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(Original Signature of Member)

118TH CONGRESS
2D SESSION

H. R. _____

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

IN THE HOUSE OF REPRESENTATIVES

Ms. LEGER FERNANDEZ introduced the following bill; which was referred to the Committee on _____

A BILL

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

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

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Navajo Nation Rio San José Stream System Water
6 Rights Settlement Act of 2024”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Purposes.
- Sec. 3. Definitions.
- Sec. 4. Ratification of Agreement.
- Sec. 5. Navajo Nation's Water Rights.
- Sec. 6. Navajo Nation Rio San José Settlement Trust Fund.
- Sec. 7. Funding.
- Sec. 8. Enforceability Date.
- Sec. 9. Waivers and releases of claims.
- Sec. 10. Satisfaction of claims.
- Sec. 11. Consent of United States to jurisdiction for judicial review of a Navajo Nation Water Use Permit decision.
- Sec. 12. Miscellaneous provisions.
- Sec. 13. Relation to Allottees.
- Sec. 14. Expansion of Navajo-Gallup Water Supply Project service area.
- Sec. 15. Antideficiency.

1 **SEC. 2. PURPOSES.**

2 The purposes of this Act are—

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

11 (A) the Navajo Nation; and

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

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

- 1 (3) to authorize and direct the Secretary—
2 (A) to execute the Agreement; and
3 (B) to take any other actions necessary to
4 carry out the Agreement in accordance with
5 this Act; and
6 (4) to authorize funds necessary for the imple-
7 mentation of the Agreement and this Act.

8 **SEC. 3. DEFINITIONS.**

9 In this Act:

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

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

1 (3) AGREEMENT.—The term “Agreement”
2 means—

3 (A) the addendum dated June 11, 2024,
4 to, and as provided in Article 17 of, the docu-
5 ment entitled “Rio San José Stream System
6 Water Rights Local Settlement Agreement
7 Among the Pueblo of Acoma, the Pueblo of La-
8 guna, the Navajo Nation, the State of New
9 Mexico, the City of Grants, the Village of
10 Milan, the Association of Community Ditches of
11 the Rio San José and Nine Individual Acequias
12 and Community Ditches” and dated May 13,
13 2022, and the attachments thereto and to the
14 addendum; and

15 (B) any amendment to the documents re-
16 ferred to in subparagraph (A) (including an
17 amendment to an attachment) that is executed
18 to ensure that the Agreement is consistent with
19 this Act.

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

22 (A) located within—

23 (i) the Rio Puerco Basin; or

24 (ii) the Rio San José Stream System;

25 and

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

3 (i) 1 or more individual Indians; or

4 (ii) an Indian Tribe holding an undi-
5 vided fractional beneficial interest.

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

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

9 (B) an Indian Tribe holding an undivided
10 fractional beneficial interest in an Allotment.

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

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

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

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

1 the “Navajo Nation of Indians” and other simi-
2 lar names.

3 (B) INCLUSIONS.—The terms “Navajo Na-
4 tion”, “Navajo”, and “Nation” include all
5 bands of Navajo Indians and chapters of the
6 Navajo Nation and all divisions, agencies, offi-
7 cers, and agents thereof.

8 (9) NAVAJO NATION LANDS; NAVAJO LANDS.—

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

12 (i) in the Rio San José Stream Sys-
13 tem that is held by the United States in
14 trust for the Navajo Nation, or owned by
15 the Navajo Nation, as of the Enforceability
16 Date; or

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

21 (B) INCLUSIONS.—The terms “Navajo Na-
22 tion Lands” and “Navajo Lands” include land
23 placed in trust with the United States subse-
24 quent to the Enforceability Date for the Navajo

1 Nation in the Rio San José Stream System and
2 in the Rio Puerco Basin.

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

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

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

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

19 (A) IN GENERAL.—The term “Navajo Na-
20 tion’s Water Rights” means all the water rights
21 set out in Articles 17.2, 17.4, and 17.5 of the
22 Agreement.

