

119TH CONGRESS
1ST SESSION

S. 565

To approve the settlement of water rights claims of the Navajo Nation in the Rio San José Stream System in the State of New Mexico, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 13, 2025

Mr. HEINRICH (for himself and Mr. LUJÁN) 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 in the Rio San José Stream System in the State of New Mexico, 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,*

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Navajo Nation Rio San José Stream System Water
6 Rights Settlement Act of 2025”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Purposes.

- Sec. 3. Definitions.
- Sec. 4. Ratification of Agreement.
- Sec. 5. Navajo Nation's Water Rights.
- Sec. 6. Navajo Nation Rio San José Settlement Trust Fund.
- Sec. 7. Funding.
- Sec. 8. Enforceability Date.
- Sec. 9. Waivers and releases of claims.
- Sec. 10. Satisfaction of claims.
- Sec. 11. Consent of United States to jurisdiction for judicial review of a Navajo Nation Water Use Permit decision.
- Sec. 12. Miscellaneous provisions.
- Sec. 13. Relation to Allottees.
- Sec. 14. Expansion of Navajo-Gallup Water Supply Project service area.
- Sec. 15. Antideficiency.

1 **SEC. 2. PURPOSES.**

2 The purposes of this Act are—

3 (1) to achieve a fair, equitable, and final settle-
 4 ment of all claims to water rights in the general
 5 stream adjudication of the Rio San José Stream
 6 System captioned “State of New Mexico, ex rel.
 7 State Engineer v. Kerr-McGee, et al.”, No. D-1333-
 8 CV-1983-00190 and No. D-1333-CV-1983-00220
 9 (consolidated), pending in the Thirteenth Judicial
 10 District Court for the State of New Mexico, for—

11 (A) the Navajo Nation; and

12 (B) the United States, acting as trustee
 13 for the Navajo Nation;

14 (2) to authorize, ratify, and confirm the agree-
 15 ment entered into by the Navajo Nation, the State,
 16 and various other parties to the Agreement, to the
 17 extent that the Agreement is consistent with this
 18 Act;

19 (3) to authorize and direct the Secretary—

1 (A) to execute the Agreement; and

2 (B) to take any other actions necessary to
3 carry out the Agreement in accordance with
4 this Act; and

5 (4) to authorize funds necessary for the imple-
6 mentation of the Agreement and this Act.

7 **SEC. 3. DEFINITIONS.**

8 In this Act:

9 (1) **ACEQUIA.**—The term “Acequia” means
10 each of the Bluewater Toltec Irrigation District, La
11 Acequia Madre del Ojo del Gallo, Moquino Water
12 Users Association II, Murray Acres Irrigation Asso-
13 ciation, San Mateo Irrigation Association, Seboyeta
14 Community Irrigation Association, Cubero Acequia
15 Association, Cebolletita Acequia Association, and
16 Community Ditch of Rio San José de la Cienega.

17 (2) **ADJUDICATION.**—The term “Adjudication”
18 means the general adjudication of water rights enti-
19 tled “State of New Mexico, ex rel. State Engineer v.
20 Kerr-McGee, et al.”, No. D-1333-CV-1983-00190
21 and No. D-1333-CV-1983-00220 (consolidated)
22 pending, as of the date of enactment of this Act, in
23 the Decree Court.

24 (3) **AGREEMENT.**—The term “Agreement”
25 means—

(A) the addendum dated June 11, 2024, to, and as provided in Article 17 of, the document entitled “Rio San José Stream System Water Rights Local Settlement Agreement Among the Pueblo of Acoma, the Pueblo of Laguna, the Navajo Nation, the State of New Mexico, the City of Grants, the Village of Milan, the Association of Community Ditches of the Rio San José and Nine Individual Acequias and Community Ditches” and dated May 13, 2022, and the attachments thereto and to the addendum; and

(B) any amendment to the documents referred to in subparagraph (A) (including an amendment to an attachment) that is executed to ensure that the Agreement is consistent with this Act.

(4) ALLOTMENT.—The term “Allotment” means a parcel of land that is—

(A) located within—

(i) the Rio Puerco Basin; or

(ii) the Rio San José Stream System;

and

(B) held in trust by the United States for the benefit of—

1 (i) 1 or more individual Indians; or

2 (ii) an Indian Tribe holding an undi-
3 vided fractional beneficial interest.

4 (5) ALLOTTEE.—The term “Allottee” means—

5 (A) an individual Indian holding a bene-
6 ficial interest in an Allotment; or

7 (B) an Indian Tribe holding an undivided
8 fractional beneficial interest in an Allotment.

9 (6) DECREE COURT.—The term “Decree
10 Court” means the Thirteenth Judicial District Court
11 of the State of New Mexico.

12 (7) ENFORCEABILITY DATE.—The term “En-
13 forceability Date” means the date described in sec-
14 tion 8.

15 (8) NAVAJO NATION; NAVAJO; NATION.—

16 (A) IN GENERAL.—The terms “Navajo
17 Nation”, “Navajo”, and “Nation” mean the
18 body politic and federally recognized Indian na-
19 tion, as published on the list required under
20 section 104(a) of the Federally Recognized In-
21 dian Tribe List Act of 1994 (25 U.S.C.
22 5131(a)), also known variously as the “Navajo
23 Nation of Arizona, New Mexico, & Utah”, and
24 the “Navajo Nation of Indians” and other simi-
25 lar names.

(B) INCLUSIONS.—The terms “Navajo Nation”, “Navajo”, and “Nation” include all bands of Navajo Indians and chapters of the Navajo Nation and all divisions, agencies, officers, and agents thereof.

(9) NAVAJO NATION LANDS; NAVAJO LANDS.—

(A) IN GENERAL.—The terms “Navajo Nation Lands” and “Navajo Lands” mean any real property—

(i) in the Rio San José Stream System that is held by the United States in trust for the Navajo Nation, or owned by the Navajo Nation, as of the Enforceability Date; or

(ii) in the Rio Puerco Basin that is held by the United States in trust for the Navajo Nation, or owned by the Navajo Nation, as of the Enforceability Date.

