

112TH CONGRESS
2D SESSION

S. 2109

To approve the settlement of water rights claims of the Navajo Nation, the Hopi Tribe, and the allottees of the Navajo Nation and Hopi Tribe in the State of Arizona, to authorize construction of municipal water projects relating to the water rights claims, to resolve litigation against the United States concerning Colorado River operations affecting the States of California, Arizona, and Nevada, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 14, 2012

Mr. KYL (for himself and Mr. MCCAIN) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

A BILL

To approve the settlement of water rights claims of the Navajo Nation, the Hopi Tribe, and the allottees of the Navajo Nation and Hopi Tribe in the State of Arizona, to authorize construction of municipal water projects relating to the water rights claims, to resolve litigation against the United States concerning Colorado River operations affecting the States of California, Arizona, and Nevada, and for other purposes.

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

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

2 (a) SHORT TITLE.—This Act may be cited as the
 3 “Navajo-Hopi Little Colorado River Water Rights Settle-
 4 ment Act of 2012”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Purposes.
- Sec. 4. Definitions.

TITLE I—NAVAJO-HOPI LITTLE COLORADO RIVER WATER RIGHTS
 SETTLEMENT AGREEMENT

- Sec. 101. Ratification and execution of the Navajo-Hopi Little Colorado River
 water rights settlement agreement.
- Sec. 102. Water rights.
- Sec. 103. Authorization for construction of municipal, domestic, commercial,
 and industrial water projects.
- Sec. 104. Funding.
- Sec. 105. Waivers, releases, and retentions of claims.
- Sec. 106. Satisfaction of water rights and other benefits.
- Sec. 107. After-acquired trust land.
- Sec. 108. Enforceability date.
- Sec. 109. Administration.
- Sec. 110. Environmental compliance.

TITLE II—CENTRAL ARIZONA PROJECT WATER

- Sec. 201. Conditions for reallocation of CAP NIA priority water.
- Sec. 202. Reallocation of CAP NIA priority water, firming, water delivery con-
 tract.
- Sec. 203. Colorado River accounting.
- Sec. 204. No modification of existing laws.
- Sec. 205. Amendments.
- Sec. 206. Retention of Lower Colorado River water for future Lower Colorado
 River settlement.
- Sec. 207. Authorization of appropriations for feasibility study.

7 **SEC. 2. FINDINGS.**

8 Congress finds that—

9 (1) it is the policy of the United States, in
 10 keeping with the trust responsibility of the United
 11 States to Indian tribes, to settle Indian water rights

1 claims whenever possible without lengthy and costly
2 litigation;

3 (2) the water rights settlements described in
4 paragraph (1) typically require congressional review
5 and approval;

6 (3) the Navajo Nation and the United States,
7 acting as trustee for the Navajo Nation and allottees
8 of the Navajo Nation, claim the right to an
9 unquantified amount of water from the Little Colo-
10 rado River system and source;

11 (4) the Navajo Nation claims the right to an
12 unquantified amount of water from the lower basin
13 of the Colorado River and has challenged the legality
14 of the Colorado River Interim Surplus Guidelines,
15 the Colorado River Quantification Settlement Agree-
16 ment of the State of California, interstate water
17 banking regulations, and Central Arizona Project
18 water deliveries;

19 (5) the defendants in the action described in
20 paragraph (4) include—

21 (A) the Department of the Interior, includ-
22 ing the Bureau of Reclamation and the Bureau
23 of Indian Affairs, and

24 (B) intervenor-defendants, including—

1 (i) the Southern Nevada Water Au-
2 thority;

3 (ii) the Colorado River Commission of
4 Nevada;

5 (iii) the State of Arizona;

6 (iv) the State of Nevada;

7 (v) the Central Arizona Water Con-
8 servation District;

9 (vi) the Southern California Metro-
10 politan Water District;

11 (vii) the Imperial Irrigation District;

12 (viii) the Coachella Valley Water Dis-
13 trict;

14 (ix) the Arizona Power Authority;

15 (x) the Salt River Project Agricultural
16 Improvement and Power District; and

17 (xi) the Salt River Valley Water Users
18 Association;

19 (6) the Hopi Tribe and the United States, act-
20 ing as trustee for the Hopi Tribe and allottees of the
21 Hopi Tribe, claim the right to an unquantified
22 amount of water from the Little Colorado River sys-
23 tem and source; and

24 (7) consistent with the policy of the United
25 States, this Act settles the water rights claims of the

1 Navajo Nation, allottees of the Navajo Nation, the
2 Hopi Tribe, and allottees of the Hopi Tribe by pro-
3 viding drinking water infrastructure to the Navajo
4 Nation and the Hopi Tribe in exchange for limiting
5 the legal exposure and litigation expenses of the
6 United States, the States of Arizona and Nevada,
7 and agricultural, municipal, and industrial water
8 users in the States of Arizona, Nevada, and Cali-
9 fornia.

10 **SEC. 3. PURPOSES.**

11 The purposes of this Act are—

12 (1) to resolve, fully and finally—

13 (A) any and all claims to the Little Colo-
14 rado River system and source in the State of
15 Arizona of—

16 (i) the Navajo Nation, on behalf of
17 itself and the members of the Navajo Na-
18 tion;

19 (ii) the United States, acting as trust-
20 ee for the Navajo Nation, the members of
21 the Navajo Nation, and allottees of the
22 Navajo Nation;

23 (iii) the Hopi Tribe, on behalf of itself
24 and the members of the Hopi Tribe; and

1 (iv) the United States, acting as
2 trustee for the Hopi Tribe, the members of
3 the Hopi Tribe, and allottees of the Hopi
4 Tribe; and

5 (B) any and all claims to the Gila River
6 system and source in the State of Arizona of
7 the Navajo Nation, on behalf of itself and the
8 members of the Navajo Nation;

9 (2) to approve, ratify, and confirm the settle-
10 ment agreement entered into among the Navajo Na-
11 tion, the Hopi Tribe, the United States, the State of
12 Arizona, and any other party;

13 (3) to authorize and direct the Secretary to exe-
14 cute and perform the duties and obligations of the
15 Secretary under the settlement agreement and this
16 Act; and

17 (4) to authorize any actions and appropriations
18 necessary for the United States to fulfill the duties
19 and obligations of the United States to the Navajo
20 Nation, allottees of the Navajo Nation, the Hopi
21 Tribe, and allottees of the Hopi Tribe, as provided
22 in the settlement agreement and this Act.

23 **SEC. 4. DEFINITIONS.**

24 In this Act:

1 (1) 1934 ACT CASE.—The term “1934 Act
2 case” means the litigation styled *Honyoama v. Shir-*
3 *ley*, Case No. CIV 74–842–PHX–EHC (D. Ariz.
4 2006).

5 (2) ABSTRACT.—The term “abstract” means a
6 summary of water rights or uses held or owned by
7 any person, as represented in a form substantially
8 similar to the form attached as exhibit 3.1.4 to the
9 settlement agreement.

10 (3) AFY.—The term “afy” means acre-feet per
11 year.

12 (4) ALLOTMENT.—The term “allotment” means
13 an allotment that—

14 (A) was originally allotted to an individual
15 identified as a Navajo or Hopi Indian in the al-
16 lotting document;

17 (B) is located—

18 (i) within the exterior boundaries of
19 the Navajo Reservation;

20 (ii) within the exterior boundaries of
21 the Hopi Reservation; or

22 (iii) on land that is—

23 (I) off-reservation land; and

24 (II) within Apache, Coconino, or
25 Navajo County, in the State; and

1 (C) is held in trust by the United States
2 for the benefit of an allottee.

3 (5) ALLOTTEE.—The term “allottee” means a
4 person who holds a beneficial real property interest
5 in an allotment.

6 (6) AVAILABLE CAP SUPPLY.—The term “avail-
7 able CAP supply” means, for any given year—

8 (A) all fourth priority Colorado River
9 water available for delivery through the CAP
10 system;

11 (B) water available from CAP dams and
12 reservoirs other than Modified Roosevelt Dam;
13 and

14 (C) return flows captured by the Secretary
15 for CAP use.

16 (7) CAP CONTRACT.—The term “CAP con-
17 tract” means a long-term contract or subcontract, as
18 those terms are used in the CAP repayment stipula-
19 tion, for delivery of CAP water.

20 (8) CAP CONTRACTOR.—The term “CAP con-
21 tractor” means a person or entity that has entered
22 into a long-term contract or subcontract (as those
23 terms are used in the CAP repayment stipulation)
24 with the United States or the United States and the

1 Central Arizona Water Conservation District for de-
2 livery of water through the CAP system.

3 (9) CAP FIXED OM&R CHARGE.—The term
4 “CAP fixed OM&R charge” means “Fixed OM&R
5 Charge”, as that term is defined in the CAP repay-
6 ment stipulation.

7 (10) CAP M&I PRIORITY WATER.—The term
8 “CAP M&I priority water” means the CAP water
9 that has a municipal and industrial delivery priority
10 under the CAP repayment contract.

11 (11) CAP NIA PRIORITY WATER.—The term
12 “CAP NIA priority water” means the CAP water
13 deliverable under a CAP contract providing for the
14 delivery of non-Indian agricultural priority water.

15 (12) CAP OPERATING AGENCY.—

16 (A) IN GENERAL.—The term “CAP oper-
17 ating agency” has the meaning given the term
18 in section 2 of the Arizona Water Settlements
19 Act (Public Law 108–451; 118 Stat. 3478).

20 (B) ADMINISTRATION.—As of the date of
21 enactment of this Act, the “CAP operating
22 agency” is the Central Arizona Water Con-
23 servation District.

24 (13) CAP PUMPING ENERGY CHARGE.—The
25 term “CAP pumping energy charge” means “Pump-

1 ing Energy Charge”, as that term is defined in the
2 CAP repayment stipulation.

3 (14) CAP REPAYMENT CONTRACT.—The term
4 “CAP repayment contract” has the meaning given
5 the term in section 2 of the Arizona Water Settle-
6 ments Act (Public Law 108–451; 118 Stat. 3478).

7 (15) CAP REPAYMENT STIPULATION.—The
8 term “CAP repayment stipulation” means the Stipu-
9 lated Judgment and the Stipulation for Judgment
10 (including exhibits), entered on November 21, 2007,
11 in the case styled Central Arizona Water Conserva-
12 tion District v. United States, et al., No. CIV 95–
13 625–TUC–WDB (EHC), No. CIV 95–1720–PHX–
14 EHC (Consolidated Action), United States District
15 Court for the District of Arizona (including any
16 amendments or revisions).

17 (16) CAP SYSTEM.—The term “CAP system”
18 has the meaning given the term in section 2 of the
19 Arizona Water Settlements Act (Public Law 108–
20 451; 118 Stat. 3478).

21 (17) CAP WATER.—The term “CAP water”
22 means “Project Water”, as that term is defined in
23 the CAP repayment stipulation.

24 (18) CENTRAL ARIZONA PROJECT OR CAP.—
25 The term “Central Arizona Project” or “CAP”

1 means the Federal reclamation project authorized
2 and constructed by the United States in accordance
3 with title III of the Colorado River Basin Project
4 Act (43 U.S.C. 1521 et seq.).

5 (19) CENTRAL ARIZONA WATER CONSERVATION
6 DISTRICT.—The term “Central Arizona Water Con-
7 servation District” means the political subdivision of
8 the State that is the contractor under the CAP re-
9 payment contract.

10 (20) COLORADO RIVER COMPACT.—The term
11 “Colorado River Compact” means the Colorado
12 River Compact of 1922, as ratified and reprinted in
13 article 2 of chapter 7 of title 45, Arizona Revised
14 Statutes.

15 (21) COLORADO RIVER SYSTEM.—The term
16 “Colorado River system” has the meaning given the
17 term in article II(a) of the Colorado River Compact.

18 (22) COMMISSIONER.—The term “Commis-
19 sioner” means the Commissioner of Reclamation.

20 (23) DECREE.—The term “decree”, when used
21 without a modifying adjective, means—

22 (A) the decree of the Supreme Court in the
23 case styled Arizona v. California (376 U.S. 340
24 (1964));

1 (B) the Consolidated Decree entered on
2 March 27, 2006 (547 U.S. 150), in the case de-
3 scribed in subparagraph (A); and

4 (C) any modifications to the decrees de-
5 scribed in subparagraphs (A) and (B).

6 (24) DIVERT.—The term “divert” means to re-
7 ceive, withdraw, develop, produce, or capture
8 groundwater, surface water, Navajo Nation CAP
9 water, or effluent by means of a ditch, canal, flume,
10 bypass, pipeline, pit, collection or infiltration gallery,
11 conduit, well, pump, turnout, other mechanical de-
12 vice, or any other human act, including the initial
13 impoundment of that water.

14 (25) EFFLUENT.—

15 (A) IN GENERAL.—The term “effluent”
16 means water that—

17 (i) has been used in the State for do-
18 mestic, municipal, or industrial purposes;

19 and

20 (ii) is available for use for any pur-
21 pose.

22 (B) EXCLUSION.—The term “effluent”
23 does not include water that has been used solely
24 for hydropower generation.

1 (26) FOURTH PRIORITY COLORADO RIVER
2 WATER.—The term “fourth priority Colorado River
3 water” means Colorado River water that is available
4 for delivery in the State for satisfaction of entitle-
5 ments—

6 (A) pursuant to contracts, Secretarial res-
7 ervations, perfected rights, and other arrange-
8 ments between the United States and water
9 users in the State entered into or established
10 subsequent to September 30, 1968, for use on
11 Federal, State, or privately owned land in the
12 State, in a total quantity that does not exceed
13 164,652 afy of diversions; and

14 (B) after first providing for the delivery of
15 water under section 304(e) of the Colorado
16 River Basin Project Act (43 U.S.C. 1524(e)),
17 pursuant to the CAP repayment contract for
18 the delivery of Colorado River water for the
19 CAP, including use of Colorado River water on
20 Indian land.

21 (27) GILA RIVER ADJUDICATION.—The term
22 “Gila River adjudication” means the action pending
23 in the Superior Court of the State of Arizona in and
24 for the County of Maricopa styled In Re the General
25 Adjudication of All Rights To Use Water In The

1 Gila River System and Source, W-1 (Salt), W-2
 2 (Verde), W-3 (Upper Gila), W-4 (San Pedro) (Con-
 3 solidated).

4 (28) GILA RIVER ADJUDICATION COURT.—The
 5 term “Gila River adjudication court” means the Su-
 6 perior Court of the State of Arizona in and for the
 7 County of Maricopa, exercising jurisdiction over the
 8 Gila River adjudication.

9 (29) GILA RIVER ADJUDICATION DECREE.—The
 10 term “Gila River adjudication decree” means the
 11 judgment or decree entered by the Gila River adju-
 12 dication court, which shall be in substantially the
 13 same form as the form of judgment attached to the
 14 settlement agreement as exhibit 3.1.49.

15 (30) GROUNDWATER.—The term “ground-
 16 water” means all water beneath the surface of the
 17 earth within the State that is not—

18 (A) surface water;

19 (B) underground water within the Upper
 20 Basin;

21 (C) Lower Colorado River water; or

22 (D) effluent.

23 (31) HOPI FEE LAND.—The term “Hopi fee
 24 land” means land, other than Hopi trust land,
 25 that—

1 (A) is located in the State;

2 (B) is located outside the exterior bound-
3 aries of the Hopi Reservation; and

4 (C) as of the LCR enforceability date, is
5 owned by the Hopi Tribe, including ownership
6 through a related entity.

7 (32) HOPI GROUNDWATER PROJECT.—The
8 term “Hopi Groundwater Project” means the project
9 carried out in accordance with section 103(b).

10 (33) HOPI GROUNDWATER PROJECT AC-
11 COUNT.—The term “Hopi Groundwater Project Ac-
12 count” means the account created in the Treasury
13 of the United States pursuant to section 104(c).

14 (34) HOPI LAND.—The term “Hopi land”
15 means—

16 (A) the Hopi Reservation;

17 (B) Hopi trust land; and

18 (C) Hopi fee land.

19 (35) HOPI OM&R TRUST ACCOUNT.—The term
20 “Hopi OM&R Trust Account” means the account
21 created in the Treasury of the United States pursu-
22 ant to section 104(d).

23 (36) HOPI RESERVATION.—

24 (A) IN GENERAL.—The term “Hopi Res-
25 ervation” means the land within the exterior

1 boundaries of the Hopi Reservation, includ-
2 ing—

3 (i) all land withdrawn by the Execu-
4 tive Order dated December 16, 1882, and
5 in which the Hopi Tribe is recognized as
6 having an exclusive interest in the case
7 styled *Healing v. Jones*, Case No. CIV-
8 579 (D. Ariz. September 28, 1962), or
9 that was partitioned to the Hopi Tribe in
10 accordance with section 4 of the Act of De-
11 cember 22, 1974 (Public Law 93-531; 88
12 Stat. 1713), and codified in the Navajo-
13 Hopi Land Dispute Settlement Act of
14 1996 (25 U.S.C. 640d note; Public Law
15 104-301);

16 (ii) all land partitioned to the Hopi
17 Tribe by Judgment of Partition, dated
18 February 10, 1977, in the case styled
19 *Sekaquaptewa v. MacDonald*, Case No.
20 CIV-579-PCT-JAW (D. Ariz.);

21 (iii) all land recognized as part of the
22 Hopi Reservation in the 1934 Act case;
23 and

1 (iv) all individual allotments made to
2 members of the Hopi Tribe within the
3 boundaries of the Hopi Reservation.

4 (B) MAP.—

5 (i) IN GENERAL.—The “Hopi Res-
6 ervation” is also depicted more particularly
7 on the map attached to the settlement
8 agreement as exhibit 3.1.100.

9 (ii) APPLICABILITY.—In case of a
10 conflict relating to the “Hopi Reservation”
11 as depicted on the map under clause (i)
12 and the definition in subparagraph (A),
13 the definition under subparagraph (A)
14 shall control.

15 (C) EXCLUSION.—The term “Hopi Res-
16 ervation” does not include any land held in
17 trust by the United States for the benefit of the
18 Navajo Nation within the exterior boundaries of
19 the Hopi Reservation.

20 (37) HOPI TRIBE.—The term “Hopi Tribe”
21 means the Hopi Tribe, a Tribe of Hopi Indians or-
22 ganized under section 16 of the Act of June 18,
23 1934 (25 U.S.C. 476) (commonly known as the “In-
24 dian Reorganization Act”).

1 (38) HOPI TRUST LAND.—The term “Hopi
2 trust land” means land that—

3 (A) is located in the State;

4 (B) is located outside the exterior bound-
5 aries of the Hopi Reservation; and

6 (C) as of the LCR enforceability date, is
7 held in trust by the United States for the ben-
8 efit of the Hopi Tribe.

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

13 (40) INJURY TO QUALITY OF LOWER COLORADO
14 RIVER WATER.—The term “injury to quality of
15 Lower Colorado River water” means—

16 (A) any diminution or degradation of the
17 quality of Lower Colorado River water due to a
18 change in the salinity or concentration of natu-
19 rally occurring chemical constituents of Lower
20 Colorado River water; and

21 (B) any effect of a change described in
22 subparagraph (A) if the change and effect of
23 the change are due to the withdrawal, diversion,
24 or use of Lower Colorado River water.

1 (41) INJURY TO RIGHTS TO LOWER COLORADO
2 RIVER WATER.—The term “injury to rights to Lower
3 Colorado River water” means any interference with,
4 diminution of, or deprivation of the right of any en-
5 tity to Lower Colorado River water under applicable
6 law.

7 (42) INJURY TO WATER QUALITY.—The term
8 “injury to water quality” means—

9 (A) any diminution or degradation of the
10 quality of water due to a change in the salinity
11 or concentration of naturally occurring chemical
12 constituents of water; and

13 (B) any effect of a change described in
14 subparagraph (A) if the change and effect of
15 the change are due to the withdrawal, diversion,
16 or use of water.

17 (43) INJURY TO WATER RIGHTS.—The term
18 “injury to water rights” means an interference with,
19 diminution of, or deprivation of, water rights under
20 applicable law.

21 (44) LCR.—The term “LCR” means the Little
22 Colorado River, a tributary of the Colorado River in
23 Arizona.

24 (45) LCR ADJUDICATION.—The term “LCR
25 adjudication” means the action pending in the Supe-

1 rior Court of the State of Arizona in and for the
2 County of Apache styled In Re the General Adju-
3 dication of All Rights To Use Water In The Little
4 Colorado River System and Source, CIV No. 6417.

5 (46) LCR ADJUDICATION COURT.—The term
6 “LCR adjudication court” means the Superior Court
7 of the State of Arizona in and for the County of
8 Apache, exercising jurisdiction over the LCR adju-
9 dication.

10 (47) LCR DECREE.—The term “LCR decree”
11 means the judgment and decree entered by the LCR
12 adjudication court, which shall be in substantially
13 the same form as the form of judgment attached to
14 the settlement agreement as exhibit 3.1.70.

