

119TH CONGRESS
1ST SESSION

S. 637

To amend the Northwestern New Mexico Rural Water Projects Act to make improvements to that Act, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 19, 2025

Mr. LUJÁN (for himself, Mr. CURTIS, and Mr. HEINRICH) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

A BILL

To amend the Northwestern New Mexico Rural Water Projects Act to make improvements to that Act, 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.**

4 This Act may be cited as the “Navajo-Gallup Water
5 Supply Project Amendments Act of 2025”.

6 **SEC. 2. DEFINITIONS.**

7 Section 10302 of the Northwestern New Mexico
8 Rural Water Projects Act (43 U.S.C. 407 note; Public
9 Law 111–11) is amended—

1 (1) by striking paragraph (29);

2 (2) by redesignating paragraphs (12), (13),
 3 (14), (15), (16), (17), (18), (19), (20), (21), (22),
 4 (23), (24), (25), (26), (27), (28), and (30) as para-
 5 graphs (13), (14), (15), (16), (17), (18), (19), (20),
 6 (21), (22), (23), (24), (25), (27), (28), (30), (31),
 7 and (32), respectively;

8 (3) by inserting after paragraph (11) the fol-
 9 lowing:

10 “(12) DEFERRED CONSTRUCTION FUND.—The
 11 term ‘Deferred Construction Fund’ means the Nav-
 12 ajo Nation’s Navajo-Gallup Water Supply Project
 13 Deferred Construction Fund established by section
 14 10602(i)(1)(A).”;

15 (4) in paragraph (14) (as so redesignated)—

16 (A) in the paragraph heading, by striking
 17 “DRAFT” and inserting “FINAL ENVIRON-
 18 MENTAL”;

19 (B) by striking “Draft Impact” and insert-
 20 ing “Final Environmental”;

21 (C) by striking “draft environmental” and
 22 inserting “final environmental”; and

23 (D) by striking “March 2007” and insert-
 24 ing “July 6, 2009”;

1 (5) in paragraph (19) (as so redesignated), by
 2 striking “Draft” and inserting “Final Environ-
 3 mental”;

4 (6) by inserting after paragraph (25) (as so re-
 5 designated) the following:

6 “(26) PROJECT SERVICE AREA.—The term
 7 ‘Project Service Area’ means the area that encom-
 8 passes the 43 Nation chapters, the southwest por-
 9 tion of the Jicarilla Apache Reservation, and the
 10 City that is identified to be served by the Project,
 11 as illustrated in figure IV–5 (Drawing No. 1695–
 12 406–49) of the Final Environmental Impact State-
 13 ment.”;

14 (7) by inserting after paragraph (28) (as so re-
 15 designated) the following:

16 “(29) SETTLEMENT TRUST FUNDS.—The term
 17 ‘Settlement Trust Funds’ means—

18 “(A) the Navajo Nation Water Resources
 19 Development Trust Fund established by sub-
 20 section (a)(1) of section 10702;

21 “(B) the Navajo Nation Operations, Main-
 22 tenance, and Replacement Trust Fund estab-
 23 lished under subsection (b)(1) of that section;
 24 and

1 “(C) the Jicarilla Apache Nation Oper-
 2 ations, Maintenance, and Replacement Trust
 3 Fund established under subsection (c)(2) of
 4 that section.”; and
 5 (8) by adding at the end the following:

6 “(33) WORKING COST ESTIMATE.—The term
 7 ‘Working Cost Estimate’ means the Bureau of Rec-
 8 lamation document entitled ‘NGWSP October 2022
 9 WCE’ and dated February 26, 2023, that details the
 10 costs totaling \$2,138,387,000, at the October 2022
 11 price level, of the Project, as configured on that
 12 date.”.

13 **SEC. 3. NAVAJO-GALLUP WATER SUPPLY PROJECT.**

14 (a) AUTHORIZATION OF NAVAJO-GALLUP WATER
 15 SUPPLY PROJECT.—Section 10602 of the Northwestern
 16 New Mexico Rural Water Projects Act (Public Law 111–
 17 11; 123 Stat. 1379) is amended—

18 (1) in subsection (a)—

19 (A) in the subsection heading, by striking
 20 “IN GENERAL” and inserting “AUTHORIZA-
 21 TION”;

22 (B) by striking “The Secretary” and in-
 23 serting the following:

24 “(1) IN GENERAL.—The Secretary”;

1 (C) in paragraph (1) (as so designated), by
2 striking “Draft Impact Statement” and insert-
3 ing “Final Environmental Impact Statement, as
4 further refined in, and including the facilities
5 identified in, the Working Cost Estimate and
6 any subsequent supplemental documents pre-
7 pared in accordance with the National Environ-
8 mental Policy Act of 1969 (42 U.S.C. 4321 et
9 seq.).”; and

10 (D) by adding at the end the following:

11 “(2) ADDITIONAL SERVICE AREAS.—

12 “(A) FINDINGS.—Congress finds that—

13 “(i) expanding the Project Service
14 Area would create opportunities to increase
15 service for additional Nation Tribal mem-
16 bers and would not increase the cost of the
17 Project beyond authorization levels de-
18 scribed in section 10609(a); and

19 “(ii) the unit operations and mainte-
20 nance costs of the Project would be re-
21 duced by adding more customers to the
22 Project.

23 “(B) AUTHORIZATIONS FOR ADDITIONAL
24 PROJECT SERVICE AREAS.—

“(i) NEW MEXICO.—In addition to delivering water supply from the Project to the Nation communities in the San Juan River Basin, the Nation may expand the Project Service Area in order to deliver water supply from the Project to communities of the Nation within the Rio San Jose Basin, New Mexico.

