVERS.—Notwithstanding the provisions  
17 of the San Juan-Chama Project Act, or any other  
18 provision of law—

19                       (A) the Secretary shall waive the entirety  
20 of the Pueblos' share of the construction costs  
21 for the San Juan-Chama Project, and pursuant  
22 to that waiver, the Pueblos' share of all con-  
23 struction costs for the San Juan-Chama  
24 Project, inclusive of both principal and interest,  
25 due from 1972 to the execution of the contract

1 required by subsection (a)(2), shall be nonreim-  
2 bursable;

3 (B) the Secretary's waiver of each Pueblo's  
4 share of the construction costs for the San  
5 Juan-Chama Project will not result in an in-  
6 crease in the pro rata shares of other San  
7 Juan-Chama Project water contractors, but  
8 such costs shall be absorbed by the United  
9 States Treasury or otherwise appropriated to  
10 the Department of the Interior; and

11 (C) the costs associated with any water  
12 made available from the San Juan-Chama  
13 Project which were determined nonreimbursable  
14 and nonreturnable pursuant to Public Law No.  
15 88-293, 78 Stat. 171 (March 26, 1964), shall  
16 remain nonreimbursable and nonreturnable.

17 (2) TERMINATION.—The contract shall provide  
18 that it shall terminate only upon the following condi-  
19 tions—

20 (A) failure of the United States District  
21 Court for the District of New Mexico to enter  
22 a final decree for the Aamodt Case by Decem-  
23 ber 15, 2012, or within the time period of any  
24 extension of that deadline granted by the court;  
25 or



1 (B) entry of an order by the United States  
2 District Court for the District of New Mexico  
3 voiding the final decree and Settlement Agree-  
4 ment for the Aamodt Case pursuant to section  
5 10.3 of the Settlement Agreement.

6 (f) LIMITATION.—The Secretary shall use the water  
7 supply secured under subsection (a) only for the purposes  
8 described in the Settlement Agreement.

9 (g) FULFILLMENT OF WATER SUPPLY ACQUISITION  
10 OBLIGATIONS.—Compliance with subsections (a) through  
11 (f) shall satisfy any and all obligations of the Secretary  
12 to acquire or secure a water supply for the Pueblos pursu-  
13 ant to the Settlement Agreement.

14 (h) RIGHTS OF PUEBLOS IN SETTLEMENT AGREE-  
15 MENT UNAFFECTED.—Notwithstanding the provisions of  
16 subsections (a) through (g), the Pueblos, the County or  
17 the Regional Water Authority may acquire any additional  
18 water rights to ensure all parties to the Settlement Agree-  
19 ment receive the full allocation of water provided by the  
20 Settlement Agreement and nothing in this Act amends or  
21 modifies the quantities of water allocated to the Pueblos  
22 thereunder.

1 **SEC. 104. DELIVERY AND ALLOCATION OF REGIONAL**  
2 **WATER SYSTEM CAPACITY AND WATER.**

3 (a) ALLOCATION OF REGIONAL WATER SYSTEM CA-  
4 PACITY.—

5 (1) IN GENERAL.—The Regional Water System  
6 shall have the capacity to divert from the Rio  
7 Grande a quantity of water sufficient to provide—

8 (A) up to 4,000 acre-feet of consumptive  
9 use of water; and

10 (B) the requisite peaking capacity de-  
11 scribed in—

12 (i) the Engineering Report; and

13 (ii) the final project design.

14 (2) ALLOCATION TO THE PUEBLOS AND COUN-  
15 TY WATER UTILITY.—Of the capacity described in  
16 paragraph (1)—

17 (A) there shall be allocated to the Pueb-  
18 los—

19 (i) sufficient capacity for the convey-  
20 ance of 2,500 acre-feet consumptive use;  
21 and

22 (ii) the requisite peaking capacity for  
23 the quantity of water described in clause  
24 (i); and

25 (B) there shall be allocated to the County  
26 Water Utility—

1 (i) sufficient capacity for the convey-  
 2 ance of up to 1,500 acre-feet consumptive  
 3 use; and

4 (ii) the requisite peaking capacity for  
 5 the quantity of water described in clause  
 6 (i).

7 (3) APPLICABLE LAW.—Water shall be allo-  
 8 cated to the Pueblos and the County Water Utility  
 9 under this subsection in accordance with—

10 (A) this title;

11 (B) the Settlement Agreement; and

12 (C) the Operating Agreement.