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

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

12 (ii) any undivided interest that the
13 Nation may have in an Allotment that is
14 determined by the Secretary to be patented
15 pursuant to an authority other than sec-
16 tion 1 of the Act of February 8, 1887
17 (commonly known as the “Indian General
18 Allotment Act”) (24 Stat. 388, chapter
19 119; 25 U.S.C. 331) (as in effect on the
20 day before the date of enactment of the In-
21 dian Land Consolidation Act Amendments
22 of 2000 (Public Law 106–462; 114 Stat.
23 1991)).

24 (13) NAVAJO PARTIAL FINAL JUDGMENT AND
25 DECREE.—The term “Navajo Partial Final Judg-

1 ment and Decree” means a final or interlocutory
2 partial final judgment and decree entered by the De-
3 cree Court with respect to the Navajo Nation’s
4 Water Rights—

5 (A) that is substantially in the form de-
6 scribed in article 17.14.7.2 of the Agreement,
7 as amended to ensure consistency with this Act;
8 and

9 (B) from which no further appeal may be
10 taken.

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

15 (15) RIO PUERCO BASIN.—The term “Rio
16 Puerco Basin” means the area defined by the
17 United States Geological Survey Hydrologic Unit
18 Codes (HUC) 13020204 (Rio Puerco subbasin) and
19 13020205 (Arroyo Chico subbasin), including the
20 hydrologically connected groundwater.

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

1 (17) SECRETARY.—The term “Secretary”
2 means the Secretary of the Interior.

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

6 (19) STATE.—The term “State” means the
7 State of New Mexico and all officers, agents, depart-
8 ments, and political subdivisions of the State of New
9 Mexico.

10 **SEC. 4. RATIFICATION OF AGREEMENT.**

11 (a) RATIFICATION.—

12 (1) IN GENERAL.—Except as modified by this
13 Act, and to the extent that the Agreement does not
14 conflict with this Act, the Agreement is authorized,
15 ratified, and confirmed.

16 (2) AMENDMENTS.—If an amendment to the
17 Agreement, or to any attachment to the Agreement
18 requiring the signature of the Secretary, is executed
19 in accordance with this Act to make the Agreement
20 consistent with this Act, the amendment is author-
21 ized, ratified, and confirmed.

22 (b) EXECUTION.—

23 (1) IN GENERAL.—To the extent that the
24 Agreement does not conflict with this Act, the Sec-
25 retary shall execute the Agreement, including all at-

1 tachment to, or parts of, the Agreement requiring
2 the signature of the Secretary.

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

12 (c) ENVIRONMENTAL COMPLIANCE.—

13 (1) IN GENERAL.—In implementing the Agree-
14 ment and this Act, the Secretary shall comply
15 with—

16 (A) the Endangered Species Act of 1973
17 (16 U.S.C. 1531 et seq.);

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

21 (C) all other applicable Federal environ-
22 mental laws and regulations.

23 (2) COMPLIANCE.—

24 (A) IN GENERAL.—In implementing the
25 Agreement and this Act, the Navajo Nation

1 shall prepare any necessary environmental doc-
2 uments, consistent with—

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

5 (ii) the National Environmental Policy
6 Act of 1969 (42 U.S.C. 4321 et seq.), in-
7 cluding the implementing regulations of
8 that Act; and

9 (iii) all other applicable Federal envi-
10 ronmental laws and regulations.

11 (B) AUTHORIZATIONS.—The Secretary
12 shall—

13 (i) independently evaluate the docu-
14 mentation required under subparagraph
15 (A); and

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

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

23 (4) COSTS.—Any costs associated with the per-
24 formance of the compliance activities under this sub-
25 section shall be paid from funds deposited in the

1 Navajo Trust Fund or other sources of funding from
2 the Navajo Nation, subject to the condition that any
3 costs associated with the performance of Federal ap-
4 proval or other review of such compliance work or
5 costs associated with inherently Federal functions
6 shall remain the responsibility of the Secretary.

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

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

12 (b) FORFEITURE AND ABANDONMENT.—

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

16 (2) STATE-LAW BASED WATER RIGHTS.—State-
17 law based water rights acquired by the Navajo Na-
18 tion, or by the United States on behalf of the Na-
19 tion, after the date for inclusion in the Navajo Par-
20 tial Final Judgment and Decree, shall not be subject
21 to forfeiture, abandonment, or permanent alienation
22 from the time they are acquired.