“(ii) ARIZONA.—In addition to delivering water supply from the Project to the Nation communities of Fort Defiance and Window Rock, Arizona, and subject to section 10603(c)(1), the Nation may expand the Project Service Area in order to deliver water supply from the Project to the Nation community of Lupton, Arizona, within the Little Colorado River Basin, Arizona.”;

(2) in subsection (b)—

(A) in the matter preceding paragraph (1)—

(i) by inserting “acquire,” before “construct,”; and

(ii) by striking “Draft Impact Statement” and inserting “Final Environmental Impact Statement, as further refined in,

1 and including the facilities identified in,
2 the Working Cost Estimate and any subse-
3 quent supplemental documents prepared in
4 accordance with the National Environ-
5 mental Policy Act of 1969 (42 U.S.C.
6 4321 et seq.)”;

7 (B) by striking paragraph (1) and insert-
8 ing the following:

9 “(1) The water conveyance and storage facili-
10 ties associated with the San Juan Generating Sta-
11 tion (the coal-fired, 4-unit electric power plant and
12 ancillary features located by the San Juan Mine
13 near Waterflow, New Mexico), including the diver-
14 sion dam, the intake structure, the river pumping
15 plant, the pipeline from the river to the reservoir,
16 the dam and associated reservoir, and any associated
17 land, or interest in land, or ancillary features.”;

18 (C) in paragraph (2)(A)—

19 (i) by striking “River near Kirtland,
20 New Mexico,” and inserting “Generating
21 Station Reservoir”; and

22 (ii) by inserting “generally” before
23 “follows United States Highway 491”;

1 (D) in paragraph (3)(A), by inserting
 2 “generally” before “follows United States High-
 3 way 550”; and

4 (E) in paragraph (5), by inserting “(in-
 5 cluding any reservoir facility)” after “treatment
 6 facility”;

7 (3) in subsection (c)—

8 (A) in the subsection heading, by inserting
 9 “AND FACILITIES” after “LAND”;

10 (B) in paragraph (1), by striking “any
 11 land or interest in land that is” and inserting
 12 “any land or facilities, or interest in land or fa-
 13 cilities, that are”; and

14 (C) by adding at the end the following:

15 “(4) LAND TO BE TAKEN INTO TRUST.—

16 “(A) IN GENERAL.—On satisfaction of the
 17 conditions described in paragraph (7) of the
 18 Agreement and after the requirements of sec-
 19 tions 10701(e) and 10703 are met, the Sec-
 20 retary shall take legal title to the following land
 21 and, subject to subparagraph (D), hold that
 22 land in trust for the benefit of the Nation:

23 “(i) Fee land of the Nation, includ-
 24 ing—

1 “(I) the parcels of land on which
 2 the Tohlakai Pumping Plant, Reach
 3 12A and Reach 12B, are located, in-
 4 cluding, in McKinley County, New
 5 Mexico—

6 “(aa) sec. 5, T. 16 N., R. 18
 7 W., New Mexico Prime Meridian;
 8 and

9 “(bb) sec. 33, T. 17 N., R.
 10 17 W., New Mexico Prime Merid-
 11 ian (except lot 9 and the NW¹/₄
 12 of lot 4);

13 “(II) the parcel of land on which
 14 Reach 12.1 is located, including—

15 “(aa) NW¹/₄ and SW¹/₄ sec.
 16 5, T. 16 N., R. 18 W.;

17 “(bb) N¹/₂ sec. 11, T. 16 N.,
 18 R. 19 W.; and

19 “(cc) sec. 12, T. 16 N., R.
 20 20 W.; and

21 “(III) the parcel of land on which
 22 Reach 12.2 is located, including
 23 NW¹/₄. sec. 2, T. 16 N., R. 21 W.

1 “(ii) Public domain land managed by
2 the Bureau of Land Management, includ-
3 ing—

4 “(I) the parcel of land on which
5 the Cutter Lateral Water Treatment
6 Plant is located, including S $\frac{1}{2}$ sec. 9,
7 T. 25 N., R. 9 W., New Mexico Prime
8 Meridian; and

9 “(II) the parcel of land on which
10 the Navajo Agricultural Products In-
11 dustry turnout is located, including
12 NW $\frac{1}{4}$ and NE $\frac{1}{4}$ sec. 34, T. 26 N.,
13 R. 9 W., New Mexico Prime Meridian.

14 “(iii) The land underlying the San
15 Juan Generating Station (the coal-fired, 4-
16 unit electric power plant and ancillary fea-
17 tures located by the San Juan Mine near
18 Waterflow, New Mexico) acquired by the
19 United States, as described in subsection
20 (b)(1).

21 “(B) PART OF NAVAJO NATION.—The land
22 taken into trust under subparagraph (A) shall
23 be part of the Navajo Reservation and adminis-
24 tered in accordance with the laws and regula-
25 tions generally applicable to land held in trust

1 by the United States for the benefit of an In-
2 dian Tribe.

3 “(C) RESTRICTIONS.—

4 “(i) FREE LAND OF THE NATION.—The
5 fee land of the Nation taken into trust
6 under subparagraph (A)(i) shall be subject
7 to valid existing rights, contracts, and
8 management agreements, including ease-
9 ments and rights-of-way, unless the holder
10 of the right, contract, lease, permit, or
11 right-of-way requests an earlier termi-
12 nation in accordance with existing law.

13 “(ii) PUBLIC DOMAIN LAND.—

14 “(I) IN GENERAL.—The public
15 domain land managed by the Bureau
16 of Land Management taken into trust
17 under subparagraph (A)(ii) shall be
18 subject to valid existing rights, con-
19 tracts, leases, permits, and rights-of-
20 way, unless the holder of the right,
21 contract, lease, permit, or right-of-way
22 requests an earlier termination in ac-
23 cordance with existing law.

1 “(II) BIA ASSUMPTION OF BENE-
2 FITS AND OBLIGATIONS.—The Bureau
3 of Indian Affairs shall—

4 “(aa) assume all benefits
5 and obligations of the previous
6 land management agency under
7 the existing rights, contracts,
8 leases, permits, or rights-of-way
9 described in subclause (I); and

10 “(bb) disburse to the Nation
11 any amounts that accrue to the
12 United States from those rights,
13 contracts, leases, permits, or
14 rights-of-ways after the date on
15 which the land described in
16 clause (ii) of subparagraph (A) is
17 taken into trust for the benefit of
18 the Nation from any sale, bonus,
19 royalty, or rental relating to that
20 land in the same manner as
21 amounts received from other land
22 held by the Secretary in trust for
23 the Nation.