15 (48) LCR ENFORCEABILITY DATE.—The term
16 “LCR enforceability date” means the date on which
17 the Secretary publishes in the Federal Register the
18 statement of findings described in section 108(a).

19 (49) LCR WATERSHED.—The term “LCR wa-
20 tershed” means all land located within the surface
21 water drainage of the LCR and the tributaries of
22 the LCR in the State.

23 (50) LEE FERRY.—The term “Lee Ferry” has
24 the meaning given the term in article II(e) of the
25 Colorado River Compact.

1 (51) LOWER BASIN.—The term “lower basin”
2 has the meaning given the term in article II(g) of
3 the Colorado River Compact.

4 (52) LOWER COLORADO RIVER.—The term
5 “Lower Colorado River” means the portion of the
6 Colorado River that is in the United States and
7 downstream from Lee Ferry, including any res-
8 ervoirs on that portion of the Colorado River.

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

14 (54) LOWER COLORADO RIVER WATER.—

15 (A) IN GENERAL.—The term “Lower Colo-
16 rado River water” means the waters of the
17 Lower Colorado River, including—

18 (i) the waters of the reservoirs on the
19 Lower Colorado River;

20 (ii) the waters of the tributaries to the
21 Lower Colorado River, other than—

22 (I) tributaries located within the
23 State;

1 (II) tributaries located within the
 2 Western Navajo Colorado River
 3 Basin; or

4 (III) tributaries of the LCR in
 5 the State of New Mexico;

6 (iii) all underground water that is hy-
 7 draulically connected to the Lower Colo-
 8 rado River; and

9 (iv) all underground water that is hy-
 10 draulically connected to tributaries to the
 11 Lower Colorado River, other than—

12 (I) tributaries located within the
 13 State;

14 (II) tributaries located within the
 15 Western Navajo Colorado River
 16 Basin; or

17 (III) tributaries of the LCR in
 18 the State of New Mexico.

19 (B) APPLICABILITY.—The definition of the
 20 term “Lower Colorado River water” in subpara-
 21 graph (A) and any definition of the term in-
 22 cluded in the settlement agreement—

23 (i) shall apply only to this Act and the
 24 settlement agreement, as applicable; and

1 (ii) shall not be used in any interpre-
2 tation of—

3 (I) the Colorado River Compact;

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

6 (III) the Colorado River Basin
7 Project Act (43 U.S.C. 1501 et seq.);

8 or

9 (IV) any contract or agreement
10 entered into pursuant to the docu-
11 ments described in subclauses (I)
12 through (III).

13 (55) NAVAJO FEE LAND.—The term “Navajo
14 fee land” means land, other than Navajo trust land,
15 that—

16 (A) is located in the State;

17 (B) is located outside the exterior bound-
18 aries of the Navajo Reservation; and

19 (C) as of the LCR enforceability date, is
20 owned by the Navajo Nation, including through
21 a related entity.

22 (56) NAVAJO-GALLUP WATER SUPPLY
23 PROJECT.—The term “Navajo-Gallup water supply
24 project” means the project authorized, constructed,
25 and operated pursuant to the Northwestern New

1 Mexico Rural Water Projects Act (Public Law 111–
2 11; 123 Stat. 1368).

3 (57) NAVAJO GENERATING STATION.—The
4 term “Navajo generating station” means the Navajo
5 generating station, a steam electric generating sta-
6 tion located on the Navajo Reservation near Page,
7 Arizona, and consisting of Units 1, 2, and 3, the
8 switchyard facilities, and all facilities and structures
9 used or related to the Navajo generating station.

10 (58) NAVAJO GROUNDWATER PROJECTS.—The
11 term “Navajo Groundwater Projects” means the
12 projects carried out in accordance with section
13 103(a).

14 (59) NAVAJO GROUNDWATER PROJECTS AC-
15 COUNT.—The term “Navajo Groundwater Projects
16 Account” means the account created in the Treasury
17 of the United States pursuant to section 104(a).

18 (60) NAVAJO LAND.—The term “Navajo land”
19 means—

20 (A) the Navajo Reservation;

21 (B) Navajo trust land; and

22 (C) Navajo fee land.

23 (61) NAVAJO NATION.—

24 (A) IN GENERAL.—The term “Navajo Na-
25 tion” means the Navajo Nation, a body politic

1 and federally recognized Indian nation, as pro-
2 vided in the notice of the Department of the In-
3 terior entitled “Indian Entities Recognized and
4 Eligible To Receive Services From The United
5 States Bureau of Indian Affairs” (75 Fed. Reg.
6 60810 (October 1, 2010)) published pursuant
7 to section 104 of the Federally Recognized In-
8 dian Tribe List Act of 1994 (25 U.S.C. 479a-
9 1).

10 (B) INCLUSIONS.—

11 (i) IN GENERAL.—The term “Navajo
12 Nation” includes—

13 (I) the Navajo Tribe;

14 (II) the Navajo Tribe of Arizona,
15 New Mexico & Utah;

16 (III) the Navajo Tribe of Indi-
17 ans; and

18 (IV) other similar names.

19 (ii) BANDS AND CHAPTERS.—The
20 term “Navajo Nation” includes all bands
21 of Navajo Indians and chapters of the
22 Navajo Nation.

23 (62) NAVAJO NATION CAP WATER.—The term
24 “Navajo Nation CAP water” means the 6,411 afy of
25 the CAP NIA priority water retained by the Sec-

1 retary pursuant to section 104(a)(1)(B)(ii) of the
2 Arizona Water Settlements Act of 2004 (Public Law
3 108–451; 118 Stat. 3487) and reallocated to the
4 Navajo Nation pursuant to section 202(a) of this
5 Act.

6 (63) NAVAJO NATION WATER DELIVERY CON-
7 TRACT.—The term “Navajo Nation water delivery
8 contract” means the contract entered into pursuant
9 to the settlement agreement and section 202(c) of
10 this Act for the delivery of Navajo Nation CAP
11 water.

12 (64) NAVAJO OM&R TRUST ACCOUNT.—The
13 term “Navajo OM&R Trust Account” means the ac-
14 count created in the Treasury of the United States
15 pursuant to section 104(b).

16 (65) NAVAJO PROJECT LEASE.—The term
17 “Navajo Project lease” means the Indenture of
18 Lease made and entered into on September 29,
19 1969, between—

20 (A) the Navajo Nation, as lessor; and

21 (B) lessees—

22 (i) the Arizona Public Service Com-
23 pany (including any successor or assignee);

1 (ii) the Department of Water and
2 Power of the City of Los Angeles (includ-
3 ing any successor or assignee);

4 (iii) the Nevada Power Company (in-
5 cluding any successor or assignee);

6 (iv) the Salt River Project Agricul-
7 tural Improvement and Power District (in-
8 cluding any successor or assignee); and

9 (v) the Tucson Gas & Electric Com-
10 pany (including any successor or assignee).

11 (66) NAVAJO PROJECT LESSEES.—The term
12 “Navajo Project lessees” means the lessees described
13 in paragraph (65)(B).

14 (67) NAVAJO RESERVATION.—

15 (A) IN GENERAL.—The term “Navajo Res-
16 ervation” means land that is within the exterior
17 boundaries of the Navajo Reservation in the
18 State, as defined by the Act of June 14, 1934
19 (48 Stat. 960, chapter 521), including—

20 (i) all land—

21 (I) withdrawn by the Executive
22 Order dated December 16, 1882, and
23 partitioned to the Navajo Nation in
24 accordance with the Act of December
25 22, 1974 (Public Law 93–531; 88

1 Stat. 1713), and codified in the Nav-
2 ajo-Hopi Land Dispute Settlement
3 Act of 1996 (25 U.S.C. 640d note;
4 Public Law 104–301); and

5 (II) partitioned to the Navajo
6 Nation by Judgment of Partition,
7 dated February 10, 1977, in the case
8 styled *Sekaquaptewa v. MacDonald*,
9 Case No. CIV–579–PCT–JAW (D.
10 Ariz.); and

11 (ii) all land taken into trust as a part
12 of the Navajo Reservation pursuant to sec-
13 tion 11 of the Act of December 22, 1974
14 (25 U.S.C. 640d–10) and codified in the
15 Navajo-Hopi Land Dispute Settlement Act
16 of 1996 (25 U.S.C. 640d note; Public Law
17 104–301).

18 (B) MAP.—

19 (i) IN GENERAL.—The “Navajo Res-
20 ervation” is also depicted more particularly
21 on the map attached to the settlement
22 agreement as exhibit 3.1.100.

23 (ii) APPLICABILITY.—In case of a
24 conflict relating to the “Navajo Reserva-
25 tion” as depicted on the map under clause

1 (i) and the definition in subparagraph (A),
2 the map under clause (i) shall control.

3 (C) EXCLUSION.—Except as provided in
4 paragraph (36)(C), the term “Navajo Reserva-
5 tion” does not include any land within the
6 boundaries of the Hopi Reservation.

7 (68) NAVAJO TRUST LAND.—The term “Navajo
8 trust land” means land that—

9 (A) is located in the State;

10 (B) is located outside the exterior bound-
11 aries of the Navajo Reservation; and

12 (C) as of the LCR enforceability date, is
13 held in trust by the United States for the ben-
14 efit of the Navajo Nation.

15 (69) NORVIEL DECREE.—The term “Norviel
16 Decree” means the final decree of the State of Ari-
17 zona Superior Court in and for the County of
18 Apache in the case styled The St. John’s Irrigation
19 Company and the Meadows Reservoir Irrigation
20 Company, et al. v. Round Valley Water Storage &
21 Ditch Company, Eagar Irrigation Company,
22 Springerville Water Right and Ditch Company, et
23 al., Case No. 569 (Apr. 29, 1918), including any
24 modifications to the final decree.

1 (70) OM&R.—The term “OM&R” means oper-
2 ation, maintenance, and replacement.

3 (71) PARTY.—The term “party” means a per-
4 son who is a signatory to the settlement agreement.

5 (72) PEABODY.—The term “Peabody” means
6 the Peabody Western Coal Company, including any
7 affiliate or successor of the Peabody Western Coal
8 Company.

9 (73) PERSON.—

10 (A) IN GENERAL.—The term “person”
11 means—

- 12 (i) an individual;
- 13 (ii) a public or private corporation;
- 14 (iii) a company;
- 15 (iv) a partnership;
- 16 (v) a joint venture;
- 17 (vi) a firm;
- 18 (vii) an association;
- 19 (viii) a society;
- 20 (ix) an estate or trust;
- 21 (x) a private organization or enter-
22 prise;
- 23 (xi) the United States;
- 24 (xii) an Indian tribe;
- 25 (xiii) a State, territory, or country;

1 (xiv) a governmental entity; and

2 (xv) a political subdivision or munic-
3 ipal corporation organized under or subject
4 to the constitution and laws of the State.

5 (B) INCLUSIONS.—The term “person” in-
6 cludes an officer, director, agent, insurer, rep-
7 resentative, employee, attorney, assign, sub-
8 sidiary, affiliate, enterprise, legal representative,
9 any predecessor and successor in interest and
10 any heir of a predecessor and successor in in-
11 terest of a person.

12 (74) PRECONSTRUCTION ACTIVITY.—

13 (A) IN GENERAL.—The term
14 “preconstruction activity” means the work asso-
15 ciated with the preplanning, planning, and de-
16 sign phases of construction, as those terms are
17 defined in paragraphs (1) through (3) of section
18 900.112(a) of title 25, Code of Federal Regula-
19 tions (or successor regulation).

20 (B) INCLUSION.—The term
21 “preconstruction activity” includes activities de-
22 scribed in section 900.112(b) of title 25, Code
23 of Federal Regulations (or successor regula-
24 tion).

1 (75) RAILROAD GRANTED LAND.—The term
2 “Railroad granted land” means the land granted
3 (including Federal rights-of-way and easements) to
4 Navajo Project lessees in accordance with sections
5 1.16 and 2 of the grant issued by the Secretary and
6 dated January 19, 1971.

7 (76) RIGHTS TO LOWER COLORADO RIVER
8 WATER.—The term “rights to Lower Colorado River
9 water” means any and all rights in or to Lower Col-
10 orado River water under applicable law.

11 (77) SECRETARY.—The term “Secretary”
12 means the Secretary of the Interior (or the designee
13 of the Secretary).

14 (78) SETTLEMENT AGREEMENT.—

15 (A) IN GENERAL.—The term “settlement
16 agreement” means the 2012 agreement, includ-
17 ing exhibits, entitled the “Navajo-Hopi Little
18 Colorado River Water Rights Settlement Agree-
19 ment”.

20 (B) INCLUSIONS.—The term “settlement
21 agreement” includes—

22 (i) any amendments necessary to
23 make the settlement agreement consistent
24 with this Act; and

1 (ii) any other amendments approved
2 by the parties to the settlement agreement
3 and the Secretary.

4 (79) STATE.—The term “State” means the
5 State of Arizona.

6 (80) STATE IMPLEMENTING LAW.—The term
7 “State implementing law” means a law enacted by
8 the State that includes terms that are substantially
9 similar to the terms of the settlement agreement and
10 attached to the settlement agreement as exhibit
11 3.1.128.

12 (81) SURFACE WATER.—

13 (A) IN GENERAL.—The term “surface
14 water” means all water in the State that is ap-
15 propriable under State law.

16 (B) EXCLUSIONS.—The term “surface
17 water” does not include—

18 (i) appropriable water that is located
19 within the upper basin; or

20 (ii) Lower Colorado River water.

21 (82) UNDERGROUND WATER.—

22 (A) IN GENERAL.—The term “under-
23 ground water” means all water beneath the sur-
24 face of the earth within the boundaries of the
25 State, regardless of the legal characterization of

1 that water as appropriable or nonappropriable
2 under applicable law.

3 (B) EXCLUSION.—The term “underground
4 water” does not include effluent.

5 (83) UPPER BASIN.—The term “upper basin”
6 has the meaning given the term in article II(f) of
7 the Colorado River Compact.

8 (84) UPPER BASIN COMPACT.—The term
9 “Upper Basin Compact” means the Upper Colorado
10 River Basin Compact of 1948, as ratified and re-
11 printed in article 3 of chapter 7 of title 45, Arizona
12 Revised Statutes.

13 (85) UPPER BASIN WATER.—The term “upper
14 basin water” means the waters of the upper basin.

15 (86) WATER.—The term “water”, when used
16 without a modifying adjective, means—

17 (A) groundwater;

18 (B) surface water; and

19 (C) effluent.

20 (87) WATER RIGHT.—The term “water right”
21 means any right in or to water under Federal, State,
22 or law.

23 (88) WESTERN NAVAJO COLORADO RIVER
24 BASIN.—The term “Western Navajo Colorado River
25 Basin” means the portions of the Navajo Reserva-

1 tion that are located in the lower basin and outside
2 of the LCR watershed.

3 (89) WINDOW ROCK.—The term “Window
4 Rock” means the geographical area in the State to
5 be served by the Navajo-Gallup water supply project,
6 which shall include Window Rock, Arizona.

7 **TITLE I—NAVAJO-HOPI LITTLE**
8 **COLORADO RIVER WATER**
9 **RIGHTS SETTLEMENT AGREE-**
10 **MENT**

11 **SEC. 101. RATIFICATION AND EXECUTION OF THE NAVAJO-**
12 **HOPI LITTLE COLORADO RIVER WATER**
13 **RIGHTS SETTLEMENT AGREEMENT.**

14 (a) IN GENERAL.—Except to the extent that any pro-
15 vision of the settlement agreement conflicts with this Act,
16 the settlement agreement is authorized, ratified, and con-
17 firmed.

18 (b) AMENDMENTS TO SETTLEMENT AGREEMENT.—
19 If an amendment to the settlement agreement is executed
20 to make the settlement agreement consistent with this Act,
21 the amendment is authorized, ratified, and confirmed.

22 (c) EXECUTION OF SETTLEMENT AGREEMENT.—To
23 the extent the settlement agreement does not conflict with
24 this Act, the Secretary shall promptly execute—

1 (1) the settlement agreement, including all ex-
2 hibits to the settlement agreement requiring the sig-
3 nature of the Secretary; and

4 (2) any amendments to the settlement agree-
5 ment, including any amendment to any exhibit to
6 the settlement agreement requiring the signature of
7 the Secretary, necessary to make the settlement
8 agreement consistent with this Act.

9 (d) DISCRETION OF THE SECRETARY.—The Sec-
10 retary may execute any other amendment to the settle-
11 ment agreement, including any amendment to any exhibit
12 to the settlement agreement requiring the signature of the
13 Secretary, that is not inconsistent with this Act if the
14 amendment does not require congressional approval pur-
15 suant to the Trade and Intercourse Act (25 U.S.C. 177)
16 or other applicable Federal law (including regulations).

17 **SEC. 102. WATER RIGHTS.**

18 (a) WATER RIGHTS TO BE HELD IN TRUST.—

19 (1) NAVAJO NATION WATER RIGHTS.—All water
20 rights of the Navajo Nation for the Navajo Reserva-
21 tion and land held in trust by the United States for
22 the Navajo Nation and allottees of the Navajo Na-
23 tion and all Navajo Nation CAP water shall be held
24 in trust by the United States for the benefit of the

1 Navajo Nation and allottees of the Navajo Nation,
2 respectively.

3 (2) HOPI TRIBE WATER RIGHTS.—All water
4 rights of the Hopi Tribe for the Hopi Reservation
5 and land held in trust by the United States for the
6 Hopi Tribe and allottees of the Hopi Tribe shall be
7 held in trust by the United States for the benefit of
8 the Hopi Tribe and allottees of the Hopi Tribe, re-
9 spectively.

10 (b) FORFEITURE AND ABANDONMENT.—Any water
11 right held in trust by the United States under subsection
12 (a) shall not be subject to loss by nonuse, forfeiture, aban-
13 donment, or any other provision of law.

14 (c) USE OF WATER DIVERTED FROM LCR WATER-
15 SHED.—

16 (1) IN GENERAL.—Notwithstanding any other
17 provision of law, the Navajo Nation may—

18 (A) divert surface water or groundwater
19 described in paragraph 4.0 of the settlement
20 agreement; and

21 (B) subject to the condition that the water
22 remain on the Navajo Reservation, move any
23 water diverted under subparagraph (A) out of
24 the LCR watershed for use by the Navajo Na-
25 tion.

1 (2) EFFECT OF DIVERSION.—Any water di-
 2 verted and moved out of the LCR watershed pursu-
 3 ant to paragraph (1)—

4 (A) shall be considered to be a part of the
 5 LCR; and

6 (B) shall not be considered to be part of,
 7 or charged against, the consumptive use appor-
 8 tionment made—

9 (i) to the State by article III(a)(1) of
 10 the Upper Basin Compact; or

11 (ii) to the upper basin by article III(a)
 12 of the Colorado River Compact.

13 (d) WATER RIGHTS OF ALLOTTEES.—

14 (1) NAVAJO RESERVATION ALLOTMENTS.—

15 (A) IN GENERAL.—The right of an allottee
 16 (and of the United States acting as trustee for
 17 an allottee), to use water on an allotment lo-
 18 cated on the Navajo Reservation shall be—

19 (i) satisfied solely from the water se-
 20 cured to the Navajo Nation (and to the
 21 United States acting as trustee for the
 22 Navajo Nation) by the LCR decree; and

23 (ii) subject to the terms of the LCR
 24 decree.

1 (B) ADMINISTRATION.—A right under sub-
2 paragraph (A) shall be enforceable only pursu-
3 ant to the Navajo Nation water code, which
4 shall provide allottees a process to enforce such
5 rights against the Navajo Nation.

6 (2) HOPI RESERVATION ALLOTMENTS.—

7 (A) IN GENERAL.—The right of an allottee
8 (and of the United States acting as trustee for
9 an allottee), to use water on an allotment lo-
10 cated on the Hopi Reservation shall be—

11 (i) satisfied solely from the water se-
12 cured to the Hopi Tribe (and to the United
13 States acting as trustee for the Hopi
14 Tribe) by the LCR decree; and

15 (ii) subject to the terms of the LCR
16 decree.

17 (B) ADMINISTRATION.—A right under sub-
18 paragraph (A) shall be enforceable only pursu-
19 ant to the Hopi Tribe water code, which shall
20 provide allottees a process to enforce such
21 rights against the Hopi Tribe.

22 (3) OFF-RESERVATION ALLOTMENTS.—The
23 right of an allottee (and of the United States acting
24 as trustee for an allottee), to use water on an allot-
25 ment located off the Navajo and Hopi Reservations

1 shall be as described in the abstracts attached to the
2 settlement agreement as exhibit 4.7.3.

3 **SEC. 103. AUTHORIZATION FOR CONSTRUCTION OF MUNIC-
4 IPAL, DOMESTIC, COMMERCIAL, AND INDUS-
5 TRIAL WATER PROJECTS.**

6 (a) NAVAJO GROUNDWATER PROJECTS.—

7 (1) IN GENERAL.—Subject to the availability of
8 appropriations, the Secretary, acting through the
9 Commissioner, shall plan, design, and construct the
10 water diversion and delivery features of the Navajo
11 Groundwater Projects.