23 (c) USE.—Any use of the Navajo Nation's Water
24 Rights shall be subject to the terms and conditions of the
25 Agreement and this Act.

1 (d) ALLOTMENT RIGHTS NOT INCLUDED.—Con-
2 sistent with section 13, the Navajo Nation’s Water Rights
3 shall not include any water rights for an Allotment, sub-
4 ject to the condition that the Navajo Nation may allow
5 use of the Navajo Nation’s Water Rights on an Allotment
6 subject to the terms and conditions of the Agreement and
7 this Act.

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

11 (f) ALLOTTEE WATER RIGHTS.—The Nation shall
12 not object in any general stream adjudication, including
13 the Adjudication, to the quantification of reasonable do-
14 mestic, stock, and irrigation water uses on an Allotment,
15 and shall administer any water use in accordance with ap-
16 plicable Federal law, including recognition of—

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

19 (2) reasonable domestic, stock, and irrigation
20 water uses on an Allotment; and

21 (3) any water right decreed to the United
22 States in trust for an Allottee in a general stream
23 adjudication, including the Adjudication, for use on
24 an Allotment.

25 (g) AUTHORITY OF THE NAVAJO NATION.—

1 (1) USE ON NAVAJO LANDS.—The Navajo Na-
2 tion shall have the authority to allocate, distribute,
3 and lease the Navajo Nation’s Water Rights for use
4 on Navajo Lands in accordance with the Agreement,
5 this Act, and applicable Federal law, including the
6 first section of the Act of August 9, 1955 (69 Stat.
7 539, chapter 615; 25 U.S.C. 415) (commonly known
8 as the “Long-Term Leasing Act”).

9 (2) USE OFF NAVAJO LANDS.—

10 (A) IN GENERAL.—The Navajo Nation
11 may allocate, distribute, and lease the Navajo
12 Nation’s Water Rights for use off Navajo
13 Lands in accordance with the Agreement, this
14 Act, and applicable Federal law, subject to the
15 approval of the Secretary.

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

19 (h) ADMINISTRATION.—

20 (1) NO ALIENATION.—The Navajo Nation shall
21 not permanently alienate any portion of the Navajo
22 Nation’s Water Rights.

23 (2) PURCHASES OR GRANTS OF LAND FROM IN-
24 DIANS.—An authorization provided by this Act for
25 the allocation, distribution, leasing, or other ar-

1 rangement entered into pursuant to this Act shall be
2 considered to satisfy any requirement for authoriza-
3 tion of the action required by Federal law.

4 (3) PROHIBITION ON FORFEITURE.—The non-
5 use of all or any portion of the Navajo Nation’s
6 Water Rights by any water user shall not result in
7 the forfeiture, abandonment, relinquishment, or
8 other loss of all or any portion of the Navajo Na-
9 tion’s Water Rights.

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

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

16 (B) shall not result in the forfeiture, aban-
17 donment, relinquishment, or other loss of any
18 portion of the Navajo Nation’s Water Rights.

19 **SEC. 6. NAVAJO NATION RIO SAN JOSÉ SETTLEMENT**
20 **TRUST FUND.**

21 (a) ESTABLISHMENT.—The Secretary shall establish
22 a trust fund, to be known as the “Navajo Nation Rio San
23 José Water Rights Settlement Trust Fund”, to be man-
24 aged, invested, and distributed by the Secretary and to
25 remain available until expended, withdrawn, or reverted

1 to the general fund of the Treasury, consisting of the
2 amounts deposited in the Navajo Trust Fund under sub-
3 section (c), together with any investment earnings, includ-
4 ing interest, earned on those amounts, for the purpose of
5 carrying out this Act.

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

8 (1) The Navajo Nation Water Rights Settle-
9 ment Account.

10 (2) The Navajo Nation Operations and Mainte-
11 nance Account.

12 (c) DEPOSITS.—The Secretary shall deposit in the
13 Navajo Trust Fund the amounts made available pursuant
14 to section 7(a).