24 “(iii) LAND UNDERLYING THE SAN
25 JUAN GENERATING STATION.—

1 “(I) IN GENERAL.—The land un-
 2 derlying the San Juan Generating
 3 Station (the coal-fired, 4-unit electric
 4 power plant and ancillary features lo-
 5 cated by the San Juan Mine near Wa-
 6 terflow, New Mexico) taken into trust
 7 under subparagraph (A)(iii) shall be
 8 subject to a perpetual easement on
 9 and over all of the land underlying the
 10 San Juan Generating Station reserved
 11 to the United States for use by the
 12 Bureau of Reclamation and its con-
 13 tractors and assigns—

14 “(aa) for ingress and egress;

15 “(bb) to continue construc-
 16 tion of the Project; and

17 “(cc) for operation and
 18 maintenance of Project facilities
 19 located on that land.

20 “(II) RESERVED PERPETUAL
 21 EASEMENT.—The reserved perpetual
 22 easement described in subclause (I)
 23 shall remain vested in the United
 24 States unless title to the Project fa-
 25 cilities and appropriate interests in

1 land are conveyed pursuant to sub-
2 section (f).

3 “(III) RESERVED FEDERAL FA-
4 CILITIES.—The United States shall
5 retain ownership of the San Juan
6 Generating Station (the coal-fired, 4-
7 unit electric power plant and ancillary
8 features located by the San Juan
9 Mine near Waterflow, New Mexico)
10 water conveyance and storage facili-
11 ties when the underlying land is taken
12 into trust under subparagraph (A)(iii)
13 and title to those facilities shall re-
14 main vested in the United States un-
15 less title to those facilities are con-
16 veyed pursuant to subsection (f).

17 “(D) SAVINGS CLAUSE.—Nothing in this
18 paragraph affects any—

19 “(i) water right of the Nation in exist-
20 ence on the day before the date of enact-
21 ment of the Navajo-Gallup Water Supply
22 Project Amendments Act of 2025; and

23 “(ii) right or claim of the Nation to
24 any land or interest in land in existence on
25 the day before the date of enactment of the

1 Navajo-Gallup Water Supply Project
 2 Amendments Act of 2025.”;

3 (4) in subsection (d)(1)(D), by striking “Draft”
 4 and inserting “Final Environmental”;

5 (5) in subsection (e)—

6 (A) by striking “The Secretary” and in-
 7 serting the following:

8 “(1) IN GENERAL.—The Secretary”; and

9 (B) by adding at the end the following:

10 “(2) RENEWABLE ENERGY AND HYDRO-
 11 ELECTRIC POWER.—

12 “(A) RENEWABLE ENERGY.—For any por-
 13 tion of the Project that does not have access to
 14 Colorado River Storage Project power, the Sec-
 15 retary may use not more than \$6,250,000 of
 16 the amounts made available under section
 17 10609(a)(1) to develop renewable energy.

18 “(B) HYDROELECTRIC POWER.—Notwith-
 19 standing whether a Project facility has access
 20 to Colorado River Storage Project power, the
 21 Secretary may use not more than \$1,250,000 of
 22 the \$6,250,000 authorized to be used to develop
 23 renewable energy under subparagraph (A) to
 24 develop hydroelectric power for any Project fa-

1 cility that can use hydraulic head to produce
2 electricity.”;

3 (6) in subsection (h)(1), in the matter pre-
4 ceding subparagraph (A), by inserting “, store,”
5 after “treat”; and

6 (7) by adding at the end the following:

7 “(i) DEFERRED CONSTRUCTION OF PROJECT FA-
8 CILITIES.—

9 “(1) DEFERRED CONSTRUCTION OF PROJECT
10 FACILITIES.—On mutual agreement between the Na-
11 tion and the Secretary, and the Jicarilla Apache Na-
12 tion if the deferred Project facilities benefit the
13 Jicarilla Apache Nation, construction of selected
14 Project facilities may be deferred to save operation
15 and maintenance expenses associated with that con-
16 struction.

17 “(2) DEFERRED CONSTRUCTION FUND.—

18 “(A) ESTABLISHMENT.—There is estab-
19 lished in the Treasury a fund, to be known as
20 the ‘Navajo Nation’s Navajo-Gallup Water Sup-
21 ply Project Deferred Construction Fund’, to
22 consist of—

23 “(i) amounts that correspond to por-
24 tions of the Project that have been de-
25 ferred under paragraph (1); and

1 “(ii) any interest or other gains on
2 amounts referred to in clause (i).

3 “(B) USE OF THE DEFERRED CONSTRUC-
4 TION FUND.—The Nation may use amounts in
5 the Deferred Construction Fund—

6 “(i) to construct Project facilities that
7 have been deferred under paragraph (1);
8 or

9 “(ii) to construct alternate facilities
10 agreed on under subparagraph (C).

11 “(C) ALTERNATE FACILITIES CONSISTENT
12 WITH THE PURPOSE OF THE PROJECT.—On
13 agreement between the Nation and the Sec-
14 retary, and the Jicarilla Apache Nation if the
15 deferred Project facilities benefit the Jicarilla
16 Apache Nation, and in compliance with all ap-
17 plicable environmental and cultural resource
18 protection laws, facilities other than those pre-
19 viously agreed to be deferred under paragraph
20 (1) may be constructed if those alternate facili-
21 ties are consistent with the purposes of the
22 Project described in section 10601.

23 “(3) AMOUNTS TO BE DEPOSITED.—Funds allo-
24 cated from the amounts made available under sec-
25 tion 10609(a)(1) to build facilities referred to in

1 paragraph (1) shall be deposited into the Deferred
2 Construction Fund.

