

and a budget that will triple the national debt in the next 10 years, Democrat leaders are now talking about actually bringing legislation that will raise our debt limit by \$1.9 trillion. But we are told by the same Democratic leadership that they are going to get serious in 2010 about fiscal discipline.

I guess, along those lines, President Obama is expected to announce a bipartisan commission that will look for ways to reduce deficits in the future. Sounds like an appealing idea, but the devil is always in the details in Washington, D.C.

The President's commission on close examination actually looks like a guard dog with no bite. It looks like fiscal discipline, but it could be easily ignored by Congress.

Remarkably, the President's proposal, as I have heard about it, is prohibited from recommending cuts in any discretionary spending. That will be about \$1.4 trillion. And the bridge to nowhere, that is completely off-limits. And, as many of us know, with the partisan bias and the structure of it, as reported, it is likely this commission will just be an excuse to raise taxes.

The American people don't want more government, more taxes, and more political posturing about spending. They want this Congress to show the character and the strength to make the hard choices to put our fiscal house in order.

#### SUPPORT H.R. 2829 and H.R. 3053

(Mr. CARSON of Indiana asked and was given permission to address the House for 1 minute.)

Mr. CARSON of Indiana. Mr. Speaker, each year tens of thousands of ex-offenders are released from prison back into our communities. Many of them return to our neighborhoods with few prospects and no way to provide for themselves and their families.

Unfortunately, months of waiting for benefits often push these ex-offenders back into criminal activity. Without an income to purchase health care and food, many see it as the only way to survive.

Today, I believe this Congress has the responsibility to address this clear danger to the public. That is why I introduced two bills last year, H.R. 2829 and H.R. 3053, which will ensure that former inmates have access to TANF, Medicaid, Social Security disability, and other benefits upon their release from prison.

By removing months of waiting, we can help these individuals successfully reenter society and avoid returning to a life of crime. I hope that all of my colleagues will consider cosponsoring these important bills, both for the future of ex-offenders and for the safety of our communities.

#### NATURAL GAS DRILLING

(Mr. ARCURI asked and was given permission to address the House for 1

minute and to revise and extend his remarks.)

Mr. ARCURI. Mr. Speaker, I want to take this opportunity to talk about an issue that has taken root in my district and across Upstate New York, and that is the concern over natural gas drilling prospects in a procedure called "hydraulic fracturing."

Natural gas is a great natural resource for this country to cultivate to use for heat and energy. However, in Upstate New York we have another natural resource that is critical to our survival and prosperity, and that is our water.

Our water supply is precious, and we are so fortunate in Upstate New York to have an abundance of water resources that I never want to take for granted and will always fight to protect.

Now, I don't want to oppose natural gas drilling in Upstate New York because there is a definite opportunity for gas drilling that has a positive impact, and I think that that's an important thing if we are going to address energy costs and local jobs in the region. But I don't want to sacrifice the purity of our water resources by rushing to drill before the infrastructure is in place in New York to regulate it in the way that it needs to be regulated.

I will stand with the people in my district who could be affected by natural gas drilling to ensure that their water is protected.

#### HEALTH CARE

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, some people just don't get it.

I was reading the Wall Street Journal this morning. And when the Democrat Senators met, one of the aides was asked by a reporter what was going on; and the aide to one of the Democrat Senators said this: "People are hysterical right now."

Hysterical? Because the American people realize that this health care bill is an absolute disgrace and a tragedy, and they didn't want it and they overwhelmingly voted against it in Massachusetts, they are hysterical?

I would just like to say to that young man and any of my colleagues who really haven't gotten the message from Massachusetts and Virginia and New Jersey: the American people don't like the direction this country is heading in. They don't like the big spending. They don't like all these new socialistic programs. And they don't want the government coming between them and their doctor. And I hope my colleagues will get that message so we can work together to solve these problems facing the Nation regarding health care.

#### TAOS PUEBLO INDIAN WATER RIGHTS SETTLEMENT ACT

Mr. RAHALL. Mr. Speaker, pursuant to House Resolution 1017, I call up the

bill (H.R. 3254) to approve the Taos Pueblo Indian Water Rights Settlement Agreement, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. CUELLAR). Pursuant to House Resolution 1017, the bill is considered read.

The amendment in the nature of a substitute printed in the bill is adopted.

The text of the bill, as amended, is as follows:

#### H.R. 3254

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

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

(a) *SHORT TITLE.*—This Act may be cited as the "Taos Pueblo Indian Water Rights Settlement Act".

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

*Sec. 1. Short title; table of contents.*

*Sec. 2. Purpose.*

*Sec. 3. Definitions.*

*Sec. 4. Pueblo rights.*

*Sec. 5. Pueblo water infrastructure and watershed enhancement.*

*Sec. 6. Taos Pueblo Water Development Fund.*

*Sec. 7. Marketing.*

*Sec. 8. Mutual-Benefit Projects.*

*Sec. 9. San Juan-Chama Project contracts.*

*Sec. 10. Authorizations, ratifications, confirmations, and conditions precedent.*

*Sec. 11. Waivers and releases.*

*Sec. 12. Interpretation and enforcement.*

*Sec. 13. Disclaimer.*

#### SEC. 2. PURPOSE.

*The purposes of this Act are—*

(1) *to approve, ratify, and confirm the Taos Pueblo Indian Water Rights Settlement Agreement;*

(2) *to authorize and direct the Secretary to execute the Settlement Agreement and to perform all obligations of the Secretary under the Settlement Agreement and this Act; and*

(3) *to authorize all actions and appropriations necessary for the United States to meet its obligations under the Settlement Agreement and this Act.*

#### SEC. 3. DEFINITIONS.

*In this Act:*

(1) *ELIGIBLE NON-PUEBLO ENTITIES.*—The term "Eligible Non-Pueblo Entities" means the Town of Taos, El Prado Water and Sanitation District ("EPWSD"), and the New Mexico Department of Finance and Administration Local Government Division on behalf of the Acequia Madre del Rio Lucero y del Arroyo Seco, the Acequia Madre del Prado, the Acequia del Monte, the Acequia Madre del Rio Chiquito, the Upper Ranchitos Mutual Domestic Water Consumers Association, the Upper Arroyo Hondo Mutual Domestic Water Consumers Association, and the Llano Quemado Mutual Domestic Water Consumers Association.

(2) *ENFORCEMENT DATE.*—The term "Enforcement Date" means the date upon which the Secretary publishes the notice required by section 10(f)(1).

(3) *MUTUAL-BENEFIT PROJECTS.*—The term "Mutual-Benefit Projects" means the projects described and identified in articles 6 and 10.1 of the Settlement Agreement.

(4) *PARTIAL FINAL DECREE.*—The term "Partial Final Decree" means the Decree entered in *New Mexico v. Abeyta and New Mexico v. Arellano*, Civil Nos. 7896-BB (U.S.6 D.N.M.) and 7939-BB (U.S. D.N.M.) (consolidated), for the resolution of the Pueblo's water right claims and which is substantially in the form agreed to by the Parties and attached to the Settlement Agreement as Attachment 5.

(5) **PARTIES.**—The term “Parties” means the Parties to the Settlement Agreement, as identified in article 1 of the Settlement Agreement.

(6) **PUEBLO.**—The term “Pueblo” means the Taos Pueblo, a sovereign Indian tribe duly recognized by the United States of America.

(7) **PUEBLO LANDS.**—The term “Pueblo lands” means those lands located within the Taos Valley to which the Pueblo, or the United States in its capacity as trustee for the Pueblo, holds title subject to Federal law limitations on alienation. Such lands include Tracts A, B, and C, the Pueblo’s land grant, the Blue Lake Wilderness Area, and the Tenorio and Karavas Tracts and are generally depicted in Attachment 2 to the Settlement Agreement.