(B) INCLUSIONS.—The terms “Navajo Nation Lands” and “Navajo Lands” include land placed in trust with the United States subsequent to the Enforceability Date for the Navajo Nation in the Rio San José Stream System and in the Rio Puerco Basin.

1 (C) EXCLUSION.—The terms “Navajo Na-
 2 tion Lands” and “Navajo Lands” do not in-
 3 clude Allotments.

4 (10) NAVAJO NATION WATER CODE.—The term
 5 “Navajo Nation Water Code” means the water code
 6 enacted in 1984 by the Navajo Nation Council
 7 through Resolution CAU–34–84. (22 N.N.C. 1101
 8 et seq.).

9 (11) NAVAJO NATION WATER USE PERMIT.—
 10 The term “Navajo Nation Water Use Permit”
 11 means a document specifying terms and conditions
 12 for diversion and use of water on Navajo Nation
 13 Lands issued by the Navajo Nation within the scope
 14 of its authority under the Navajo Nation Water
 15 Code and the Settlement Agreement.

16 (12) NAVAJO NATION’S WATER RIGHTS.—

17 (A) IN GENERAL.—The term “Navajo Na-
 18 tion’s Water Rights” means—

19 (i) the water rights of the Navajo Na-
 20 tion in the Rio San José Stream System—

21 (I) as identified in the Agreement
 22 and section 5; and

23 (II) as confirmed in the Navajo
 24 Partial Final Judgment and Decree;
 25 and

1 (ii) the water rights of the Navajo Na-
 2 tion in the Rio Puerco Basin, as identified
 3 in the Agreement and section 5.

4 (B) EXCLUSIONS.—The term “Navajo Na-
 5 tion’s Water Rights” does not include—

6 (i) any interest that the Nation may
 7 have in an Allotment that is determined by
 8 the Secretary to be patented pursuant to
 9 section 1 of the Act of February 8, 1887
 10 (commonly known as the “Indian General
 11 Allotment Act”) (24 Stat. 388, chapter
 12 119; 25 U.S.C. 331) (as in effect on the
 13 day before the date of enactment of the In-
 14 dian Land Consolidation Act Amendments
 15 of 2000 (Public Law 106–462; 114 Stat.
 16 1991)); or

17 (ii) any undivided interest that the
 18 Nation may have in an Allotment that is
 19 determined by the Secretary to be patented
 20 pursuant to an authority other than sec-
 21 tion 1 of the Act of February 8, 1887
 22 (commonly known as the “Indian General
 23 Allotment Act”) (24 Stat. 388, chapter
 24 119; 25 U.S.C. 331) (as in effect on the
 25 day before the date of enactment of the In-

1 dian Land Consolidation Act Amendments
 2 of 2000 (Public Law 106–462; 114 Stat.
 3 1991)).

4 (13) NAVAJO PARTIAL FINAL JUDGMENT AND
 5 DECREE.—The term “Navajo Partial Final Judg-
 6 ment and Decree” means a final or interlocutory
 7 partial final judgment and decree entered by the De-
 8 cree Court with respect to the Navajo Nation’s
 9 Water Rights—

10 (A) that is substantially in the form de-
 11 scribed in Article 17.14.7.2 of the Agreement,
 12 as amended to ensure consistency with this Act;
 13 and

14 (B) from which no further appeal may be
 15 taken.

16 (14) NAVAJO TRUST FUND.—The term “Navajo
 17 Trust Fund” means the Navajo Nation Rio San
 18 José Settlement Trust Fund established under sec-
 19 tion 6(a).

20 (15) RIO PUERCO BASIN.—The term “Rio
 21 Puerco Basin” means the area defined by the
 22 United States Geological Survey Hydrologic Unit
 23 Codes (HUC) 13020204 (Rio Puerco subbasin) and
 24 13020205 (Arroyo Chico subbasin), including the
 25 hydrologically connected groundwater.

1 (16) RIO SAN JOSÉ STREAM SYSTEM.—The
 2 term “Rio San José Stream System” means the geo-
 3 graphic extent of the area involved in the Adjudica-
 4 tion pursuant to the description filed in the Decree
 5 Court on November 21, 1986.

6 (17) SECRETARY.—The term “Secretary”
 7 means the Secretary of the Interior.

8 (18) SIGNATORY ACEQUIA.—The term “Signa-
 9 tory Acequia” means an acequia that is a signatory
 10 to the Agreement.

11 (19) STATE.—The term “State” means the
 12 State of New Mexico and all officers, agents, depart-
 13 ments, and political subdivisions of the State of New
 14 Mexico.

15 **SEC. 4. RATIFICATION OF AGREEMENT.**

16 (a) RATIFICATION.—

17 (1) IN GENERAL.—Except as modified by this
 18 Act, and to the extent that the Agreement does not
 19 conflict with this Act, the Agreement is authorized,
 20 ratified, and confirmed.

21 (2) AMENDMENTS.—If an amendment to the
 22 Agreement, or any attachment to the Agreement re-
 23 quiring the signature of the Secretary, is executed in
 24 accordance with this Act to make the Agreement

1 consistent with this Act, the amendment is author-
2 ized, ratified, and confirmed.

3 (b) EXECUTION.—

4 (1) IN GENERAL.—To the extent that the
5 Agreement does not conflict with this Act, the Sec-
6 retary shall execute the Agreement, including all at-
7 tachments to, or parts of, the Agreement requiring
8 the signature of the Secretary.

9 (2) MODIFICATIONS.—Nothing in this Act pro-
10 hibits the Secretary, after execution of the Agree-
11 ment, from approving any modification to the Agree-
12 ment, including an attachment to the Agreement,
13 that is consistent with this Act, to the extent that
14 the modification does not otherwise require congres-
15 sional approval under section 2116 of the Revised
16 Statutes (25 U.S.C. 177) or any other applicable
17 provision of Federal law.

18 (c) ENVIRONMENTAL COMPLIANCE.—

19 (1) IN GENERAL.—In implementing the Agree-
20 ment and this Act, the Secretary shall comply
21 with—

22 (A) the Endangered Species Act of 1973
23 (16 U.S.C. 1531 et seq.);

1 (B) the National Environmental Policy Act
2 of 1969 (42 U.S.C. 4321 et seq.), including the
3 implementing regulations of that Act; and

4 (C) all other applicable Federal environ-
5 mental laws and regulations.