3 “(4) ADJUSTMENTS.—On deposit of amounts
4 into the Deferred Construction Fund under para-
5 graph (3), the adjustments to authorized appropria-
6 tions under section 10609(a)(2) shall no longer
7 apply to those amounts.

8 “(5) DEADLINE TO CONSTRUCT PROJECT FA-
9 CILITIES.—On deposit of all amounts into the De-
10 ferred Construction Fund for construction of Project
11 facilities agreed on under paragraph (1), the Sec-
12 retary shall be deemed to have met the obligation
13 under section 10701(e)(1)(A)(ix).

14 “(6) FUTURE CONSTRUCTION OF PROJECT FA-
15 CILITIES.—On agreement between the Nation and
16 the Secretary, and the Jicarilla Apache Nation if the
17 deferred Project facilities benefit the Jicarilla
18 Apache Nation, the Nation shall use amounts depos-
19 ited into the Deferred Construction Fund to con-
20 struct—

21 “(A) Project facilities deferred under para-
22 graph (1); or

23 “(B) alternate Project facilities described
24 in paragraph (2)(C).”.

1 (b) DELIVERY AND USE OF NAVAJO-GALLUP WATER
 2 SUPPLY PROJECT WATER.—Section 10603 of the North-
 3 western New Mexico Rural Water Projects Act (Public
 4 Law 111–11; 123 Stat. 1382) is amended—

5 (1) in subsection (a)(3)(B)—

6 (A) in clause (i), by inserting “or, if gen-
 7 erated on City-owned facilities, by the City”
 8 after “the Nation”; and

9 (B) in clause (ii), by inserting “, except
 10 that the City shall retain all revenue from the
 11 sale of hydroelectric power that is generated on
 12 City-owned facilities” after “hydroelectric
 13 power”; and

14 (2) in subsection (g)(2), by striking “, except as
 15 provided in section 10604(f)”.

16 (c) PROJECT CONTRACTS.—Section 10604 of the
 17 Northwestern New Mexico Rural Water Projects Act
 18 (Public Law 111–11; 123 Stat. 1388) is amended—

19 (1) in subsection (a)(4), by striking “Subject to
 20 subsection (f), the” and inserting “The”;

21 (2) in subsection (b)(3)—

22 (A) in subparagraph (A), by striking “sub-
 23 paragraph (B)” and inserting “subparagraphs
 24 (B) and (C)”;

25 (B) in subparagraph (B)—

1 (i) in the subparagraph heading, by
 2 striking “MINIMUM PERCENTAGE” and in-
 3 serting “MAXIMUM PERCENTAGE”;

4 (ii) by striking “at least 25 percent”
 5 and inserting “not more than 25 percent”;
 6 and

7 (iii) by striking “, but shall in no
 8 event exceed 35 percent”; and

9 (C) by adding at the end the following:

10 “(C) MAXIMUM REPAYMENT OBLIGA-
 11 TION.—The repayment obligation of the City
 12 referred to in subparagraphs (A) and (B) shall
 13 not exceed \$76,000,000.”;

14 (3) in subsection (c)(1)(B), by inserting “sub-
 15 section (f) and” before “section 10603(g)”;

16 (4) in subsection (d)(1), by striking “Draft”
 17 and inserting “Final Environmental”;

18 (5) in subsection (e), by striking “Draft” and
 19 inserting “Final Environmental”;

20 (6) by striking subsection (f); and

21 (7) by redesignating subsection (g) as sub-
 22 section (f).

23 (d) AUTHORIZATION OF APPROPRIATIONS.—Section
 24 10609 of the Northwestern New Mexico Rural Water

1 Projects Act (Public Law 111–11; 123 Stat. 1395; 129
2 Stat. 528) is amended—

3 (1) in subsection (a)—

4 (A) in paragraph (1), by striking
5 “\$870,000,000 for the period of fiscal years
6 2009 through 2024” and inserting
7 “\$2,175,000,000 for the period of fiscal years
8 2009 through 2029”;

9 (B) by striking paragraph (2) and insert-
10 ing the following:

11 “(2) ADJUSTMENTS.—

12 “(A) IN GENERAL.—The amount under
13 paragraph (1) shall be adjusted by such
14 amounts as may be required—

15 “(i) by reason of changes since Octo-
16 ber 2022 in construction cost changes in
17 applicable regulatory standards, as indi-
18 cated by engineering cost indices applicable
19 to the types of construction involved; and

20 “(ii) to address construction cost
21 changes necessary to account for unfore-
22 seen market volatility that may not other-
23 wise be captured by engineering cost indi-
24 ces described in clause (i), as determined
25 by the Secretary, including repricing appli-

1 cable to the types of construction and cur-
 2 rent industry standards involved.

3 “(B) DEFERRED CONSTRUCTION FUND.—
 4 Amounts deposited in the Deferred Construc-
 5 tion Fund shall not be adjusted pursuant to
 6 this paragraph.”; and

7 (C) in paragraph (4)(B), by striking “10
 8 years” and inserting “15 years”; and
 9 (2) in subsection (b)—

10 (A) in paragraph (1), by striking
 11 “\$30,000,000, as adjusted under paragraph
 12 (3), for the period of fiscal years 2009 through
 13 2019” and inserting “\$37,500,000, as adjusted
 14 under paragraph (3), for the period of fiscal
 15 years 2009 through 2032”;

16 (B) in paragraph (2), by striking “2024”
 17 and inserting “2032”; and

18 (C) in paragraph (3), by striking “The
 19 amount under paragraph (1)” and inserting
 20 “The amount under paragraphs (1) and (2)”.