13 (b) DELIVERY OF REGIONAL WATER SYSTEM  
 14 WATER.—The Authority shall deliver water from the Re-  
 15 gional Water System—

16 (1) to the Pueblos water in a quantity sufficient  
 17 to allow full consumptive use of up to 2,500 acre-  
 18 feet per year of water rights by the Pueblos in ac-  
 19 cordance with—

20 (A) the Settlement Agreement;

21 (B) the Operating Agreement; and

22 (C) this title; and

23 (2) to the County water in a quantity sufficient  
 24 to allow full consumptive use of up to 1,500 acre-

1 feet per year of water rights by the County Water  
2 Utility in accordance with—

3 (A) the Settlement Agreement;

4 (B) the Operating Agreement; and

5 (C) this title.

6 (c) ADDITIONAL USE OF ALLOCATION QUANTITY  
7 AND UNUSED CAPACITY.—The Regional Water System  
8 may be used to—

9 (1) provide for use of return flow credits to  
10 allow for full consumptive use of the water allocated  
11 in the Settlement Agreement to each of the Pueblos  
12 and to the County; and

13 (2) convey water allocated to one of the Pueblos  
14 or the County Water Utility for the benefit of an-  
15 other Pueblo or the County Water Utility or allow  
16 use of unused capacity by each other through the  
17 Regional Water System in accordance with an inter-  
18 governmental agreement between the Pueblos, or be-  
19 tween a Pueblo and County Water Utility, as appli-  
20 cable, if—

21 (A) such intergovernmental agreements are  
22 consistent with the Operating Agreement, the  
23 Settlement Agreement, and this Act;

24 (B) capacity is available without reducing  
25 water delivery to any Pueblo or the County

1 Water Utility in accordance with the Settlement  
 2 Agreement, unless the County Water Utility or  
 3 Pueblo contracts for a reduction in water deliv-  
 4 ery or Regional Water System capacity;

5 (C) the Pueblo or County Water Utility  
 6 contracting for use of the unused capacity or  
 7 water has the right to use the water under ap-  
 8 plicable law; and

9 (D) any agreement for the use of unused  
 10 capacity or water provides for payment of the  
 11 operation, maintenance, and replacement costs  
 12 associated with the use of capacity or water.

13 **SEC. 105. AAMODT SETTLEMENT PUEBLOS' FUND.**

14 (a) ESTABLISHMENT OF THE AAMODT SETTLEMENT  
 15 PUEBLOS' FUND.—There is established in the Treasury  
 16 of the United States a fund, to be known as the “Aamodt  
 17 Settlement Pueblos' Fund,” consisting of—

18 (1) such amounts as are made available to the  
 19 Fund under section 107(c) or other authorized  
 20 sources; and

21 (2) any interest earned from investment of  
 22 amounts in the Fund under subsection (b).

23 (b) MANAGEMENT OF THE FUND.—The Secretary  
 24 shall manage the Fund, invest amounts in the Fund, and

1 make amounts available from the Fund for distribution  
2 to the Pueblos in accordance with—

3 (1) the American Indian Trust Fund Manage-  
4 ment Reform Act of 1994 (25 U.S.C. 4001 et seq.);  
5 and

6 (2) this Act.

7 (c) INVESTMENT OF THE FUND.—On the date set  
8 forth in section 203(a)(1), the Secretary shall invest  
9 amounts in the Fund in accordance with—

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

11 (2) the first section of the Act of June 24,  
12 1938 (25 U.S.C. 162a); and

13 (3) the American Indian Trust Fund Manage-  
14 ment Reform Act of 1994 (25 U.S.C. 4001 et seq.).

15 (d) TRIBAL MANAGEMENT PLAN.—

16 (1) IN GENERAL.—A Pueblo may withdraw all  
17 or part of the Pueblo's portion of the Fund on ap-  
18 proval by the Secretary of a tribal management plan  
19 as described in the American Indian Trust Fund  
20 Management Reform Act of 1994 (25 U.S.C. 4001  
21 et seq.).

22 (2) REQUIREMENTS.—In addition to the re-  
23 quirements under the American Indian Trust Fund  
24 Management Reform Act of 1994 (25 U.S.C. 4001  
25 et seq.), the tribal management plan shall require

1 that a Pueblo spend any amounts withdrawn from  
2 the Fund in accordance with the purposes described  
3 in section 107(c).

4 (3) ENFORCEMENT.—The Secretary may take  
5 judicial or administrative action to enforce the provi-  
6 sions of any tribal management plan to ensure that  
7 any amounts withdrawn from the Fund under an  
8 approved tribal management plan are used in ac-  
9 cordance with this title.