(8) **SAN JUAN-CHAMA PROJECT.**—The term “San Juan-Chama Project” means the Project authorized by section 8 of the Act of June 13, 1962 (76 Stat. 96, 97), and the Act of April 11, 1956 (70 Stat. 105).

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

(10) **SETTLEMENT AGREEMENT.**—The term “Settlement Agreement” means the contract dated March 31, 2006, between and among—

(A) the United States, acting solely in its capacity as trustee for Taos Pueblo;

(B) the Taos Pueblo, on its own behalf;

(C) the State of New Mexico;

(D) the Taos Valley Acequia Association and its 55 member ditches (“TVAA”);

(E) the Town of Taos;

(F) EPWSD; and

(G) the 12 Taos area Mutual Domestic Water Consumers Associations (“MDWCAs”), as amended to conform with this Act.

(11) **STATE ENGINEER.**—The term “State Engineer” means the New Mexico State Engineer.

(12) **TAOS VALLEY.**—The term “Taos Valley” means the geographic area depicted in Attachment 4 of the Settlement Agreement.

#### SEC. 4. PUEBLO RIGHTS.

(a) **IN GENERAL.**—Those rights to which the Pueblo is entitled under the Partial Final Decree shall be held in trust by the United States on behalf of the Pueblo and shall not be subject to forfeiture, abandonment, or permanent alienation.

(b) **SUBSEQUENT ACT OF CONGRESS.**—The Pueblo shall not be denied all or any part of its rights held in trust absent its consent unless such rights are explicitly abrogated by an Act of Congress hereafter enacted.

#### SEC. 5. PUEBLO WATER INFRASTRUCTURE AND WATERSHED ENHANCEMENT.

(a) **IN GENERAL.**—The Secretary, acting through the Commissioner of Reclamation, shall provide grants and technical assistance to the Pueblo on a nonreimbursable basis to—

(1) plan, permit, design, engineer, construct, reconstruct, replace, or rehabilitate water production, treatment, and delivery infrastructure;

(2) restore, preserve, and protect the environment associated with the Buffalo Pasture area; and

(3) protect and enhance watershed conditions.

(b) **AVAILABILITY OF GRANTS.**—Upon the Enforcement Date, all amounts appropriated pursuant to section 10(c)(1) or made available from other authorized sources, shall be available in grants to the Pueblo after the requirements of subsection (c) have been met.

(c) **PLAN.**—The Secretary shall provide financial assistance pursuant to subsection (a) upon the Pueblo’s submittal of a plan that identifies the projects to be implemented consistent with the purposes of this section and describes how such projects are consistent with the Settlement Agreement.

(d) **EARLY FUNDS.**—Notwithstanding subsection (b), \$10,000,000 of the monies authorized to be appropriated pursuant to section 10(c)(1)—

(1) shall be made available in grants to the Pueblo by the Secretary upon appropriation or availability of the funds from other authorized sources; and

(2) shall be distributed by the Secretary to the Pueblo on receipt by the Secretary from the Pueblo of a written notice, a Tribal Council resolution that describes the purposes under subsection (a) for which the monies will be used, and a plan under subsection (c) for this portion of the funding.

#### SEC. 6. TAOS PUEBLO WATER DEVELOPMENT FUND.

(a) **ESTABLISHMENT.**—There is established in the Treasury of the United States a fund to be known as the “Taos Pueblo Water Development Fund” (hereinafter, “Fund”) to be used to pay or reimburse costs incurred by the Pueblo for—

(1) acquiring water rights;

(2) planning, permitting, designing, engineering, constructing, reconstructing, replacing, rehabilitating, operating, or repairing water production, treatment or delivery infrastructure, on-farm improvements, or wastewater infrastructure;

(3) restoring, preserving and protecting the Buffalo Pasture, including planning, permitting, designing, engineering, constructing, operating, managing and replacing the Buffalo Pasture Recharge Project;

(4) administering the Pueblo’s water rights acquisition program and water management and administration system; and

(5) for watershed protection and enhancement, support of agriculture, water-related Pueblo community welfare and economic development, and costs related to the negotiation, authorization, and implementation of the Settlement Agreement.

(b) **MANAGEMENT OF THE FUND.**—The Secretary shall manage the Fund, invest amounts in the Fund, and make monies available from the Fund for distribution to the Pueblo consistent with the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001, et seq.) (hereinafter, “Trust Fund Reform Act”), this Act, and the Settlement Agreement.

(c) **INVESTMENT OF THE FUND.**—Upon the Enforcement Date, the Secretary shall invest amounts in the Fund in accordance with—

(1) the Act of April 1, 1880 (21 Stat. 70, ch. 41, 25 U.S.C. 161);

(2) the first section of the Act of June 24, 1938 (52 Stat. 1037, ch. 648, 25 U.S.C. 162a); and

(3) the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.).

(d) **AVAILABILITY OF AMOUNTS FROM THE FUND.**—Upon the Enforcement Date, all monies deposited in the Fund pursuant to section 10(c)(2) or made available from other authorized sources shall be available to the Pueblo for expenditure or withdrawal after the requirements of subsection (e) have been met.

(e) **EXPENDITURES AND WITHDRAWAL.**—

(1) **TRIBAL MANAGEMENT PLAN.**—

(A) **IN GENERAL.**—The Pueblo may withdraw all or part of the Fund on approval by the Secretary of a tribal management plan as described in the Trust Fund Reform Act.

(B) **REQUIREMENTS.**—In addition to the requirements under the Trust Fund Reform Act, the tribal management plan shall require that the Pueblo spend any funds in accordance with the purposes described in subsection (a).

(2) **ENFORCEMENT.**—The Secretary may take judicial or administrative action to enforce the requirement that monies withdrawn from the Fund are used for the purposes specified in subsection (a).

(3) **LIABILITY.**—If the Pueblo exercises the right to withdraw monies from the Fund, neither the Secretary nor the Secretary of the Treasury shall retain any liability for the expenditure or investment of the monies withdrawn.

(4) **EXPENDITURE PLAN.**—

(A) **IN GENERAL.**—The Pueblo shall submit to the Secretary for approval an expenditure plan for any portions of the funds made available under this Act that the Pueblo does not withdraw under paragraph (1)(A).

(B) **DESCRIPTION.**—The expenditure plan shall describe the manner in which, and the purposes

for which, amounts remaining in the Fund will be used.

(C) **APPROVAL.**—On receipt of an expenditure plan under subparagraph (A), the Secretary shall approve the plan if the Secretary determines that the plan is reasonable and consistent with this Act.

(5) **ANNUAL REPORT.**—The Pueblo shall submit to the Secretary an annual report that describes all expenditures from the Fund during the year covered by the report.

(f) **FUNDS AVAILABLE UPON APPROPRIATION.**—Notwithstanding subsection (d), \$15,000,000 of the monies authorized to be appropriated pursuant to section 10(c)(2)—

(1) shall be available upon appropriation or made available from other authorized sources for the Pueblo’s acquisition of water rights pursuant to Article 5.1.1.2.3 of the Settlement Agreement, the Buffalo Pasture Recharge Project, implementation of the Pueblo’s water rights acquisition program and water management and administration system, the design, planning, and permitting of water or wastewater infrastructure eligible for funding under sections 5 or 6, or costs related to the negotiation, authorization, and implementation of the Settlement Agreement; and

(2) shall be distributed by the Secretary to the Pueblo on receipt by the Secretary from the Pueblo of a written notice and a Tribal Council resolution that describes the purposes under paragraph (1) for which the monies will be used.

(g) **NO PER CAPITA DISTRIBUTIONS.**—No part of the Fund shall be distributed on a per capita basis to members of the Pueblo.

#### SEC. 7. MARKETING.

(a) **PUEBLO WATER RIGHTS.**—Subject to the approval of the Secretary in accordance with subsection (e), the Pueblo may market water rights secured to it under the Settlement Agreement and Partial Final Decree, provided that such marketing is in accordance with this section.