21 (e) TAXATION OF CONSTRUCTION, OPERATION, AND
 22 MAINTENANCE OF PROJECT FACILITIES.—

23 (1) IN GENERAL.—Part III of the North-
 24 western New Mexico Rural Water Projects Act

1 (Public Law 111–11; 123 Stat. 1379) is amended by
 2 adding at the end the following:

3 **“SEC. 10610. TAXATION OF CONSTRUCTION, OPERATION,**
 4 **AND MAINTENANCE OF PROJECT FACILITIES.**

5 “(a) NATION LAND.—Any activity constituting the
 6 construction, operation, or maintenance of Project facili-
 7 ties—

8 “(1) shall, if the activity takes place on land
 9 that is held in trust by the United States for the
 10 benefit of the Nation, be subject to taxation by the
 11 Nation; and

12 “(2) shall not be subject to any fee, tax, assess-
 13 ment, levy, or other charge imposed by any State or
 14 political subdivision of a State.

15 “(b) OTHER LAND.—Any activity constituting the
 16 construction, operation, or maintenance of Project facili-
 17 ties—

18 “(1) shall, if the activity takes place on land
 19 other than the land described in subsection (a)(1),
 20 be subject to taxation by the State in which the land
 21 is located, or by a political subdivision of that State
 22 to the extent authorized by the laws of that State;
 23 and

24 “(2) shall not be subject to any fee, tax, assess-
 25 ment, levy, or other charge imposed by the Nation.”.

1 (2) CLERICAL AMENDMENT.—The table of con-
 2 tents in section 1(b) of the Omnibus Public Land
 3 Management Act of 2009 (Public Law 111–11; 123
 4 Stat. 991) is amended by inserting after the item re-
 5 lating to section 10609 the following:

“Sec. 10610. Taxation of construction, operation, and maintenance of Project
 facilities.”.

6 **SEC. 4. NAVAJO NATION WATER RIGHTS.**

7 (a) AGREEMENT.—Section 10701(e) of the North-
 8 western New Mexico Rural Water Projects Act (Public
 9 Law 111–11; 123 Stat. 1400; 129 Stat. 528) is amend-
 10 ed—

11 (1) in paragraph (1)(A)—

12 (A) by striking clause (vii) and inserting
 13 the following:

14 “(vii) NAVAJO NATION WATER RE-
 15 SOURCES DEVELOPMENT TRUST FUND.—
 16 Not later than December 31, 2019, the
 17 United States shall make all deposits into
 18 the Navajo Nation Water Resources Devel-
 19 opment Trust Fund established by section
 20 10702(a)(1).”;

21 (B) in clause (viii), by striking “2019” and
 22 inserting “2032”;

23 (C) in clause (ix), by striking “2024” and
 24 inserting “2029”; and

1 (D) by adding at the end the following:

2 “(x) DEFERRED CONSTRUCTION
3 FUND.—

4 “(I) IN GENERAL.—Not later
5 than December 31, 2029, the United
6 States shall make all deposits into the
7 Deferred Construction Fund in ac-
8 cordance with section 10602(i)(3).

9 “(II) PROJECT DEADLINE.—On
10 deposit of the amounts into the De-
11 ferred Construction Fund under sub-
12 clause (I), even if certain Project fa-
13 cilities have not yet been constructed,
14 the Secretary shall be deemed to have
15 met the deadline described in clause
16 (ix).”; and

17 (2) in paragraph (2)(B)—

18 (A) in clause (i), by striking “Trust Fund”
19 and inserting “Settlement Trust Funds”; and

20 (B) in clause (ii), by striking “Trust
21 Fund” and inserting “Settlement Trust
22 Funds”.

23 (b) SETTLEMENT TRUST FUNDS.—

24 (1) IN GENERAL.—Section 10702 of the North-
25 western New Mexico Rural Water Projects Act

1 (Public Law 111–11; 123 Stat. 1402) is amended to
 2 read as follows:

3 **“SEC. 10702. SETTLEMENT TRUST FUNDS.**

4 “(a) NAVAJO NATION WATER RESOURCES DEVELOP-
 5 MENT TRUST FUND.—

6 “(1) ESTABLISHMENT.—There is established in
 7 the Treasury a fund, to be known as the ‘Navajo
 8 Nation Water Resources Development Trust Fund’,
 9 consisting of—

10 “(A) such amounts as are appropriated to
 11 the Navajo Nation Water Resources Develop-
 12 ment Trust Fund under paragraph (5); and

13 “(B) any interest earned on investment of
 14 amounts in the Navajo Nation Water Resources
 15 Development Trust Fund under paragraph (3).

16 “(2) USE OF FUNDS.—The Nation may use
 17 amounts in the Navajo Nation Water Resources De-
 18 velopment Trust Fund—

19 “(A) to investigate, construct, operate,
 20 maintain, or replace water project facilities, in-
 21 cluding facilities conveyed to the Nation under
 22 this subtitle and facilities owned by the United
 23 States for which the Nation is responsible for
 24 operation, maintenance, and replacement costs;
 25 and

1 “(B) to investigate, implement, or improve
 2 a water conservation measure (including a me-
 3 tering or monitoring activity) necessary for the
 4 Nation to make use of a water right of the Na-
 5 tion under the Agreement.

6 “(3) INVESTMENT.—Beginning on October 1,
 7 2019, the Secretary shall invest amounts in the Nav-
 8 ajo Nation Water Resources Development Trust
 9 Fund in accordance with subsection (e).

10 “(4) INVESTMENT EARNINGS.—Any investment
 11 earnings, including interest, credited to amounts
 12 held in the Navajo Nation Water Resources Develop-
 13 ment Trust Fund are authorized to be used in ac-
 14 cordance with paragraph (2).

15 “(5) AUTHORIZATION OF APPROPRIATIONS.—
 16 There are authorized to be appropriated for deposit
 17 in the Navajo Nation Water Resources Development
 18 Trust Fund—

19 “(A) \$6,000,000 for each of fiscal years
 20 2010 through 2014; and

21 “(B) \$4,000,000 for each of fiscal years
 22 2015 through 2019.

23 “(6) AVAILABILITY.—Any amount authorized to
 24 be appropriated to the Navajo Nation Water Re-
 25 sources Development Trust Fund under paragraph

1 (5) shall not be available for expenditure or with-
 2 drawal—

3 “(A) before December 31, 2019; and

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

6 “(i) the Partial Final Decree; and

7 “(ii) the Supplemental Partial Final
 8 Decree.