10 (4) LIABILITY.—If a Pueblo or the Pueblos ex-  
11 ercise the right to withdraw amounts from the  
12 Fund, neither the Secretary nor the Secretary of the  
13 Treasury shall retain any liability for the expendi-  
14 ture or investment of the amounts withdrawn.

15 (5) EXPENDITURE PLAN.—

16 (A) IN GENERAL.—The Pueblos shall sub-  
17 mit to the Secretary for approval an expendi-  
18 ture plan for any portion of the amounts in the  
19 Fund that the Pueblos do not withdraw under  
20 this subsection.

21 (B) DESCRIPTION.—The expenditure plan  
22 shall describe the manner in which, and the  
23 purposes for which, amounts remaining in the  
24 Fund will be used.

1           (C) APPROVAL.—On receipt of an expendi-  
2           ture plan under subparagraph (A), the Sec-  
3           retary shall approve the plan if the Secretary  
4           determines that the plan is reasonable and con-  
5           sistent with this Act, the Settlement Agree-  
6           ment, and the Cost-Sharing and System Inte-  
7           gration Agreement.

8           (D) ANNUAL REPORT.—The Pueblos shall  
9           submit to the Secretary an annual report that  
10          describes all expenditures from the Fund during  
11          the year covered by the report.

12          (6) NO PER CAPITA PAYMENTS.—No part of  
13          the principal of the Fund, or the interest or income  
14          accruing on the principal shall be distributed to any  
15          member of a Pueblo on a per capita basis.

16          (7) AVAILABILITY OF AMOUNTS FROM THE  
17          FUND.—

18                (A) APPROVAL OF SETTLEMENT AGREE-  
19                MENT.—Amounts made available under sub-  
20                paragraphs (A) and (C) of section 107(c)(1) or  
21                from other authorized sources shall be available  
22                for expenditure or withdrawal only after the  
23                date on which the United States District Court  
24                for the District of New Mexico issues an order  
25                approving the Settlement Agreement.



1 (B) COMPLETION OF CERTAIN PORTIONS  
2 OF REGIONAL WATER SYSTEM.—Amounts made  
3 available under section 107(c)(1)(B) or from  
4 other authorized sources shall be available for  
5 expenditure or withdrawal only after those por-  
6 tions of the Regional Water System described  
7 in section 1.5.24 of the Settlement Agreement  
8 have been declared substantially complete by  
9 the Secretary.

10 (C) FAILURE TO FULFILL CONDITIONS  
11 PRECEDENT.—If the conditions precedent in  
12 section 203 have not been fulfilled by Sep-  
13 tember 15, 2017, the United States shall be en-  
14 titled to set off any funds expended or with-  
15 drawn from the amounts appropriated pursuant  
16 to section 107(c), together with any interest ac-  
17 crued, against any claims asserted by the Pueb-  
18 los against the United States relating to the  
19 water rights in the Pojoaque Basin.

20 **SEC. 106. ENVIRONMENTAL COMPLIANCE.**

21 (a) IN GENERAL.—In carrying out this title, the Sec-  
22 retary shall comply with each law of the Federal Govern-  
23 ment relating to the protection of the environment, includ-  
24 ing—

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

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

5           (b) NATIONAL ENVIRONMENTAL POLICY ACT.—  
6 Nothing in this Act affects the outcome of any analysis  
7 conducted by the Secretary or any other Federal official  
8 under the National Environmental Policy Act of 1969 (42  
9 U.S.C. 4321 et seq.).

10 **SEC. 107. AUTHORIZATION OF APPROPRIATIONS.**

11           (a) REGIONAL WATER SYSTEM.—

12           (1) IN GENERAL.—Subject to paragraph (4),  
13 there is authorized to be appropriated to the Sec-  
14 retary for the planning, design, and construction of  
15 the Regional Water System and the conduct of envi-  
16 ronmental compliance activities under section 106 a  
17 total of \$106,400,000 between fiscal years 2010 and  
18 2022.

19           (2) PRIORITY OF FUNDING.—Of the amounts  
20 authorized under paragraph (1), the Secretary shall  
21 give priority to funding—

22           (A) the construction of the San Ildefonso  
23 portion of the Regional Water System, con-  
24 sisting of—

1 (i) the surface water diversion, treat-  
2 ment, and transmission facilities at San  
3 Ildefonso Pueblo; and

4 (ii) the San Ildefonso Pueblo portion  
5 of the Pueblo Water Facilities; and

6 (B) that part of the Regional Water Sys-  
7 tem providing 475 acre-feet to Pojoaque Pueblo  
8 pursuant to section 2.2 of the Settlement  
9 Agreement.