(b) **PUEBLO CONTRACT RIGHTS TO SAN JUAN-CHAMA PROJECT WATER.**—Subject to the approval of the Secretary in accordance with subsection (e), the Pueblo may subcontract water made available to the Pueblo under the contract authorized under section 9(b)(1)(A) to third parties to supply water for use within or without the Taos Valley, provided that the delivery obligations under such subcontract are not inconsistent with the Secretary’s existing San Juan-Chama Project obligations and such subcontract is in accordance with this section.

(c) **LIMITATION.**—

(1) **IN GENERAL.**—Diversion or use of water off Pueblo lands pursuant to Pueblo water rights or Pueblo contract rights to San Juan-Chama Project water shall be subject to and not inconsistent with the same requirements and conditions of State law, any applicable Federal law, and any applicable interstate compact as apply to the exercise of water rights or contract rights to San Juan-Chama Project water held by non-Federal, non-Indian entities, including all applicable State Engineer permitting and reporting requirements.

(2) **EFFECT ON WATER RIGHTS.**—Such diversion or use off Pueblo lands under paragraph (1) shall not impair water rights or increase surface water depletions within the Taos Valley.

(d) **MAXIMUM TERM.**—

(1) **IN GENERAL.**—The maximum term of any water use lease or subcontract, including all renewals, shall not exceed 99 years in duration.

(2) **ALIENATION OF RIGHTS.**—The Pueblo shall not permanently alienate any rights it has under the Settlement Agreement, the Partial Final Decree, and this Act.

(e) **APPROVAL OF SECRETARY.**—The Secretary shall approve or disapprove any lease or subcontract submitted by the Pueblo for approval not later than—

(1) 180 days after submission; or

(2) 60 days after compliance, if required, with section 102(2)(C) of the National Environmental

Policy Act of 1969 (42 U.S.C. 4332(2)(C)), or any other requirement of Federal law, whichever is later, provided that no Secretarial approval shall be required for any water use lease with a term of less than 7 years.

(f) **NO FORFEITURE OR ABANDONMENT.**—The nonuse by a lessee or subcontractor of the Pueblo of any right to which the Pueblo is entitled under the Partial Final Decree shall in no event result in a forfeiture, abandonment, relinquishment, or other loss of all or any part of those rights.

(g) **NO PREEMPTION.**—

(1) **IN GENERAL.**—The approval authority of the Secretary provided under subsection (e) shall not amend, construe, supersede, or preempt any State or Federal law, interstate compact, or international treaty that pertains to the Colorado River, the Rio Grande, or any of their tributaries, including the appropriation, use, development, storage, regulation, allocation, conservation, exportation, or quantity of those waters.

(2) **APPLICABLE LAW.**—The provisions of section 2116 of the Revised Statutes (25 U.S.C. 177) shall not apply to any water made available under the Settlement Agreement.

(h) **NO PREJUDICE.**—Nothing in this Act shall be construed to establish, address, prejudice, or prevent any party from litigating whether or to what extent any applicable State law, Federal law, or interstate compact does or does not permit, govern, or apply to the use of the Pueblo's water outside of New Mexico.

#### SEC. 8. MUTUAL-BENEFIT PROJECTS.

(a) **IN GENERAL.**—Upon the Enforcement Date, the Secretary, acting through the Commissioner of Reclamation, shall provide financial assistance in the form of grants on a nonreimbursable basis to Eligible Non-Pueblo Entities to plan, permit, design, engineer, and construct the Mutual-Benefit Projects in accordance with the Settlement Agreement—

(1) to minimize adverse impacts on the Pueblo's water resources by moving future non-Indian ground water pumping away from the Pueblo's Buffalo Pasture; and

(2) to implement the resolution of a dispute over the allocation of certain surface water flows between the Pueblo and non-Indian irrigation water right owners in the community of Arroyo Seco Arriba.

(b) **COST-SHARING.**—

(1) **FEDERAL SHARE.**—The Federal share of the total cost of planning, designing, and constructing the Mutual-Benefit Projects authorized in subsection (a) shall be 75 percent and shall be nonreimbursable.

(2) **NON-FEDERAL SHARE.**—The non-Federal share of the total cost of planning, designing, and constructing the Mutual-Benefit Projects shall be 25 percent and may be in the form of in-kind contributions, including the contribution of any valuable asset or service that the Secretary determines would substantially contribute to completing the Mutual-Benefit Projects.

#### SEC. 9. SAN JUAN-CHAMA PROJECT CONTRACTS.

(a) **IN GENERAL.**—Contracts issued under this section shall be in accordance with this Act and the Settlement Agreement.

(b) **CONTRACTS FOR SAN JUAN-CHAMA PROJECT WATER.**—

(1) **IN GENERAL.**—The Secretary shall enter into 3 repayment contracts by not later than 180 days after the date of enactment of this Act, for the delivery of San Juan-Chama Project water in the following amounts:

(A) 2,215 acre-feet/annum to the Pueblo.

(B) 366 acre-feet/annum to the Town of Taos.

(C) 40 acre-feet/annum to EPWSD.

(2) **REQUIREMENTS.**—Each such contract shall provide that if the conditions precedent set forth in section 10(f)(2) have not been fulfilled by December 31, 2016, the contract shall expire on that date.

(3) **APPLICABLE LAW.**—Public Law 87-483 (76 Stat. 97) applies to the contracts entered into

under paragraph (1) and no preference shall be applied as a result of section 4(a) with regard to the delivery or distribution of San Juan-Chama Project water or the management or operation of the San Juan-Chama Project.

(c) **WAIVER.**—With respect to the contract authorized and required by subsection (b)(1)(A) and notwithstanding the provisions of Public Law 87-483 (76 Stat. 96) or any other provision of law—

(1) the Secretary shall waive the entirety of the Pueblo's share of the construction costs, both principal and the interest, for the San Juan-Chama Project and pursuant to that waiver, the Pueblo's share of all construction costs for the San Juan-Chama Project, inclusive of both principal and interest shall be nonreimbursable; and

(2) the Secretary's waiver of the Pueblo's share of the construction costs for the San Juan-Chama Project will not result in an increase in the pro rata shares of other San Juan-Chama Project water contractors, but such costs shall be absorbed by the United States Treasury or otherwise appropriated to the Department of the Interior.

#### SEC. 10. AUTHORIZATIONS, RATIFICATIONS, CONFIRMATIONS, AND CONDITIONS PRECEDENT.

(a) **RATIFICATION.**—

(1) **IN GENERAL.**—Except to the extent that any provision of the Settlement Agreement conflicts with any provision of this Act, the Settlement Agreement is authorized, ratified, and confirmed.

(2) **AMENDMENTS.**—To the extent amendments are executed to make the Settlement Agreement consistent with this Act, such amendments are also authorized, ratified, and confirmed.

(b) **EXECUTION OF SETTLEMENT AGREEMENT.**—To the extent that the Settlement Agreement does not conflict with this Act, the Secretary shall execute the Settlement Agreement, including all exhibits to the Settlement Agreement requiring the signature of the Secretary and any amendments necessary to make the Settlement Agreement consistent with this Act, after the Pueblo has executed the Settlement Agreement and any such amendments.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—

(1) **TAOS PUEBLO INFRASTRUCTURE AND WATER-SHED FUND.**—There is authorized to be appropriated to the Secretary to provide grants pursuant to section 5, \$30,000,000, as adjusted under paragraph (4), for the period of fiscal years 2010 through 2016.

(2) **TAOS PUEBLO WATER DEVELOPMENT FUND.**—There is authorized to be appropriated to the Taos Pueblo Water Development Fund, established at section 6(a), \$58,000,000, as adjusted under paragraph (4), for the period of fiscal years 2010 through 2016.