15 (d) MANAGEMENT AND INTEREST.—

16 (1) MANAGEMENT.—On receipt and deposit of
17 funds into the Navajo Trust Fund under subsection
18 (c), the Secretary shall manage, invest, and dis-
19 tribute all amounts in the Navajo Trust Fund in a
20 manner that is consistent with the investment au-
21 thority of the Secretary under—

22 (A) the first section of the Act of June 24,
23 1938 (25 U.S.C. 162a);

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

4 (C) this subsection.

5 (2) INVESTMENT EARNINGS.—In addition to
6 the deposits made to the Navajo Trust Fund under
7 subsection (c), any investment earnings, including
8 interest, earned on those amounts held in the Nav-
9 ajo Trust Fund are authorized to be used in accord-
10 ance with subsections (f) and (h).

11 (e) AVAILABILITY OF AMOUNTS.—

12 (1) IN GENERAL.—Amounts appropriated to,
13 and deposited in, the Navajo Trust Fund, including
14 any investment earnings, including interest, earned
15 on those amounts, shall be made available to the Na-
16 tion by the Secretary beginning on the Enforce-
17 ability Date, subject to the requirements of this sec-
18 tion, except for funds to be made available to the
19 Nation pursuant to paragraph (2).

20 (2) USE OF FUNDS.—Notwithstanding para-
21 graph (1), up to \$15,000,000 of the amounts depos-
22 ited in the Navajo Nation Water Rights Settlement
23 Account, including any investment earnings, includ-
24 ing interest, earned on those amounts, shall be avail-
25 able to the Nation on the date on which the amounts

1 are deposited in the Navajo Nation Water Rights
2 Settlement Account for the following uses:

3 (A) Feasibility studies, planning, engineer-
4 ing, design, and related environmental, cultural,
5 and historical compliance, and obtaining rights-
6 of-way or permits for water supply infrastruc-
7 ture to serve Navajo Nation needs consistent
8 with subsection (h)(1)(B).

9 (B) Installing, on Navajo Lands, ground-
10 water wells and associated infrastructure to
11 meet immediate domestic, commercial, munic-
12 ipal and industrial water needs, and associated
13 environmental, cultural, and historical compli-
14 ance.

15 (f) WITHDRAWALS.—

16 (1) WITHDRAWALS UNDER THE AMERICAN IN-
17 DIAN TRUST FUND MANAGEMENT REFORM ACT OF
18 1994.—

19 (A) IN GENERAL.—The Navajo Nation
20 may withdraw any portion of the amounts in
21 the Navajo Trust Fund on approval by the Sec-
22 retary of a Tribal management plan submitted
23 by the Nation in accordance with the American
24 Indian Trust Fund Management Reform Act of
25 1994 (25 U.S.C. 4001 et seq.).

1 (B) REQUIREMENTS.—In addition to the
2 requirements under the American Indian Trust
3 Fund Management Reform Act of 1994 (25
4 U.S.C. 4001 et seq.), the Tribal management
5 plan under this paragraph shall require that the
6 Nation shall spend all amounts withdrawn from
7 the Navajo Trust Fund, and any investment
8 earnings, including interest, earned on those
9 amounts, through the investments under the
10 Tribal management plan, in accordance with
11 this Act.

12 (C) ENFORCEMENT.—The Secretary may
13 carry out such judicial and administrative ac-
14 tions as the Secretary determines to be nec-
15 essary to enforce the Tribal management plan
16 under this paragraph to ensure that amounts
17 withdrawn by the Nation from the Navajo
18 Trust Fund under subparagraph (A) are used
19 in accordance with this Act.

20 (2) WITHDRAWALS UNDER EXPENDITURE
21 PLAN.—

22 (A) IN GENERAL.—The Navajo Nation
23 may submit to the Secretary a request to with-
24 draw funds from the Navajo Trust Fund pursu-
25 ant to an approved expenditure plan.

1 (B) REQUIREMENTS.—To be eligible to
2 withdraw amounts under an expenditure plan
3 under subparagraph (A), the Nation shall sub-
4 mit to the Secretary an expenditure plan for
5 any portion of the Navajo Trust Fund that the
6 Nation elects to withdraw pursuant to that sub-
7 paragraph, subject to the condition that the
8 amounts shall be used for the purposes de-
9 scribed in this Act.