12 (2) LEAD AGENCY.—The Bureau of Reclama-
13 tion shall serve as the lead agency for any activity
14 relating to the planning, design, and construction of
15 the water diversion and delivery features of the Nav-
16 ajo Groundwater Projects.

17 (3) SCOPE.—

18 (A) IN GENERAL.—Subject to subpara-
19 graph (B), the scope of the planning, design,
20 and construction activities for the Navajo
21 Groundwater Projects shall be as generally de-
22 scribed in the documents prepared by Brown &
23 Caldwell entitled—

- 1 (i) “Final Summary Report Leupp,
2 Birdsprings, and Tolani Lake Water Dis-
3 tribution System Analysis (May 2008)”;
- 4 (ii) “Final Summary Report Dilkon
5 and Teestoh Water Distribution System
6 Analysis (May 2008)”;
- 7 (iii) “Raw Water Transmission Pipe-
8 line Alignment Alternative Evaluation
9 Final Report (May 2008)”;
- 10 (iv) “Ganado C-Aquifer Project Re-
11 port (October 2008)”.

12 (B) REVIEW.—

- 13 (i) IN GENERAL.—Before beginning
14 construction activities for the Navajo
15 Groundwater Projects, the Secretary
16 shall—

- 17 (I) review the proposed designs
18 of the Navajo Groundwater Projects;
19 and
20 (II) carry out value engineering
21 analyses of the proposed designs.

- 22 (ii) NEGOTIATIONS WITH THE NAVAJO
23 NATION.—As necessary, the Secretary shall
24 periodically negotiate and reach agreement
25 with the Navajo Nation regarding any

1 change to the proposed designs of the Nav-
2 ajo Groundwater Projects if, on the basis
3 of the review under clause (i), the Sec-
4 retary determines that a change is nec-
5 essary—

6 (I) to meet applicable industry
7 standards;

8 (II) to ensure the Navajo
9 Groundwater Projects will be con-
10 structed for not more than the
11 amount set forth in paragraph (4);
12 and

13 (III) to improve the cost-effec-
14 tiveness of the delivery of water.

15 (4) FUNDING.—

16 (A) IN GENERAL.—The total amount of
17 obligations incurred by the Secretary in car-
18 rying out this subsection shall not exceed
19 \$199,000,000, except that the total amount of
20 obligations shall be increased or decreased, as
21 appropriate, based on ordinary fluctuations
22 from May 1, 2011, in construction cost indices
23 applicable to the types of construction involved
24 in the planning, design, and construction of the
25 Navajo Groundwater Projects.

1 (B) NO REIMBURSEMENT.—The Secretary
2 shall not be reimbursed by any entity, including
3 the Navajo Nation, for any amounts expended
4 by the Secretary in carrying out this subsection.

5 (C) PROJECT EFFICIENCIES.—If the total
6 cost of planning, design, and construction ac-
7 tivities of the Navajo Groundwater Projects re-
8 sults in cost savings and is less than the
9 amounts authorized to be obligated under this
10 paragraph, the Secretary, at the request of the
11 Navajo Nation, may—

12 (i) use those cost savings to carry out
13 capital improvement projects associated
14 with the Navajo Groundwater Projects; or

15 (ii) transfer those cost savings to the
16 Navajo OM&R Trust Account.

17 (5) APPLICABILITY OF THE ISDEAA.—

18 (A) IN GENERAL.—At the request of the
19 Navajo Nation and in accordance with the In-
20 dian Self-Determination and Education Assist-
21 ance Act (25 U.S.C. 450 et seq.), the Secretary
22 shall enter into 1 or more agreements with the
23 Navajo Nation to carry out this subsection.

24 (B) ADMINISTRATION.—The Commissioner
25 and the Navajo Nation shall negotiate the cost

1 of any oversight activity carried out by the Bu-
2 reau of Reclamation for an agreement entered
3 into under subparagraph (A), subject to the
4 condition that the total cost for the oversight
5 shall not exceed 4.0 percent of the total costs
6 of the Navajo Groundwater Projects.

7 (6) TITLE TO NAVAJO GROUNDWATER
8 PROJECTS.—

9 (A) IN GENERAL.—The Secretary shall
10 convey to the Navajo Nation title to each of the
11 Navajo Groundwater Projects on the date on
12 which the Secretary issues a notice of substan-
13 tial completion that—

14 (i) the infrastructure constructed is
15 capable of storing, diverting, treating,
16 transmitting, and distributing a supply of
17 water as generally set forth in the final
18 project design described in paragraph (3);
19 and

20 (ii) the Secretary has consulted with
21 the Navajo Nation regarding the proposed
22 finding that the respective Navajo Ground-
23 water Project is substantially complete.

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

1 transfers to the Navajo Nation title to the
2 Leupp-Dilkon Groundwater Project or the
3 Ganado Groundwater Project under subpara-
4 graph (A), the United States shall not be held
5 liable by any court for damages arising out of
6 any act, omission, or occurrence relating to the
7 facilities transferred, other than damages
8 caused by an intentional act or an act of neg-
9 ligence committed by the United States, or by
10 employees or agents of the United States, prior
11 to the date on which the Secretary transfers
12 title to the Leupp-Dilkon Groundwater Project
13 or the Ganado Groundwater Project to the Nav-
14 ajo Nation.

15 (C) OM&R OBLIGATION OF THE UNITED
16 STATES AFTER CONVEYANCE.—The United
17 States shall have no obligation to pay for the
18 OM&R costs of the Navajo Groundwater
19 Projects beginning on the date on which—

20 (i) title to the Navajo Groundwater
21 Projects is transferred to the Navajo Na-
22 tion; and

23 (ii) the amounts required to be depos-
24 ited in the Navajo OM&R Trust Account

1 pursuant to section 104(b) have been de-
2 posited in that account.

3 (7) TECHNICAL ASSISTANCE.—Subject to the
4 availability of appropriations, the Secretary shall
5 provide technical assistance, including operation and
6 management training, to the Navajo Nation to pre-
7 pare the Navajo Nation for the operation of the
8 Navajo Groundwater Projects.

9 (8) PROJECT MANAGEMENT COMMITTEE.—The
10 Secretary shall facilitate the formation of a project
11 management committee composed of representatives
12 from the Bureau of Reclamation, the Bureau of In-
13 dian Affairs, and the Navajo Nation—

14 (A) to review cost factors and budgets for
15 construction, operation, and maintenance activi-
16 ties for the Navajo Groundwater Projects;

17 (B) to improve management of inherently
18 governmental functions through enhanced com-
19 munication; and

20 (C) to seek additional ways to reduce over-
21 all costs for the Navajo Groundwater Projects.

22 (9) AUTHORIZATION TO CONSTRUCT.—

23 (A) IN GENERAL.—The Secretary is au-
24 thorized to construct the Navajo Groundwater
25 Projects beginning on the day after the date on

1 which the Secretary publishes in the Federal
2 Register the statement of findings under section
3 108(a).

4 (B) PRECONSTRUCTION ACTIVITIES.—Not-
5 withstanding subparagraph (A), the Secretary
6 is authorized to use amounts appropriated to
7 the Navajo Groundwater Projects Account pur-
8 suant to section 104(a) to carry out prior to the
9 LCR enforceability date preconstruction activi-
10 ties for the Navajo Groundwater Projects.

11 (b) HOPI GROUNDWATER PROJECT.—

12 (1) IN GENERAL.—Subject to the availability of
13 appropriations, the Secretary, acting through the
14 Commissioner, shall plan, design, and construct the
15 water diversion and delivery features of the Hopi
16 Groundwater Project.

17 (2) LEAD AGENCY.—The Bureau of Reclama-
18 tion shall serve as the lead agency for any activity
19 relating to the planning, design, and construction of
20 the water diversion and delivery features of the Hopi
21 Groundwater Project.

22 (3) SCOPE.—

23 (A) IN GENERAL.—Subject to subpara-
24 graph (B), the scope of the planning, design,
25 and construction activities for the Hopi

1 Groundwater Project shall be as generally de-
2 scribed in the document entitled “Hopi Tribe
3 2012 Little Colorado River Adjudication Settle-
4 ment Domestic, Commercial, Municipal and In-
5 dustrial Water System Memorandum (February
6 2012)” by Dowl HKM.

7 (B) REVIEW.—

8 (i) IN GENERAL.—Before beginning
9 construction activities, the Secretary
10 shall—

11 (I) review the proposed design of
12 the Hopi Groundwater Project; and

13 (II) carry out value engineering
14 analyses of the proposed design.

15 (ii) NEGOTIATIONS WITH THE HOPI
16 TRIBE.—As necessary, the Secretary shall
17 periodically negotiate and reach agreement
18 with the Hopi Tribe regarding any change
19 to the proposed design of the Hopi
20 Groundwater Project if, on the basis of the
21 review under clause (i), the Secretary de-
22 termines that a change is necessary—

23 (I) to meet applicable industry
24 standards;

1 (II) to ensure that the Hopi
2 Groundwater Project will be con-
3 structed for not more than the
4 amount set forth in paragraph (4);
5 and

6 (III) to improve the cost-effec-
7 tiveness of the delivery of water.

8 (4) FUNDING.—

9 (A) IN GENERAL.—The total amount of
10 obligations incurred by the Secretary in car-
11 rying out this subsection shall not exceed
12 \$113,000,000, except that the total amount of
13 obligations shall be increased or decreased, as
14 appropriate, based on ordinary fluctuations
15 from May 1, 2011, in construction cost indices
16 applicable to the types of construction involved
17 in the planning, design, and construction of the
18 Hopi Groundwater Project.

19 (B) NO REIMBURSEMENT.—The Secretary
20 shall not be reimbursed by any entity, including
21 the Hopi Tribe, for any amounts expended by
22 the Secretary in carrying out this subsection.

23 (C) PROJECT EFFICIENCIES.—If the total
24 cost of planning, design, and construction ac-
25 tivities of the Hopi Groundwater Project results

1 in cost savings and is less than the amounts au-
2 thorized to be obligated under this paragraph,
3 the Secretary, at the request of the Hopi Tribe,
4 may—

5 (i) use those cost savings to carry out
6 capital improvement projects associated
7 with the Hopi Groundwater Project; or

8 (ii) transfer those cost savings to the
9 Hopi OM&R Trust Account.

10 (5) APPLICABILITY OF THE ISDEAA.—

11 (A) IN GENERAL.—At the request of the
12 Hopi Tribe and in accordance with the Indian
13 Self-Determination and Education Assistance
14 Act (25 U.S.C. 450 et seq.), the Secretary shall
15 enter into 1 or more agreements with the Hopi
16 Tribe to carry out this subsection.

17 (B) ADMINISTRATION.—The Commissioner
18 and the Hopi Tribe shall negotiate the cost of
19 any oversight activity carried out by the Bureau
20 of Reclamation for an agreement entered into
21 under subparagraph (A), subject to the condi-
22 tion that the total cost for the oversight shall
23 not exceed 4.0 percent of the total costs of the
24 Hopi Groundwater Project.

25 (6) TITLE TO HOPI GROUNDWATER PROJECT.—

1 (A) IN GENERAL.—The Secretary shall
2 convey to the Hopi Tribe title to the Hopi
3 Groundwater Project on the date on which the
4 Secretary issues a notice of substantial comple-
5 tion that—

6 (i) the infrastructure constructed is
7 capable of storing, diverting, treating,
8 transmitting, and distributing a supply of
9 water as generally set forth in the final
10 project design described in paragraph (3);
11 and

12 (ii) the Secretary has consulted with
13 the Hopi Tribe regarding the proposed
14 finding that the Hopi Groundwater Project
15 is substantially complete.

16 (B) LIMITATION ON LIABILITY.—Effective
17 beginning on the date on which the Secretary
18 transfers to the Hopi Tribe title to the Hopi
19 Groundwater Project under subparagraph (A),
20 the United States shall not be held liable by
21 any court for damages arising out of any act,
22 omission, or occurrence relating to the facilities
23 transferred, other than damages caused by an
24 intentional act or an act of negligence com-
25 mitted by the United States, or by employees or

1 agents of the United States, prior to the date
2 on which the Secretary transfers title to the
3 Hopi Groundwater Project to the Hopi Tribe.

4 (C) OM&R OBLIGATION OF THE UNITED
5 STATES AFTER CONVEYANCE.—The United
6 States shall have no obligation to pay for the
7 OM&R costs of the Hopi Groundwater Project
8 beginning on the date on which—

9 (i) title to the Hopi Groundwater
10 Project is transferred to the Hopi Tribe;
11 and

12 (ii) the amounts required to be depos-
13 ited in the Hopi OM&R Trust Account
14 pursuant to section 104(d) have been de-
15 posited in that account.

16 (7) TECHNICAL ASSISTANCE.—Subject to the
17 availability of appropriations, the Secretary shall
18 provide technical assistance, including operation and
19 management training, to the Hopi Tribe to prepare
20 the Hopi Tribe for the operation of the Hopi
21 Groundwater Project.

22 (8) PROJECT MANAGEMENT COMMITTEE.—The
23 Secretary shall facilitate the formation of a project
24 management committee composed of representatives

1 from the Bureau of Reclamation, the Bureau of In-
2 dian Affairs, and the Hopi Tribe—

3 (A) to review cost factors and budgets for
4 construction, operation, and maintenance activi-
5 ties for the Hopi Groundwater Project;

6 (B) to improve management of inherently
7 governmental activities through enhanced com-
8 munication; and

9 (C) to seek additional ways to reduce over-
10 all costs for the Hopi Groundwater Project.

11 (9) AUTHORIZATION TO CONSTRUCT.—

12 (A) IN GENERAL.—The Secretary is au-
13 thorized to construct the Hopi Groundwater
14 Project beginning on the day after the date on
15 which the Secretary publishes in the Federal
16 Register the statement of findings under section
17 108(a).

18 (B) PRECONSTRUCTION ACTIVITIES.—Not-
19 withstanding subparagraph (A), the Secretary
20 is authorized to use amounts appropriated to
21 the Hopi Groundwater Project Account pursu-
22 ant to section 104(c) to carry out prior to the
23 LCR enforceability date preconstruction activi-
24 ties for the Hopi Groundwater Project.

25 (c) N-AQUIFER MANAGEMENT PLAN.—

1 (1) IN GENERAL.—Prior to the LCR enforce-
2 ability date, the Secretary, acting through the Direc-
3 tor of the United States Geological Survey and in
4 consultation with the Navajo Nation and the Hopi
5 Tribe, is authorized to use amounts appropriated to
6 the N-Aquifer Account pursuant to section 104(e) to
7 conduct modeling and monitoring activities of the N-
8 Aquifer as provided for in paragraph 6.2 of the set-
9 tlement agreement.

10 (2) CONTINUING ASSISTANCE.—After the LCR
11 enforceability date, the Secretary, in consultation
12 with the Navajo Nation and the Hopi Tribe, is au-
13 thorized to use amounts appropriated to the N-Aqui-
14 fer Account pursuant to section 104(e) to assist the
15 Navajo Nation and the Hopi Tribe in implementing
16 the N-Aquifer Management Plan and the Pasture
17 Canyon Springs Protection Program Account pursu-
18 ant to section 104(f) to assist the Navajo Nation
19 and the Hopi Tribe in implementing the Pasture
20 Canyon Springs Protection Program, both as de-
21 scribed in paragraph 6.2 of the settlement agree-
22 ment.

23 (3) LIMITED LIABILITY.—The Secretary shall
24 have no liability with respect to the management of
25 the N-Aquifer, subject to the condition that the Sec-

1 retary complies with the responsibilities of the Sec-
2 retary, as set forth in the N-Aquifer Management
3 Plan.

4 **SEC. 104. FUNDING.**

5 (a) NAVAJO GROUNDWATER PROJECTS ACCOUNT.—

6 (1) ESTABLISHMENT.—There is established in
7 the Treasury of the United States an account, to be
8 known as the “Navajo Groundwater Projects Ac-
9 count”, to be administered by the Secretary, con-
10 sisting of the amounts deposited in the account
11 under paragraph (2), together with any interest ac-
12 rued by those amounts, for use by the Navajo Na-
13 tion in constructing the Navajo Groundwater
14 Projects.

15 (2) TRANSFERS TO ACCOUNT.—

16 (A) IN GENERAL.—Subject to subpara-
17 graph (C), there are authorized to be appro-
18 priated to the Secretary for deposit in the Nav-
19 ajo Groundwater Projects Account—

20 (i) \$199,000,000, to remain available
21 until expended; less

22 (ii) the amounts deposited in the ac-
23 count under subparagraph (B).

24 (B) TRANSFERS FROM OTHER SOURCES.—

1 (i) LOWER COLORADO RIVER BASIN
2 DEVELOPMENT FUND.—

3 (I) IN GENERAL.—The Secretary
4 of the Treasury shall transfer, without
5 further appropriation, \$25,000,000 to
6 the Navajo Groundwater Projects Ac-
7 count from the Future Indian Water
8 Settlement Subaccount of the Lower
9 Colorado River Basin Development
10 Fund established pursuant to section
11 403(f)(2)(D)(vi) of the Colorado River
12 Basin Project Act (43 U.S.C.
13 1543(f)(2)(D)(vi)).

14 (II) AVAILABILITY.—The
15 amounts transferred under subclause
16 (I) shall not be available to the Sec-
17 retary for expenditure until the date
18 on which the Secretary publishes in
19 the Federal Register the statement of
20 findings under section 108(a).

21 (ii) RECLAMATION WATER SETTLE-
22 MENTS FUND.—

23 (I) IN GENERAL.—If amounts re-
24 main available for expenditure in the
25 Reclamation Water Settlements Fund

1 established by section 10501 of the
2 Omnibus Public Land Management
3 Act of 2009 (43 U.S.C. 407), the Sec-
4 retary of the Treasury shall transfer
5 to the Navajo Groundwater Projects
6 Account, without further appropria-
7 tion, not more than \$50,000,000.

8 (II) AVAILABILITY.—The
9 amounts transferred under subclause
10 (I) shall not be available to the Sec-
11 retary for expenditure until the date
12 on which the Secretary publishes in
13 the Federal Register the statement of
14 findings under section 108(a).

15 (iii) STATE CONTRIBUTION.—Pursu-
16 ant to subparagraph 13.22 of the settle-
17 ment agreement, the State shall transfer to
18 the Navajo Groundwater Projects Account
19 \$1,000,000.

20 (C) FLUCTUATION IN DEVELOPMENT
21 COSTS.—The amount authorized to be appro-
22 priated under subparagraph (A)(i) and depos-
23 ited in the Navajo Groundwater Projects Ac-
24 count shall be increased or decreased, as appro-
25 priate, by such amounts as may be justified by

1 reason of ordinary fluctuations in development
2 costs occurring after May 1, 2011, as indicated
3 by engineering cost indices applicable to the
4 type of construction involved, until the Sec-
5 retary declares that the Navajo Groundwater
6 Projects are substantially complete.

7 (3) MANAGEMENT OF ACCOUNT.—

8 (A) IN GENERAL.—The Secretary shall
9 manage the Navajo Groundwater Projects Ac-
10 count in a manner that is consistent with—

11 (i) the American Indian Trust Fund
12 Management Reform Act of 1994 (25
13 U.S.C. 4001 et seq.); and

14 (ii) this subsection.

15 (B) INVESTMENTS.—The Secretary shall
16 invest amounts in the Navajo Groundwater
17 Projects Account in accordance with—

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

20 (ii) the first section of the Act of June
21 24, 1938 (25 U.S.C. 162a); and

22 (iii) obligations of Federal corpora-
23 tions and Federal Government-sponsored
24 entities, the charter documents of which
25 provide that the obligations of the entities

1 are lawful investments for federally man-
2 aged funds, including—

3 (I) obligations of the United
4 States Postal Service described in sec-
5 tion 2005 of title 39, United States
6 Code;

7 (II) bonds and other obligations
8 of the Tennessee Valley Authority de-
9 scribed in section 15d of the Ten-
10 nessee Valley Authority Act of 1933
11 (16 U.S.C. 831n-4);

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

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

22 (C) CREDITS TO ACCOUNT.—The interest
23 on, and the proceeds from, the sale or redemp-
24 tion of, any obligations held in the Navajo

1 Groundwater Projects Account shall be credited
2 to, and form a part of, the account.

3 (4) AVAILABILITY OF AMOUNTS AND INVEST-
4 MENT EARNINGS.—

5 (A) IN GENERAL.—Except as provided in
6 section 103(a)(9), amounts appropriated to and
7 deposited in the Navajo Groundwater Projects
8 Account shall not be available to the Secretary
9 for expenditure until the date on which the Sec-
10 retary publishes in the Federal Register the
11 statement of findings under section 108(a).

12 (B) INVESTMENT EARNINGS.—Investment
13 earnings on amounts deposited in the Navajo
14 Groundwater Projects Account under paragraph
15 (3) shall not be available to the Secretary for
16 expenditure until the date on which the Sec-
17 retary publishes in the Federal Register the
18 statement of findings under section 108(a).