(3) **MUTUAL-BENEFIT PROJECTS FUNDING.**—There is further authorized to be appropriated to the Secretary to provide grants pursuant to section 8, a total of \$33,000,000, as adjusted under paragraph (4), for the period of fiscal years 2010 through 2016.

(4) **ADJUSTMENTS TO AMOUNTS AUTHORIZED.**—The amounts authorized to be appropriated under paragraphs (1) through (3) shall be adjusted by such amounts as may be required by reason of changes since April 1, 2007, in construction costs, as indicated by engineering cost indices applicable to the types of construction or rehabilitation involved.

(5) **DEPOSIT IN FUND.**—Except for the funds to be provided to the Pueblo pursuant to section 5(d), the Secretary shall deposit the funds made available pursuant to paragraphs (1) and (3) into a Taos Settlement Fund to be established within the Treasury of the United States so that such funds may be made available to the Pueblo and the Eligible Non-Pueblo Entities upon the Enforcement Date as set forth in sections 5(b) and 8(a).

(d) **AUTHORITY OF THE SECRETARY.**—The Secretary is authorized to enter into such agree-

ments and to take such measures as the Secretary may deem necessary or appropriate to fulfill the intent of the Settlement Agreement and this Act.

(e) **ENVIRONMENTAL COMPLIANCE.**—

(1) **EFFECT OF EXECUTION OF SETTLEMENT AGREEMENT.**—The Secretary's execution of the Settlement Agreement shall not constitute a major Federal action under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

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

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

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

(f) **CONDITIONS PRECEDENT AND SECRETARIAL FINDING.**—

(1) **IN GENERAL.**—Upon the fulfillment of the conditions precedent described in paragraph (2), the Secretary shall publish in the Federal Register a statement of finding that the conditions have been fulfilled.

(2) **CONDITIONS.**—The conditions precedent referred to in paragraph (1) are the following:

(A) The President has signed into law the Taos Pueblo Indian Water Rights Settlement Act.

(B) To the extent that the Settlement Agreement conflicts with this Act, the Settlement Agreement has been revised to conform with this Act.

(C) The Settlement Agreement, so revised, including waivers and releases pursuant to section 11, has been executed by the Parties and the Secretary prior to the Parties' motion for entry of the Partial Final Decree.

(D) Congress has fully appropriated or the Secretary has provided from other authorized sources all funds authorized by paragraphs (1) through (3) of subsection (c) so that the entire amounts so authorized have been previously provided to the Pueblo pursuant to sections 5 and 6, or placed in the Taos Pueblo Water Development Fund or the Taos Settlement Fund as directed in subsection (c).

(E) The Legislature of the State of New Mexico has fully appropriated the funds for the State contributions as specified in the Settlement Agreement, and those funds have been deposited in appropriate accounts.

(F) The State of New Mexico has enacted legislation that amends NMSA 1978, section 72-6-3 to state that a water use due under a water right secured to the Pueblo under the Settlement Agreement or the Partial Final Decree may be leased for a term, including all renewals, not to exceed 99 years, provided that this condition shall not be construed to require that said amendment state that any State law based water rights acquired by the Pueblo or by the United States on behalf of the Pueblo may be leased for said term.

(G) A Partial Final Decree that sets forth the water rights and contract rights to water to which the Pueblo is entitled under the Settlement Agreement and this Act and that substantially conforms to the Settlement Agreement and Attachment 5 thereto has been approved by the Court and has become final and nonappealable.

(g) **ENFORCEMENT DATE.**—The Settlement Agreement shall become enforceable, and the waivers and releases executed pursuant to section 11 and the limited waiver of sovereign immunity set forth in section 12(a) shall become effective, as of the date that the Secretary publishes the notice required by subsection (f)(1).

(h) **EXPIRATION DATE.**—

(1) **IN GENERAL.**—If all of the conditions precedent described in section (f)(2) have not been fulfilled by December 31, 2016, the Settlement Agreement shall be null and void, the waivers and releases executed pursuant to section 11 and the sovereign immunity waivers in section

12(a) shall not become effective, and any unexpended Federal funds, together with any income earned thereon, and title to any property acquired or constructed with expended Federal funds, shall be returned to the Federal Government, unless otherwise agreed to by the Parties in writing and approved by Congress.

(2) **EXCEPTION.**—Notwithstanding subsection (h)(1) or any other provision of law, any unexpended Federal funds, together with any income earned thereon, made available under sections 5(d) and 6(f) and title to any property acquired or constructed with expended Federal funds made available under sections 5(d) and 6(f) shall be retained by the Pueblo.

(3) **RIGHT TO SET-OFF.**—In the event the conditions precedent set forth in subsection (f)(2) have not been fulfilled by December 31, 2016, the United States shall be entitled to set off any funds expended or withdrawn from the amount appropriated pursuant to paragraphs (1) and (2) of subsection (c) or made available from other authorized sources, together with any interest accrued, against any claims asserted by the Pueblo against the United States relating to water rights in the Taos Valley.

#### SEC. 11. WAIVERS AND RELEASES.

(a) **CLAIMS BY THE PUEBLO AND THE UNITED STATES.**—In return for recognition of the Pueblo's water rights and other benefits, including but not limited to the commitments by non-Pueblo parties, as set forth in the Settlement Agreement and this Act, the Pueblo, on behalf of itself and its members, and the United States acting in its capacity as trustee for the Pueblo are authorized to execute a waiver and release of claims against the parties to New Mexico v. Abeyta and New Mexico v. Arellano, Civil Nos. 7896–BB (U.S.6 D.N.M.) and 7939–BB (U.S. D.N.M.) (consolidated) from—

(1) all claims for water rights in the Taos Valley that the Pueblo, or the United States acting in its capacity as trustee for the Pueblo, asserted, or could have asserted, in any proceeding, including but not limited to in New Mexico v. Abeyta and New Mexico v. Arellano, Civil Nos. 7896–BB (U.S.6 D.N.M.) and 7939–BB (U.S. D.N.M.) (consolidated), up to and including the Enforcement Date, except to the extent that such rights are recognized in the Settlement Agreement or this Act;

(2) all claims for water rights, whether for consumptive or nonconsumptive use, in the Rio Grande mainstream or its tributaries that the Pueblo, or the United States acting in its capacity as trustee for the Pueblo, asserted or could assert in any water rights adjudication proceedings except those claims based on Pueblo or United States ownership of lands or water rights acquired after the Enforcement Date, provided that nothing in this paragraph shall prevent the Pueblo or the United States from fully participating in the inter se phase of any such water rights adjudication proceedings;

(3) all claims for damages, losses or injuries to water rights or claims of interference with, diversion or taking of water (including but not limited to claims for injury to lands resulting from such damages, losses, injuries, interference with, diversion, or taking) in the Rio Grande mainstream or its tributaries or for lands within the Taos Valley that accrued at any time up to and including the Enforcement Date; and

(4) all claims against the State of New Mexico, its agencies, or employees relating to the negotiation or the adoption of the Settlement Agreement.