10 (C) INCLUSIONS.—An expenditure plan
11 under this paragraph shall include a description
12 of the manner and purpose for which the
13 amounts proposed to be withdrawn from the
14 Navajo Trust Fund will be used by the Nation,
15 in accordance with this subsection and sub-
16 section (h).

17 (D) APPROVAL.—The Secretary shall ap-
18 prove an expenditure plan submitted under sub-
19 paragraph (A) if the Secretary determines that
20 the plan—

- 21 (i) is reasonable; and
22 (ii) is consistent with, and will be used
23 for, the purposes of this Act.

24 (E) ENFORCEMENT.—The Secretary may
25 carry out such judicial and administrative ac-

1 tions as the Secretary determines to be nec-
2 essary to enforce an expenditure plan to ensure
3 that amounts disbursed under this paragraph
4 are used in accordance with this Act.

5 (g) EFFECT OF SECTION.—Nothing in this section
6 gives the Navajo Nation the right to judicial review of a
7 determination of the Secretary relating to whether to ap-
8 prove a Tribal management plan under paragraph (1) of
9 subsection (f) or an expenditure plan under paragraph (2)
10 of that subsection except under subchapter II of chapter
11 5, and chapter 7, of title 5, United States Code (commonly
12 known as the “Administrative Procedure Act”).

13 (h) USES.—

14 (1) NAVAJO NATION WATER RIGHTS SETTLE-
15 MENT ACCOUNT.—The Navajo Nation Water Rights
16 Settlement Account may only be used for the fol-
17 lowing purposes:

18 (A) Acquiring water rights or water sup-
19 ply.

20 (B) Planning, permitting, designing, engi-
21 neering, constructing, reconstructing, replacing,
22 rehabilitating, operating, or repairing water
23 production, treatment, or delivery infrastruc-
24 ture, including for domestic and municipal use,

1 on-farm improvements, or wastewater infra-
2 structure.

3 (C) Navajo Nation's Water Rights man-
4 agement and administration.

5 (D) Watershed protection and enhance-
6 ment, support of agriculture, water-related Nav-
7 ajo community welfare and economic develop-
8 ment, and costs relating to implementation of
9 the Agreement.

10 (E) Environmental compliance in the de-
11 velopment and construction of infrastructure
12 under this Act.

13 (2) NAVAJO NATION OPERATIONS AND MAINTEN-
14 NANCE ACCOUNT.—The Navajo Nation Water Infra-
15 structure Operations and Maintenance Account may
16 only be used to pay costs for operation, mainte-
17 nance, and replacement of water infrastructure to
18 serve Navajo domestic, commercial, municipal, and
19 industrial water uses from any water source.

20 (i) LIABILITY.—The Secretary and the Secretary of
21 the Treasury shall not be liable for the expenditure or in-
22 vestment of any amounts withdrawn from the Navajo
23 Trust Fund by the Nation under paragraph (1) or (2) of
24 subsection (f).

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

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

10 (l) TITLE TO INFRASTRUCTURE.—Title to, control
11 over, and operation of any project constructed using funds
12 from the Navajo Trust Fund shall remain in the Navajo
13 Nation.

14 (m) OPERATION, MAINTENANCE, AND REPLACE-
15 MENT.—All operation, maintenance, and replacement
16 costs of any project constructed using funds from the Nav-
17 ajo Trust Fund shall be the responsibility of the Nation.

18 **SEC. 7. FUNDING.**

19 (a) MANDATORY APPROPRIATIONS.—Out of any
20 money in the Treasury not otherwise appropriated, the
21 Secretary of the Treasury shall transfer to the Secretary
22 the following amounts for deposit in the following ac-
23 counts:

24 (1) THE NAVAJO NATION WATER RIGHTS SET-
25 TLEMENT ACCOUNT.—For deposit in the Navajo Na-

1 tion Water Rights Settlement Account established
2 under section 6(b)(1), \$200,271,000, to remain
3 available until expended, withdrawn, or reverted to
4 the general fund of the Treasury.