6 (2) COMPLIANCE.—

7 (A) IN GENERAL.—In implementing the
8 Agreement and this Act, the Navajo Nation
9 shall prepare any necessary environmental doc-
10 uments, consistent with—

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

13 (ii) the National Environmental Policy
14 Act of 1969 (42 U.S.C. 4321 et seq.), in-
15 cluding the implementing regulations of
16 that Act; and

17 (iii) all other applicable Federal envi-
18 ronmental laws and regulations.

19 (B) AUTHORIZATIONS.—The Secretary
20 shall—

21 (i) independently evaluate the docu-
22 mentation required under subparagraph
23 (A); and

24 (ii) be responsible for the accuracy,
25 scope, and contents of that documentation.

1 (3) EFFECT OF EXECUTION.—The execution of
 2 the Agreement by the Secretary under this section
 3 shall not constitute a major Federal action under
 4 the National Environmental Policy Act of 1969 (42
 5 U.S.C. 4321 et seq.).

6 (4) COSTS.—Any costs associated with the per-
 7 formance of the compliance activities under this sub-
 8 section shall be paid from funds deposited in the
 9 Navajo Trust Fund or other sources of funding from
 10 the Navajo Nation, subject to the condition that any
 11 costs associated with the performance of Federal ap-
 12 proval or other review of such compliance work or
 13 costs associated with inherently Federal functions
 14 shall remain the responsibility of the Secretary.

15 **SEC. 5. NAVAJO NATION'S WATER RIGHTS.**

16 (a) TRUST STATUS OF NAVAJO NATION'S WATER
 17 RIGHTS.—The Navajo Nation's Water Rights shall be
 18 held in trust by the United States on behalf of the Nation
 19 in accordance with the Agreement and this Act.

20 (b) FORFEITURE AND ABANDONMENT.—

21 (1) IN GENERAL.—The Navajo Nation's Water
 22 Rights shall not be subject to loss through non-use,
 23 forfeiture, abandonment, or other operation of law.

24 (2) STATE-LAW BASED WATER RIGHTS.—State-
 25 law based water rights acquired by the Navajo Na-

1 tion, or by the United States on behalf of the Na-
2 tion, after the date for inclusion in the Navajo Par-
3 tial Final Judgment and Decree, shall not be subject
4 to forfeiture, abandonment, or permanent alienation
5 from the time they are acquired.

6 (c) USE.—Any use of the Navajo Nation’s Water
7 Rights shall be subject to the terms and conditions of the
8 Agreement and this Act.

9 (d) ALLOTMENT RIGHTS NOT INCLUDED.—Con-
10 sistent with section 13, the Navajo Nation’s Water Rights
11 shall not include any water rights for an Allotment, sub-
12 ject to the condition that the Navajo Nation may allow
13 use of the Navajo Nation’s Water Rights on an Allotment
14 subject to the terms and conditions of the Agreement and
15 this Act.

16 (e) ALLOTTEES NOT ADVERSELY AFFECTED.—
17 Nothing in this Act quantifies or diminishes any water
18 right, or any claim or entitlement to water, of an Allottee.

19 (f) ALLOTTEE WATER RIGHTS.—The Nation shall
20 not object in any general stream adjudication, including
21 the Adjudication, to the quantification of reasonable do-
22 mestic, stock, and irrigation water uses on an Allotment,
23 and shall administer any water use in accordance with ap-
24 plicable Federal law, including recognition of—

1 (1) any water use existing on an Allotment as
2 of the date of enactment of this Act;

3 (2) reasonable domestic, stock, and irrigation
4 water uses on an Allotment; and

5 (3) any water right decreed to the United
6 States in trust for an Allottee in a general stream
7 adjudication, including the Adjudication, for use on
8 an Allotment.

9 (g) AUTHORITY OF THE NAVAJO NATION.—

10 (1) USE ON NAVAJO LANDS.—The Navajo Na-
11 tion shall have the authority to allocate, distribute,
12 and lease the Navajo Nation’s Water Rights for use
13 on Navajo Lands in accordance with the Agreement,
14 this Act, and applicable Federal law, including the
15 first section of the Act of August 9, 1955 (69 Stat.
16 539, chapter 615; 25 U.S.C. 415) (commonly known
17 as the “Long-Term Leasing Act”).

18 (2) USE OFF NAVAJO LANDS.—

19 (A) IN GENERAL.—The Navajo Nation
20 may allocate, distribute, and lease the Navajo
21 Nation’s Water Rights for use off Navajo
22 Lands in accordance with the Agreement, this
23 Act, and applicable Federal law, subject to the
24 approval of the Secretary.

1 (B) MAXIMUM TERM.—The maximum
 2 term of any lease, including all renewals, under
 3 this paragraph shall not exceed 99 years.

4 (h) ADMINISTRATION.—

5 (1) NO ALIENATION.—The Navajo Nation shall
 6 not permanently alienate any portion of the Navajo
 7 Nation’s Water Rights.

8 (2) PURCHASES OR GRANTS OF LAND FROM IN-
 9 DIANS.—An authorization provided by this Act for
 10 the allocation, distribution, leasing, or other ar-
 11 rangement entered into pursuant to this Act shall be
 12 considered to satisfy any requirement for authoriza-
 13 tion of the action required by Federal law.

14 (3) PROHIBITION ON FORFEITURE.—The non-
 15 use of all or any portion of the Navajo Nation’s
 16 Water Rights by any water user shall not result in
 17 the forfeiture, abandonment, relinquishment, or
 18 other loss of all or any portion of the Navajo Na-
 19 tion’s Water Rights.

20 (4) FORBEARANCE BY NAVAJO NATION FOR
 21 NON-STOCK WATER RIGHTS OF CERTAIN ALLOT-
 22 MENTS.—Forbearance by the Navajo Nation in ac-
 23 cordance with Article 17.13.4 of the Agreement—

24 (A) shall be considered non-use for pur-
 25 poses of paragraph (3); and

1 (B) shall not result in the forfeiture, aban-
 2 donment, relinquishment, or other loss of any
 3 portion of the Navajo Nation's Water Rights.