10 (3) ADJUSTMENT.—The amount authorized  
11 under paragraph (1) shall be adjusted annually to  
12 account for increases in construction costs since Oc-  
13 tober 1, 2006, as determined using applicable engi-  
14 neering cost indices.

15 (4) LIMITATIONS.—

16 (A) IN GENERAL.—No amounts shall be  
17 made available under paragraph (1) for the  
18 construction of the Regional Water System  
19 until the date on which the United States Dis-  
20 trict Court for the District of New Mexico  
21 issues an order approving the Settlement Agree-  
22 ment.

23 (B) RECORD OF DECISION.—No amounts  
24 made available under paragraph (1) shall be ex-  
25 pended unless the record of decision issued by

1 the Secretary after completion of an environ-  
2 mental impact statement provides for a pre-  
3 ferred alternative that is in substantial compli-  
4 ance with the proposed Regional Water System,  
5 as defined in the Engineering Report.

6 (b) ACQUISITION OF WATER RIGHTS.—There is au-  
7 thorized to be appropriated to the Secretary funds for the  
8 acquisition of the water rights under section  
9 103(a)(1)(B)—

10 (1) in the amount of \$5,400,000.00 if such ac-  
11 quisition is completed by December 31, 2010; and

12 (2) the amount authorized under paragraph  
13 (b)(1) shall be adjusted according to the CPI Urban  
14 Index commencing January 1, 2011.

15 (c) AAMODT SETTLEMENT PUEBLOS' FUND.—

16 (1) IN GENERAL.—There is authorized to be  
17 appropriated to the Fund the following amounts for  
18 the period of fiscal years 2010 through 2022:

19 (A) \$15,000,000, which shall be allocated  
20 to the Pueblos, in accordance with section 2.7.1  
21 of the Settlement Agreement, for the rehabilita-  
22 tion, improvement, operation, maintenance, and  
23 replacement of the agricultural delivery facili-  
24 ties, waste water systems, and other water-re-  
25 lated infrastructure of the applicable Pueblo.

1           The amount authorized herein shall be adjusted  
2           according to the CPI Urban Index commencing  
3           October 1, 2006.

4           (B) \$37,500,000, which shall be allocated  
5           to an account, to be established not later than  
6           January 1, 2016, to assist the Pueblos in pay-  
7           ing the Pueblos' share of the cost of operating,  
8           maintaining, and replacing the Pueblo Water  
9           Facilities and the Regional Water System.

10          (C) \$5,000,000 and any interest thereon,  
11          which shall be allocated to the Pueblo of Nambe  
12          for the acquisition of the Nambe reserved water  
13          rights in accordance with section 103(a)(1)(A).  
14          The amount authorized herein shall be adjusted  
15          according to the CPI Urban Index commencing  
16          January 1, 2011. The funds provided under  
17          this section may be used by the Pueblo of  
18          Nambe only for the acquisition of land, other  
19          real property interests, or economic develop-  
20          ment.

21          (2) OPERATION, MAINTENANCE, AND REPLACE-  
22          MENT COSTS.—

23                 (A) IN GENERAL.—Prior to conveyance of  
24                 the Regional Water System pursuant to section  
25                 101, the Secretary shall pay any operation,

1 maintenance or replacement costs associated  
 2 with the Pueblo Water Facilities or the Re-  
 3 gional Water System up to an amount that does  
 4 not exceed \$5,000,000, which is authorized to  
 5 be appropriated to the Secretary.

6 (B) OBLIGATION OF THE FEDERAL GOV-  
 7 ERNMENT AFTER COMPLETION.—Except as  
 8 provided in section 103(a)(4)(B), after con-  
 9 struction of the Regional Water System is com-  
 10 pleted and the amounts required to be deposited  
 11 in the account have been deposited under this  
 12 section the Federal Government shall have no  
 13 obligation to pay for the operation, mainte-  
 14 nance, and replacement costs of the Regional  
 15 Water System.

16 **TITLE II—POJOAQUE BASIN IN-**  
 17 **DIAN WATER RIGHTS SETTLE-**  
 18 **MENT**

19 **SEC. 201. SETTLEMENT AGREEMENT AND CONTRACT AP-**  
 20 **PROVAL.**

21 (a) APPROVAL.—To the extent the Settlement Agree-  
 22 ment and the Cost-Sharing and System Integration Agree-  
 23 ment do not conflict with this Act, the Settlement Agree-  
 24 ment and the Cost-Sharing and System Integration Agree-  
 25 ment (including any amendments to the Settlement Agree-

1 ment and the Cost-Sharing and System Integration Agree-  
2 ment that are executed to make the Settlement Agreement  
3 or the Cost-Sharing and System Integration Agreement  
4 consistent with this Act) are authorized, ratified, and con-  
5 firmed.