19 (b) NAVAJO OM&R TRUST ACCOUNT.—

20 (1) ESTABLISHMENT.—There is established in
21 the Treasury of the United States a trust account,
22 to be known as the “Navajo OM&R Trust Account”,
23 to be administered by the Secretary and to be avail-
24 able until expended, consisting of the amounts de-
25 posited in the account under paragraph (2), together

1 with any interest accrued by those amounts, for the
2 OM&R of the Navajo Groundwater Projects.

3 (2) AUTHORIZATION OF APPROPRIATIONS.—

4 (A) IN GENERAL.—Subject to subpara-
5 graph (B) and in addition to any amounts
6 transferred to the Navajo OM&R Trust Ac-
7 count pursuant to section 103(a)(4), there is
8 authorized to be appropriated, deposited, and
9 retained in the Navajo OM&R Trust Account,
10 \$23,000,000.

11 (B) FLUCTUATION IN COSTS.—The
12 amount authorized to be appropriated under
13 subparagraph (A) shall be increased or de-
14 creased, as appropriate, by such amounts as
15 may be justified by reason of ordinary fluctua-
16 tions in costs occurring after May 1, 2011, as
17 indicated by applicable engineering cost indices.

18 (3) MANAGEMENT OF ACCOUNT.—

19 (A) IN GENERAL.—The Secretary shall
20 manage the Navajo OM&R Trust Account in a
21 manner that is consistent with—

22 (i) the American Indian Trust Fund
23 Management Reform Act of 1994 (25
24 U.S.C. 4001 et seq.); and

25 (ii) this subsection.

1 (B) INVESTMENTS.—The Secretary shall
2 invest amounts in the Navajo OM&R Trust Ac-
3 count in accordance with subsection (a)(3)(B).

4 (4) AVAILABILITY OF AMOUNTS.—Amounts ap-
5 propriated to and deposited in the Navajo OM&R
6 Trust Account, including any investment earnings,
7 shall be made available to the Navajo Nation by the
8 Secretary beginning on the date on which title to the
9 Navajo Groundwater Projects is transferred to the
10 Navajo Nation.

11 (c) HOPI GROUNDWATER PROJECT ACCOUNT.—

12 (1) ESTABLISHMENT.—There is established in
13 the Treasury of the United States an account, to be
14 known as the “Hopi Groundwater Project Account”,
15 to be administered by the Secretary, and consisting
16 of the amounts deposited in the account under para-
17 graph (2), together with any interest accrued by
18 those amounts, for use in constructing the Hopi
19 Groundwater Project.

20 (2) TRANSFERS TO ACCOUNT.—

21 (A) IN GENERAL.—Subject to subpara-
22 graphs (C), there is authorized to be appro-
23 priated to the Secretary for deposit in the Hopi
24 Groundwater Project Account—

1 (i) \$113,000,000, to remain available
2 until expended; less

3 (ii) the amounts deposited in the ac-
4 count under subparagraph (B).

5 (B) TRANSFERS FROM OTHER SOURCES.—

6 (i) LOWER COLORADO RIVER BASIN
7 DEVELOPMENT FUND.—

8 (I) IN GENERAL.—The Secretary
9 of the Treasury shall transfer, without
10 further appropriation, \$25,000,000 to
11 the Hopi Groundwater Project Ac-
12 count from the Future Indian Water
13 Settlement Subaccount of the Lower
14 Colorado River Basin Development
15 Fund established pursuant to section
16 403(f)(2)(D)(vi) of the Colorado River
17 Basin Project Act (43 U.S.C.
18 1543(f)(2)(D)(vi)).

19 (II) AVAILABILITY.—The
20 amounts transferred under subclause
21 (I) shall not be available to the Sec-
22 retary for expenditure until the date
23 on which the Secretary publishes in
24 the Federal Register the statement of
25 findings under section 108(a).

1 (ii) STATE CONTRIBUTION.—Pursuant
2 to subparagraph 13.22 of the settlement
3 agreement, the State shall transfer to the
4 Hopi Groundwater Project Account
5 \$1,000,000.

6 (C) FLUCTUATION IN DEVELOPMENT
7 COSTS.—The amount authorized to be appro-
8 priated under subparagraph (A)(i) shall be in-
9 creased or decreased, as appropriate, by such
10 amounts as may be justified by reason of ordi-
11 nary fluctuations in development costs occur-
12 ring after May 1, 2011, as indicated by engi-
13 neering cost indices applicable to the type of
14 construction involved, until the Secretary de-
15 clares that the Hopi Groundwater Project is
16 substantially complete.

17 (3) MANAGEMENT OF ACCOUNT.—

18 (A) IN GENERAL.—The Secretary shall
19 manage the Hopi Groundwater Project Account
20 in a manner that is consistent with—

21 (i) the American Indian Trust Fund
22 Management Reform Act of 1994 (25
23 U.S.C. 4001 et seq.); and

24 (ii) this subsection.

1 (B) INVESTMENTS.—The Secretary shall
2 invest amounts in the Hopi Groundwater
3 Project Account in accordance with subsection
4 (a)(3)(B).

5 (C) CREDITS TO ACCOUNT.—The interest
6 on, and the proceeds from, the sale or redemp-
7 tion of, any obligations held in the Hopi
8 Groundwater Project Account shall be credited
9 to, and form a part of, the account.

10 (4) AVAILABILITY OF AMOUNTS AND INVEST-
11 MENT EARNINGS.—

12 (A) IN GENERAL.—Except as provided in
13 section 103(b)(9), amounts appropriated to and
14 deposited in the Hopi Groundwater Project Ac-
15 count shall not be available to the Secretary for
16 expenditure until the date on which the Sec-
17 retary publishes findings under section 108(a).

18 (B) INVESTMENT EARNINGS.—Investment
19 earnings on amounts deposited in the Hopi
20 Groundwater Project Account under paragraph
21 (3) shall not be available to the Secretary for
22 expenditure until after the date on which the
23 Secretary publishes in the Federal Register the
24 statement of findings under section 108(a).

25 (d) HOPI OM&R TRUST ACCOUNT.—

1 (1) ESTABLISHMENT.—There is established in
2 the Treasury of the United States a trust account,
3 to be known as the “Hopi OM&R Trust Account”,
4 to be administered by the Secretary and to be avail-
5 able until expended, consisting of the amounts de-
6 posited in the account under paragraph (2), together
7 with any interest accrued by those amounts, for the
8 OM&R of the Hopi Groundwater Project.

9 (2) AUTHORIZATION OF APPROPRIATIONS.—

10 (A) IN GENERAL.—Subject to subpara-
11 graph (B) and in addition to any amounts
12 transferred to the Hopi OM&R Trust Account
13 pursuant to section 103(b)(4), there is author-
14 ized to be appropriated, deposited, and retained
15 in the Hopi OM&R Trust Account, \$5,000,000.

16 (B) FLUCTUATION IN COSTS.—The
17 amount authorized to be appropriated under
18 subparagraph (A) shall be increased or de-
19 creased, as appropriate, by such amounts as
20 may be justified by reason of ordinary fluctua-
21 tions in costs occurring after May 1, 2011, as
22 indicated by applicable engineering cost indices.

23 (3) MANAGEMENT OF ACCOUNT.—

1 (A) IN GENERAL.—The Secretary shall
2 manage the Hopi OM&R Trust Account in a
3 manner that is consistent with—

4 (i) the American Indian Trust Fund
5 Management Reform Act of 1994 (25
6 U.S.C. 4001 et seq.); and

7 (ii) this subsection.

8 (B) INVESTMENTS.—The Secretary shall
9 invest amounts in the Hopi OM&R Trust Ac-
10 count in accordance with subsection (a)(3)(B).

11 (4) AVAILABILITY OF AMOUNTS.—Amounts ap-
12 propriated to and deposited in the Hopi OM&R
13 Trust Account, including any investment earnings,
14 shall be made available to the Hopi Tribe by the
15 Secretary beginning on the date on which title to the
16 Hopi Groundwater Project is transferred to the
17 Hopi Tribe.

18 (e) N-AQUIFER ACCOUNT.—

19 (1) ESTABLISHMENT.—There is established in
20 the Treasury of the United States an account, to be
21 known as the “N-Aquifer Account”, to be adminis-
22 tered by the Secretary and to be available until ex-
23 pended, consisting of the amounts deposited in the
24 account under paragraph (2) to carry out activities
25 relating to the N-Aquifer in accordance with section

1 103(c) and subparagraph 6.2 of the settlement
2 agreement.

3 (2) AUTHORIZATION OF APPROPRIATIONS FOR
4 N-AQUIFER MANAGEMENT PLAN.—

5 (A) IN GENERAL.—In addition to any
6 amounts transferred to the Aquifer account
7 pursuant to subsection (g), there is authorized
8 to be appropriated, deposited, and retained to
9 carry out section 103(c) and subparagraph 6.2
10 of the settlement agreement \$5,000,000.

11 (B) FLUCTUATIONS IN COSTS.—The
12 amount authorized to be appropriated under
13 subparagraph (A) shall be increased or de-
14 creased, as appropriate, by such amounts as
15 may be justified by reason of ordinary fluctua-
16 tions in costs occurring after May 1, 2011, as
17 indicated by applicable engineering cost indices.

18 (3) AVAILABILITY.—Amounts appropriated to
19 and deposited in the N-Aquifer Account shall be
20 made available by the Secretary prior to the LCR
21 enforceability date to carry out the activities relating
22 to the N-Aquifer management plan in accordance
23 with section 103(c)(1) and subparagraph 6.2 of the
24 settlement agreement.

1 (f) PASTURE CANYON SPRINGS PROTECTION PRO-
2 GRAM ACCOUNT.—

3 (1) ESTABLISHMENT.—There is established in
4 the Treasury of the United States a trust account,
5 to be known as the “Pasture Canyon Springs Pro-
6 tection Program Account”, to be administered by
7 the Secretary and to be available until expended,
8 consisting of the amounts deposited in the account
9 under paragraph (2), together with any interest ac-
10 crued by those amounts, to carry out activities relat-
11 ing to the Pasture Canyon Springs Protection Pro-
12 gram in accordance with section 103(c) and sub-
13 paragraph 6.2 of the settlement agreement.

14 (2) AUTHORIZATION OF APPROPRIATION FOR
15 PASTURE CANYON SPRINGS PROTECTION PRO-
16 GRAM.—

17 (A) IN GENERAL.—There is authorized to
18 be appropriated to carry out activities relating
19 to the Pasture Canyon Springs Protection Pro-
20 gram in accordance with section 103(c)(2) and
21 to implement the Pasture Canyon Springs Pro-
22 tection Program provisions of subparagraph 6.2
23 of the settlement agreement \$10,400,000.

24 (B) FLUCTUATIONS IN COSTS.—The
25 amount authorized to be appropriated under

1 subparagraph (A) shall be increased or de-
2 creased, as appropriate, by such amounts as
3 may be justified by reason of ordinary fluctua-
4 tions in costs occurring after May 1, 2011, as
5 indicated by applicable engineering cost indices.

6 (3) MANAGEMENT OF ACCOUNT.—

7 (A) IN GENERAL.—The Secretary shall
8 manage the Pasture Canyon Springs Protection
9 Program Account in a manner that is con-
10 sistent with—

11 (i) the American Indian Trust Fund
12 Management Reform Act of 1994 (25
13 U.S.C. 4001 et seq.); and

14 (ii) this subsection.

15 (B) INVESTMENTS.—The Secretary shall
16 invest amounts in the Pasture Canyon Springs
17 Protection Program Account in accordance with
18 subsection (a)(3)(B).

19 (4) AVAILABILITY.—Amounts made available
20 under this subsection shall not be available to the
21 Secretary for expenditure until the date on which
22 the Secretary publishes in the Federal Register the
23 statement of findings under section 108(a).

24 (g) TRANSFER OF FUNDS.—

1 (1) NAVAJO NATION.—The Secretary may,
2 upon request of the Navajo Nation, transfer
3 amounts from an account established by subsections
4 (a) and (b) to any other account established by this
5 section.

6 (2) HOPI TRIBE.—The Secretary may, upon re-
7 quest of the Hopi Tribe, transfer amounts from an
8 account established by subsections (c), (d), and (f)
9 to any other account established by this section.

10 (3) AVAILABILITY.—

11 (A) IN GENERAL.—The Secretary shall not
12 transfer amounts under this subsection until
13 the day after the date on which the Secretary
14 publishes in the Federal Register the statement
15 of findings under section 108(a).

16 (B) AVAILABLE UNTIL EXPENDED.—Any
17 amounts transferred under this subsection shall
18 remain available until expended.

19 (h) OFFSET.—To the extent necessary, the Secretary
20 shall offset any direct spending authorized and any inter-
21 est earned on amounts expended pursuant to this section
22 using such additional amounts as may be made available
23 to the Secretary for the applicable fiscal year.

1 **SEC. 105. WAIVERS, RELEASES, AND RETENTIONS OF**
2 **CLAIMS.**

3 (a) NAVAJO NATION WAIVERS, RELEASES, AND RE-
4 TENTIONS OF CLAIMS.—

5 (1) CLAIMS AGAINST THE STATE AND OTH-
6 ERS.—

7 (A) IN GENERAL.—Except as provided in
8 subparagraph (C), the Navajo Nation, on behalf
9 of itself and the members of the Navajo Nation
10 (but not members in their capacity as allottees),
11 and the United States, acting as trustee for the
12 Navajo Nation and the members of the Navajo
13 Nation (but not members in their capacity as
14 allottees), as part of the performance of the re-
15 spective obligations of the Navajo Nation and
16 the United States under the settlement agree-
17 ment, are authorized to execute a waiver and
18 release of any claims against the State (or any
19 agency or political subdivision of the State), the
20 Hopi Tribe, or any other person, entity, cor-
21 poration or municipal corporation under Fed-
22 eral, State or other law for all—

23 (i) past, present, and future claims for
24 water rights for Navajo land and land of
25 the Navajo Nation outside of the State,
26 whether held in fee or held in trust by the

1 United States on behalf of the Navajo Na-
2 tion, arising from time immemorial and,
3 thereafter, forever;

4 (ii) past, present, and future claims
5 for water rights arising from time imme-
6 morial and, thereafter, forever, that are
7 based on aboriginal occupancy of land both
8 within and outside of the State by the
9 Navajo Nation, the members of the Navajo
10 Nation, or their predecessors;

11 (iii) past and present claims for injury
12 to water rights and injury to water quality
13 for Navajo land and land of the Navajo
14 Nation outside of the State, whether held
15 in fee or held in trust by the United States
16 on behalf of the Navajo Nation, arising
17 from time immemorial through the LCR
18 enforceability date;

19 (iv) past, present, and future claims
20 for injury to water rights and injury to
21 water quality arising from time immemo-
22 rial and, thereafter, forever, that are based
23 on aboriginal occupancy of land both with-
24 in and outside of the State by the Navajo

1 Nation, the members of the Navajo Na-
2 tion, or their predecessors;

3 (v) claims for injury to water rights
4 and injury to water quality arising after
5 the LCR enforceability date for Navajo
6 land and land of the Navajo Nation out-
7 side of the State, whether held in fee or
8 held in trust by the United States on be-
9 half of the Navajo Nation, resulting from
10 the diversion or use of water in a manner
11 not in violation of the settlement agree-
12 ment; and

13 (vi) past, present, and future claims
14 arising out of, or relating in any manner
15 to, the negotiation, execution, or adoption
16 of the settlement agreement, an applicable
17 settlement judgment or decree, or this Act.

18 (B) EFFECTIVE DATE.—The waiver and
19 release of claims under subparagraph (A) shall
20 be effective on the LCR enforceability date.

21 (C) RETENTION OF CLAIMS.—The Navajo
22 Nation, on behalf of itself and the members of
23 the Navajo Nation (but not members in their
24 capacity as allottees), and the United States,
25 acting as trustee for the Navajo Nation and the

1 members of the Navajo Nation (but not mem-
2 bers in their capacity as allottees), shall retain
3 all rights not expressly waived under subpara-
4 graph (A), including any right—

5 (i) subject to subparagraph 13.14 of
6 the settlement agreement—

7 (I) to assert claims of rights to
8 upper basin water for Navajo land;
9 and

10 (II) to assert claims of rights to
11 upper basin water that are based on
12 aboriginal occupancy of land within
13 the upper basin by the Navajo Nation,
14 the members of the Navajo Nation, or
15 their predecessors;

16 (ii) subject to subparagraphs 6.3 and
17 13.8 of the settlement agreement, to assert
18 claims for injuries to, and seek enforce-
19 ment of, the rights of the Navajo Nation
20 under the settlement agreement or this
21 Act, in any Federal or State court of com-
22 petent jurisdiction;

23 (iii) to assert claims for injuries to,
24 and seek enforcement of, the rights of the
25 Navajo Nation under the LCR decree;

1 (iv) to assert claims for injuries to,
2 and seek enforcement of, the rights of the
3 Navajo Nation under the Gila River Adju-
4 dication decree;

5 (v) to participate in the LCR adju-
6 dication to the extent provided in the set-
7 tlement agreement;

8 (vi) to participate in the Gila River
9 adjudication to the extent provided in sub-
10 paragraphs 4.12, 4.13 and 4.14 of the set-
11 tlement agreement;

12 (vii) except as provided in the settle-
13 ment agreement, to object to any claims
14 for water rights, injury to water rights, or
15 injury to water quality by or for any In-
16 dian tribe or the United States on behalf
17 of the Indian tribe;

18 (viii) except as provided in the settle-
19 ment agreement, to assert past, present, or
20 future claims for injury to water rights, in-
21 jury to water quality, or any other claims
22 other than a claim for water rights,
23 against any Indian tribe or the United
24 States on behalf of the Indian tribe;

1 (ix) to assert past, present, or future
2 claims for rights to Lower Colorado River
3 water, injury to rights to Lower Colorado
4 River water, or injury to quality of Lower
5 Colorado River water for Navajo land; and

6 (x) to assert past, present, or future
7 claims for rights to Lower Colorado River
8 water, injury to rights to Lower Colorado
9 River water, or injury to quality of Lower
10 Colorado River water that are based on ab-
11 original occupancy of land by the Navajo
12 Nation, the members of the Navajo Na-
13 tion, or their predecessors.

14 (2) CLAIMS AGAINST THE UNITED STATES.—

15 (A) IN GENERAL.—Except as provided in
16 subparagraph (C), the Navajo Nation, on behalf
17 of itself and the members of the Navajo Nation
18 (but not members in their capacity as allottees),
19 as part of the performance of the obligations of
20 the Navajo Nation under the settlement agree-
21 ment, is authorized to execute a waiver and re-
22 lease of any claims against the United States
23 (or agencies, officials, or employees of the
24 United States) under Federal, State, or other
25 law for all—

1 (i) past, present, and future claims for
2 water rights for Navajo land and land of
3 the Navajo Nation outside of the State,
4 whether held in fee or held in trust by the
5 United States on behalf of the Navajo Na-
6 tion, arising from time immemorial and,
7 thereafter, forever;

8 (ii) past, present, and future claims
9 for water rights arising from time imme-
10 morial and, thereafter, forever, that are
11 based on aboriginal occupancy of land both
12 within and outside of the State by the
13 Navajo Nation, the members of the Navajo
14 Nation, or their predecessors;

15 (iii) past and present claims for injury
16 to water rights and injury to water quality
17 for Navajo land and land of the Navajo
18 Nation outside of the State, whether held
19 in fee or held in trust by the United States
20 on behalf of the Navajo Nation, arising
21 from time immemorial through the LCR
22 enforceability date;

23 (iv) past, present, and future claims
24 for injury to water rights and injury to
25 water quality arising from time immemo-

1 rial and, thereafter, forever, that are based
2 on aboriginal occupancy of land both with-
3 in and outside of the State by the Navajo
4 Nation, the members of the Navajo Na-
5 tion, or their predecessors;

6 (v) claims for injury to water rights
7 and injury to water quality arising after
8 the LCR enforceability date for Navajo
9 land and land of the Navajo Nation out-
10 side of the State, whether held in fee or
11 held in trust by the United States on be-
12 half of the Navajo Nation, resulting from
13 the diversion or use of water in a manner
14 not in violation of the settlement agree-
15 ment;

16 (vi) past, present, and future claims
17 arising out of, or relating in any manner
18 to, the negotiation, execution, or adoption
19 of the settlement agreement, an applicable
20 settlement judgment or decree, or this Act;

21 (vii) past, present, and future claims
22 for failure to protect, acquire, or develop
23 water rights for or on behalf of the Navajo
24 Nation and the members of the Navajo

1 Nation arising from time immemorial and,
2 thereafter, forever;

3 (viii) past, present, and future claims
4 relating to failure to assert any claims au-
5 thorized to be waived under this sub-
6 section;

7 (ix) claims for the OM&R costs of the
8 Navajo Groundwater Projects, which shall
9 be effective on the date on which the Sec-
10 retary transfers title to, and OM&R re-
11 sponsibility for, the Navajo Groundwater
12 Projects to the Navajo Nation;

13 (x) claims in the case styled The Nav-
14 ajo Nation v. United States Department of
15 the Interior, Case No. CV-03-0507-PCT-
16 PGR, pending in the United States Dis-
17 trict Court for the District of Arizona, in-
18 cluding all claims based on the facts al-
19 leged in the complaint filed in the action,
20 except any claim that is dismissed without
21 prejudice pursuant to section 108(a)(14);
22 and

23 (xi) past and present claims relating
24 in any manner to damages, losses, or inju-
25 ries to water, water rights, land, or other

1 resources due to loss of water or water
2 rights (including damages, losses, or inju-
3 ries to hunting, fishing, gathering, or cul-
4 tural rights due to loss of water or water
5 rights, claims relating to interference with,
6 diversion, or taking of water, or claims re-
7 lating to failure to protect, acquire, or de-
8 velop water, water rights, or water infra-
9 structure) within the reservation and off-
10 reservation trust land that first accrued at
11 any time prior to the LCR enforceability
12 date.