4 **SEC. 6. NAVAJO NATION RIO SAN JOSÉ SETTLEMENT**
 5 **TRUST FUND.**

6 (a) ESTABLISHMENT.—The Secretary shall establish
 7 a trust fund, to be known as the “Navajo Nation Rio San
 8 José Water Rights Settlement Trust Fund”, to be man-
 9 aged, invested, and distributed by the Secretary and to
 10 remain available until expended, withdrawn, or reverted
 11 to the general fund of the Treasury, consisting of the
 12 amounts deposited in the Navajo Trust Fund under sub-
 13 section (c), together with any investment earnings, includ-
 14 ing interest, earned on those amounts, for the purpose of
 15 carrying out this Act.

16 (b) ACCOUNTS.—The Secretary shall establish in the
 17 Navajo Trust Fund the following accounts:

18 (1) The Navajo Nation Water Rights Settle-
 19 ment Account.

20 (2) The Navajo Nation Operations and Mainte-
 21 nance Account.

22 (c) DEPOSITS.—The Secretary shall deposit in the
 23 Navajo Trust Fund the amounts made available pursuant
 24 to section 7(a).

25 (d) MANAGEMENT AND INTEREST.—

1 (1) MANAGEMENT.—On receipt and deposit of
2 funds into the Navajo Trust Fund under subsection
3 (c), the Secretary shall manage, invest, and dis-
4 tribute all amounts in the Navajo Trust Fund in a
5 manner that is consistent with the investment au-
6 thority of the Secretary under—

7 (A) the first section of the Act of June 24,
8 1938 (25 U.S.C. 162a);

9 (B) the American Indian Trust Fund Man-
10 agement Reform Act of 1994 (25 U.S.C. 4001
11 et seq.); and

12 (C) this subsection.

13 (2) INVESTMENT EARNINGS.—In addition to
14 the deposits made to the Navajo Trust Fund under
15 subsection (c), any investment earnings, including
16 interest, earned on those amounts held in the Nav-
17 ajo Trust Fund are authorized to be used in accord-
18 ance with subsections (f) and (h).

19 (e) AVAILABILITY OF AMOUNTS.—

20 (1) IN GENERAL.—Amounts appropriated to,
21 and deposited in, the Navajo Trust Fund, including
22 any investment earnings, including interest, earned
23 on those amounts, shall be made available to the Na-
24 tion by the Secretary beginning on the Enforce-
25 ability Date, subject to the requirements of this sec-

tion, except for funds to be made available to the Nation pursuant to paragraph (2).

(2) USE OF FUNDS.—Notwithstanding paragraph (1), up to \$15,000,000 of the amounts deposited in the Navajo Nation Water Rights Settlement Account, including any investment earnings, including interest, earned on those amounts, shall be available to the Nation on the date on which the amounts are deposited in the Navajo Nation Water Rights Settlement Account for the following uses:

(A) Feasibility studies, planning, engineering, design, and related environmental, cultural, and historical compliance, and obtaining rights-of-way or permits for water supply infrastructure to serve Navajo Nation needs consistent with subsection (h)(1)(B).

(B) Installing, on Navajo Lands, groundwater wells and associated infrastructure to meet immediate domestic, commercial, municipal and industrial water needs, and associated environmental, cultural, and historical compliance.

(f) WITHDRAWALS.—

1 (1) WITHDRAWALS UNDER THE AMERICAN IN-
2 DIAN TRUST FUND MANAGEMENT REFORM ACT OF
3 1994.—

4 (A) IN GENERAL.—The Navajo Nation
5 may withdraw any portion of the amounts in
6 the Navajo Trust Fund on approval by the Sec-
7 retary of a Tribal management plan submitted
8 by the Nation in accordance with the American
9 Indian Trust Fund Management Reform Act of
10 1994 (25 U.S.C. 4001 et seq.).

11 (B) REQUIREMENTS.—In addition to the
12 requirements under the American Indian Trust
13 Fund Management Reform Act of 1994 (25
14 U.S.C. 4001 et seq.), the Tribal management
15 plan under this paragraph shall require that the
16 Nation shall spend all amounts withdrawn from
17 the Navajo Trust Fund, and any investment
18 earnings, including interest, earned on those
19 amounts, through the investments under the
20 Tribal management plan, in accordance with
21 this Act.

22 (C) ENFORCEMENT.—The Secretary may
23 carry out such judicial and administrative ac-
24 tions as the Secretary determines to be nec-
25 essary to enforce the Tribal management plan

1 under this paragraph to ensure that amounts
2 withdrawn by the Nation from the Navajo
3 Trust Fund under subparagraph (A) are used
4 in accordance with this Act.

5 (2) WITHDRAWALS UNDER EXPENDITURE
6 PLAN.—

7 (A) IN GENERAL.—The Navajo Nation
8 may submit to the Secretary a request to with-
9 draw funds from the Navajo Trust Fund pursu-
10 ant to an approved expenditure plan.

11 (B) REQUIREMENTS.—To be eligible to
12 withdraw amounts under an expenditure plan
13 under subparagraph (A), the Nation shall sub-
14 mit to the Secretary an expenditure plan for
15 any portion of the Navajo Trust Fund that the
16 Nation elects to withdraw pursuant to that sub-
17 paragraph, subject to the condition that the
18 amounts shall be used for the purposes de-
19 scribed in this Act.

20 (C) INCLUSIONS.—An expenditure plan
21 under this paragraph shall include a description
22 of the manner and purpose for which the
23 amounts proposed to be withdrawn from the
24 Navajo Trust Fund will be used by the Nation,

1 in accordance with this subsection and sub-
2 section (h).

3 (D) APPROVAL.—The Secretary shall ap-
4 prove an expenditure plan submitted under sub-
5 paragraph (A) if the Secretary determines that
6 the plan—

7 (i) is reasonable; and

8 (ii) is consistent with, and will be used
9 for, the purposes of this Act.

10 (E) ENFORCEMENT.—The Secretary may
11 carry out such judicial and administrative ac-
12 tions as the Secretary determines to be nec-
13 essary to enforce an expenditure plan to ensure
14 that amounts disbursed under this paragraph
15 are used in accordance with this Act.