6 (b) EXECUTION.—To the extent the Settlement  
7 Agreement and the Cost-Sharing and System Integration  
8 Agreement do not conflict with this Act, the Secretary  
9 shall execute the Settlement Agreement and the Cost-  
10 Sharing and System Integration Agreement (including  
11 any amendments that are necessary to make the Settle-  
12 ment Agreement or the Cost-Sharing and System Integra-  
13 tion Agreement consistent with this Act).

14 (c) AUTHORITIES OF THE PUEBLOS.—

15 (1) IN GENERAL.—Each of the Pueblos may  
16 enter into contracts to lease or exchange water  
17 rights or to forbear undertaking new or expanded  
18 water uses for water rights recognized in section 2.1  
19 of the Settlement Agreement for use within the  
20 Pojoaque Basin in accordance with the other limita-  
21 tions of section 2.1.5 of the Settlement Agreement  
22 provided that section 2.1.5 is amended accordingly.

23 (2) EXECUTION.—The Secretary shall not exe-  
24 cute the Settlement Agreement until such amend-  
25 ment is accomplished under paragraph (1).

1           (3) APPROVAL BY SECRETARY.—Consistent  
2 with the Settlement Agreement as amended under  
3 paragraph (1), the Secretary shall approve or dis-  
4 approve a lease entered into under paragraph (1).

5           (4) PROHIBITION ON PERMANENT ALIEN-  
6 ATION.—No lease or contract under paragraph (1)  
7 shall be for a term exceeding 99 years, nor shall any  
8 such lease or contract provide for permanent alien-  
9 ation of any portion of the water rights made avail-  
10 able to the Pueblos under the Settlement Agreement.

11           (5) APPLICABLE LAW.—Section 2116 of the Re-  
12 vised Statutes (25 U.S.C. 177) shall not apply to  
13 any lease or contract entered into under paragraph  
14 (1).

15           (6) LEASING OR MARKETING OF WATER SUP-  
16 PLY.—The water supply provided on behalf of the  
17 Pueblos pursuant to section 103(a)(1) may only be  
18 leased or marketed by any of the Pueblos pursuant  
19 to the intergovernmental agreements described in  
20 section 104(c)(2).

21           (d) AMENDMENTS TO CONTRACTS.—The Secretary  
22 shall amend the contracts relating to the Nambe Falls  
23 Dam and Reservoir that are necessary to use water sup-  
24 plied from the Nambe Falls Dam and Reservoir in accord-  
25 ance with the Settlement Agreement.



1 **SEC. 202. ENVIRONMENTAL COMPLIANCE.**

2 (a) EFFECT OF EXECUTION OF SETTLEMENT  
3 AGREEMENT.—The execution of the Settlement Agree-  
4 ment under section 201(b) shall not constitute a major  
5 Federal action under the National Environmental Policy  
6 Act of 1969 (42 U.S.C. 4321 et seq.).

7 (b) COMPLIANCE WITH ENVIRONMENTAL LAWS.—In  
8 carrying out this Act, the Secretary shall comply with each  
9 law of the Federal Government relating to the protection  
10 of the environment, including—

11 (1) the National Environmental Policy Act of  
12 1969 (42 U.S.C. 4321 et seq.); and

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

15 **SEC. 203. CONDITIONS PRECEDENT AND ENFORCEMENT**

16 **DATE.**

17 (a) CONDITIONS PRECEDENT.—

18 (1) IN GENERAL.—Upon the fulfillment of the  
19 conditions precedent described in paragraph (2), the  
20 Secretary shall publish in the Federal Register by  
21 September 15, 2017, a statement of finding that the  
22 conditions have been fulfilled.