(b) **CLAIMS BY THE PUEBLO AGAINST THE UNITED STATES.**—The Pueblo, on behalf of itself and its members, is authorized to execute a waiver and release of—

(1) all claims against the United States, its agencies, or employees relating to claims for water rights in or water of the Taos Valley that the United States acting in its capacity as trustee for the Pueblo asserted, or could have asserted, in any proceeding, including but not limited to in New Mexico v. Abeyta and New Mexico v. Arellano, Civil Nos. 7896–BB (U.S.6 D.N.M.) and 7939–BB (U.S. D.N.M.) (consolidated);

(2) all claims against the United States, its agencies, or employees relating to damages, losses, or injuries to water, water rights, land, or natural resources due to loss of water or water rights (including but not limited to damages, losses or injuries to hunting, fishing, gathering, or cultural rights due to loss of water or water rights, claims relating to interference with, diversion or taking of water or water rights, or claims relating to failure to protect, acquire, replace, or develop water, water rights or water infrastructure) in the Rio Grande mainstream or its tributaries or within the Taos Valley that first accrued at any time up to and including the Enforcement Date;

(3) all claims against the United States, its agencies, or employees for an accounting of funds appropriated by the Act of March 4, 1929 (45 Stat. 1562), the Act of March 4, 1931 (46 Stat. 1552), the Act of June 22, 1936 (49 Stat. 1757), the Act of August 9, 1937 (50 Stat. 564), and the Act of May 9, 1938 (52 Stat. 291), as authorized by the Pueblo Lands Act of June 7, 1924 (43 Stat. 636), and the Pueblo Lands Act of May 31, 1933 (48 Stat. 108), and for breach of trust relating to funds for water replacement appropriated by said Acts that first accrued before the date of enactment of this Act;

(4) all claims against the United States, its agencies, or employees relating to the pending litigation of claims relating to the Pueblo's water rights in New Mexico v. Abeyta and New Mexico v. Arellano, Civil Nos. 7896–BB (U.S.6 D.N.M.) and 7939–BB (U.S. D.N.M.) (consolidated); and

(5) all claims against the United States, its agencies, or employees relating to the negotiation, Execution or the adoption of the Settlement Agreement, exhibits thereto, the Final Decree, or this Act.

(c) **RESERVATION OF RIGHTS AND RETENTION OF CLAIMS.**—Notwithstanding the waivers and releases authorized in this Act, the Pueblo on behalf of itself and its members and the United States acting in its capacity as trustee for the Pueblo retain—

(1) all claims for enforcement of the Settlement Agreement, the Final Decree, including the Partial Final Decree, the San Juan-Chama Project contract between the Pueblo and the United States, or this Act;

(2) all claims against persons other than the Parties to the Settlement Agreement for damages, losses or injuries to water rights or claims of interference with, diversion or taking of water rights (including but not limited to claims for injury to lands resulting from such damages, losses, injuries, interference with, diversion, or taking of water rights) within the Taos Valley arising out of activities occurring outside the Taos Valley or the Taos Valley Stream System;

(3) all rights to use and protect water rights acquired after the date of enactment of this Act;

(4) all rights to use and protect water rights acquired pursuant to State law, to the extent not inconsistent with the Partial Final Decree and the Settlement Agreement (including water rights for the land the Pueblo owns in Questa, New Mexico);

(5) all claims relating to activities affecting the quality of water including but not limited to any claims the Pueblo might have under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) (including but not limited to claims for damages to natural resources), the Safe Drinking Water Act (42 U.S.C. 300f et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), and the regulations implementing those Acts;

(6) all claims relating to damages, losses, or injuries to land or natural resources not due to loss of water or water rights (including but not limited to hunting, fishing, gathering, or cultural rights); and

(7) all rights, remedies, privileges, immunities, powers, and claims not specifically waived and released pursuant to this Act and the Settlement Agreement.

(d) **EFFECT OF SECTION.**—Nothing in the Settlement Agreement or this Act—

(1) affects the ability of the United States acting in its sovereign capacity to take actions authorized by law, including but not limited to any laws relating to health, safety, or the environment, including but not limited to the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Safe Drinking Water Act (42 U.S.C. 300f et seq.), the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), and the regulations implementing such Acts;

(2) affects the ability of the United States to take actions acting in its capacity as trustee for any other Indian tribe or allottee;

(3) confers jurisdiction on any State court to—

(A) interpret Federal law regarding health, safety, or the environment or determine the duties of the United States or other parties pursuant to such Federal law; or

(B) conduct judicial review of Federal agency action; or

(4) waives any claim of a member of the Pueblo in an individual capacity that does not derive from a right of the Pueblo.

(e) **TOLLING OF CLAIMS.**—

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

(A) December 31, 2016; or

(B) the Enforcement Date.

(2) **EFFECT OF SUBSECTION.**—Nothing in this subsection revives any claim or tolls any period of limitation or time-based equitable defense that expired before the date of enactment of this Act.

(3) **LIMITATION.**—Nothing in this subsection precludes the tolling of any period of limitations or any time-based equitable defense under any other applicable law.

#### SEC. 12. INTERPRETATION AND ENFORCEMENT.

(a) **LIMITED WAIVER OF SOVEREIGN IMMUNITY.**—Upon and after the Enforcement Date, if any Party to the Settlement Agreement brings an action in any court of competent jurisdiction over the subject matter relating only and directly to the interpretation or enforcement of the Settlement Agreement or this Act, and names the United States or the Pueblo as a party, then the United States, the Pueblo, or both may be added as a party to any such action, and any claim by the United States or the Pueblo to sovereign immunity from the action is waived, but only for the limited and sole purpose of such interpretation or enforcement, and no waiver of sovereign immunity is made for any action against the United States or the Pueblo that seeks money damages.

(b) **SUBJECT MATTER JURISDICTION NOT AFFECTED.**—Nothing in this Act shall be deemed as conferring, restricting, enlarging, or determining the subject matter jurisdiction of any court, including the jurisdiction of the court that enters the Partial Final Decree adjudicating the Pueblo's water rights.

(c) **REGULATORY AUTHORITY NOT AFFECTED.**—Nothing in this Act shall be deemed to determine or limit any authority of the State or the Pueblo to regulate or administer waters or water rights now or in the future.

#### SEC. 13. DISCLAIMER.

Nothing in the Settlement Agreement or this Act shall be construed in any way to quantify or otherwise adversely affect the land and water rights, claims, or entitlements to water of any other Indian tribe.

The **SPEAKER** pro tempore. After 1 hour of debate on the bill, as amended,

it shall be in order to consider the amendment printed in part A of House Report 111-399 if offered by the gentleman from California (Mr. MCCLINTOCK) or his designee, which shall be considered read, and shall be debatable for 10 minutes equally divided and controlled by the proponent and an opponent.

The gentleman from West Virginia (Mr. RAHALL) and the gentleman from Washington (Mr. HASTINGS) each will control 30 minutes.

The Chair recognizes the gentleman from West Virginia.

GENERAL LEAVE

Mr. RAHALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and insert extraneous material on H.R. 3254.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume.

Today, the Committee on Natural Resources is bringing before this body for consideration three bills which would provide for the settlement of the legitimate water claims of several Indian tribes.

Many Americans rarely give a thought to having clean, potable water in their homes. We turn on the taps in our kitchens, and we take it for granted that water will flow forth. But that, unfortunately, is not the case in all places.

There is no scarcity of water in my home State of West Virginia. We are rich in water. It flows freely.

Yet, today we continue to work to ensure that all of our citizens have access to clean, potable water, as well as to be served by sanitary wastewater systems; and I have and will continue to fight this fight every day of my tenure in this body. So it is with understanding and with compassion that I bring these three measures to the floor today.

The pending measure, and I give him full credit for his leadership and bringing it to our attention, sponsored by the gentleman from New Mexico, BEN RAY LUJÁN, would adjudicate the water rights of the Pueblo of Taos and end 40 years of active litigation by ratifying a settlement agreement.

Forty years, my colleagues, 40 years of litigation: that is what the pending legislation would end. And I cannot commend enough Mr. LUJÁN and Mr. HEINRICH, the other gentleman from New Mexico and member of our Committee on Natural Resources, for their efforts in this matter.

Similarly, I commend the chairwoman on the Subcommittee on Water and Power, the gentlewoman from California, GRACE NAPOLITANO, for the hearings and all of her hard work on the measures that we are considering today.