16 (g) EFFECT OF SECTION.—Nothing in this section
17 gives the Navajo Nation the right to judicial review of a
18 determination of the Secretary relating to whether to ap-
19 prove a Tribal management plan under paragraph (1) of
20 subsection (f) or an expenditure plan under paragraph (2)
21 of that subsection except under subchapter II of chapter
22 5, and chapter 7, of title 5, United States Code (commonly
23 known as the “Administrative Procedure Act”).

24 (h) USES.—

(1) NAVAJO NATION WATER RIGHTS SETTLEMENT ACCOUNT.—The Navajo Nation Water Rights Settlement Account may only be used for the following purposes:

(A) Acquiring water rights or water supply.

(B) Planning, permitting, designing, engineering, constructing, reconstructing, replacing, rehabilitating, operating, or repairing water production, treatment, or delivery infrastructure, including for domestic and municipal use, on-farm improvements, or wastewater infrastructure.

(C) Navajo Nation's Water Rights management and administration.

(D) Watershed protection and enhancement, support of agriculture, water-related Navajo community welfare and economic development, and costs relating to implementation of the Agreement.

(E) Environmental compliance in the development and construction of infrastructure under this Act.

(2) NAVAJO NATION OPERATIONS AND MAINTENANCE ACCOUNT.—The Navajo Nation Water Infra-

1 structure Operations and Maintenance Account may
2 only be used to pay costs for operation, mainte-
3 nance, and replacement of water infrastructure to
4 serve Navajo domestic, commercial, municipal, and
5 industrial water uses from any water source.

6 (i) LIABILITY.—The Secretary and the Secretary of
7 the Treasury shall not be liable for the expenditure or in-
8 vestment of any amounts withdrawn from the Navajo
9 Trust Fund by the Nation under paragraph (1) or (2) of
10 subsection (f).

11 (j) EXPENDITURE REPORTS.—The Navajo Nation
12 shall annually submit to the Secretary an expenditure re-
13 port describing accomplishments and amounts spent from
14 use of withdrawals under a Tribal management plan or
15 an expenditure plan under paragraph (1) or (2) of sub-
16 section (f), as applicable.

17 (k) NO PER CAPITA DISTRIBUTIONS.—No portion of
18 the Navajo Trust Fund shall be distributed on a per capita
19 basis to any member of Navajo Nation.

20 (l) TITLE TO INFRASTRUCTURE.—Title to, control
21 over, and operation of any project constructed using funds
22 from the Navajo Trust Fund shall remain in the Navajo
23 Nation.

24 (m) OPERATION, MAINTENANCE, AND REPLACE-
25 MENT.—All operation, maintenance, and replacement

1 costs of any project constructed using funds from the Nav-
 2 ajo Trust Fund shall be the responsibility of the Nation.

3 **SEC. 7. FUNDING.**

4 (a) MANDATORY APPROPRIATIONS.—Out of any
 5 money in the Treasury not otherwise appropriated, the
 6 Secretary of the Treasury shall transfer to the Secretary
 7 the following amounts for deposit in the following ac-
 8 counts:

9 (1) THE NAVAJO NATION WATER RIGHTS SET-
 10 TLEMENT ACCOUNT.—For deposit in the Navajo Na-
 11 tion Water Rights Settlement Account established
 12 under section 6(b)(1), \$200,271,000, to remain
 13 available until expended, withdrawn, or reverted to
 14 the general fund of the Treasury.

15 (2) THE NAVAJO NATION OPERATIONS AND
 16 MAINTENANCE ACCOUNT.—For deposit in the Nav-
 17 ajo Nation Operations and Maintenance Account es-
 18 tablished under section 6(b)(2), \$23,000,000, to re-
 19 main available until expended, withdrawn, or re-
 20 verted to the general fund of the Treasury.

21 (b) FLUCTUATION IN COSTS.—

22 (1) IN GENERAL.—The amounts appropriated
 23 under subsection (a) shall be increased or decreased,
 24 as appropriate, by such amounts as may be justified
 25 by reason of ordinary fluctuations in costs, as indi-

1 cated by the Bureau of Reclamation Construction
 2 Cost Index–Composite Trend.

3 (2) CONSTRUCTION COSTS ADJUSTMENT.—The
 4 amounts appropriated under subsection (a) shall be
 5 adjusted to address construction cost changes nec-
 6 essary to account for unforeseen market volatility
 7 that may not otherwise be captured by construction
 8 cost indices, as determined by the Secretary, includ-
 9 ing repricing applicable to the types of construction
 10 and current industry standards involved.

11 (3) REPETITION.—The adjustment process
 12 under this subsection shall be repeated for each sub-
 13 sequent amount appropriated until the applicable
 14 amount, as adjusted, has been appropriated.

15 (4) PERIOD OF INDEXING.—The period of in-
 16 dexing and adjustment under this subsection for any
 17 increment of funding shall start on October 1, 2021,
 18 and end on the date on which funds are deposited
 19 in the Navajo Trust Fund.

20 (c) STATE COST-SHARE.—Pursuant to the Agree-
 21 ment, the State shall contribute—

22 (1) \$3,000,000, as adjusted for inflation pursu-
 23 ant to the Agreement, to the Bluewater Toltec Irri-
 24 gation District and Acequia Madre del Ojo del Gallo
 25 for purposes described in the Agreement; and

1 (2) if applicable, additional funding subject to
 2 the provisions of Article 17.12.4 of the Agreement.

3 **SEC. 8. ENFORCEABILITY DATE.**

4 The Enforceability Date shall be the date on which
 5 the Secretary publishes in the Federal Register a state-
 6 ment of findings that—

7 (1) to the extent that the Agreement conflicts
 8 with this Act, the Agreement has been amended to
 9 conform with this Act;

10 (2) the Agreement, as amended, has been exe-
 11 cuted by all parties to the Agreement, including the
 12 United States;

13 (3) all of the amounts appropriated under sec-
 14 tion 7(a) have been appropriated and deposited in
 15 the designated accounts of the Navajo Trust Fund;

16 (4) the State has—

17 (A) provided \$3,000,000 of funding under
 18 section 7(c)(1) into the appropriate funding ac-
 19 counts or entered into a funding agreement
 20 with the intended beneficiaries for that funding;
 21 and

22 (B) enacted legislation to amend State law
 23 to provide that a Navajo Nation Water Right
 24 may be leased for a term not to exceed 99
 25 years, including renewals;

1 (5) the Decree Court has approved the Agree-
 2 ment and has entered the Navajo Partial Final
 3 Judgment and Decree; and

4 (6) the waivers and releases under section 9
 5 have been executed by the Navajo Nation and the
 6 Secretary.