23 (2) REQUIREMENTS.—The conditions precedent  
24 referred to in paragraph (1) are the conditions  
25 that—

1           (A) to the extent that the Settlement  
2 Agreement conflicts with this title, the Settle-  
3 ment Agreement has been revised to conform  
4 with this title;

5           (B) the Settlement Agreement, so revised,  
6 including waivers and releases pursuant to sec-  
7 tion 204, has been executed by the appropriate  
8 parties and the Secretary;

9           (C) Congress has fully appropriated, or the  
10 Secretary has provided from other authorized  
11 sources, all funds authorized by section 107,  
12 with the exception of subsection (a)(1) of that  
13 section, by December 15, 2016;

14           (D) the State has enacted any necessary  
15 legislation and provided any funding that may  
16 be required under the Settlement Agreement;

17           (E) a partial final decree that sets forth  
18 the water rights and other rights to water to  
19 which the Pueblos are entitled under the Settle-  
20 ment Agreement and this title and that sub-  
21 stantially conforms to the Settlement Agree-  
22 ment has been approved by the United States  
23 District Court for the District of New Mexico;  
24 and

1 (F) a final decree that sets forth the water  
2 rights for all parties to the Aamodt Case and  
3 that substantially conforms to the Settlement  
4 Agreement has been approved by the United  
5 States District Court for the District of New  
6 Mexico by June 15, 2017.

7 (b) EXPIRATION DATE.—If all the conditions prece-  
8 dent described in subsection (a)(2) have not been fulfilled  
9 by September 15, 2017—

10 (1) the Settlement Agreement and this Act in-  
11 cluding waivers described in those documents shall  
12 no longer be effective; and

13 (2) any funds that have been appropriated  
14 under this Act but not expended shall immediately  
15 revert to the general fund of the United States  
16 Treasury.

17 (c) ENFORCEMENT DATE.—The Settlement Agree-  
18 ment shall become enforceable as of the date that the  
19 United States District Court for the District of New Mex-  
20 ico enters a partial final decree pursuant to subsection  
21 (a)(2)(E) and an Interim Administrative Order consistent  
22 with the Settlement Agreement.

23 (d) EFFECTIVENESS OF WAIVERS.—The waivers and  
24 releases executed pursuant to section 204 shall become ef-

1 fective as of the date that the Secretary publishes the no-  
2 tice required by subsection (a)(1).

3 (e) REQUIREMENTS FOR DETERMINATION OF SUB-  
4 STANTIAL COMPLETION OF THE REGIONAL WATER SYS-  
5 TEM.—

6 (1) CRITERIA FOR SUBSTANTIAL COMPLETION  
7 OF REGIONAL WATER SYSTEM.—Subject to the pro-  
8 visions in section 101(d) concerning the extent, size,  
9 and capacity of the County Distribution System, the  
10 Regional Water System shall be determined to be  
11 substantially completed if the infrastructure has  
12 been constructed capable of—

13 (A) diverting, treating, transmitting, and  
14 distributing a supply of 2,500 acre-feet of water  
15 to the Pueblos; and

16 (B) diverting, treating, and transmitting  
17 the quantity of water specified in the Engineer-  
18 ing Report to the County Distribution System.

19 (2) CONSULTATION.—On or after June 30,  
20 2021, at the request of 1 or more of the Pueblos,  
21 the Secretary shall consult with the Pueblos and  
22 confer with the County and the State on whether the  
23 criteria in paragraph (1) for substantial completion  
24 of the Regional Water System have been met or will  
25 be met by June 30, 2024.

1           (3) RIGHT TO VOID FINAL DECREE.—If the  
2           substantial completion criteria have not been met by  
3           June 15, 2021, after the consultation required by  
4           paragraph (2), the Pueblos or the United States as  
5           trustee for the Pueblos have until midnight June 30,  
6           2024 to ask the Decree Court to void the Final De-  
7           cree pursuant to section 10.3 of the Settlement  
8           Agreement.

9           (f) VOIDING OF WAIVERS.—If the Court determines  
10          the Final Decree is voided pursuant to Section 10.3 of  
11          the Settlement Agreement, the Settlement Agreement  
12          shall no longer be effective, the waivers and releases exe-  
13          cuted pursuant to section 204 shall no longer be effective,  
14          and any unexpended Federal funds, together with any in-  
15          come earned thereon, and title to any property acquired  
16          or constructed with expended Federal funds, shall be re-  
17          turned to the Federal Government unless otherwise agreed  
18          to by the Pueblos and the United States in writing and  
19          approved by Congress.