13 (B) EFFECTIVE DATE.—Except as pro-
14 vided in subparagraph (A)(ix), the waiver and
15 release of claims under subparagraph (A) shall
16 be effective on the LCR enforceability date.

17 (C) RETENTION OF CLAIMS.—The Navajo
18 Nation and the members of the Navajo Nation
19 (but not members in their capacity as allottees)
20 shall retain all rights not expressly waived in
21 under subparagraph (A), including any right—

22 (i) subject to subparagraph 13.14 of
23 the settlement agreement—

1 (I) to assert claims of rights to
2 upper basin water for Navajo land;
3 and

4 (II) to assert claims of rights to
5 upper basin water that are based on
6 aboriginal occupancy of land within
7 the upper basin by the Navajo Nation,
8 the members of the Navajo Nation, or
9 their predecessors;

10 (ii) subject to subparagraph 13.8 of
11 the settlement agreement, to assert claims
12 for injuries to, and seek enforcement of,
13 the rights of the Navajo Nation under the
14 settlement agreement or this Act in any
15 Federal or State court of competent juris-
16 diction;

17 (iii) to assert claims for injuries to,
18 and seek enforcement of, the rights of the
19 Navajo Nation under the LCR decree;

20 (iv) to assert claims for injuries to,
21 and seek enforcement of, the rights of the
22 Navajo Nation under the Gila River adju-
23 dication decree;

1 (v) to participate in the LCR adju-
2 dication to the extent provided in the set-
3 tlement agreement;

4 (vi) to participate in the Gila River
5 adjudication to the extent provided in sub-
6 paragraphs 4.12, 4.13, and 4.14 of the set-
7 tlement agreement;

8 (vii) except as provided in the settle-
9 ment agreement, to object to any claims
10 for water rights, injury to water rights, or
11 injury to water quality by or for any In-
12 dian tribe or the United States on behalf
13 of the Indian tribe;

14 (viii) except as provided in the settle-
15 ment agreement, to assert past, present, or
16 future claims for injury to water rights, in-
17 jury to water quality, or any other claims
18 other than a claim for water rights,
19 against any Indian tribe or the United
20 States on behalf of the Indian tribe;

21 (ix) to assert past, present, or future
22 claims for rights to Lower Colorado River
23 water, injury to rights to Lower Colorado
24 River water, or injury to quality of Lower
25 Colorado River water for Navajo land; and

1 (x) to assert past, present, or future
2 claims for rights to Lower Colorado River
3 water, injury to rights to Lower Colorado
4 River water, or injury to quality of Lower
5 Colorado River water that are based on ab-
6 original occupancy of land by the Navajo
7 Nation, the members of the Navajo Na-
8 tion, or their predecessors.

9 (b) HOPI TRIBE WAIVERS, RELEASES, AND RETEN-
10 TIONS OF CLAIMS.—

11 (1) CLAIMS AGAINST THE STATE AND OTH-
12 ERS.—

13 (A) IN GENERAL.—Except as provided in
14 subparagraph (C), the Hopi Tribe, on behalf of
15 itself and the members of the Hopi Tribe (but
16 not members in their capacity as allottees), and
17 the United States, acting as trustee for the
18 Hopi Tribe and the members of the Hopi Tribe
19 (but not members in their capacity as allottees),
20 as part of the performance of the respective ob-
21 ligations of the Hopi Tribe and the United
22 States under the settlement agreement, are au-
23 thorized to execute a waiver and release of any
24 claims against the State (or any agency or po-
25 litical subdivision of the State), the Navajo Na-

1 tion, or any other person, entity, corporation, or
2 municipal corporation under Federal, State, or
3 other law for all—

4 (i) past, present, and future claims for
5 water rights for Hopi land arising from
6 time immemorial and, thereafter, forever;

7 (ii) past, present, and future claims
8 for water rights arising from time imme-
9 morial and, thereafter, forever, that are
10 based on aboriginal occupancy of land by
11 the Hopi Tribe, the members of the Hopi
12 Tribe, or their predecessors;

13 (iii) past and present claims for injury
14 to water rights and injury to water quality
15 for Hopi land arising from time immemo-
16 rial through the LCR enforceability date;

17 (iv) past, present, and future claims
18 for injury to water rights and injury to
19 water quality arising from time immemo-
20 rial and, thereafter, forever, that are based
21 on aboriginal occupancy of land by the
22 Hopi Tribe, the members of the Hopi
23 Tribe, or their predecessors;

24 (v) claims for injury to water rights
25 and injury to water quality arising after

1 the LCR enforceability date for Hopi land
2 resulting from the diversion or use of
3 water in a manner not in violation of the
4 settlement agreement; and

5 (vi) past, present, and future claims
6 arising out of, or relating in any manner
7 to, the negotiation, execution, or adoption
8 of the settlement agreement, an applicable
9 settlement judgment or decree, or this Act.

10 (B) EFFECTIVE DATE.—The waiver and
11 release of claims under subparagraph (A) shall
12 be effective on the LCR enforceability date.

13 (C) RETENTION OF CLAIMS.—The Hopi
14 Tribe on behalf of itself and the members of the
15 Hopi Tribe (but not members in their capacity
16 as allottees), and the United States, acting as
17 trustee for the Hopi Tribe and the members of
18 the Hopi Tribe (but not members in their ca-
19 pacity as allottees), shall retain all rights not
20 expressly waived under subparagraph (A), in-
21 cluding any right—

22 (i) to assert claims for injuries to, and
23 seek enforcement of, the rights of the Hopi
24 Tribe under the Norviel Decree, as set
25 forth in the abstracts required pursuant to

1 subparagraph 5.4.1 of the settlement
2 agreement;

3 (ii) subject to subparagraphs 6.3 and
4 13.8 of the settlement agreement, to assert
5 claims for injuries to, and seek enforce-
6 ment of, the rights of the Hopi Tribe
7 under the settlement agreement or this
8 Act, in any Federal or State court of com-
9 petent jurisdiction;

10 (iii) to assert claims for injuries to,
11 and seek enforcement of, the rights of the
12 Hopi Tribe under the LCR decree;

13 (iv) to participate in the LCR adju-
14 dication to the extent provided in the set-
15 tlement agreement;

16 (v) except as provided in the settle-
17 ment agreement, to object to any claims
18 for water rights, injury to water rights, or
19 injury to water quality by or for any In-
20 dian tribe or the United States on behalf
21 of the Indian tribe;

22 (vi) except as provided in the settle-
23 ment agreement, to assert past, present, or
24 future claims for injury to water rights, in-
25 jury to water quality, or any other claims

1 other than a claim for water rights,
2 against any Indian tribe or the United
3 States on behalf of the Indian tribe;

4 (vii) to assert past, present, or future
5 claims for rights to Lower Colorado River
6 water, injury to rights to Lower Colorado
7 River water, or injury to quality of Lower
8 Colorado River water for Hopi land; and

9 (viii) to assert past, present, or future
10 claims for rights to Lower Colorado River
11 water, injury to rights to Lower Colorado
12 River water, or injury to quality of Lower
13 Colorado River water that are based on ab-
14 original occupancy of land by the Hopi
15 Tribe, the members of the Hopi Tribe, or
16 their predecessors.

17 (2) CLAIMS AGAINST THE UNITED STATES.—

18 (A) IN GENERAL.—Except as provided in
19 subparagraph (C), the Hopi Tribe, on behalf of
20 itself and the members of the Hopi Tribe (but
21 not members in their capacity as allottees), as
22 part of the performance of the obligations of
23 the Hopi Tribe under the settlement agreement,
24 is authorized to execute a waiver and release of
25 any claims against the United States (or agen-

1 cies, officials, or employees of the United
2 States) under Federal, State, or other law for
3 all—

4 (i) past, present, and future claims for
5 water rights for Hopi land arising from
6 time immemorial and, thereafter, forever;

7 (ii) past, present, and future claims
8 for water rights arising from time imme-
9 morial and, thereafter, forever, that are
10 based on aboriginal occupancy of land by
11 the Hopi Tribe, the members of the Hopi
12 Tribe, or their predecessors;

13 (iii) past and present claims for injury
14 to water rights and injury to water quality
15 for Hopi land arising from time immemo-
16 rial through the LCR enforceability date;

17 (iv) past, present, and future claims
18 for injury to water rights and injury to
19 water quality arising from time immemo-
20 rial and, thereafter, forever, that are based
21 on aboriginal occupancy of land by the
22 Hopi Tribe, the members of the Hopi
23 Tribe, or their predecessors;

24 (v) claims for injury to water rights
25 and injury to water quality arising after

1 the LCR enforceability date for Hopi land
2 resulting from the diversion or use of
3 water in a manner not in violation of the
4 settlement agreement;

5 (vi) past, present, and future claims
6 arising out of, or relating in any manner
7 to, the negotiation, execution, or adoption
8 of the settlement agreement, an applicable
9 settlement judgment or decree, or this Act;

10 (vii) past, present, and future claims
11 for failure to protect, acquire, or develop
12 water rights for or on behalf of the Hopi
13 Tribe and the members of the Hopi Tribe
14 arising from time immemorial and, there-
15 after, forever;

16 (viii) past, present, and future claims
17 relating to failure to assert any claims au-
18 thorized to be waived under this sub-
19 section;

20 (ix) claims for the OM&R costs of the
21 Hopi Groundwater Project, which shall be-
22 come effective on the date on which the
23 Secretary transfers title to, and OM&R re-
24 sponsibility for, the Hopi Groundwater
25 Project to the Hopi Tribe; and

1 (x) past and present claims relating in
2 any manner to damages, losses, or injuries
3 to water, water rights, land, or other re-
4 sources due to loss of water or water rights
5 (including damages, losses, or injuries to
6 hunting, fishing, gathering, or cultural
7 rights due to loss of water or water rights,
8 claims relating to interference with, diver-
9 sion, or taking of water, or claims relating
10 to failure to protect, acquire, or develop
11 water, water rights, or water infrastruc-
12 ture) within the reservation and off-res-
13 ervation trust land that first accrued at
14 any time prior to the LCR enforceability
15 date.

16 (B) EFFECTIVE DATE.—Except as pro-
17 vided in subparagraph (A)(ix), the waiver and
18 release of claims under subparagraph (A) shall
19 be effective on the LCR enforceability date.

20 (C) RETENTION OF CLAIMS.—The Hopi
21 Tribe on behalf of itself and the members of the
22 Hopi Tribe (but not members in their capacity
23 as allottees) shall retain all rights not expressly
24 waived under subparagraph (A), including any
25 right—

1 (i) to assert claims for injuries to, and
2 seek enforcement of, the rights of the Hopi
3 Tribe under the Norviel Decree, as set
4 forth in the abstracts required pursuant to
5 subparagraph 5.4.1 of the settlement
6 agreement;

7 (ii) subject to subparagraph 13.8 of
8 the settlement agreement, to assert claims
9 for injuries to, and seek enforcement of,
10 the rights of the Hopi Tribe under the set-
11 tlement agreement or this Act, in any Fed-
12 eral or State court of competent jurisdic-
13 tion;

14 (iii) to assert claims for injuries to,
15 and seek enforcement of, the rights of the
16 Hopi Tribe under the LCR decree;

17 (iv) to participate in the LCR adju-
18 dication to the extent provided in the set-
19 tlement agreement;

20 (v) except as provided in the settle-
21 ment agreement, to object to any claims
22 for water rights, injury to water rights, or
23 injury to water quality by or for any In-
24 dian tribe or the United States on behalf

1 of the Indian tribe other than the Navajo
2 Nation and the Hopi Tribe;

3 (vi) except as provided in the settle-
4 ment agreement, to assert past, present, or
5 future claims for injury to water rights, in-
6 jury to water quality, or any other claims
7 other than a claim for water rights,
8 against any Indian tribe or the United
9 States on behalf of the Indian tribe other
10 than the Navajo Nation and the Hopi
11 Tribe;

12 (vii) to assert past, present, or future
13 claims for rights to Lower Colorado River
14 water, injury to rights to Lower Colorado
15 River water, or injury to quality of Lower
16 Colorado River water for Hopi land; and

17 (viii) to assert past, present, or future
18 claims for rights to Lower Colorado River
19 water, injury to rights to Lower Colorado
20 River water, or injury to quality of Lower
21 Colorado River water that are based on ab-
22 original occupancy of land by the Hopi
23 Tribe, the members of the Hopi Tribe, or
24 their predecessors.

1 (c) WAIVERS AND RELEASES OF CLAIMS BY THE
2 UNITED STATES.—

3 (1) ACTING AS TRUSTEE FOR ALLOTTEES.—

4 (A) IN GENERAL.—Except as provided in
5 subparagraph (C), the United States, acting as
6 trustee for allottees of the Navajo Nation and
7 Hopi Tribe, as part of the performance of the
8 obligations of the United States under the set-
9 tlement agreement, is authorized to execute a
10 waiver and release of any claims against the
11 State (or any agency or political subdivision of
12 the State), the Navajo Nation, the Hopi Tribe,
13 or any other person, entity, corporation, or mu-
14 nicipal corporation under Federal, State, or
15 other law, for all—

16 (i) past, present, and future claims for
17 water rights for allotments arising from
18 time immemorial, and, thereafter, forever;

19 (ii) past, present, and future claims
20 for water rights arising from time imme-
21 morial and, thereafter, forever, that are
22 based on aboriginal occupancy of land by
23 allottees or their predecessors;

24 (iii) past and present claims for injury
25 to water rights and injury to water quality

1 for allotments arising from time immemo-
2 rial through the LCR enforceability date;

3 (iv) past, present, and future claims
4 for injury to water rights and injury to
5 water quality, if any, arising from time im-
6 memorial and, thereafter, forever, that are
7 based on aboriginal occupancy of land by
8 allottees or their predecessors;

9 (v) claims for injury to water rights
10 and injury to water quality arising after
11 the LCR enforceability date for allotments
12 resulting from the diversion or use of
13 water in a manner not in violation of the
14 settlement agreement; and

15 (vi) past, present, and future claims
16 arising out of, or relating in any manner
17 to, the negotiation, execution, or adoption
18 of the settlement agreement, an applicable
19 settlement judgment or decree, or this Act.

20 (B) EFFECTIVE DATE.—The waiver and
21 release of claims under subparagraph (A) shall
22 be effective on the LCR enforceability date.

23 (C) RETENTION OF CLAIMS.—The United
24 States, acting as trustee for allottees of the
25 Navajo Nation and Hopi Tribe, shall retain all

1 rights not expressly waived under subparagraph
2 (A), including any right—

3 (i) subject to subparagraph 13.14 of
4 the settlement agreement—

5 (I) to assert claims of rights to
6 upper basin water, if any, for allot-
7 ments; and

8 (II) to assert claims of rights to
9 upper basin water that are based on
10 aboriginal occupancy of land within
11 the upper basin in the State by
12 allottees or their predecessors;

13 (ii) subject to subparagraph 13.8 of
14 the settlement agreement, to assert claims
15 for injuries to, and seek enforcement of,
16 the rights of allottees, if any, under the
17 settlement agreement or this Act, in any
18 Federal or State court of competent juris-
19 diction;

20 (iii) to assert claims for injuries to,
21 and seek enforcement of, the rights of
22 allottees, if any, under the LCR decree;

23 (iv) to participate in the LCR adju-
24 dication to the extent provided in the set-
25 tlement agreement;

1 (v) except as provided in the settle-
2 ment agreement, to object to any claims
3 for water rights, injury to water rights, or
4 injury to water quality by or for any In-
5 dian tribe;

6 (vi) except as provided in the settle-
7 ment agreement, to assert past, present, or
8 future claims for injury to water rights, in-
9 jury to water quality, or any other claims
10 other than a claim for water rights,
11 against any Indian tribe;

12 (vii) to assert past, present, or future
13 claims for rights to Lower Colorado River
14 water, injury to rights to Lower Colorado
15 River water, or injury to quality of Lower
16 Colorado River water for allotments; and

17 (viii) to assert past, present, or future
18 claims for rights to Lower Colorado River
19 water, injury to rights to Lower Colorado
20 River water, or injury to quality of Lower
21 Colorado River water that are based on ab-
22 original occupancy of land by allottees or
23 their predecessors.

1 (2) WAIVER AND RELEASE OF CLAIMS BY THE
2 UNITED STATES AGAINST THE NAVAJO NATION AND
3 THE HOPI TRIBE.—

4 (A) IN GENERAL.—Except as provided
5 subparagraph (C), the United States, except
6 when acting as trustee for an Indian tribe other
7 than the Navajo Nation or the Hopi Tribe, as
8 part of the performance of the obligations of
9 the United States under the settlement agree-
10 ment, is authorized to execute a waiver and re-
11 lease of any and all claims of the United States
12 against the Navajo Nation and the Hopi Tribe,
13 including any agency, official, or employee of
14 the Navajo Nation or the Hopi Tribe, under
15 Federal, State, or any other law for all—

16 (i) past, present, and future claims
17 arising out of, or relating in any manner
18 to, the negotiation or execution of the set-
19 tlement agreement or this Act;

20 (ii) past and present claims for injury
21 to water rights and injury to water quality
22 resulting from the diversion or use of
23 water on Navajo land and Hopi land aris-
24 ing from time immemorial through the
25 LCR enforceability date; and

1 (iii) claims for injury to water rights
2 and injury to water quality arising after
3 the LCR enforceability date resulting from
4 the diversion or use of water on Navajo
5 land and Hopi land in a manner not in vio-
6 lation of the settlement agreement.

7 (B) EFFECTIVE DATE.—The waiver and
8 release of claims under subparagraph (A) shall
9 be effective on the LCR enforceability date.

10 (C) RETENTION OF CLAIMS.—The United
11 States shall retain all rights not expressly
12 waived under subparagraph (A), including—

13 (i) subject to subparagraph 13.8 of
14 the settlement agreement, to assert claims
15 for injuries to, and seek enforcement of,
16 the settlement agreement or this Act, in
17 any Federal or State court of competent
18 jurisdiction;

19 (ii) to enforce the Gila River adjudica-
20 tion decree; and

21 (iii) to enforce the LCR decree.

22 **SEC. 106. SATISFACTION OF WATER RIGHTS AND OTHER**
23 **BENEFITS.**

24 (a) NAVAJO NATION.—

1 (1) IN GENERAL.—Except as provided in the
2 settlement agreement, the benefits realized by the
3 Navajo Nation under the settlement agreement and
4 this Act shall be in complete and full satisfaction of
5 all claims of the Navajo Nation and the members of
6 the Navajo Nation, and the United States, acting as
7 trustee for the Navajo Nation and the members of
8 the Navajo Nation, for water rights, injury to water
9 rights, and injury to water quality, under Federal,
10 State, or other law with respect to Navajo land.

11 (2) SOURCE.—Any entitlement to water of the
12 Navajo Nation and the members of the Navajo Na-
13 tion, or the United States, acting as trustee for the
14 Navajo Nation and the members of the Navajo Na-
15 tion, for Navajo land shall be satisfied out of the
16 water resources and other benefits granted, con-
17 firmed, or recognized to or for the Navajo Nation,
18 and the United States, acting as trustee for the
19 Navajo Nation, by the settlement agreement, the
20 LCR decree, the Navajo Nation water delivery con-
21 tract, and this Act.

22 (3) EFFECT.—Notwithstanding paragraph (2),
23 nothing in the settlement agreement or this Act has
24 the effect of recognizing or establishing any right of

1 a member of the Navajo Nation to water on Navajo
2 land.

3 (b) HOPI TRIBE.—

4 (1) IN GENERAL.—Except as provided in the
5 settlement agreement, the benefits realized by the
6 Hopi Tribe under the settlement agreement and this
7 Act shall be in complete and full satisfaction of all
8 claims of the Hopi Tribe and the members of the
9 Hopi Tribe, and the United States, acting as trustee
10 for the Hopi Tribe and the members of the Hopi
11 Tribe, for water rights, injury to water rights, and
12 injury to water quality under Federal, State, or
13 other law with respect to Hopi land.