7 **SEC. 9. WAIVERS AND RELEASES OF CLAIMS.**

8 (a) WAIVERS AND RELEASES OF CLAIMS BY THE
 9 NAVAJO NATION AND UNITED STATES AS TRUSTEE FOR
 10 THE NATION.—Subject to the reservation of rights and
 11 retention of claims under subsection (d), as consideration
 12 for recognition of the Navajo Nation’s Water Rights and
 13 other benefits described in the Agreement and this Act,
 14 the Navajo Nation, on behalf of the Nation and members
 15 of the Nation (other than members in their capacity as
 16 Allottees), and the United States, acting as trustee for the
 17 Nation and members of the Nation (other than members
 18 in their capacity as Allottees), shall execute a waiver and
 19 release of all claims for—

20 (1) water rights within the Rio San José
 21 Stream System that the Navajo Nation or the
 22 United States acting as trustee for the Nation, as-
 23 serted or could have asserted in any proceeding, in-
 24 cluding the Adjudication, on or before the Enforce-

1 ability Date, except to the extent that such rights
 2 are recognized in the Agreement and this Act; and
 3 (2) damages, losses, or injuries to water rights
 4 or claims of interference with, diversion of, or taking
 5 of water rights (including claims for injury to land
 6 resulting from such damages, losses, injuries, inter-
 7 ference with, diversion, or taking of water rights) in
 8 waters in the Rio San José Stream System against
 9 any party to the Agreement, including the members
 10 and parciales of Signatory Acequias, that accrued
 11 at any time up to and including the Enforceability
 12 Date.

13 (b) WAIVERS AND RELEASES OF CLAIMS BY NAVAJO
 14 NATION AGAINST UNITED STATES.—Subject to the res-
 15 ervation of rights and retention of claims under subsection
 16 (d), the Navajo Nation, on behalf of the Nation (including
 17 in its capacity as an Allottee) and members of the Nation
 18 (other than members in their capacity as Allottees) shall
 19 execute a waiver and release of all claims against the
 20 United States (including any agency or employee of the
 21 United States) first arising before the Enforceability Date
 22 relating to—

23 (1) water rights within the Rio San José
 24 Stream System that the United States, acting as
 25 trustee for the Navajo Nation, asserted or could

1 have asserted in any proceeding, including the Adju-
2 dication, except to the extent that such rights are
3 recognized as part of the Navajo Nation's Water
4 Rights under this Act;

5 (2) foregone benefits from non-Navajo use of
6 water, on and off Navajo Lands (including water
7 from all sources and for all uses) within the Rio San
8 José Stream System;

9 (3) damage, loss, or injury to water, water
10 rights, land, or natural resources due to loss of
11 water or water rights (including damages, losses, or
12 injuries to hunting, fishing, gathering, or cultural
13 rights due to loss of water or water rights, claims
14 relating to interference with, diversion of, or taking
15 of water, or claims relating to a failure to protect,
16 acquire, replace, or develop water, water rights, or
17 water infrastructure) within the Rio San José
18 Stream System;

19 (4) a failure to provide for operation, mainte-
20 nance, or deferred maintenance for any irrigation
21 system or irrigation project within the Rio San José
22 Stream System;

23 (5) a failure to establish or provide a municipal,
24 rural, or industrial water delivery system on Navajo
25 Lands within the Rio San José Stream System;

1 (6) damage, loss, or injury to water, water
2 rights, land, or natural resources due to construc-
3 tion, operation, and management of irrigation
4 projects on Navajo Lands (including damages,
5 losses, or injuries to fish habitat, wildlife, and wild-
6 life habitat) within the Rio San José Stream Sys-
7 tem;

8 (7) a failure to provide a dam safety improve-
9 ment to a dam on Navajo Lands within the Rio San
10 José Stream System;

11 (8) the litigation of claims relating to any water
12 right of the Nation within the Rio San José Stream
13 System; and

14 (9) the negotiation, execution, or adoption of
15 the Agreement (including attachments) and this Act.

16 (c) EFFECTIVE DATE.—The waivers and releases de-
17 scribed in subsections (a) and (b) shall take effect on the
18 Enforceability Date.

19 (d) RESERVATION OF RIGHTS AND RETENTION OF
20 CLAIMS.—Notwithstanding the waivers and releases under
21 subsections (a) and (b), the Navajo Nation and the United
22 States, acting as trustee for the Nation, shall retain all
23 claims relating to—

24 (1) the enforcement of, or claims accruing after
25 the Enforceability Date relating to, water rights rec-

1 ognized under the Agreement, this Act, or the Nav-
 2 ajo Partial Final Judgment and Decree entered in
 3 the Adjudication;

4 (2) activities affecting the quality of water and
 5 the environment, including claims under—

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

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

12 (C) the Federal Water Pollution Control
 13 Act (33 U.S.C. 1251 et seq.) (commonly re-
 14 ferred to as the “Clean Water Act”); and

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

17 (3) the right to use and protect water rights ac-
 18 quired after the date of enactment of this Act;

19 (4) damage, loss, or injury to land or natural
 20 resources that is not due to loss of water or water
 21 rights, including hunting, fishing, gathering, or cul-
 22 tural rights;

23 (5) all claims for water rights, and claims for
 24 injury to water rights, in basins other than the Rio
 25 San José Stream System, subject to the Agreement

1 with respect to the claims of the Navajo Nation for
 2 water rights in the Rio Puerco Basin; and

3 (6) all rights, remedies, privileges, immunities,
 4 powers, and claims not specifically waived and re-
 5 leased pursuant to this Act or the Agreement.