9 “(7) MANAGEMENT.—The Secretary shall man-
 10 age the Navajo Nation Water Resources Develop-
 11 ment Trust Fund in accordance with subsection (d).

12 “(8) CONDITIONS FOR EXPENDITURE AND
 13 WITHDRAWAL.—After the funds become available
 14 pursuant to paragraph (6), all expenditures and
 15 withdrawals by the Nation of funds in the Navajo
 16 Nation Water Resources Development Trust Fund
 17 must comply with the requirements of subsection (f).

18 “(b) NAVAJO NATION OPERATIONS, MAINTENANCE,
 19 AND REPLACEMENT TRUST FUND.—

20 “(1) ESTABLISHMENT.—The Secretary shall es-
 21 tablish a trust fund to be known as the ‘Navajo Na-
 22 tion Operations, Maintenance, and Replacement
 23 Trust Fund’ for the purposes set forth in paragraph
 24 (2), to be managed, invested, and distributed by the
 25 Secretary, and to remain available until expended,

1 withdrawn, or reverted to the general fund of the
2 Treasury, consisting of the amounts deposited in the
3 trust fund under paragraph (3), together with any
4 interests earned on those amounts under paragraph
5 (4).

6 “(2) USE OF FUNDS.—The Nation may use
7 amounts in the Navajo Nation Operations, Maintenance,
8 and Replacement Trust Fund to pay operation,
9 maintenance, and replacement costs of the
10 Project allocable to the Nation under section 10604.

11 “(3) AUTHORIZATION OF APPROPRIATIONS.—
12 There are authorized to be appropriated for deposit
13 in the Navajo Nation Operations, Maintenance, and
14 Replacement Trust Fund \$250,000,000.

15 “(4) INVESTMENT.—Upon deposit of funding
16 into the Navajo Nation Operations, Maintenance,
17 and Replacement Trust Fund pursuant to paragraph
18 (3), the Secretary shall invest amounts deposited
19 in accordance with subsection (e).

20 “(5) INVESTMENT EARNINGS.—Any investment
21 earnings, including interest, credited to amounts
22 held in the Navajo Nation Operations, Maintenance,
23 and Replacement Trust Fund are authorized to be
24 used in accordance with paragraph (2).

1 “(6) AVAILABILITY.—Any amount authorized to
2 be appropriated to the Navajo Nation Operations,
3 Maintenance, and Replacement Trust Fund under
4 paragraph (3) shall not be available for expenditure
5 or withdrawal until the Nation is responsible for
6 payment of operation, maintenance, and replacement
7 costs as set forth in section 10603(g).

8 “(7) FLUCTUATION IN COSTS.—

9 “(A) IN GENERAL.—The amounts author-
10 ized to be appropriated under paragraph (3)
11 shall be increased or decreased, as appropriate,
12 by such amounts as may be justified by reason
13 of ordinary fluctuations in costs occurring after
14 October 2022 as indicated by the Bureau of
15 Reclamation Operation and Maintenance Cost
16 Index.

17 “(B) REPETITION.—The adjustment proc-
18 ess under this subparagraph shall be repeated
19 for each subsequent amount appropriated until
20 the amount authorized, as adjusted, has been
21 appropriated.

22 “(C) PERIOD OF INDEXING.—The period
23 of indexing adjustment under this subpara-
24 graph for any increment of funding shall end on
25 the date on which the funds are deposited into

1 the Navajo Nation Operations, Maintenance,
2 and Replacement Trust Fund.

3 “(8) MANAGEMENT.—The Secretary shall man-
4 age the Navajo Nation Operations, Maintenance,
5 and Replacement Trust Fund in accordance with
6 subsection (d).

7 “(9) CONDITIONS FOR EXPENDITURE AND
8 WITHDRAWAL.—All expenditures and withdrawals by
9 the Nation of funds in the Navajo Nation Oper-
10 ations, Maintenance, and Replacement Trust Fund
11 must comply with the requirements of subsection (f).

12 “(c) JICARILLA APACHE NATION OPERATIONS,
13 MAINTENANCE, AND REPLACEMENT TRUST FUND.—

14 “(1) PREREQUISITE TO ESTABLISHMENT.—
15 Prior to establishment of the trust fund under para-
16 graph (2), the Secretary shall conduct an Ability to
17 Pay study to determine what operation, mainte-
18 nance, and replacement costs of that section of the
19 Project serving the Jicarilla Apache Nation are in
20 excess of the ability of the Jicarilla Apache Nation
21 to pay.

22 “(2) ESTABLISHMENT.—Upon completion of
23 the Ability to Pay study as set forth in paragraph
24 (1), the Secretary shall establish a trust fund to be
25 known as the ‘Jicarilla Apache Nation Operations,

1 Maintenance, and Replacement Trust Fund’ for the
2 purposes set forth in paragraph (3), to be managed,
3 invested, and distributed by the Secretary and to re-
4 main available until expended, withdrawn, or re-
5 verted to the general fund of the Treasury, con-
6 sisting of the amounts deposited in the trust fund
7 under paragraph (4), together with any interests
8 earned on those amounts under paragraph (5).

9 “(3) USE OF FUNDS.—The Jicarilla Apache
10 Nation may use amounts in the Jicarilla Apache Na-
11 tion Operations, Maintenance, and Replacement
12 Trust Fund to pay operation, maintenance, and re-
13 placement costs of the Project allocable to the
14 Jicarilla Nation under section 10604.

15 “(4) AUTHORIZATION OF APPROPRIATIONS.—
16 There are authorized to be appropriated for deposit
17 in the Jicarilla Apache Nation Operations, Mainte-
18 nance, and Replacement Trust Fund the amounts
19 the Secretary has determined are in excess of the
20 ability of the Jicarilla Apache Nation to pay in the
21 Ability to Pay study required under paragraph (1)
22 up to a maximum of \$10,000,000.