14 (2) SOURCE.—Any entitlement to water of the
15 Hopi Tribe and the members of the Hopi Tribe, or
16 the United States, acting as trustee for the Hopi
17 Tribe and the members of the Hopi Tribe, for Hopi
18 land shall be satisfied out of the water resources and
19 other benefits granted, confirmed, or recognized to
20 or for the Hopi Tribe, and the United States, acting
21 as trustee for the Hopi Tribe, by the settlement
22 agreement, the LCR decree, and this Act.

23 (3) EFFECT.—Notwithstanding paragraph (2),
24 nothing in the settlement agreement or this Act has

1 the effect of recognizing or establishing any right of
2 a member of the Hopi Tribe to water on Hopi land.

3 (c) ALLOTTEES WATER CLAIMS.—

4 (1) IN GENERAL.—Except as provided in the
5 settlement agreement, the benefits realized by
6 allottees under the settlement agreement and this
7 Act shall be in complete replacement of and substi-
8 tution for, and full satisfaction of, all claims of
9 allottees, and the United States, acting as trustee
10 for allottees, for water rights, injury to water rights,
11 and injury to water quality under Federal, State, or
12 other law with respect to allotments.

13 (2) SOURCE.—Except as provided in exhibit
14 4.7.3 of the settlement agreement, any entitlement
15 to water of allottees, or the United States, acting as
16 trustee for allottees, for allotments shall be satisfied
17 out of the water resources and other benefits grant-
18 ed, confirmed, or recognized to or for the Navajo
19 Nation, the Hopi Tribe, and the United States, act-
20 ing as trustee for the Navajo Nation, the Hopi
21 Tribe, and allottees, by the settlement agreement,
22 the LCR decree, and this Act.

23 (d) EXCEPTIONS.—Except as provided in section
24 105, nothing in this Act affects any right to water of any
25 member of the Navajo Nation, the Hopi Tribe, or any al-

1 lottee for land outside of Navajo land, Hopi land, or allot-
2 ments.

3 (e) NAVAJO-HOPI LAND DISPUTE SETTLEMENT ACT
4 OF 1996.—

5 (1) WATER RIGHTS.—Except as expressly pro-
6 vided in the settlement agreement, the water rights
7 of the Hopi Tribe on land acquired pursuant to the
8 Navajo-Hopi Land Dispute Settlement Act of 1996
9 (25 U.S.C. 640d note; Public Law 104–301), and
10 the rights of the Hopi Tribe to object to surface
11 water and groundwater uses on the basis of water
12 rights associated with that land, shall be governed
13 by that Act.

14 (2) AMENDMENT.—Section 12 of the Navajo-
15 Hopi Land Dispute Settlement Act of 1996 (25
16 U.S.C. 640d note; Public Law 104–301) is amend-
17 ed—

18 (A) in subsection (a)(1)(C), by striking
19 “beneficial use” and inserting “beneficial use of
20 surface water”; and

21 (B) by striking subsection (e) and insert-
22 ing the following:

23 “(e) PROHIBITION.—

24 “(1) IN GENERAL.—Subject to paragraph (2),
25 water rights for newly acquired trust land shall not

1 be used, leased, sold, or transported for use off of
2 that land or the other trust land of the Tribe, except
3 that the Tribe may agree with other persons having
4 junior water rights to subordinate the senior water
5 rights of the Tribe.

6 “(2) RESTRICTIONS.—

7 “(A) IN GENERAL.—Water rights for
8 newly acquired trust land shall only be used on
9 that land or other trust land of the Tribe that
10 is located within the same river basin tributary
11 as the main stream of the Colorado River.

12 “(B) TEMPORARY TRANSFER FOR USE
13 OFF-RESERVATION.—Notwithstanding any
14 other provision of statutory or common law or
15 subparagraph (A) and in accordance with sub-
16 paragraphs (C) through (J), on approval of the
17 Secretary, the Hopi Tribe may enter into a
18 service contract, lease, exchange, or other
19 agreement providing for the temporary delivery,
20 use, or transfer of not more than 10,000 acre-
21 feet per year of groundwater from newly ac-
22 quired trust land that is located within 20 miles
23 of the municipal boundaries of Winslow, Ari-
24 zona, but is not within the Protection Areas (as
25 that term is described in paragraph 3.1.119 of

1 the Navajo-Hopi Little Colorado River Water
2 Rights Settlement Agreement) for use at—

3 “(i) Hopi fee land that is located
4 within 5 miles of the municipal boundaries
5 of Winslow, Arizona; and

6 “(ii) the City of Winslow, Arizona, for
7 municipal use by the City of Winslow and
8 the residents of that city, with the consent
9 of the Hopi Tribe, as provided in para-
10 graph 5.3 and exhibit 5.3 of the Navajo-
11 Hopi Little Colorado River Water Rights
12 Settlement Agreement.

13 “(C) MAXIMUM TERM.—

14 “(i) IN GENERAL.—The maximum
15 term of any service contract, lease, ex-
16 change, or other agreement under subpara-
17 graph (B) (including all renewals of such
18 an agreement) shall not exceed 99 years in
19 duration.

20 “(ii) ALIENATION.—The Hopi Tribe
21 shall not permanently alienate any ground-
22 water transported off of newly acquired
23 trust land pursuant to subparagraph (B).

24 “(D) WEED AND DUST CONTROL.—The
25 Tribe shall maintain newly acquired trust land

1 from which groundwater is or will be trans-
2 ported pursuant to subparagraph (B) free of
3 noxious weeds and blowing dust that creates a
4 threat to health or safety consistent with sec-
5 tion 45-546 of the Arizona Revised Statutes.

6 “(E) DAMAGE TO SURROUNDING LAND OR
7 OTHER WATER USERS.—

8 “(i) DAMAGES.—Any transportation
9 of groundwater off of newly acquired trust
10 land pursuant to subsection (B) shall be
11 subject to payment of damages to the ex-
12 tent the groundwater withdrawals unrea-
13 sonably increase damage to surrounding
14 land or other water users from the con-
15 centration of wells.

16 “(ii) NO PRESUMPTION OF DAM-
17 AGE.—Neither injury to nor impairment of
18 the water supply of any landowner shall be
19 presumed from the fact of transportation
20 of groundwater off of newly acquired trust
21 land pursuant to subparagraph (B).

22 “(iii) MITIGATION.—In determining
23 whether there has been injury and the ex-
24 tent of any injury, the court shall consider
25 all acts of the person transporting ground-

1 water toward the mitigation of injury, in-
2 cluding the retirement of land from irriga-
3 tion, discontinuance of other preexisting
4 uses of groundwater, water conservation
5 techniques, and procurement of additional
6 sources of water that benefit the sub-basin
7 or landowners within the sub-basin.

8 “(iv) COURT FEES.—The court may
9 award reasonable attorney fees, expert wit-
10 ness expenses and fees, and court costs to
11 the prevailing party in litigation seeking
12 damages for transporting groundwater off
13 of newly acquired trust land pursuant to
14 subparagraph (B).

15 “(F) NO OBLIGATION.—The United States
16 (in any capacity) shall have no trust or other
17 obligation to monitor, administer, or account
18 for, in any manner, groundwater delivered pur-
19 suant to subparagraph (B).

20 “(G) LIABILITY.—The Secretary shall not
21 be liable to the Hopi Tribe, the City of Wins-
22 low, Arizona, or any other person for any loss
23 or other detriment resulting from an agreement
24 entered into pursuant to subparagraph (B).

25 “(H) APPLICABLE LAW.—

1 “(i) STATE LAW.—Any transportation
2 or use of groundwater off of the newly ac-
3 quired trust land pursuant subparagraph
4 (B) shall be subject to and consistent with
5 all laws (including regulations) of the State
6 that apply to the transportation and use of
7 water, including all applicable permitting
8 and reporting requirements.

9 “(ii) PURCHASES OR GRANTS OF
10 LANDS FROM INDIANS.—Section 2116 of
11 the Revised Statutes (25 U.S.C. 177) shall
12 not apply to any groundwater transported
13 off of newly acquired trust land pursuant
14 to subparagraph (B).

15 “(I) APPROVAL OF SECRETARY.—The Sec-
16 retary shall approve or disapprove any service
17 contract, lease, exchange, or other agreement
18 under subparagraph (B) submitted by the Hopi
19 Tribe for approval within a reasonable period of
20 time after submission, except that approval by
21 the Secretary shall not be required for any
22 groundwater lease under subparagraph (B) for
23 less than 10 acre-feet per year with a term of
24 less than 7 years, including renewals.

1 “(J) NO FORFEITURE OR ABANDON-
2 MENT.—The nonuse of groundwater of the
3 Hopi Tribe from the newly acquired trust land
4 pursuant to subparagraph (B) shall not result
5 in a forfeiture, abandonment, relinquishment,
6 or other loss of all or any part of applicable
7 rights.”.

8 **SEC. 107. AFTER-ACQUIRED TRUST LAND.**

9 (a) REQUIREMENT OF ACT OF CONGRESS.—Except
10 as provided in section 11 of Public Law 93–531 (25
11 U.S.C. 640d–10) and the Navajo-Hopi Land Dispute Set-
12 tlement Act of 1996 (25 U.S.C. 640d note; Public Law
13 104–301), the Navajo Nation or the Hopi Tribe may only
14 seek to have legal title to additional land in the State, lo-
15 cated outside the exterior boundaries of the land that is,
16 on the date of enactment of this Act, in reservation status
17 or held in trust for the benefit of the Navajo Nation or
18 the Hopi Tribe, taken into trust by the United States for
19 the benefit of the Navajo Nation or the Hopi Tribe, re-
20 spectively, pursuant to an Act of Congress enacted after
21 the date of enactment of this Act.

22 (b) WATER RIGHTS.—Any land taken into trust for
23 the benefit of the Navajo Nation or the Hopi Tribe after
24 the date of the enactment of this Act shall have only those
25 rights to water provided under the settlement agreement,

1 the Navajo-Hopi Land Dispute Settlement Act of 1996
2 (25 U.S.C. 640d note; Public Law 104–301), and this Act,
3 unless provided otherwise in a subsequent Act of Con-
4 gress, as provided in subsection (a).

5 (c) ACCEPTANCE OF LAND IN TRUST STATUS.—

6 (1) MANDATORY TRUST ACQUISITION.—Not-
7 withstanding subsections (a) and (b), if the Navajo
8 Nation or Hopi Tribe acquires legal fee title to land
9 that is located within the exterior boundaries of the
10 Navajo Reservation or the Hopi Reservation, respec-
11 tively, upon application by the Navajo Nation or the
12 Hopi Tribe to take the land into trust, the Secretary
13 shall accept the land into trust status for the benefit
14 of the Navajo Nation or Hopi Tribe in accordance
15 with applicable Federal law (including regulations).

16 (2) RESERVATION STATUS.—Land taken or
17 held in trust by the Secretary under paragraph (1)
18 shall be part of the Navajo Reservation or the Hopi
19 Reservation, respectively.

20 **SEC. 108. ENFORCEABILITY DATE.**

21 (a) LITTLE COLORADO RIVER AND GILA RIVER
22 WAIVERS.—The waivers and releases of claims described
23 in section 105 shall take effect and be fully enforceable,
24 and construction of the Navajo Groundwater Projects and
25 the Hopi Groundwater Project may begin, on the date on

1 which the Secretary publishes in the Federal Register a
2 statement of findings that—

3 (1) to the extent that the settlement agreement
4 conflicts with this Act, the settlement agreement has
5 been revised through an amendment to eliminate the
6 conflict and the revised settlement agreement has
7 been executed by the Secretary, the Navajo Nation,
8 the Hopi Tribe, the Governor of Arizona, and not
9 less than 19 other parties;

10 (2) the waivers and releases of claims described
11 in section 105 have been executed by the Navajo Na-
12 tion, the Hopi Tribe, and the United States;

13 (3) the State contributions described in sub-
14 sections (a)(2)(B)(iii) and (c)(2)(B)(ii) of section
15 104 have been made;

16 (4) the full amount described in section
17 104(a)(2)(A)(i), as adjusted by section 104(a)(2)(C),
18 has been deposited in the Navajo Groundwater
19 Projects Account;

20 (5) the full amount described in section
21 104(b)(2) has been deposited in the Navajo OM&R
22 Trust Account;

23 (6) the full amount described in section
24 104(c)(2)(A)(i), as adjusted by section 104(c)(2)(C),

1 has been deposited in the Hopi Groundwater Project
2 Account;

3 (7) the full amount described in section
4 104(d)(2) has been deposited in the Hopi OM&R
5 Trust Account;

6 (8) the full amount described in section
7 104(e)(2)(A), as adjusted by section 104(e)(2)(B),
8 has been deposited in the N-Aquifer Account and is
9 available for use to implement the N-Aquifer Man-
10 agement Plan;

11 (9) the full amount described in section
12 104(f)(2)(A), as adjusted by section 104(f)(2)(B),
13 has been deposited in the Pasture Canyon Springs
14 Protection Program Account and is available for use
15 to implement the Pasture Canyon Springs Protec-
16 tion Program;

17 (10) the judgments and decrees in the LCR ad-
18 judication and the Gila River adjudication have been
19 approved by the LCR adjudication court and the
20 Gila River adjudication court substantially in the
21 form of the judgments and decrees attached to the
22 settlement agreement as exhibits 3.1.70 and 3.1.49,
23 respectively;

24 (11) a law has been enacted by the State sub-
25 stantially in the form of a State implementing law

1 attached to the settlement agreement as exhibit
2 3.1.128 and the law remains effective;

3 (12) the provisions of section 45–544 of the Ar-
4 izona Revised Statutes restricting the transporting
5 of groundwater from the Little Colorado River Pla-
6 teau Groundwater Basin are in effect;

7 (13) the Secretary has completed a record of
8 decision approving construction of—

9 (A) the Navajo Groundwater Projects in a
10 configuration substantially similar to the con-
11 figuration described in section 103(a); and

12 (B) the Hopi Groundwater Project, in a
13 configuration substantially similar to the con-
14 figuration described in section 103(b); and

15 (14) the Navajo Nation has moved for the dis-
16 missal with prejudice of the first, second, third,
17 fourth, and fifth claims for relief contained in the
18 complaint for declaratory and injunctive relief filed
19 by the Navajo Nation on March 14, 2003, in the
20 United States District Court for the District of Ari-
21 zona, as part of the case styled The Navajo Nation
22 v. United States Department of the Interior (No.
23 CV–03–0507–PCT–PGR), and has moved for the
24 dismissal without prejudice of sixth claim for relief
25 contained in the complaint, substantially in the form

1 of the dismissal attached to the settlement agree-
2 ment as exhibit 11.9.

3 (b) FAILURE OF THE LITTLE COLORADO RIVER
4 WAIVERS.—

5 (1) IN GENERAL.—If the Secretary does not
6 publish in the Federal Register a statement of find-
7 ings under subsection (a) by October 31, 2022, this
8 Act is repealed and any amounts—

9 (A) appropriated under section 104, to-
10 gether with any investment earnings on those
11 amounts, less any amounts expended under
12 subsections (a)(9), (b)(9), and (c)(1) of section
13 103, shall revert immediately to the general
14 fund of the Treasury;

15 (B) transferred pursuant to subsections
16 (a)(2)(B)(i) and (c)(2)(B)(i) of section 104 to
17 the Navajo Groundwater Projects Account and
18 the Hopi Groundwater Project Account from
19 the Future Indian Water Settlement Sub-
20 account of the Lower Colorado River Basin De-
21 velopment Fund established pursuant to section
22 403(f)(2)(D)(vi) of the Colorado River Basin
23 Project Act (43 U.S.C. 1543(f)(2)(D)(vi)), to-
24 gether with any investment earnings on those
25 amounts, shall be returned immediately to the

1 Future Indian Water Settlement Subaccount of
2 the Lower Colorado River Basin Development
3 Fund;

4 (C) transferred pursuant to section
5 104(a)(2)(B)(ii) to the Navajo Groundwater
6 Projects Account from the Reclamation Water
7 Settlements Fund established by section 10501
8 of the Omnibus Public Land Management Act
9 of 2009 (43 U.S.C. 407), together with any in-
10 vestment earnings on those amounts, shall be
11 returned immediately to the Reclamation Water
12 Settlements Fund; and

13 (D) transferred pursuant to subsections
14 (a)(2)(B)(iii) and (c)(2)(B)(ii) of section 104 to
15 the Navajo Groundwater Projects Account and
16 the Hopi Groundwater Project Account, to-
17 gether with any investment earnings on those
18 amounts, shall be returned immediately to the
19 State.

20 (2) SEVERABILITY.—Notwithstanding para-
21 graph (1), if the Secretary does not publish in the
22 Federal Register a statement of findings under sub-
23 section (a) by October 31, 2022, the designation
24 under section 109(g) and the provisions of sections

1 205(a)(1), 205(a)(2)(B), 205(a)(3), 205(a)(4),
2 205(a)(5), and 206 shall remain in effect.

3 (c) RIGHT TO OFFSET.—

4 (1) NAVAJO NATION.—If the Secretary has not
5 published in the Federal Register the statement of
6 findings under subsection (a) by October 31, 2022,
7 the United States shall be entitled to offset any Fed-
8 eral amounts made available under subsections
9 (a)(9) and (c)(1) of section 103 that were used or
10 authorized for any use under those subsections
11 against any claim asserted by the Navajo Nation
12 against the United States described in section
13 105(a)(2)(A).

14 (2) HOPI TRIBE.—If the Secretary has not pub-
15 lished in the Federal Register the statement of find-
16 ing under subsection (a) by October 31, 2022, the
17 United States shall be entitled to offset any Federal
18 amounts made available under subsections (b)(9)
19 and (c)(1) of section 103 that were used or author-
20 ized for any use under those subsections against any
21 claim asserted by the Hopi Tribe against the United
22 States described in section 105(b)(2)(A).

23 **SEC. 109. ADMINISTRATION.**

24 (a) SOVEREIGN IMMUNITY.—If any party to the set-
25 tlement agreement brings an action in any court of the

1 United States or any State court relating only and directly
2 to the interpretation or enforcement of this Act or the set-
3 tlement agreement and names the United States, the Nav-
4 ajo Nation, or the Hopi Tribe as a party, or if any other
5 landowner or water user in the Gila River or LCR basins
6 in the State files a lawsuit relating only and directly to
7 the interpretation or enforcement of paragraph 11.0 of the
8 settlement agreement or section 105 of this Act, naming
9 the United States, or the Navajo Nation or the Hopi Tribe
10 as a party—

11 (1) the United States, the Navajo Nation, or
12 the Hopi Tribe may be joined in the action; and

13 (2) any claim by the United States, the Navajo
14 Nation, or the Hopi Tribe to sovereign immunity
15 from the action is waived, but only for the limited
16 and sole purpose of the interpretation or enforce-
17 ment of this Act or the settlement agreement.

18 (b) NO QUANTIFICATION OR EFFECT ON RIGHTS OF
19 OTHER INDIAN TRIBES OR THE UNITED STATES ON BE-
20 HALF OF OTHER INDIAN TRIBES.—

21 (1) IN GENERAL.—Except as provided in para-
22 graph 7.2 of the settlement agreement or in para-
23 graph (2), nothing in this Act—

24 (A) shall be construed to quantify or other-
25 wise affect the water rights, claims, or entitle-

1 ments to water of any Indian tribe, nation,
2 band, or community, including the San Juan
3 Southern Paiute Tribe, other than the Hopi
4 Tribe and the Navajo Nation; or

5 (B) shall affect the ability of the United
6 States to take action on behalf of any Indian
7 tribe, nation, band, or community, including the
8 San Juan Southern Paiute Tribe, other than
9 the Hopi Tribe, members of the Hopi Tribe,
10 allottees of the Hopi Tribe, the Navajo Nation,
11 members of the Navajo Nation, and allottees of
12 the Navajo Nation.

13 (c) ANTIDEFICIENCY.—

14 (1) IN GENERAL.—The expenditure or advance
15 of any money or the performance of any obligation
16 by the United States, in any capacity, under this Act
17 shall be contingent on the appropriation of funds.

18 (2) LIABILITY.—The United States shall not be
19 liable for the failure to carry out any obligation or
20 activity authorized under this Act (including any ob-
21 ligation or activity under this Act) if Congress does
22 not provide adequate appropriations expressly to
23 carry out the purposes of this Act.

24 (d) RECLAMATION REFORM ACT.—The Reclamation
25 Reform Act of 1982 (43 U.S.C. 390aa et seq.) and any

1 other acreage limitation or full-cost pricing provision of
 2 Federal law shall not apply to any person, entity, or tract
 3 of land solely on the basis of—

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

8 (e) DISMISSAL OF PENDING NAVAJO NATION COURT
 9 CASE.—Not later than 30 days after the date on which
 10 the settlement agreement is executed by the United
 11 States, the Navajo Nation shall execute and file a stipula-
 12 tion and proposed order, substantially in the form at-
 13 tached to the settlement agreement as exhibit 11.9 for—

14 (1) the dismissal with prejudice of the first, sec-
 15 ond, third, fourth, and fifth claims for relief con-
 16 tained in the complaint for declaratory and injunc-
 17 tive relief in the case styled Navajo Nation v. United
 18 States Department of the Interior, No. CV-03-
 19 0507-PCT-PGR (D. Ariz. March 14, 2003); and

20 (2) the dismissal without prejudice of the sixth
 21 claim for relief contained in the complaint described
 22 in paragraph (1).