6 (e) EFFECT OF AGREEMENT AND ACT.—Nothing in
 7 the Agreement or this Act—

8 (1) reduces or extends the sovereignty (includ-
 9 ing civil and criminal jurisdiction) of any govern-
 10 ment entity, except as provided in section 11;

11 (2) affects the ability of the United States, as
 12 a sovereign, to carry out any activity authorized by
 13 law, including—

14 (A) the Comprehensive Environmental Re-
 15 sponse, Compensation, and Liability Act of
 16 1980 (42 U.S.C. 9601 et seq.);

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

19 (C) the Federal Water Pollution Control
 20 Act (33 U.S.C. 1251 et seq.) (commonly re-
 21 ferred to as the “Clean Water Act”);

22 (D) the Solid Waste Disposal Act (42
 23 U.S.C. 6901 et seq.); and

24 (E) any regulations implementing the Acts
 25 described in subparagraphs (A) through (D);

1 (3) affects the ability of the United States to
 2 act as trustee for the Navajo Nation (consistent with
 3 this Act), any other Indian Tribe, or an Allottee of
 4 any other Indian Tribe;

5 (4) confers jurisdiction on any State court—

6 (A) to interpret Federal law relating to
 7 health, safety, or the environment;

8 (B) to determine the duties of the United
 9 States or any other party under Federal law re-
 10 garding health, safety, or the environment; or

11 (C) to conduct judicial review of any Fed-
 12 eral agency action; or

13 (5) waives any claim of a member of the Navajo
 14 Nation in an individual capacity that does not derive
 15 from a right of the Navajo Nation.

16 (f) OFFSET RELATING TO RIO PUERCO.—The
 17 United States shall be entitled to offset \$20,000,000
 18 against—

19 (1) any judgment against the United States for
 20 claims relating to water rights in the Rio Puerco
 21 Basin, including breach of trust and damage claims
 22 relating to water rights in the Rio Puerco Basin, in
 23 a case brought by the Nation or any user of the
 24 Navajo Nation’s Water Rights; or

1 (2) a Federal contribution to any future settle-
 2 ment of water rights of the Navajo Nation in the
 3 Rio Puerco Basin.

4 (g) TOLLING OF CLAIMS.—

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

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

14 (3) LIMITATION.—Nothing in this section pre-
 15 cludes the tolling of any period of limitation or any
 16 time-based equitable defense under any other appli-
 17 cable law.

18 (h) EXPIRATION.—

19 (1) IN GENERAL.—This Act shall expire in any
 20 case in which the Secretary fails to publish a state-
 21 ment of findings under section 8 by not later than—

22 (A) July 1, 2030; or

23 (B) such alternative later date as is agreed
 24 to by the Navajo Nation and the Secretary,
 25 after providing reasonable notice to the State.

1 (2) CONSEQUENCES.—If this Act expires under
2 paragraph (1)—

3 (A) the waivers and releases under sub-
4 sections (a) and (b) shall—

5 (i) expire; and

6 (ii) have no further force or effect;

7 (B) the authorization, ratification, con-
8 firmation, and execution of the Agreement
9 under section 4 shall no longer be effective;

10 (C) any action carried out by the Sec-
11 retary, and any contract or agreement entered
12 into, pursuant to this Act shall be void;

13 (D) any unexpended Federal funds appro-
14 priated or made available to carry out the ac-
15 tivities authorized by this Act, together with
16 any interest earned on those funds, and any
17 water rights or contracts to use water and title
18 to other property acquired or constructed with
19 Federal funds appropriated or made available
20 to carry out the activities authorized by this
21 Act, shall be returned to the Federal Govern-
22 ment, unless otherwise agreed to by Navajo Na-
23 tion and the United States and approved by
24 Congress; and

1 (E) except for Federal funds used to ac-
 2 quire or construct property that is returned to
 3 the Federal Government under subparagraph
 4 (D), the United States shall be entitled to offset
 5 any Federal funds made available to carry out
 6 this Act that were expended or withdrawn, or
 7 any funds made available to carry out this Act
 8 from other Federal authorized sources, together
 9 with any interest accrued on those funds,
 10 against any claims against the United States—

11 (i) relating to water rights in the
 12 State asserted by—

13 (I) the Nation or any user of the
 14 Navajo Nation's Water Rights; or

15 (II) any other matter covered by
 16 subsection (b); or

17 (ii) in any future settlement of water
 18 rights of the Navajo Nation.

19 **SEC. 10. SATISFACTION OF CLAIMS.**

20 The benefits provided under this Act shall be in com-
 21 plete replacement of, complete substitution for, and full
 22 satisfaction of any claim of the Navajo Nation against the
 23 United States that are waived and released by the Nation
 24 pursuant to section 9(b).

1 **SEC. 11. CONSENT OF UNITED STATES TO JURISDICTION**
 2 **FOR JUDICIAL REVIEW OF A NAVAJO NATION**
 3 **WATER USE PERMIT DECISION.**

4 (a) CONSENT.—On the Enforceability Date, the con-
 5 sent of the United States is hereby given, with the consent
 6 of the Navajo Nation under Article 17.14.4 of the Agree-
 7 ment, to jurisdiction in the District Court for the Thir-
 8 teenth Judicial District of the State of New Mexico, and
 9 in the New Mexico Court of Appeals and the New Mexico
 10 Supreme Court on appeal therefrom in the same manner
 11 as provided under New Mexico law, over an action filed
 12 in such District Court by any party to a Navajo Nation
 13 Water Use Permit administrative proceeding under Article
 14 17.10.4 of the Agreement for the limited and sole purpose
 15 of judicial review of a Navajo Nation Water Use Permit
 16 decision under Article 17.10.5 of the Agreement.

17 (b) LIMITATION.—The consent of the United States
 18 for review of a Navajo Nation Water Use Permit is limited
 19 to judicial review, based on the record developed through
 20 the administrative process of the Navajo Nation, under a
 21 standard of judicial review limited to determining whether
 22 the Navajo Nation decision on the application for the Nav-
 23 ajo Nation Water Use Permit—

- 24 (1) is supported by substantial evidence;
 25 (2) is not arbitrary, capricious, or contrary to
 26 law;

1 (3) is not in accordance with the Agreement or
2 the Navajo Partial Final Judgment and Decree; or

3 (4) shows that the Navajo Nation acted fraudu-
4 lently or outside the scope of its authority.