This legislation implements a settlement agreement that was signed in

May of 2006 by the Pueblo of Taos, the State of New Mexico, 55 community ditch associations, the town of Taos, El Prado Water and Sanitation District, and the 12 Taos-area Mutual Domestic Water Consumer Associations. Collectively, the parties to the agreement represent the majority of water users in the Taos Valley.

Let me emphasize that point. This settlement provides water certainty to both tribal and non-tribal communities.

Under this settlement agreement, funds would be authorized for the Taos Settlement Fund, the Taos Infrastructure and Watershed Fund, and for various projects that are mutually beneficial to the pueblo and non-pueblo parties.

I would note that the Taos Pueblo has settled for a water right that is far less than what the claims asserted in litigation by the United States and the pueblo. This potential value is much more than the amount that is authorized to be appropriated in H.R. 3254, a clear financial benefit to all taxpayers.

Yet we will hear from some on the other side of the aisle that they are just not sure whether or not this settlement agreement is a good deal. They just do not know, they will say.

Well, all the parties which finally came together to settle 40 years of litigation, I remind you, believe that this is a good settlement. The gentleman from New Mexico who represents these people in this body believes it is a good deal. The gentlewoman from California, GRACE NAPOLITANO, who held hearings on this bill and worked with all the concerned parties, believes it is a good settlement. And the Committee on Natural Resources, which approved a pending measure, thought it was a good enough settlement to send to the full House.

Let me be clear: Both the Departments of the Interior and Justice were involved in this settlement agreement. Rather than engage in protracted litigation, both Republican and Democrat administrations for over the last 20 years believe that negotiated Indian water rights settlements are the preferred course of action.

In testimony before the Water and Power Subcommittee, the Commissioner of the Bureau of Reclamation stated: "Settlements improve water management by providing certainty not just as to the quantification of a tribe's water rights but also as to the rights of all water users."

He added further: "Indian water rights settlements are consistent with the Federal trust responsibility to Native Americans and with a policy of promoting Indian self-determination and economic self-sufficiency."

We do indeed have a trust responsibility to Indian country, and fulfilling that responsibility is at the heart of what we are doing today. The Taos Pueblo has had to fight for its water rights against Spanish settlers, with Mexico, and then as part of the United

States. Let us today end this long fight and provide certainty to all the water users in the Taos Valley.

I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today to reluctantly oppose this and the two other claimed settlement bills that are being considered on the House floor today.

As a Member from the western part of the United States, I am well aware of how important these settlements can be to tribal and non-tribal communities. In general, Indian water rights settlements are instruments to reduce litigation and bring water supply certainty to communities in the western part of the United States. When done right, they provide not only certainty to all parties, but they also benefit the American taxpayer, who could end up paying much more if the litigation went forward.

It is indeed Congress' statutory role to consider and approve these settlements when these settlements are complete. The Congress should have all the information it needs to conduct a proper review and pass judgment on the merits of approving these settlements. Yet we do not have all such information on these three bills today. The most critical missing element is a clear, direct answer from the Department of Justice, through the Attorney General, on whether these settlements represent a fair resolution to the taxpayer.

As I mentioned during committee consideration of these bills, it is appropriate that these agreements are largely worked out by the people at the local level, but taxpayers from across the country have to pay for such agreements.

So, Mr. Speaker, in that context, while I applaud the idea that local groups are working it out in their best interests, which I think is a positive statement, these do have to be paid for by the American taxpayers. So we must be able to answer this question: Is this the best deal that can be reached and is it in the interest of the parties to the settlement, as well as to the taxpayers of this country?

The three bills that the House will consider today total over \$500 million in potential Federal expenditure. Before Congress spends over one-half billion dollars, we certainly should know whether the taxpayers are getting fair treatment.

□ 1045

The American people are highly concerned about the spending that's gone on in this Congress. Whether it's the stimulus spending that has failed to create the promised jobs or the government takeover of health care with a price tag of well over a trillion dollars, the spending in this Congress is out of control. Congress needs to get serious about the record debt being run up during President Obama's first year in office. This means not only stopping the

megaspending bills, but also taking a hard look at the smaller bills, such as the \$500 million bills that are represented under these three bills. We need the Attorney General to provide us with a clear, direct answer.

The ranking Republican of the Water and Power Subcommittee, Mr. MCCLINTOCK of California, has been working to elicit such answers. Months ago, in September and October of last year, he wrote to the Attorney General asking direct questions. No response was received until 2 days ago, just as these bills were headed to the floor of this House for a vote. Regrettably, this bill does not provide the direct answer to the questions asked. They finally replied at the 11th hour with ambiguity and generalities, but not with a clear answer that this Congress and the American taxpayers deserve.

So, Mr. Speaker, let me repeat again, while I support the concept of the settlement bills because, by definition, these are people, local people on the ground making decisions in their best interest, and the possibility that these three bills merit passage by the House, without a clear answer, as I talked about earlier, from the Department of Justice on whether taxpayers are getting a fair deal, I cannot support this legislation. So, therefore, I urge my colleagues to oppose all three of these bills.

With that, Mr. Speaker, I reserve the balance of my time.

Mr. RAHALL. Mr. Speaker, I yield such time as he may consume to the lead sponsor of this bill, whom I referenced in my opening remarks, the gentleman from New Mexico (Mr. LUJÁN).

Mr. LUJÁN. I rise today in support of H.R. 3254, the Taos Pueblo Water Rights Settlement Act. Before I begin, I would like to thank Chairman RAHALL and Chairwoman NAPOLITANO for the stewardship of all three settlement bills we are considering on the House floor today, which are such an important part in meeting the water needs of the people in my district.

Mr. Speaker, it's taken nearly three decades of work by so many New Mexicans for me to be able to stand here today and address this body about the critical issue of water management and water security in my State. I'd like to thank all the tribal leaders and community members who have repeatedly traveled from Taos to Washington, across New Mexico, to work on this legislation throughout the years. Generation after generation, Mr. Speaker, people have been coming together to try to find resolution to benefit the community, to save taxpayers money, to prevent costly litigation from moving forward through the Federal court system.

As we consider these water settlements today, we should remember that behind this legislative language, the procedural necessities, and the committee reports, these bills are about the basic human need and water. These

settlements are the fulfillment of a promise made by the United States. Let me repeat that, Mr. Speaker. These settlements are the fulfillment of a promise made by the United States to its people, tribal and nontribal alike, that their water needs would be met. The preservation of the ancient culture of the Taos Pueblo as well as the future of the modern Taos community depend upon the passage of this legislation.

Let me give you a little history about this settlement and why it's so important to pass this legislation today. The legal proceedings that led to the Taos Pueblo Indian Water Rights Settlement, also known by my constituents as the Abeyta settlement, began in 1969 by the New Mexico State Engineer. The State Engineer's office in New Mexico is charged with the distribution and management of water resources in our State. The litigation continued until 1989, when the negotiations of the Abeyta settlement began. It has taken until today for these negotiations to reach a point where it could be possible to enact this settlement into law to resolve the water allocation between tribal and nontribal community members in the Taos area.

This legislation will bring to a close decades of litigation and uncertainty with regard to water resources for the people of my district. The passage of this legislation will bring security to water users in Taos by making water available for future generations and ensure that this valuable resource is protected. H.R. 3254 quantifies and protects Taos Pueblo's water and provides further security for water users of the town of Taos and many other non-Indian water users, including existing individual domestic wells. They are all provided safeguards for their use of water under this agreement.

The work that has been done between all the settlement parties and the Federal Government is truly a testament to the necessity of passing this legislation and the willingness of people to come together to protect the water resources that are so valuable to this community. Without this settlement, the future water availability for the people of Taos and Taos Pueblo will be uncertain and possibly disastrous.