23 (f) TOLLING OF STATUTES OF LIMITATIONS.—Any
 24 statute of limitations that may otherwise apply to, limit,

1 or bar the sixth claim for relief described in subsection
2 (e)(2) shall be tolled as follows:

3 (1) If a settlement of the claims by the Navajo
4 Nation to Lower Colorado River water has been ap-
5 proved by an Act of Congress enacted on or before
6 December 15, 2022, then any statute of limitations
7 that may otherwise apply to, limit, or bar the sixth
8 claim for relief shall be tolled until the Navajo Na-
9 tion waives the claims to Lower Colorado River
10 water under the Act of Congress.

11 (2) If a settlement of the claims of the Navajo
12 Nation to Lower Colorado River water has not been
13 approved by An act of Congress on or before Decem-
14 ber 15, 2022, then any statute of limitations that
15 may otherwise apply to, limit, or bar the sixth claim
16 for relief shall be tolled until December 15, 2022.

17 (g) PETE SHUMWAY DAM & RESERVOIR.—

18 (1) IN GENERAL.—The facility known as
19 Schoens Lake, Schoens Dam, and Schoens Res-
20 ervoir, located on Show Low Creek in Navajo Coun-
21 ty, Arizona shall be known and designated as the
22 “Pete Shumway Dam and Reservoir”.

23 (2) REFERENCES.—Any reference in a law,
24 map, regulation, document, paper, or other record of
25 the United States to the facility described in para-

1 graph (1) shall be deemed to be a reference to the
2 “Pete Shumway Dam and Reservoir”.

3 **SEC. 110. ENVIRONMENTAL COMPLIANCE.**

4 (a) ENVIRONMENTAL COMPLIANCE.—In imple-
5 menting the settlement agreement and this Act, the Sec-
6 retary shall comply with all applicable Federal environ-
7 mental laws and regulations, including the National Envi-
8 ronmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)
9 and the Endangered Species Act of 1973 (16 U.S.C. 1531
10 et seq.).

11 (b) EXECUTION OF THE SETTLEMENT AGREE-
12 MENT.—Execution of the settlement agreement by the
13 Secretary as provided in this Act shall not constitute a
14 major Federal action under section 102 of the National
15 Environmental Policy Act of 1969 (42 U.S.C. 4332).

16 (c) LEAD AGENCY.—The Commissioner of the Bu-
17 reau of Reclamation shall be primarily responsible to en-
18 sure environmental compliance in carrying out this Act.

19 (d) NO EFFECT ON ENFORCEMENT OF ENVIRON-
20 MENTAL LAWS.—Nothing in this Act precludes the United
21 States, the Navajo Nation, or the Hopi Tribe, when dele-
22 gated regulatory authority, from enforcing Federal envi-
23 ronmental laws, including—

24 (1) the Comprehensive Environmental Re-
25 sponse, Compensation, and Liability Act of 1980 (42

1 U.S.C. 9601 et seq.), including claims for damages
2 for harm to natural resources;

3 (2) the Safe Drinking Water Act (42 U.S.C.
4 300f et seq.);

5 (3) the Federal Water Pollution Control Act
6 (33 U.S.C. 1251 et seq.);

7 (4) the Solid Waste Disposal Act (42 U.S.C.
8 6901 et seq.); or

9 (5) any regulation implementing 1 or more of
10 those Acts.

11 **TITLE II—CENTRAL ARIZONA**
12 **PROJECT WATER**

13 **SEC. 201. CONDITIONS FOR REALLOCATION OF CAP NIA**
14 **PRIORITY WATER.**

15 (a) REALLOCATION.—

16 (1) IN GENERAL.—The Secretary shall neither
17 reallocate any CAP NIA priority water to the Nav-
18 ajo Nation under section 202(a) nor enter into a
19 contract with the Navajo Nation for the delivery of
20 that water under section 202(c) unless and until the
21 Secretary has published in the Federal Register the
22 statement of findings referred to in subsection (b)
23 that all of the conditions described in paragraph (2)
24 have been satisfied.

1 (2) CONDITIONS.—The conditions described in
2 this paragraph are that—

3 (A) the LCR enforceability date has oc-
4 curred;

5 (B) the Navajo Nation and the Navajo
6 project lessees, with the approval of the Sec-
7 retary, have executed an amendment to the
8 Navajo Project Lease extending the term of the
9 Navajo Project Lease through December 23,
10 2044;

11 (C) the Secretary, with the consent of the
12 Navajo Nation, has issued or renewed to the
13 Navajo project lessees, in a form acceptable to
14 the Navajo project lessees, grants of Federal
15 rights-of-way and easements pursuant to the
16 first section of the Act of February 5, 1948 (25
17 U.S.C. 323), for—

18 (i) the land subject to the Navajo
19 Project Lease and for the railroad-granted
20 land, the terms of which shall extend
21 through the term of the Navajo Project
22 Lease, as amended; and

23 (ii) the power transmission lines over
24 and across land on the Navajo Reserva-
25 tion, the terms of which shall extend

1 through the term of the Navajo Project
2 Lease, as amended, described as—

3 (I) the grant entitled “Grant of
4 Easement or Right of Way from the
5 Bureau of Indian Affairs, Window
6 Rock, Arizona, Grantor”, dated Feb-
7 ruary 1971, for the construction, op-
8 eration, maintenance, replacement,
9 and removal of the Navajo Project
10 Southern Transmission System, with
11 Map Nos. INH-96, sheets 1-4,
12 B29036, dated May 28, 1970, marked
13 as Exhibit B to that grant, and the
14 complete centerline description shown
15 on Exhibit A of that grant;

16 (II) the grant entitled “Grant of
17 Easement and Right-of-Way by the
18 United States of America, Bureau of
19 Indian Affairs, Department of the In-
20 terior, Window Rock, Arizona, Grant-
21 or”, dated September 8, 1988, includ-
22 ing amendments to that grant, for the
23 construction, operation, and mainte-
24 nance of the Navajo-McCullough
25 Transmission Line, as shown on the

1 Map marked Exhibit B to that grant
2 and more particularly described in the
3 right-of-way description marked Ex-
4 hibit A to that grant; and

5 (III) a right-of-way or permit for
6 the Navajo Generating Station/West-
7 ern Area Power Administrative
8 Intertie Transmission System, run-
9 ning from the Navajo Generating Sta-
10 tion switchyard approximately 200
11 feet to the Western Area Power Ad-
12 ministration transmission line;

13 (D) Peabody has leased coal in sufficient
14 quantity and quality from the Navajo Nation,
15 or the Navajo Nation and the Hopi Tribe, for
16 the Navajo Generating Station to operate
17 through the term of the Navajo Project Lease,
18 as amended;

19 (E) the surface coal mining permit, or a
20 revision of that permit, has been issued by the
21 Secretary, acting through the Office of Surface
22 Mining, Reclamation and Enforcement, to Pea-
23 body authorizing the operation of the Kayenta
24 mine and the mining of the quantities of coal

1 referred to in subparagraph (D) through the
2 term of the Navajo Project Lease, as amended;

3 (F) Peabody and the Navajo project les-
4 sees have entered into a coal supply contract for
5 the purchase of the quantities and quality of
6 coal referred to in subparagraph (D) that ex-
7 tends through the term of the Navajo Project
8 Lease, as amended;

9 (G) the term of the contract for water
10 service among the Navajo project lessees and
11 the Bureau of Reclamation for the consumptive
12 use at the Navajo Generating Station of up to
13 34,100 afy of upper basin water has been ex-
14 tended through the term of the Navajo Project
15 Lease, as amended; and

16 (H) the Secretary, acting through the Di-
17 rector of the National Park Service, has re-
18 issued or extended the right-of-way permit No.
19 RW GLCA-06-002, issued on August 30,
20 2006, through the term of the Navajo Project
21 Lease, as amended.

22 (b) PUBLICATION OF STATEMENT OF FINDINGS.—
23 Upon satisfaction of all of the conditions described in sub-
24 section (a)(2), the Secretary shall publish in the Federal

1 Register a statement of findings that each of the condi-
2 tions has been met.

3 (c) **TIMING OF REALLOCATION.**—Upon publication in
4 the Federal Register of the statement of findings referred
5 to in subsection (b), the Secretary shall reallocate to the
6 Navajo Nation the CAP NIA priority water in accordance
7 with section 202(a) and enter into a contract with the
8 Navajo Nation for the delivery of that water in accordance
9 with section 202(c), through the Navajo-Gallup water sup-
10 ply project in accordance with this Act.

11 (d) **FAILURE TO PUBLISH NOTICE.**—If the Secretary
12 fails to publish a statement of findings in the Federal Reg-
13 ister under subsection (b) by October 31, 2022—

14 (1) the authority provided under this section
15 and section 202 shall terminate; and

16 (2) this section and section 202, 203, 204,
17 205(a)(2)(A), and 205(b) shall be of no further
18 force or effect.

19 **SEC. 202. REALLOCATION OF CAP NIA PRIORITY WATER,**
20 **FIRMING, WATER DELIVERY CONTRACT.**

21 (a) **REALLOCATION TO THE NAVAJO NATION.**—

22 (1) **IN GENERAL.**—On the date on which the
23 Secretary publishes in the Federal Register the
24 statement of findings under section 201(b), the Sec-

1 retary shall reallocate to the Navajo Nation the Navajo
2 Nation CAP water.

3 (2) AVAILABILITY AND USE.—The water reallocated
4 under paragraph (1) shall be available for diversion
5 and use from the San Juan River pursuant to and
6 consistent with section 10603(b)(2)(D) of the
7 Omnibus Public Land Management Act of 2009
8 (Public Law 111–11; 123 Stat. 1383) (as amended
9 by section 205).

10 (b) FIRMING.—

11 (1) NAVAJO NATION CAP WATER.—The Navajo
12 Nation CAP water shall be firmed as follows:

13 (A) In accordance with section
14 105(b)(1)(B) of the Arizona Water Settlements
15 Act (Public Law 108–451; 118 Stat. 3492), the
16 Secretary shall firm 50 percent of the Navajo
17 Nation CAP water to the equivalent of CAP
18 M&I priority water for the period of 100 years
19 beginning on January 1, 2008.

20 (B) In accordance with section
21 105(b)(2)(B) of the Arizona Water Settlements
22 Act (Public Law 108–451; 118 Stat. 3492), the
23 State shall firm 50 percent of the Navajo Na-
24 tion CAP water to the equivalent of CAP M&I

1 priority water for the period of 100 years begin-
2 ning on January 1, 2008.

3 (2) ADDITIONAL FIRING.—The Navajo Nation
4 may, at the expense of the Navajo Nation, take ad-
5 ditional actions to firm or supplement the Navajo
6 Nation CAP water, including by entering into agree-
7 ments for that purpose with the Central Arizona
8 Water Conservation District, the Arizona Water
9 Banking Authority, or any other lawful authority, in
10 accordance with State law.

11 (c) NAVAJO NATION WATER DELIVERY CON-
12 TRACT.—

13 (1) CONTRACT.—

14 (A) IN GENERAL.—The Secretary shall
15 enter into the Navajo Nation water delivery
16 contract, in accordance with the settlement
17 agreement, which shall meet, at a minimum,
18 the requirements described in subparagraph
19 (B).

20 (B) REQUIREMENTS.—The requirements
21 described in this subparagraph are as follows:

22 (i) AUTHORIZATION.—The contract
23 entered into under subparagraph (A) shall
24 be for permanent service (as that term is
25 used in section 5 of the Boulder Canyon

1 Project Act (43 U.S.C. 617d)), and shall
2 be without limit as to term.

3 (ii) NAVAJO NATION CAP WATER.—

4 (I) IN GENERAL.—The Navajo
5 Nation CAP water may be delivered
6 through the Navajo-Gallup water sup-
7 ply project for use in the State.

8 (II) METHOD OF DELIVERY.—

9 Subject to the physical availability of
10 water from the San Juan River and to
11 the rights of the Navajo Nation to use
12 that water, deliveries under this
13 clause shall be effected by the diver-
14 sion and use of water from the San
15 Juan River pursuant to section 10603
16 of the Omnibus Public Land Manage-
17 ment Act of 2009 (Public Law 111–
18 11; 123 Stat. 1382) (as amended by
19 section 205).

20 (iii) CONTRACTUAL DELIVERY.—The
21 Secretary shall deliver the Navajo Nation
22 CAP water to the Navajo Nation in ac-
23 cordance with the terms and conditions of
24 the Navajo Nation water delivery contract.

1 (iv) CURTAILMENT.—Except to the
2 extent that the Navajo Nation CAP water
3 is firmed by the United States and the
4 State under subsection (b)(1) or is other-
5 wise firmed by the Navajo Nation, deliv-
6 eries of the Navajo Nation CAP water
7 shall be subject to curtailment in that—

8 (I) deliveries of the Navajo Na-
9 tion CAP water effected by the diver-
10 sion of water from the San Juan
11 River shall be curtailed during short-
12 ages of CAP NIA priority water to
13 the same extent as other CAP NIA
14 priority water supplies; and

15 (II) the extent of that curtail-
16 ment shall be determined in accord-
17 ance with clause (xvi).

18 (v) LEASES AND EXCHANGES OF NAV-
19 AJO NATION CAP WATER.—On and after
20 the date on which the Navajo Nation water
21 delivery contract becomes effective, the
22 Navajo Nation may, with the approval of
23 the Secretary, enter into contracts to lease,
24 options to lease, exchange, or options to
25 exchange the Navajo Nation CAP water

1 within Apache, Cochise, Coconino, Gila,
2 Graham, Maricopa, Navajo, Pima, Pinal,
3 Santa Cruz, and Yavapai Counties, Ari-
4 zona, providing for the temporary delivery
5 to other persons of any portion of Navajo
6 Nation CAP water.

7 (vi) TERM OF LEASES AND EX-
8 CHANGES.—

9 (I) LEASING.—Contracts to lease
10 and options to lease under clause (v)
11 shall be for a term not to exceed 100
12 years.

13 (II) EXCHANGING.—Contracts to
14 exchange or options to exchange
15 under clause (v) shall be for the term
16 provided for in each such contract or
17 option.

18 (III) RENEGOTIATION.—The
19 Navajo Nation may, with the approval
20 of the Secretary, renegotiate any lease
21 described in clause (v), at any time
22 during the term of the lease, if the
23 term of the renegotiated lease does
24 not exceed 100 years.

1 (vii) PROHIBITION ON PERMANENT
2 ALIENATION.—No Navajo Nation CAP
3 water may be permanently alienated.

4 (viii) NO FIRING OF LEASED
5 WATER.—The firming obligations described
6 in subsection (b)(1) shall not apply to any
7 Navajo Nation CAP water leased by the
8 Navajo Nation to other persons.

9 (ix) ENTITLEMENT TO LEASE AND
10 EXCHANGE FUNDS.—

11 (I) IN GENERAL.—Only the Nav-
12 ajo Nation, and not the United States
13 in any capacity, shall be entitled to all
14 consideration due to the Navajo Na-
15 tion under any contracts to lease, op-
16 tions to lease, contracts to exchange,
17 or options to exchange the Navajo Na-
18 tion CAP water entered into by the
19 Navajo Nation.

20 (II) OBLIGATIONS OF UNITED
21 STATES.—The United States in any
22 capacity shall have no trust or other
23 obligation to monitor, administer, or
24 account for, in any manner, any funds
25 received by the Navajo Nation as con-

1 sideration under any contracts to
2 lease, options to lease, contracts ex-
3 change, or options to exchange the
4 Navajo Nation CAP water entered
5 into by the Navajo Nation, except in
6 a case in which the Navajo Nation de-
7 posits the proceeds of any such lease,
8 option to lease, exchange, or option to
9 exchange into an account held in trust
10 for the Navajo Nation by the United
11 States.

12 (x) WATER USE ON NAVAJO LAND.—

13 (I) IN GENERAL.—Except as au-
14 thorized by clause (v), the Navajo Na-
15 tion CAP water may only be used
16 on—

17 (aa) the Navajo Reservation;

18 (bb) land held in trust by
19 the United States for the benefit
20 of the Navajo Nation; or

21 (cc) land owned by the Nav-
22 ajo Nation in fee that is located
23 within the State.

24 (II) STORAGE.—The Navajo Na-
25 tion may store the Navajo Nation

1 CAP water at underground storage
2 facilities or groundwater savings fa-
3 cilities located within the CAP system
4 service area, consisting of Pima,
5 Pinal, and Maricopa Counties, in ac-
6 cordance with State law.

7 (III) ASSIGNMENT.—The Navajo
8 Nation may assign any long-term
9 storage credits accrued as a result of
10 storage under subclause (II) in ac-
11 cordance with State law.

12 (xi) NO USE OUTSIDE ARIZONA.—

13 (I) IN GENERAL.—No Navajo
14 Nation CAP water may be used,
15 leased, exchanged, forborne, or other-
16 wise transferred by the Navajo Nation
17 for use directly or indirectly outside of
18 the State.

19 (II) AGREEMENTS.—Nothing in
20 this Act or the settlement agreement
21 limits the right of the Navajo Nation
22 to enter into any agreement with the
23 Arizona Water Banking Authority, or
24 any successor agency or entity, in ac-
25 cordance with State law.

1 (xii) CAP FIXED OM&R CHARGES.—

2 (I) IN GENERAL.—The CAP op-
3 erating agency shall be paid the CAP
4 fixed OM&R charges associated with
5 the delivery of all the Navajo Nation
6 CAP water.

7 (II) PAYMENT OF CHARGES.—
8 Except as provided in clause (xiii), all
9 CAP fixed OM&R charges associated
10 with the delivery of the Navajo Nation
11 CAP water to the Navajo Nation shall
12 be paid by—

13 (aa) the Secretary, pursuant
14 to section 403(f)(2)(A) of the
15 Colorado River Basin Project Act
16 (43 U.S.C. 1543(f)(2)(A)), as
17 long as funds for that payment
18 are available in the Lower Colo-
19 rado River Basin Development
20 Fund; and

21 (bb) if those funds become
22 unavailable, the Navajo Nation.

23 (xiii) LESSEE RESPONSIBILITY FOR
24 CHARGES.—

1 (I) IN GENERAL.—Any lease or
2 option to lease providing for the tem-
3 porary delivery to other persons of
4 any Navajo Nation CAP water shall
5 require the lessee to pay the CAP op-
6 erating agency all CAP fixed OM&R
7 charges and all CAP pumping energy
8 charges associated with the delivery of
9 the leased water.

10 (II) NO RESPONSIBILITY FOR
11 PAYMENT.—Neither the Navajo Na-
12 tion nor the United States in any ca-
13 pacity shall be responsible for the pay-
14 ment of any charges associated with
15 the delivery of the Navajo Nation
16 CAP water leased to other persons.

17 (xiv) ADVANCE PAYMENT.—No Nav-
18 ajo Nation CAP water shall be delivered
19 unless the CAP fixed OM&R charges and
20 the CAP pumping energy charges associ-
21 ated with the delivery of that water have
22 been paid in advance.

23 (xv) CALCULATION.—The charges for
24 delivery of the Navajo Nation CAP water
25 pursuant to the Navajo Nation water deliv-

1 ery contract shall be calculated in accord-
2 ance with the CAP repayment stipulation.

3 (xvi) SHORTAGES OF NAVAJO NATION
4 CAP WATER.—If, for any year, the avail-
5 able CAP supply is insufficient to meet all
6 demands under CAP contracts for the de-
7 livery of CAP NIA priority water, the Sec-
8 retary and the CAP operating agency shall
9 prorate the available CAP NIA priority
10 water among the CAP contractors holding
11 contractual entitlements to CAP NIA pri-
12 ority water on the basis of the quantity of
13 CAP NIA priority water used by each such
14 CAP contractor in the last year for which
15 the available CAP supply was sufficient to
16 fill all orders for CAP NIA priority water.

17 (xvii) CAP REPAYMENT.—For purpose
18 of determining the allocation and repay-
19 ment of costs of any stages of the CAP
20 constructed after November 21, 2007, the
21 costs associated with the delivery of the
22 Navajo Nation CAP water, regardless of
23 whether the Navajo Nation CAP water is
24 delivered for use by the Navajo Nation or
25 in accordance with any lease, option to

1 lease, exchange, or option to exchange pro-
 2 viding for the delivery to other persons of
 3 the Navajo Nation CAP water, shall be—

4 (I) nonreimbursable; and

5 (II) excluded from the repayment
 6 obligation of the Central Arizona
 7 Water Conservation District.

8 (xviii) NONREIMBURSABLE CAP CON-
 9 STRUCTION COSTS.—

10 (I) IN GENERAL.—With respect
 11 to the costs associated with the con-
 12 struction of the CAP system allocable
 13 to the Navajo Nation—

14 (aa) the costs shall be non-
 15 reimbursable; and

16 (bb) the Navajo Nation shall
 17 have no repayment obligation for
 18 the costs.