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

11 (b) FLUCTUATION IN COSTS.—

12 (1) IN GENERAL.—The amounts appropriated
13 under subsection (a) shall be increased or decreased,
14 as appropriate, by such amounts as may be justified
15 by reason of ordinary fluctuations in costs, as indi-
16 cated by the Bureau of Reclamation Construction
17 Cost Index–Composite Trend.

18 (2) CONSTRUCTION COSTS ADJUSTMENT.—The
19 amounts appropriated under subsection (a) shall be
20 adjusted to address construction cost changes nec-
21 essary to account for unforeseen market volatility
22 that may not otherwise be captured by construction
23 cost indices, as determined by the Secretary, includ-
24 ing repricing applicable to the types of construction
25 and current industry standards involved.

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

5 (4) PERIOD OF INDEXING.—The period of in-
6 dexing adjustment under this subsection for any in-
7 crement of funding shall start on October 1, 2021,
8 and end on the date on which funds are deposited
9 in the Navajo Trust Fund.

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

12 (1) \$3,000,000, as adjusted for inflation pursu-
13 ant to the Agreement, to the Bluewater Toltec Irri-
14 gation District and Acequia Madre del Ojo del Gallo
15 for purposes described in the Agreement; and

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

18 **SEC. 8. ENFORCEABILITY DATE.**

19 The Enforceability Date shall be the date on which
20 the Secretary publishes in the Federal Register a state-
21 ment of findings that—

22 (1) to the extent that the Agreement conflicts
23 with this Act, the Agreement has been amended to
24 conform with this Act;

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

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

7 (4) the State has—

8 (A) provided \$3,000,000 of funding under
9 section 7(c)(1) into the appropriate funding ac-
10 counts or entered into a funding agreement
11 with the intended beneficiaries for that funding;
12 and

13 (B) enacted legislation to amend State law
14 to provide that a Navajo Nation Water Right
15 may be leased for a term not to exceed 99
16 years, including renewals;

17 (5) the Decree Court has approved the Agree-
18 ment and has entered the Navajo Partial Final
19 Judgment and Decree; and

20 (6) the waivers and releases under section 9
21 have been executed by the Navajo Nation and the
22 Secretary.

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

24 (a) WAIVERS AND RELEASES OF CLAIMS BY THE
25 NAVAJO NATION AND UNITED STATES AS TRUSTEE FOR

1 THE NATION.—Subject to the reservation of rights and
2 retention of claims under subsection (d), as consideration
3 for recognition of the Navajo Nation’s Water Rights and
4 other benefits described in the Agreement and this Act,
5 the Navajo Nation, on behalf of the Nation and members
6 of the Nation (other than members in their capacity as
7 Allottees), and the United States, acting as trustee for the
8 Nation and members of the Nation (other than members
9 in their capacity as Allottees), shall execute a waiver and
10 release of all claims for—

11 (1) water rights within the Rio San José
12 Stream System that the Navajo Nation or the
13 United States acting as trustee for the Nation, as-
14 sserted or could have asserted in any proceeding, in-
15 cluding the Adjudication, on or before the Enforce-
16 ability Date, except to the extent that such rights
17 are recognized in the Agreement and this Act; and

18 (2) damages, losses, or injuries to water rights
19 or claims of interference with, diversion of, or taking
20 of water rights (including claims for injury to land
21 resulting from such damages, losses, injuries, inter-
22 ference with, diversion, or taking of water rights) in
23 the waters in the Rio San José Stream System
24 against any party to the Agreement, including the
25 members and parciantes of Signatory Acequias, that

1 accrued at any time up to and including the En-
2 forceability Date.

3 (b) WAIVERS AND RELEASES OF CLAIMS BY NAVAJO
4 NATION AGAINST UNITED STATES.—Subject to the res-
5 ervation of rights and retention of claims under subsection
6 (d), the Navajo Nation, on behalf of the Nation (including
7 in its capacity as an Allottee) and members of the Nation
8 (other than members in their capacity as Allottees) shall
9 execute a waiver and release of all claims against the
10 United States (including any agency or employee of the
11 United States) first arising before the Enforceability Date
12 relating to—