Mr. Speaker, as we come today and we hear some of the concerns about moving this legislation forward, the uncertainty that will exist with Federal litigation and the possible costs and problems that could be passed on to taxpayers is something that this litigation will not only add to, but that this settlement will help resolve. I certainly hope that my colleagues from both sides of the aisle, that Members of this Chamber truly see the importance of us working together and making sure that we support people coming together to prevent costly and expensive litigation from moving forward, to do what is right, especially when it comes to the basic necessity and the valuable resource of water.

I urge you to support this bill, and I ask that we help protect the water re-

sources of the people of the Third Congressional District.

Mr. HASTINGS of Washington. Mr. Speaker, I am pleased to yield such time as he may consume to the gentleman from California (Mr. MCCLINTOCK).

Mr. MCCLINTOCK. I thank the gentleman for yielding.

As has been pointed out, this and the two bills that follow ratify out-of-court settlements that arise from decades-old litigation filed by various Indian tribes against the United States Government. They apportion water rights, among the three of them, to over 110,000 acre feet of water, and they draw more than half a billion dollars from the taxpayers of the United States, mainly for the development of those water resources.

From the outset, I believe that the controlling issue in approving any of these claims is simply this: Is it cheaper to settle out of court or to go to trial? To answer that question, we must turn to the Attorney General.

The Attorney General is presumably involved in these negotiations. He commands the legal expertise to judge the soundness or weakness of the government's case, and he is the official of our government directly responsible for representing the people of the United States in this litigation. Yet, when these bills were brought to us last fall, the Attorney General's office was completely silent on that question. In fact, the administration expressed many reservations about the technical aspects of these bills, which leads me to believe that these are not settlements negotiated by the Attorney General with the tribes and then presented to Congress, but rather they're settlements written by Congress itself, which Congress is neither designed nor is competent to do.

Most importantly, we were absolutely unable to get a straight answer to the most important question at issue, and that is: Do these settlements exceed the likely liability of the government if these claims went to trial? If we were a corporate board of directors making a decision on an out-of-court settlement and we agreed to that settlement without consulting with our legal counsel, we'd be guilty of breaching our fiduciary responsibility to our stockholders. How can we do any less as the Congress of the United States?

I'm new around here, but I spent 22 years in the California Legislature, many of them on the relevant committees that heard settlement bills. The central testimony in all of these settlements was from the attorney general's office as the State's legal counsel. They'd appear before us and they'd testify that in their professional legal judgment the settlements were justified under current law and that the State's liability and legal costs would likely exceed the settlement if the matter went to trial.



I'm told that's the way it used to work around here. The Attorney General would negotiate the best possible settlement on behalf of the United States and then submit that settlement to Congress. Congress would then approve or reject it. Now it seems to be working in precisely the opposite manner. Congress now does the negotiating and then presents the bill to the Attorney General. Mr. Speaker, that is not going to end well.

I wrote to the Attorney General's office in September and again in October asking for their legal assessment of the cases involved. This is hardly unprecedented. For example, in 1994, the Department of Justice testified before Congress on a similar water settlement in the Colville case. There, Peter Steenland, a Clinton Justice Department official, testified, "The Federal Government is not that well postured for a victory on this claim which has been pending for over 40 years. Absent the settlement, we could well litigate it for another 10 years and the outcome could easily be a significant cost to the taxpayers and the public." Well, if the Clinton administration could give Congress a straight answer on an Indian water settlement bill, then I felt there was no reason why the current one shouldn't also be straight with the Congress.

There's a simple word for this. It's called "transparency." We've been assured that's a guiding principle of this administration. We truly need some transparency in these cases if we're to do our job competently and to do justice to both sides in these claims, yet the administration remained completely untransparent on this issue. That's why I submitted a simple amendment to all three bills. The amendment would require that before the settlements take effect, the Department of Justice has to certify that settling out of court would be preferable to going to court.

I'd like to thank the members of the Rules Committee who granted the rule allowing these amendments to be presented today. But as the gentleman from Washington has said, a funny thing happened after the Rules Committee voted that rule out on Tuesday night. Two hours after the Rules Committee, 7:45 in the evening, our office received a letter from the administration responding to my requests made way back in September and October of last year, and in it the Departments of Justice and Interior finally are prepared to state, although somewhat ambiguously and circuitously, that "settlement would be preferable to litigation of these claims."

I certainly hope this is not going to be their pattern. We have many more Indian water settlements pending for substantial amounts of money, and the Congress should not have to wait for months to get a straight answer out of the administration for each settlement. The Congress should not be forced to choose a funding amount in

the dark and without an informed legal opinion from our Attorney General at the outset. These matters should not have to wait until the eve of a congressional vote.

Mr. Speaker, since the administration has responded to the question raised by the amendments that I'm prepared to offer, I'm not going to introduce them to these bills today. But it is hard to square their assurances of this week with the Department of the Interior's letter to the subcommittee chairman of November 10 with respect to the White Mountain Apache settlement, that says: "Given the benefits being obtained by the tribe under this settlement, the administration would consider the approximately \$109 million of additional funding for a development fund authorized under this bill to be excessive if it were viewed as settlement consideration."

I'd also point to concerns raised by the administration—again, this is unique to the White Mountain Apache settlement upcoming in the same letter—objecting to language "which waives the sovereign immunity of the United States." They warn, "This provision will engender additional litigation—and likely in competing State and Federal forums—rather than resolving the water rights disputes underlying adjudication."

Obviously, this administration has a lot of work to do before future water settlements are considered. I believe Congress needs to demand that the administration be candid and forthcoming in all future water settlements and that Congress insist that before it begins deliberating on a settlement, that the Attorney General has conducted and completed the negotiations, has determined all of the details, has certified that the settlement is within the legal liability of the government, and only then submit that settlement for consideration and approval by the Congress.

□ 1100

We need to make this happen in committee, not the night before a bill is sent to the House floor. And I believe that a growing number of us will have a problem agreeing to the advancement of future water settlements without these reforms. Anything less is breaching the fiduciary responsibility that we hold to the people of the United States. And I want to dwell on that term for just a moment. Congress' fiduciary responsibility, that sounds laughable today, but to the Framers of our Constitution, the term "Congress' fiduciary responsibility" wasn't a punch line. It was a bedrock principle. It's high time we restored and respected that principle.

Mr. RAHALL. Mr. Speaker, it's my honor to now yield such time as he may consume to the gentleman from New Mexico, MARTIN HEINRICH, another cosponsor of this legislation and a valued member of our Committee on Natural Resources.

Mr. HEINRICH. I thank the chairman for yielding.

Mr. Speaker, the Taos Pueblo Indian Water Rights Settlement Act is critically important to the Taos Pueblo and all of northern New Mexico. I want to thank my colleague BEN RAY LUJÁN for his leadership on this important issue. I also want to thank Chairman RAHALL and Chairwoman NAPOLITANO for their support of this bill during the committee process.

This bill is the result of many, many long years of negotiation among the parties to find a fair and equitable resolution to this conflict. Like the other longstanding water rights cases, this case has been in Federal court for 40 years. More than a decade ago, community leaders realized that litigation would not solve this problem but negotiation might. I want to commend the hard work and cooperation of all the stakeholders. This outcome demonstrates a real compromise by all the parties involved.

Taos Pueblo is the only living Native American community registered as a National Historic Landmark, and it has been continuously inhabited for over 1,000 years. Under New Mexico State law, that long history gives Taos Pueblo senior water rights and reinforces our duty to help protect their water resources while providing certainty to both Indian and non-Indian water users in the Taos Valley. This settlement also protects one of the pueblo's most sacred sites, the buffalo pasture. The pueblo has agreed to give up some of its water rights in exchange for protecting the groundwater that feeds the buffalo pasture.

A settlement agreement was signed in May of 2006 by Taos Pueblo, the State of New Mexico, and many affected non-Indian water users and acequia associations in the Taos Valley. But this settlement still needs ratification and approval by the United States Government, and that's what this bill will do. This settlement will bring much-needed certainty to the Taos Valley and New Mexico water users.