23 “(5) INVESTMENT.—Upon deposit of funding
24 into the Jicarilla Apache Nation Operations, Mainte-
25 nance, and Replacement Trust Fund pursuant to

1 paragraph (4), the Secretary shall invest amounts in
2 the fund in accordance with subsection (e).

3 “(6) INVESTMENT EARNINGS.—Any investment
4 earnings, including interest, credited to amounts
5 held in the Jicarilla Apache Nation Operations,
6 Maintenance, and Replacement Trust Fund are au-
7 thorized to be used in accordance with paragraph
8 (3).

9 “(7) AVAILABILITY.—Any amount authorized to
10 be appropriated to the Jicarilla Apache Nation Op-
11 erations, Maintenance, and Replacement Trust Fund
12 under paragraph (4) shall not be available for ex-
13 penditure or withdrawal until the Jicarilla Apache
14 Nation is responsible for payment of operation,
15 maintenance, and replacement costs as set forth in
16 section 10603(g).

17 “(8) FLUCTUATION IN COSTS.—

18 “(A) IN GENERAL.—The amounts author-
19 ized to be appropriated under paragraph (4)
20 shall be increased or decreased, as appropriate,
21 by such amounts as may be justified by reason
22 of ordinary fluctuations in costs occurring after
23 October 2022 as indicated by the Bureau of
24 Reclamation Operation and Maintenance Cost
25 Index.

1 “(B) REPETITION.—The adjustment proc-
 2 ess under this subparagraph shall be repeated
 3 for each subsequent amount appropriated until
 4 the amount authorized, as adjusted, has been
 5 appropriated.

6 “(C) PERIOD OF INDEXING.—The period
 7 of indexing adjustment under this subpara-
 8 graph for any increment of funding shall end on
 9 the date on which the funds are deposited into
 10 the Jicarilla Apache Nation Operations, Mainte-
 11 nance, and Replacement Trust Fund.

12 “(9) MANAGEMENT.—The Secretary shall man-
 13 age the Jicarilla Apache Nation Operations, Mainte-
 14 nance, and Replacement Trust Fund in accordance
 15 with subsection (d).

16 “(10) CONDITIONS FOR EXPENDITURE AND
 17 WITHDRAWAL.—All expenditures and withdrawals by
 18 the Jicarilla Apache Nation of funds in the Jicarilla
 19 Apache Nation Operations, Maintenance, and Re-
 20 placement Trust Fund must comply with the re-
 21 quirements of subsection (f).

22 “(d) MANAGEMENT.—The Secretary shall manage
 23 the Settlement Trust Funds, invest amounts in the Settle-
 24 ment Trust Funds pursuant to subsection (e), and make
 25 amounts available from the Settlement Trust Funds for

1 distribution to the Nation and the Jicarilla Apache Nation
 2 in accordance with the American Indian Trust Fund Man-
 3 agement Reform Act of 1994 (25 U.S.C. 4001 et seq.).

4 “(e) INVESTMENT OF THE TRUST FUNDS.—The Sec-
 5 retary shall invest amounts in the Settlement Trust Funds
 6 in accordance with—

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

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

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

12 “(f) CONDITIONS FOR EXPENDITURES AND WITH-
 13 DRAWALS.—

14 “(1) TRIBAL MANAGEMENT PLAN.—

15 “(A) IN GENERAL.—On approval by the
 16 Secretary of a Tribal management plan in ac-
 17 cordance with the American Indian Trust Fund
 18 Management Reform Act of 1994 (25 U.S.C.
 19 4001 et seq.), the Nation and the Jicarilla
 20 Apache Nation may withdraw all or a portion of
 21 the amounts in the Settlement Trust Funds.

22 “(B) REQUIREMENTS.—In addition to any
 23 requirements under the American Indian Trust
 24 Fund Management Reform Act of 1994 (25
 25 U.S.C. 4001 et seq.), a Tribal management

1 plan shall require that the Nation and Jicarilla
 2 Apache Nation only use amounts in the Settle-
 3 ment Trust Funds for the purposes described in
 4 subsection (a)(2), (b)(2), or (c)(3), as applica-
 5 ble.

6 “(2) ENFORCEMENT.—The Secretary may take
 7 judicial or administrative action to enforce the provi-
 8 sions of any Tribal management plan to ensure that
 9 any amounts withdrawn from the Settlement Trust
 10 Funds are used in accordance with this subtitle.

11 “(3) NO LIABILITY.—The Secretary or the Sec-
 12 retary of the Treasury shall not be liable for the ex-
 13 penditure or investment of any amounts withdrawn
 14 from the Settlement Trust Funds by the Nation or
 15 the Jicarilla Apache Nation.

16 “(4) EXPENDITURE PLAN.—

17 “(A) IN GENERAL.—The Nation and
 18 Jicarilla Apache Nation shall submit to the Sec-
 19 retary for approval an expenditure plan for any
 20 portion of the amounts in the Settlement Trust
 21 Funds made available under this section that
 22 the Nation or the Jicarilla Apache Nation does
 23 not withdraw under this subsection.

24 “(B) DESCRIPTION.—An expenditure plan
 25 submitted under subparagraph (A) shall de-

1 scribe the manner in which, and the purposes
 2 for which, funds of the Nation or the Jicarilla
 3 Apache Nation remaining in the Settlement
 4 Trust Funds will be used.

5 “(C) APPROVAL.—On receipt of an ex-
 6 penditure plan under subparagraph (A), the
 7 Secretary shall approve the plan if the Sec-
 8 retary determines that the plan is reasonable
 9 and consistent with this subtitle.

10 “(5) ANNUAL REPORT.—The Nation and
 11 Jicarilla Apache Nation shall submit to the Sec-
 12 retary an annual report that describes any expendi-
 13 tures from the Settlement Trust Funds during the
 14 year covered by the report.