20          **SEC. 204. WAIVERS AND RELEASES.**

21          (a) CLAIMS BY THE PUEBLOS AND THE UNITED  
22          STATES.—In return for recognition of the Pueblos' water  
23          rights and other benefits, including waivers and releases  
24          by non-Pueblo parties, as set forth in the Settlement  
25          Agreement and this Act, the Pueblos, on behalf of them-

1 selves and their members, and the United States acting  
2 in its capacity as trustee for the Pueblos are authorized  
3 to execute a waiver and release of—

4           (1) all claims for water rights in the Pojoaque  
5 Basin that the Pueblos, or the United States acting  
6 in its capacity as trustee for the Pueblos, asserted,  
7 or could have asserted, in any proceeding, including  
8 the Aamodt Case, up to and including the waiver ef-  
9 fectiveness date identified in section 203(d), except  
10 to the extent that such rights are recognized in the  
11 Settlement Agreement or this Act;

12           (2) all claims for water rights for lands in the  
13 Pojoaque Basin and for rights to use water in the  
14 Pojoaque Basin that the Pueblos, or the United  
15 States acting in its capacity as trustee for the Pueb-  
16 los, might be able to otherwise assert in any pro-  
17 ceeding not initiated on or before the date of enact-  
18 ment of this title, except to the extent that such  
19 rights are recognized in the Settlement Agreement  
20 or this Act;

21           (3) all claims for damages, losses or injuries to  
22 water rights or claims of interference with, diversion  
23 or taking of water (including claims for injury to  
24 land resulting from such damages, losses, injuries,  
25 interference with, diversion, or taking) for land with-

1 in the Pojoaque Basin that accrued at any time up  
2 to and including the waiver effectiveness date identi-  
3 fied in section 203(d);

4 (4) their defenses in the Aamodt Case to the  
5 claims previously asserted therein by other parties to  
6 the Settlement Agreement;

7 (5) all pending and future inter se challenges to  
8 the quantification and priority of water rights of  
9 non-Pueblo wells in the Pojoaque Basin, except as  
10 provided by section 2.8 of the Settlement Agree-  
11 ment;

12 (6) all pending and future inter se challenges  
13 against other parties to the Settlement Agreement;

14 (7) 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 of water) at-  
19 tributable to City of Santa Fe pumping of ground-  
20 water that has effects on the ground and surface  
21 water supplies of the Pojoaque Basin, provided that  
22 this waiver shall not be effective by the Pueblo of  
23 Tesuque unless there is a water resources agreement  
24 executed between the Pueblo of Tesuque and the  
25 City of Santa Fe;

1           (8) all claims for damages, losses, or injuries to  
2           water rights or claims of interference with, diversion  
3           or taking of water (including claims for injury to  
4           land resulting from such damages, losses, injuries,  
5           interference with, diversion, or taking of water) at-  
6           tributable to County of Santa Fe pumping of  
7           groundwater that has effects on the ground and sur-  
8           face water supplies of the Pojoaque Basin; and

9           (9) all claims for damages, losses, or injuries,  
10          or for injunctive or other relief, because of the condi-  
11          tion of, or changes in, the concentration of naturally  
12          occurring constituents of ground and surface water  
13          in the Pojoaque Basin arising out of the diversion of  
14          water pursuant to water rights recognized by the  
15          final decree.

16          (b) CLAIMS BY THE PUEBLOS AGAINST THE UNITED  
17          STATES.—The Pueblos, on behalf of themselves and their  
18          members, are authorized to execute a waiver and release  
19          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 Pojoaque Basin or for  
23               rights to use water in the Pojoaque Basin that the  
24               United States acting in its capacity as trustee for



1 the Pueblos asserted, or could have asserted, in any  
2 proceeding, including the Aamodt Case;

3 (2) all claims against the United States, its  
4 agencies, or employees relating to damages, losses,  
5 or injuries to water, water rights, land, or natural  
6 resources due to loss of water or water rights (in-  
7 cluding damages, losses or injuries to hunting, fish-  
8 ing, gathering or cultural rights due to loss of water  
9 or water rights; claims relating to interference with,  
10 diversion or taking of water or water rights; or  
11 claims relating to failure to protect, acquire, replace,  
12 or develop water, water rights or water infrastruc-  
13 ture) within the Pojoaque Basin that first accrued  
14 at any time up to and including the waiver effective-  
15 ness date identified in section 203(d);

16 (3) all claims against the United States, its  
17 agencies, or employees for an accounting of funds  
18 appropriated by Acts, including the Act of December  
19 22, 1927 (45 Stat. 2), the Act of March 4, 1929 (45  
20 Stat. 1562), the Act of March 26, 1930 (46 Stat.  
21 90), the Act of February 14, 1931 (46 Stat. 1115),  
22 the Act of March 4, 1931 (46 Stat. 1552), the Act  
23 of July 1, 1932 (47 Stat. 525), the Act of June 22,  
24 1936 (49 Stat. 1757), the Act of August 9, 1937  
25 (50 Stat. 564), and the Act of May 9, 1938 (52