19 (II) CAPITAL CHARGES.—No
 20 CAP water service capital charges
 21 shall be due or payable for the Navajo
 22 Nation CAP water, regardless of
 23 whether the water is delivered for use
 24 by the Navajo Nation or is delivered
 25 under any lease, option to lease, ex-

1 change, or option to exchange the
 2 Navajo Nation CAP water entered
 3 into by the Navajo Nation.

4 **SEC. 203. COLORADO RIVER ACCOUNTING.**

5 (a) ACCOUNTING FOR THE TYPE OF WATER DELIV-
 6 ERED.—All deliveries of the Navajo Nation CAP water ef-
 7 fected by the diversion of water from the San Juan River
 8 shall be accounted for as deliveries of CAP water.

9 (b) ACCOUNTING FOR AS LOWER BASIN USE IN ARI-
 10 ZONA REGARDLESS OF PLACE OF USE OR POINT OF DI-
 11 VERSION.—All Navajo Nation CAP water delivered to and
 12 consumptively used by the Navajo Nation or lessees of the
 13 Navajo Nation pursuant to the settlement agreement and
 14 this Act shall be—

15 (1) accounted for as if the use had occurred in
 16 the lower basin, regardless of the point of diversion
 17 or place of use;

18 (2) credited as water reaching Lee Ferry pursu-
 19 ant to articles III(c) and III(d) of the Colorado
 20 River Compact;

21 (3) charged against the consumptive use appor-
 22 tionment made to the lower basin by article III(a)
 23 of the Colorado River Compact; and

24 (4) accounted for as part of and charged
 25 against the 2,800,000 afy of Colorado River water

1 apportioned to Arizona in article II(B)(1) of the de-
2 cree.

3 (c) LIMITATIONS.—

4 (1) IN GENERAL.—Notwithstanding subsections
5 (a) and (b) and subject to paragraphs (2) and (3),
6 no water diverted by the Navajo-Gallup water supply
7 project shall be accounted for as provided in sub-
8 sections (a) and (b) until such time as the Secretary
9 has developed and, as necessary, modified, in con-
10 sultation with the Upper Colorado River Commission
11 and the representatives of Governors on Colorado
12 River Operations from each of the respective State
13 signatories to the Colorado River Compact, all oper-
14 ational and decisional criteria, policies, contracts,
15 guidelines, or other documents that control the oper-
16 ations of the Colorado River system reservoirs and
17 diversion works, so as to adjust, account for, and
18 offset the diversion of water apportioned to the
19 State, pursuant to the Boulder Canyon Project Act
20 (43 U.S.C. 617 et seq.), from a point of diversion
21 on the San Juan River in New Mexico.

22 (2) MODIFICATIONS.—All modifications under
23 paragraph (1) shall be—

24 (A) consistent with section 10603(c)(2)(A)
25 of the Omnibus Public Land Management Act

1 of 2009 (Public Law 111–11; 123 Stat. 1384)
2 and this Act; and

3 (B) applicable only for the duration of any
4 diversion described in paragraph (1) pursuant
5 to section 10603(c)(2)(B) of the Omnibus Pub-
6 lic Land Management Act of 2009 (Public Law
7 111–11; 123 Stat. 1384) and this Act.

8 (3) ADMINISTRATION.—Article II(B) of the de-
9 cree shall be administered so that diversions from
10 the mainstream of the Colorado River for the Cen-
11 tral Arizona Project, as served under existing con-
12 tracts with the United States by diversion works
13 constructed before the date of enactment of this Act,
14 shall be limited and reduced to offset any diversions
15 of CAP water made pursuant to section
16 10603(c)(2)(B) of the Omnibus Public Land Man-
17 agement Act of 2009 (Public Law 111–11; 123 Stat.
18 1384) and this Act.

19 (4) EFFECT OF SUBSECTION.—This subsection
20 shall not—

21 (A) affect, in any manner, the quantity of
22 water apportioned to the State pursuant to the
23 Boulder Canyon Project Act (43 U.S.C. 617 et
24 seq.) and the decree; or

1 (B) amend any provision of the decree or
2 the Colorado River Basin Project Act (43
3 U.S.C. 1501 et seq.).

4 **SEC. 204. NO MODIFICATION OF EXISTING LAWS.**

5 (a) NO MODIFICATION OR PREEMPTION OF OTHER
6 LAWS.—Unless expressly provided in this Act, nothing in
7 this Act modifies, conflicts with, preempts, or otherwise
8 affects—

9 (1) the Boulder Canyon Project Act (43 U.S.C.
10 617 et seq.);

11 (2) the Boulder Canyon Project Adjustment Act
12 (43 U.S.C. 618 et seq.);

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

16 (4) the Colorado River Basin Project Act (43
17 U.S.C. 1501 et seq.);

18 (5) the Treaty between the United States of
19 America and Mexico respecting utilization of waters
20 of the Colorado and Tijuana Rivers and of the Rio
21 Grande, signed at Washington on February 3, 1944
22 (59 Stat. 1219);

23 (6) the Colorado River Compact;

24 (7) the Upper Colorado River Basin Compact;

25 or

1 (8) the Omnibus Public Land Management Act
2 of 2009 (Public Law 111–11; 123 Stat. 991).

3 (b) NO PRECEDENT.—Nothing in this Act—

4 (1) authorizes or establishes a precedent for
5 any type of transfer of Colorado River system water
6 between the upper basin and the lower basin; or

7 (2) expands the authority of the Secretary in
8 the upper basin.

9 (c) PRESERVATION OF EXISTING RIGHTS.—

10 (1) IN GENERAL.—Rights to the consumptive
11 use of water available to the upper basin from the
12 Colorado River system under the Colorado River
13 Compact and the Upper Colorado River Basin Com-
14 pact shall not be reduced or prejudiced by any use
15 of water pursuant to section 10603(c) of the Omni-
16 bus Public Land Management Act of 2009 (Public
17 Law 111–11; 123 Stat. 1384) or this Act.

18 (2) NO EFFECT ON DUTIES AND POWERS.—

19 Nothing in this Act impairs, conflicts with, or other-
20 wise changes the duties and powers of the Upper
21 Colorado River Commission.

22 (d) UNIQUE SITUATION.—Diversions through the
23 Navajo-Gallup water supply project consistent with this
24 Act address critical tribal and non-Indian water supply
25 needs under unique circumstances, including—

1 (1) the intent to benefit Indian tribes in the
2 United States;

3 (2) the location of the Navajo Nation in both
4 the upper basin and the lower basin;

5 (3) the intent to address critical Indian and
6 non-Indian water needs in the State; and

7 (4) the lack of other reasonable options avail-
8 able for developing a firm, sustainable supply of mu-
9 nicipal water for the Navajo Nation in the State.

10 (e) EFFICIENT USE.—The diversions and uses au-
11 thorized for the Navajo-Gallup water supply project under
12 this Act represent unique and efficient uses of Colorado
13 River apportionments in a manner that Congress has de-
14 termined would be consistent with the obligations of the
15 United States to the Navajo Nation.

16 **SEC. 205. AMENDMENTS.**

17 (a) AMENDMENTS TO THE OMNIBUS PUBLIC LAND
18 MANAGEMENT ACT OF 2009.—

19 (1) DEFINITIONS.—Section 10302 of the Omni-
20 bus Public Land Management Act of 2009 (43
21 U.S.C. 407 note; Public Law 111–11) is amended—

22 (A) in paragraph (2), by striking
23 “Arrellano” and inserting “Arellano”; and

24 (B) in paragraph (27), by striking “75–
25 185” and inserting “75–184”.

1 (2) DELIVERY AND USE OF NAVAJO-GALLUP
2 WATER SUPPLY PROJECT WATER.—Section 10603(c)
3 of the Omnibus Public Land Management Act of
4 2009 (Public Law 111–11; 123 Stat. 1384) is
5 amended—

6 (A) in paragraph (1)(A), by striking
7 “Lower Basin and” and inserting “Lower
8 Basin or”; and

9 (B) in paragraph (2)(A)—

10 (i) in clause (i), by striking “Article
11 III(c)” and inserting “Articles III(c)”; and

12 (ii) in clause (ii)(II), by striking “Ar-
13 ticle III(c)” and inserting “Articles III(c)”.

14 (3) PROJECT CONTRACTS.—Section 10604(f)(1)
15 of the Omnibus Public Land Management Act of
16 2009 (Public Law 111–11; 123 Stat. 1391) is
17 amended by inserting “Project” before “water.”

18 (4) AUTHORIZATION OF APPROPRIATIONS.—
19 Section 10609 of the Omnibus Public Land Manage-
20 ment Act of 2009 (Public Law 111–11; 123 Stat.
21 1395) is amended—

22 (A) in paragraphs (1) and (2) of sub-
23 section (b), by striking “construction or reha-
24 bilitation” each place it appears and inserting

1 “planning, design, construction, rehabilita-
2 tion,”;

3 (B) in subsection (e)(1), by striking “2
4 percent” and inserting “4 percent”; and

5 (C) in subsection (f)(1), by striking “4
6 percent” and inserting “2 percent”.

7 (5) AGREEMENT.—Section 10701(e) of the Om-
8 nibus Public Land Management Act of 2009 (Public
9 Law 111–11; 123 Stat. 1400) is amended in para-
10 graphs (2)(A), (2)(B), and (3)(A) by striking “and
11 Contract” each place it appears.

12 (b) AMENDMENTS TO THE ARIZONA WATER SETTLE-
13 MENTS ACT OF 2004.—Section 104(a)(1)(B)(ii) of the Ar-
14 izona Water Settlements Act of 2004 (Public Law 108–
15 451; 118 Stat. 3487) is amended in the first sentence by
16 striking “claims to water in Arizona” and inserting
17 “claims to the Little Colorado River in Arizona.”

18 (c) EFFECTIVE DATES.—The amendments made by
19 subsections (a)(2)(A) and (b) take effect on the date of
20 publication in the Federal Register of the statement of
21 findings described in section 201(b).

1 **SEC. 206. RETENTION OF LOWER COLORADO RIVER WATER**
2 **FOR FUTURE LOWER COLORADO RIVER SET-**
3 **TLEMENT.**

4 (a) **RETENTION OF CAP NIA PRIORITY WATER.**—
5 Notwithstanding section 104(a)(1)(B)(i) of the Arizona
6 Water Settlements Act (Public Law 108–451; 118 Stat.
7 3487), the Secretary shall retain until January 1, 2031—

8 (1) 22,589 afy of the CAP NIA priority water
9 referred to in section 104(a)(1)(A)(iii) of that Act
10 (Public Law 108–451; 118 Stat. 3487) for use in a
11 future settlement of the claims of the Navajo Nation
12 to Lower Colorado River water; and

13 (2) 1,000 afy of the CAP NIA priority water
14 referred to in section 104(a)(1)(A)(iii) of that Act
15 (Public Law 108–451; 118 Stat. 3487) for use in a
16 future settlement of the claims of the Hopi Tribe to
17 Lower Colorado River water.

18 (b) **RETENTION OF FOURTH PRIORITY MAINSTREAM**
19 **COLORADO RIVER WATER.**—The Secretary shall retain—

20 (1) 2,000 afy of the 3,500 afy of uncontracted
21 Arizona fourth priority Colorado River water re-
22 ferred to in section 11.3 of the Arizona Water Set-
23 tlement Agreement, among the Director of the Ari-
24 zona Department of Water Resources, the Central
25 Arizona Water Conservation District, and the Sec-
26 retary, dated August 16, 2004, for use in a future

1 settlement of the claims of the Navajo Nation to
2 Lower Colorado River water; and

3 (2) 1,500 afy of the 3,500 afy of uncontracted
4 Arizona fourth priority Colorado River water re-
5 ferred to in subparagraph 11.3 of the Arizona Water
6 Settlement Agreement, among the Director of the
7 Arizona Department of Water Resources, the Cen-
8 tral Arizona Water Conservation District, and the
9 Secretary, dated August 16, 2004, for use in a fu-
10 ture settlement of the claims of the Hopi Tribe to
11 Lower Colorado River water.

12 (c) CONDITIONS.—

13 (1) NAVAJO NATION.—If Congress does not ap-
14 prove a settlement of the claims of the Navajo Na-
15 tion to Lower Colorado River water by January 1,
16 2031, the 22,589 afy of CAP NIA priority water re-
17 ferred to in subsection (a)(1) shall be available to
18 the Secretary under section 104(a)(1)(B)(i) of the
19 Arizona Water Settlements Act (Public Law 108–
20 451; 118 Stat. 3487).

21 (2) HOPI TRIBE.—If Congress does not approve
22 a settlement of the claims of the Hopi Tribe to
23 Lower Colorado River water by January 1, 2031,
24 the 1,000 afy of CAP NIA priority water referred to
25 in subsection (a)(2) shall be available to the Sec-

1 retary under section 104(a)(1)(B)(i) of the Arizona
2 Water Settlements Act (Public Law 108–451; 118
3 Stat. 3487).

4 (3) WATER RETAINED FOR THE NAVAJO NA-
5 TION.—

6 (A) IN GENERAL.—Except as provided in
7 subparagraph (B), the fourth priority Colorado
8 River water retained for the Navajo Nation
9 under subsection (b)(1) shall not be allocated,
10 nor shall any contract be issued under the
11 Boulder Canyon Project Act (42 U.S.C. 617 et
12 seq.) for the use of the water, until a final In-
13 dian water rights settlement for the Navajo Na-
14 tion has been approved by Congress, resolving
15 the claims of the Navajo Nation to Lower Colo-
16 rado River water within the State.

17 (B) ADJUDICATION OF NAVAJO NATION
18 CLAIMS.—

19 (i) IN GENERAL.—Except as provided
20 in paragraph (1) and subparagraph (C), if
21 the claims of the Navajo Nation to Lower
22 Colorado River water are fully and finally
23 adjudicated through litigation without a
24 settlement of those claims, the 22,589 afy
25 of CAP NIA priority water referred to in

1 subsection (a)(1) and the 2,000 afy of
 2 fourth priority Colorado River water re-
 3 ferred to in subsection (b)(1)—

4 (I) shall no longer be retained as
 5 provided in those subsections; but

6 (II) shall be used to satisfy, in
 7 whole or in part, any rights of the
 8 Navajo Nation to Lower Colorado
 9 River water determined through that
 10 litigation.

11 (ii) MANNER AND EXTENT OF DIS-
 12 TRIBUTION.—

13 (I) IN GENERAL.—Notwith-
 14 standing the last sentence of section
 15 104(a)(1)(B)(i) of the Arizona Water
 16 Settlements Act (Public Law 108-
 17 451; 118 Stat. 3487), the manner and
 18 extent to which the water described in
 19 clause (i) shall be used to satisfy any
 20 rights of the Navajo Nation shall be
 21 determined by the court in the litiga-
 22 tion.

23 (II) CAP NIA PRIORITY
 24 WATER.—To the extent that any of
 25 the CAP NIA priority water is not

1 needed to satisfy any rights of the
2 Navajo Nation described in clause (i),
3 the water shall be available to the
4 Secretary under section
5 104(a)(1)(B)(i) of the Arizona Water
6 Settlements Act (Public Law 108–
7 451; 118 Stat. 3487).

8 (III) FOURTH PRIORITY COLO-
9 RADO RIVER WATER.—To the extent
10 that any of the fourth priority Colo-
11 rado River water is not needed to sat-
12 isfy any rights of the Navajo Nation
13 described in clause (i), the water shall
14 be retained by the Secretary for uses
15 relating to Indian water right settle-
16 ments in the State.

17 (C) TERMINATION OF RETENTION OF CAP
18 WATER.—

19 (i) IN GENERAL.—If the Navajo Na-
20 tion files an action against the United
21 States regarding the claims of the Navajo
22 Nation to Lower Colorado River water or
23 the operation of the Lower Colorado River
24 after the Navajo Nation dismisses the
25 court case described in section 109(e) and

1 before January 1, 2031, the Secretary
 2 may, prior to any judicial determination of
 3 the claims asserted in the action, terminate
 4 the retention of the 22,589 afy of CAP
 5 NIA priority water described in subsection
 6 (a)(1).

7 (ii) REQUIREMENTS FOLLOWING TER-
 8 MINATION.—If the Secretary terminates
 9 the retention of the 22,589 afy of CAP
 10 NIA priority water under this subsection,
 11 the Secretary shall—

12 (I) promptly give written notice
 13 of that action to the Navajo Nation
 14 and the Arizona Department of Water
 15 Resources; and

16 (II) use the 22,589 afy of CAP
 17 NIA priority water as provided in sec-
 18 tion 104(a)(1)(B)(i) of the Arizona
 19 Water Settlements Act (Public Law
 20 108–451; 118 Stat. 3487).

21 (4) WATER RETAINED FOR HOPI TRIBE.—

22 (A) IN GENERAL.—Except as provided in
 23 subparagraph (B), the fourth priority Colorado
 24 River water retained for the Hopi Tribe under
 25 subsection (b)(2) shall not be allocated, nor

1 shall any contract be issued under the Boulder
2 Canyon Project Act (43 U.S.C. 617 et seq.) for
3 the use of the water, until a final Indian water
4 rights settlement for the Hopi Tribe and the
5 Navajo Nation has been approved by Congress,
6 resolving the claims of the Hopi Tribe and the
7 Navajo Nation to Lower Colorado River water
8 within the State.

9 (B) ADJUDICATION OF HOPI TRIBE
10 CLAIMS.—

11 (i) IN GENERAL.—Except as provided
12 in paragraph (1) and subparagraph (C), if
13 the claims of the Hopi Tribe to the Lower
14 Colorado River are fully and finally adju-
15 dicated through litigation without a settle-
16 ment of those claims, the 1,000 afy of
17 CAP NIA priority water referred to in sub-
18 section (a)(2) and the 1,500 afy of fourth
19 priority Colorado River water referred to
20 in subsection (b)(2)—

21 (I) shall no longer be retained as
22 provided in those subsections; but

23 (II) shall be used to satisfy, in
24 whole or in part, any rights of the
25 Hopi Tribe to Lower Colorado River

1 water determined through that litigation.
2

3 (ii) MANNER AND EXTENT OF DIS-
4 TRIBUTION OF WATER.—

5 (I) IN GENERAL.—Notwith-
6 standing the last sentence of section
7 104(a)(1)(B)(i) of the Arizona Water
8 Settlements Act (Public Law 108–
9 451; 118 Stat. 3487), the manner and
10 extent to which the water described in
11 clause (i) shall be used to satisfy any
12 rights of the Hopi Tribe shall be de-
13 termined by the court in the litigation.

14 (II) CAP NIA PRIORITY
15 WATER.—To the extent that any of
16 the CAP NIA priority water is not
17 needed to satisfy any rights of the
18 Hopi Tribe described in clause (i),
19 that water shall be available to the
20 Secretary under section
21 104(A)(1)(B)(i) of the Arizona Water
22 Settlements Act (Public Law 108–
23 451; 118 Stat. 3487).

24 (III) FOURTH PRIORITY COLO-
25 RADO RIVER WATER.—To the extent

1 that any of the fourth priority Colo-
2 rado River water is not needed to sat-
3 isfy any rights of the Hopi Tribe de-
4 scribed in clause (i), that water shall
5 be retained by the Secretary for uses
6 relating to Indian water right settle-
7 ments in the State.

8 (C) TERMINATION OF RETENTION OF CAP
9 WATER.—

10 (i) IN GENERAL.—If the Hopi Tribe
11 files an action against the United States
12 regarding the claims of the Hopi Tribe to
13 Lower Colorado River water or the oper-
14 ation of the Lower Colorado River before
15 January 1, 2031, the Secretary may, prior
16 to any judicial determination of those
17 claims, terminate the retention of the
18 1,000 afy of CAP NIA priority water de-
19 scribed in subsection (a)(2).

20 (ii) REQUIREMENTS FOLLOWING TER-
21 MINATION.—If the Secretary terminates
22 the retention of the 1,000 afy of CAP NIA
23 priority water under this subparagraph,
24 the Secretary shall—

1 (I) promptly give written notice
 2 of that action to the Hopi Tribe and
 3 the Arizona Department of Water Re-
 4 sources; and

5 (II) use the 1,000 afy of CAP
 6 NIA priority water as provided in sec-
 7 tion 104(A)(1)(B)(i) of the Arizona
 8 Water Settlements Act (Public Law
 9 108–451; 118 Stat. 3487).

10 (5) EFFECT OF SECTION.—Nothing in this sec-
 11 tion determines, confirms, or limits the validity or
 12 extent of the claims of the Navajo Nation and the
 13 Hopi Tribe to Lower Colorado River water.

14 **SEC. 207. AUTHORIZATION OF APPROPRIATIONS FOR FEA-**
 15 **SIBILITY STUDY.**

16 There is authorized to be appropriated to complete
 17 the feasibility investigations of the Western Navajo Pipe-
 18 line component of the North Central Arizona Water Sup-
 19 ply Study \$3,300,000.

○