5 (c) NAVAJO NATION WATER CODE AND INTERPRE-
6 TATION.—

7 (1) IN GENERAL.—Navajo Nation Water Code
8 or Navajo Water Law provisions that meet the re-
9 quirements of Article 17.10 of the Agreement shall
10 be given full faith and credit in any proceeding de-
11 scribed in this section.

12 (2) PROVISIONS OF THE NAVAJO NATION
13 WATER CODE.—To the extent that a State court
14 conducting judicial review under this section must
15 interpret provisions of Navajo Nation law that are
16 not express provisions of the Navajo Nation Water
17 Code or Navajo Nation water law, the State court
18 shall certify the question of interpretation to the
19 Navajo Nation court.

20 (3) NO CERTIFICATION.—Any issues of inter-
21 pretation of standards in Article 17.10.6 of the
22 Agreement are not subject to certification.

23 (4) LIMITATION.—Nothing in this section limits
24 the jurisdiction of the Decree Court to interpret and
25 enforce the Agreement.

1 **SEC. 12. MISCELLANEOUS PROVISIONS.**

2 (a) NO WAIVER OF SOVEREIGN IMMUNITY BY THE
3 UNITED STATES.—Nothing in this Act waives the sov-
4 ereign immunity of the United States.

5 (b) OTHER TRIBES NOT ADVERSELY AFFECTED.—
6 Nothing in this Act quantifies or diminishes any land or
7 water right, or any claim or entitlement to land or water,
8 of an Indian Tribe, band, Pueblo, or community other
9 than the Navajo Nation.

10 (c) EFFECT ON CURRENT LAW.—Nothing in this Act
11 affects any provision of law (including regulations) in ef-
12 fect on the day before the date of enactment of this Act
13 with respect to pre-enforcement review of any Federal en-
14 vironmental enforcement action.

15 (d) CONFLICT.—In the event of a conflict between
16 the Agreement and this Act, this Act shall control.

17 **SEC. 13. RELATION TO ALLOTTEES.**

18 (a) NO EFFECT ON CLAIMS OF ALLOTTEES.—Noth-
19 ing in this Act or the Agreement shall affect the rights
20 or claims of Allottees, or the United States, acting in its
21 capacity as trustee for or on behalf of Allottees, for water
22 rights or damages relating to land allotted by the United
23 States to Allottees.

24 (b) RELATIONSHIP OF DECREE TO ALLOTTEES.—

25 (1) SEPARATE ADJUDICATION.—Notwith-
26 standing whether an Allotment is patented pursuant

1 to section 1 of the Act of February 8, 1887 (com-
 2 monly known as the “Indian General Allotment
 3 Act”) (24 Stat. 388, chapter 119; 25 U.S.C. 331)
 4 (as in effect on the day before the date of enactment
 5 of the Indian Land Consolidation Act Amendments
 6 of 2000 (Public Law 106–462; 114 Stat. 1991)) or
 7 section 4 of that Act (24 Stat. 389, chapter 119; 25
 8 U.S.C. 334), as determined by the Secretary, when
 9 adjudicated—

10 (A) water rights for Allotments shall be
 11 separate from the Navajo Nation’s Water
 12 Rights; and

13 (B) no water rights for Allotments shall be
 14 included in the Navajo Partial Final Judgment
 15 and Decree.

16 (2) ALLOTMENT WATER RIGHTS.—The Allot-
 17 ment water rights adjudicated separately pursuant
 18 to paragraph (1) shall not be subject to the restric-
 19 tions or conditions that apply to the use of the Nav-
 20 ajo Nation’s Water Rights, subject to the condition
 21 that if an Allotment governed by the Act of Feb-
 22 ruary 8, 1887 (commonly known as the “Indian
 23 General Allotment Act”) (24 Stat. 388, chapter
 24 119) becomes Navajo Nation Lands, the water
 25 rights associated with that Allotment shall be sub-

1 ject to the restrictions and conditions on the Navajo
 2 Nation’s Water Rights set forth in this Act and the
 3 Agreement.

4 (3) ALLOTTEE WATER RIGHTS TO BE ADJU-
 5 DICATED.—Allottees, or the United States, acting in
 6 its capacity as trustee for Allottees, may make water
 7 rights claims, and those claims may be adjudicated
 8 in the Rio San José Stream System or the Rio
 9 Puerco Basin.

10 **SEC. 14. EXPANSION OF NAVAJO-GALLUP WATER SUPPLY**
 11 **PROJECT SERVICE AREA.**

12 (a) DEFINITION OF PROJECT.—In this section, the
 13 term “Project” means the Navajo-Gallup Water Supply
 14 Project authorized under section 10602 of the North-
 15 western New Mexico Rural Water Projects Act (Public
 16 Law 111–11; 123 Stat. 1379).

17 (b) EXPANSION OF PROJECT SERVICE AREA AU-
 18 THORIZED.—The Nation may expand the service area for
 19 the Project in order to deliver water supply from the
 20 Project to communities of the Nation within the Rio San
 21 José Basin in the State.

22 (c) APPROVAL OF FINAL DESIGN FOR EXPANSION.—
 23 If water will be supplied from facilities of the Project to
 24 the Rio San José Basin at a time when the Bureau of

1 Reclamation still holds title to those facilities, the Navajo
2 Nation shall—

3 (1) obtain approval, in writing, from the Com-
4 missioner of Reclamation for the final design of the
5 connection and related facilities needed to connect
6 the extension into the Rio San José area from those
7 facilities; and

8 (2) coordinate construction of the connection
9 and related facilities with the Commissioner of Rec-
10 lamation.

11 **SEC. 15. ANTIDEFICIENCY.**

12 The United States shall not be liable for any failure
13 to carry out any obligation or activity authorized by this
14 Act, including any obligation or activity under the Agree-
15 ment, if adequate appropriations are not provided ex-
16 pressly by Congress to carry out the purposes of this Act.

○