1 Stat. 291), as authorized by the Pueblo Lands Act  
2 of June 7, 1924 (43 Stat. 636), and the Pueblo  
3 Lands Act of May 31, 1933 (48 Stat. 108), and for  
4 breach of Trust relating to funds for water replace-  
5 ment appropriated by said Acts that first accrued  
6 before the date of enactment of this Act;

7 (4) all claims against the United States, its  
8 agencies, or employees relating to the pending litiga-  
9 tion of claims relating to the Pueblos' water rights  
10 in the Aamodt Case; and

11 (5) all claims against the United States, its  
12 agencies, or employees relating to the negotiation,  
13 Execution or the adoption of the Settlement Agree-  
14 ment, exhibits thereto, the Partial Final Decree, the  
15 Final Decree, or this Act.

16 (c) RESERVATION OF RIGHTS AND RETENTION OF  
17 CLAIMS.—Notwithstanding the waivers and releases au-  
18 thorized in this Act, the Pueblos on behalf of themselves  
19 and their members and the United States acting in its  
20 capacity as trustee for the Pueblos retain.—

21 (1) all claims for enforcement of the Settlement  
22 Agreement, the Cost-Sharing and System Integra-  
23 tion Agreement, the Final Decree, including the Par-  
24 tial Final Decree, the San Juan-Chama Project con-

1 tract between the Pueblos and the United States or  
2 this Act;

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

5 (3) all rights to use and protect water rights ac-  
6 quired pursuant to state law to the extent not incon-  
7 sistent with the Partial Final Decree, Final Decree,  
8 and the Settlement Agreement;

9 (4) all claims against persons other than Par-  
10 ties to the Settlement Agreement for damages, losses  
11 or injuries to water rights or claims of interference  
12 with, diversion or taking of water (including claims  
13 for injury to lands resulting from such damages,  
14 losses, injuries, interference with, diversion, or tak-  
15 ing of water) within the Pojoaque Basin arising out  
16 of activities occurring outside the Pojoaque Basin;

17 (5) all claims relating to activities affecting the  
18 quality of water including any claims the Pueblos  
19 may have under the Comprehensive Environmental  
20 Response, Compensation, and Liability Act of 1980  
21 (42 U.S.C. 9601 et seq.) (including claims for dam-  
22 ages to natural resources), the Safe Drinking Water  
23 Act (42 U.S.C. 300f et seq.), the Federal Water Pol-  
24 lution Control Act (33 U.S.C. 1251 et seq.), and the  
25 regulations implementing those laws;

1           (6) all claims against the United States relating  
2           to damages, losses, or injuries to land or natural re-  
3           sources not due to loss of water or water rights (in-  
4           cluding hunting, fishing, gathering or cultural  
5           rights);

6           (7) all claims for water rights from water  
7           sources outside the Pojoaque Basin for land outside  
8           the Pojoaque Basin owned by a Pueblo or held by  
9           the United States for the benefit of any of the Pueb-  
10          los; and

11          (8) all rights, remedies, privileges, immunities,  
12          powers and claims not specifically waived and re-  
13          leased pursuant to this Act or the Settlement Agree-  
14          ment.

15          (d) EFFECT OF SECTION.—Nothing in the Settle-  
16          ment Agreement or this Act—

17               (1) affects the ability of the United States act-  
18               ing in its sovereign capacity to take actions author-  
19               ized by law, including any laws relating to health,  
20               safety, or the environment, including the Com-  
21               prehensive Environmental Response, Compensation,  
22               and Liability Act of 1980 (42 U.S.C. 9601 et seq.),  
23               the Safe Drinking Water Act (42 U.S.C. 300f et  
24               seq.), the Federal Water Pollution Control Act (33  
25               U.S.C. 1251 et seq.), the Solid Waste Disposal Act

1 (42 U.S.C. 6901 et seq.), and the regulations imple-  
2 menting those laws;

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; or

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;

13 (e) TOLLING OF CLAIMS.—

14 (1) IN GENERAL.—Each applicable period of  
15 limitation and time-based equitable defense relating  
16 to a claim described in this section shall be tolled for  
17 the period beginning on the date of enactment of  
18 this Act and ending on June 30, 2021.

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

23 (3) LIMITATION.—Nothing in this section pre-  
24 cludes the tolling of any period of limitations or any

1 time-based equitable defense under any other appli-  
2 cable law.

3 **SEC. 205. EFFECT.**

4 Nothing in this Act or the Settlement Agreement af-  
5 fects the land and water rights, claims, or entitlements  
6 to water of any Indian tribe, pueblo, or community other  
7 than the Pueblos.

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