As anyone from a Western State knows, water is the lifeblood of our communities. Whether you live in downtown Albuquerque, on a ranch, or at a pueblo, every New Mexican depends on their community's right to clean, reliable water. This settlement is a historic step in ensuring that New Mexico communities have clear and reliable water rights to the water that they need.

I would urge my colleagues to vote "yes" on this bill.

Mr. HASTINGS of Washington. Mr. Speaker, can I inquire of my friend, the distinguished chairman, if he has any more speakers on this bill?

Mr. RAHALL. I am prepared to close, Mr. Speaker.

Mr. HASTINGS of Washington. If that's the case then, Mr. Speaker, I know that Mr. MCCLINTOCK is not going to offer his amendment. So with that, I yield myself the balance of my time.

Mr. Speaker, hopefully we've made it very clear in this debate that the agreement and the settlement of the claims is preferable to litigation when fair resolutions are met. I think most people would agree with that. We certainly do on this side of the aisle. That it is better for those to be worked out at the local level, rather than resorting to expensive lawyer fees and years of fighting. And these bills have had a long time of years of fighting, we know that.

Yet we, as Representatives, owe it to our constituents to make certain that settlements are not being made that overly compensate or benefit one community or locality while ultimately being paid out of the pockets of the taxpayers. Settlements must be fair to claimants, the effected community and to taxpayers. Despite several months of efforts to get a clear, direct answer from the Attorney General on the question of whether these settlements are in the interest of taxpayers, they responded, unfortunately, at the very last minute with a short and vague letter that leaves the question largely unanswered.

These three bills, as I mentioned, Mr. Speaker, spend over \$500 million. Taxpayers deserve a transparent and straightforward reply. Because that has not been forthcoming, as I mentioned, I must oppose all three bills. But, Mr. Speaker, in the future, I would hope that the Democrat majority would be put on notice that we expect to hear directly from the Justice Department on the merits of the proposed settlements while this is being considered in the Natural Resources Committee. With hundreds of millions of dollars being spent, these settlements need to be fully vetted and explained in a fully transparent manner with clear answers from the Justice Department. Until that happens, these types of bills should not be advanced to the House floor, as these three bills were advanced to the House floor.

So with that, Mr. Speaker, I urge a "no" vote on this bill.

I yield back the balance of my time.  
Mr. RAHALL. Mr. Speaker, I yield myself the balance of my time.

Let me conclude by noting that in a letter dated January 19 from the Department of the Interior and the Department of Justice, they noted, "Both rancor and uncertainty can have substantial economic consequences. The existence of unquantified water rights claims casts a shadow over all water users in a water basin, as no other water user in the basin can ever be certain when these rights may be used and how this will impact other users." The pending bill solves this problem. It provides badly needed certainty.

And before finally concluding, I would note to my colleagues, and I did not really want to do this for fear of scaring off support from my side of the aisle, but I will note that a third of these bills have a cosponsorship of the gentleman from Arizona (Mr. FLAKE),

not an individual known around here for his prolific spending habits. So I do that, again, with the trepidation of scaring off support from my side of the aisle for the pending measure. I will conclude, Mr. Speaker, by asking all Members to support this measure.

I yield back the balance of my time.  
The SPEAKER pro tempore. All time for debate on the bill has expired.

The Chair understands that the amendment will not be offered.

Pursuant to House Resolution 1017, the previous question is ordered on the bill, as amended.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. RAHALL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

#### AAMODT LITIGATION SETTLEMENT ACT

Mr. RAHALL. Mr. Speaker, pursuant to House Resolution 1017, I call up the bill (H.R. 3342) to authorize the Secretary of the Interior, acting through the Commissioner of Reclamation, to develop water infrastructure in the Rio Grande Basin, and to approve the settlement of the water rights claims of the Pueblos of Nambe, Pojoaque, San Ildefonso, and Tesuque, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 1017, the bill is considered read.

The amendment in the nature of a substitute printed in the bill is adopted.

The text of the bill, as amended, is as follows:

H.R. 3342

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

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

(a) *SHORT TITLE.*—This Act may be cited as the "Aamodt Litigation Settlement Act".

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

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

#### TITLE I—POJOAQUE BASIN REGIONAL WATER SYSTEM

Sec. 101. Authorization of Regional Water System.

Sec. 102. Operating Agreement.

Sec. 103. Acquisition of Pueblo water supply for the Regional Water System.

Sec. 104. Delivery and allocation of Regional Water System capacity and water.

Sec. 105. Aamodt Settlement Pueblos' Fund.

Sec. 106. Environmental compliance.

Sec. 107. Authorization of appropriations.

#### TITLE II—POJOAQUE BASIN INDIAN WATER RIGHTS SETTLEMENT

Sec. 201. Settlement Agreement and contract approval.

Sec. 202. Environmental compliance.

Sec. 203. Conditions precedent and enforcement date.

Sec. 204. Waivers and releases.

Sec. 205. Effect.

#### SEC. 2. DEFINITIONS.

*In this Act:*

(1) *AAMODT CASE.*—The term "Aamodt Case" means the civil action entitled *State of New Mexico, ex rel. State Engineer and United States of America, Pueblo de Nambe, Pueblo de Pojoaque, Pueblo de San Ildefonso, and Pueblo de Tesuque v. R. Lee Aamodt, et al.*, No. 66 CV 6639 MV/LCS (D.N.M.).

(2) *ACRE-FEET.*—The term "acre-feet" means acre-feet of water per year.

(3) *AUTHORITY.*—The term "Authority" means the Pojoaque Basin Regional Water Authority described in section 9.5 of the Settlement Agreement or an alternate entity acceptable to the Pueblos and the County to operate and maintain the diversion and treatment facilities, certain transmission pipelines, and other facilities of the Regional Water System.

(4) *CITY.*—The term "City" means the city of Santa Fe, New Mexico.

(5) *COST-SHARING AND SYSTEM INTEGRATION AGREEMENT.*—The term "Cost-Sharing and System Integration Agreement" means the agreement to be executed by the United States, the State, the Pueblos, the County, and the City that—

(A) describes the location, capacity, and management (including the distribution of water to customers) of the Regional Water System; and

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

(i) the construction, operation, maintenance, and repair of the Regional Water System;

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

(iii) the acquisition of water rights.

(6) *COUNTY.*—The term "County" means Santa Fe County, New Mexico.

(7) *COUNTY DISTRIBUTION SYSTEM.*—The term "County Distribution System" means the portion of the Regional Water System that serves water customers on non-Pueblo land in the Pojoaque Basin.

(8) *COUNTY WATER UTILITY.*—The term "County Water Utility" means the water utility organized by the County to—

(A) receive water distributed by the Authority; and

(B) provide the water received under subparagraph (A) to customers on non-Pueblo land in the Pojoaque Basin.

(9) *ENGINEERING REPORT.*—The term "Engineering Report" means the report entitled "Pojoaque Regional Water System Engineering Report" dated September 2008 and any amendments thereto, including any modifications which may be required by section 101(d)(2).

(10) *FUND.*—The term "Fund" means the Aamodt Settlement Pueblos' Fund established by section 105(a).

(11) *OPERATING AGREEMENT.*—The term "Operating Agreement" means the agreement between the Pueblos and the County executed under section 102(a).

(12) *OPERATIONS, MAINTENANCE, AND REPLACEMENT COSTS.*—

(A) *IN GENERAL.*—The term "operations, maintenance, and replacement costs" means all costs for the operation of the Regional Water System that are necessary for the safe, efficient, and continued functioning of the Regional Water System to produce the benefits described in the Settlement Agreement.

(B) *EXCLUSION.*—The term "operations, maintenance, and replacement costs" does not include construction costs or costs related to construction design and planning.