15 “(6) LIMITATION.—No portion of the amounts
 16 in the Settlement Trust Funds shall be distributed
 17 to any Nation or Jicarilla Apache Nation member on
 18 a per capita basis.”.

19 (2) CLERICAL AMENDMENT.—The table of con-
 20 tents in section 1(b) of the Omnibus Public Land
 21 Management Act of 2009 (Public Law 111–11; 123
 22 Stat. 991) is amended by striking the item relating
 23 to section 10702 and inserting the following:

“Sec. 10702. Settlement trust funds.”.

1 (c) WAIVERS AND RELEASES.—Section 10703 of the
 2 Northwestern New Mexico Rural Water Projects Act
 3 (Public Law 111–11; 123 Stat. 1403) is amended—

4 (1) in subsection (d)(1)(A), by striking “2025”
 5 and inserting “2030”; and

6 (2) in subsection (e)(2), in the matter preceding
 7 subparagraph (A), by striking “2025” and inserting
 8 “2030”.

9 **SEC. 5. NON-PROJECT WATER FOR USE IN THE STATE OF**
 10 **UTAH.**

11 Section 10602(h) of the Northwestern New Mexico
 12 Rural Water Projects Act (Public Law 111–11; 123 Stat.
 13 1382) is amended—

14 (1) in paragraph (1), in the matter preceding
 15 subparagraph (A), by striking “paragraph (2)” and
 16 inserting “paragraph (3)”;

17 (2) by redesignating paragraph (2) as para-
 18 graph (3); and

19 (3) by inserting after paragraph (1) the fol-
 20 lowing:

21 “(2) CONVEYANCE OF NON-PROJECT WATER TO
 22 THE STATE OF UTAH.—

23 “(A) DEFINITIONS.—In this paragraph:

24 “(i) NAVAJO/UTAH SETTLEMENT
 25 AGREEMENT.—The term ‘Navajo/Utah

1 Settlement Agreement’ means the agree-
 2 ment entitled ‘Navajo Nation/State of
 3 Utah Water Rights Settlement Agree-
 4 ment’, dated May 27, 2022, and author-
 5 ized by section 1102 of title XI of division
 6 FF of Public Law 116–260 (134 Stat.
 7 3224).

8 “(ii) NAVAJO-UTAH WATER RIGHTS.—
 9 The term ‘Navajo-Utah water rights’ has
 10 the meaning given the term ‘Navajo water
 11 rights’ in section 1102(b) of title XI of di-
 12 vision FF of Public Law 116–260 (134
 13 Stat. 3225).

14 “(B) IN GENERAL.—Subject to paragraph
 15 (1), the Nation may provide non-Project water
 16 to communities of the Nation in the State of
 17 Utah, subject to the conditions that—

18 “(i) not more than 2,000 acre-feet per
 19 year of non-Project water may be treated,
 20 stored, or conveyed through Project and
 21 non-Project infrastructure for the benefit
 22 of those communities;

23 “(ii) any non-Project water treated or
 24 conveyed through Project and non-Project
 25 infrastructure and delivered to the New

1 Mexico state line for the benefit of those
2 communities shall—

3 “(I) be considered part of the
4 Navajo-Utah water rights as quan-
5 tified in section 1102(d)(1)(A) of title
6 XI of division FF of Public Law 116–
7 260 (134 Stat. 3227); and

8 “(II) be accounted for as a deple-
9 tion by the Nation to be counted
10 against the apportionment of the
11 State of Utah under the Compact for
12 purposes of the depletion accounting
13 under the Navajo/Utah Settlement
14 Agreement;

15 “(iii) Project funds shall not be used
16 to design, plan, construct, operate, main-
17 tain, or repair any additional infrastruc-
18 ture in the State of New Mexico or any in-
19 frastructure in the State of Arizona or
20 Utah to join the Project infrastructure to
21 the Sweetwater pipeline (non-Project infra-
22 structure);

23 “(iv) the share of any Project Partici-
24 pants’ Project operation, maintenance, and
25 replacement costs shall not be increased in

1 connection with the use of non-Project in-
2 frastructure;

3 “(v) the United States shall have no
4 responsibility or obligation to provide non-
5 Project water to those communities under
6 this paragraph and no Federal funding
7 shall be provided for the costs to construct,
8 operate, maintain, and replace any non-
9 Project infrastructure necessary for stor-
10 age and conveyance of non-Project water
11 from the State of New Mexico to serve
12 those communities except for funds author-
13 ized under—

14 “(I) section 1102 of title XI of
15 division FF of Public Law 116–260
16 (134 Stat. 3224);

17 “(II) section 7 of the Act of Au-
18 gust 5, 1954 (42 U.S.C. 2004a); and

19 “(III) the Indian Health Care
20 Improvement Act (25 U.S.C. 1601 et
21 seq.);

22 “(vi) efforts associated with providing
23 non-Project water to those communities
24 shall not delay the Project, or any compo-
25 nent of the Project, in a manner that

1 would be prejudicial to any Project Partici-
2 pant; and

3 “(vii) in addition to the requirements
4 of this paragraph, delivery of non-Project
5 water under this paragraph is subject to—

6 “(I) the terms of the Navajo/
7 Utah Settlement Agreement;

8 “(II) the State of Utah issuing a
9 decreed water right pursuant to the
10 terms of the Navajo/Utah Settlement
11 Agreement;

12 “(III) the State of Utah not in-
13 ccurring additional financial obligations
14 beyond those identified in the Navajo/
15 Utah Settlement Agreement; and

16 “(IV) the execution of an imple-
17 mentation agreement between the Na-
18 tion and the State of Utah relating to
19 accounting and measurement of non-
20 Project water under this paragraph to
21 be consistent with the terms of the
22 Navajo/Utah Settlement Agreement.

23 “(C) CLARIFICATION.—The State of New
24 Mexico shall have no responsibility or obligation
25 to provide—

1 “(i) non-Project water to communities
2 of the Nation in the State of Utah under
3 this paragraph; or

4 “(ii) any funding under this para-
5 graph.”.

○