13 (1) water rights within the Rio San José
14 Stream System that the United States, acting as
15 trustee for the Navajo Nation, asserted or could
16 have asserted in any proceeding, including the Adju-
17 dication, except to the extent that such rights are
18 recognized as part of the Navajo Nation’s Water
19 Rights under this Act;

20 (2) foregone benefits from non-Navajo use of
21 water, on and off Navajo Lands, including water
22 from all sources and for all uses, within the Rio San
23 José Stream System;

24 (3) damage, loss, or injury to water, water
25 rights, land, or natural resources due to loss of

1 water or water rights, including damages, losses, or
2 injuries to hunting, fishing, gathering, or cultural
3 rights due to loss of water or water rights, claims
4 relating to interference with, diversion of, or taking
5 of water, or claims relating to a failure to protect,
6 acquire, replace, or develop water, water rights, or
7 water infrastructure, within the Rio San José
8 Stream System;

9 (4) a failure to provide for operation, mainte-
10 nance, or deferred maintenance for any irrigation
11 system or irrigation project within the Rio San José
12 Stream System;

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

16 (6) damage, loss, or injury to water, water
17 rights, land, or natural resources due to construc-
18 tion, operation, and management of irrigation
19 projects on Navajo Lands, including damages,
20 losses, or injuries to fish habitat, wildlife, and wild-
21 life habitat, within the Rio San José Stream System;

22 (7) a failure to provide a dam safety improve-
23 ment to a dam on Navajo Lands within the Rio San
24 José Stream System;

1 (8) the litigation of claims relating to any water
2 right of the Nation within the Rio San José Stream
3 System; and

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

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

9 (d) RESERVATION OF RIGHTS AND RETENTION OF
10 CLAIMS.—Notwithstanding the waivers and releases under
11 subsections (a) and (b), the Navajo Nation and the United
12 States, acting as trustee for the Nation, shall retain all
13 claims relating to—

14 (1) the enforcement of, or claims accruing after
15 the Enforceability Date relating to water rights rec-
16 ognized under the Agreement, this Act, or the Nav-
17 ajo Partial Final Judgment and Decree entered in
18 the Adjudication;

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

21 (A) the Comprehensive Environmental Re-
22 sponse, Compensation, and Liability Act of
23 1980 (42 U.S.C. 9601 et seq.), including claims
24 for damages to natural resources;

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

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

6 (D) any regulations implementing the Acts
7 described in subparagraphs (A) through (C);

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

10 (4) damage, loss, or injury to land or natural
11 resources that is not due to loss of water or water
12 rights, including hunting, fishing, gathering, or cul-
13 tural rights;

14 (5) all claims for water rights, and claims for
15 injury to water rights, in basins other than the Rio
16 San José Stream System, subject to the Agreement
17 with respect to the claims of the Navajo Nation for
18 water rights in the Rio Puerco Basin;

19 (6) all claims relating to the Jackpile-Paguate
20 Uranium Mine in the State that are not due to loss
21 of water or water rights; and

22 (7) all rights, remedies, privileges, immunities,
23 powers, and claims not specifically waived and re-
24 leased pursuant to this Act or the Agreement.

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

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

6 (2) affects the ability of the United States, as
7 sovereign, to carry out any activity authorized by
8 law, including—

9 (A) the Comprehensive Environmental Re-
10 sponse, Compensation, and Liability Act of
11 1980 (42 U.S.C. 9601 et seq.);

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

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

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

19 (E) any regulations implementing the Acts
20 described in subparagraphs (A) through (D);

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

25 (4) confers jurisdiction on any State court—

1 (A) to interpret Federal law relating to
2 health, safety, or the environment;

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

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

8 (5) waives any claim of a member of the Navajo
9 Nation in an individual capacity that does not derive
10 from a right of the Navajo Nation.

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

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

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

23 (g) TOLLING OF CLAIMS.—

24 (1) IN GENERAL.—Each applicable period of
25 limitation and time-based equitable defense relating

1 to a claim described in this section shall be tolled for
2 the period beginning on the date of enactment of
3 this Act and ending on the Enforceability Date.

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

8 (3) LIMITATION.—Nothing in this section pre-
9 cludes the tolling of any period of limitation or any
10 time-based equitable defense under any other appli-
11 cable law.

12 (h) EXPIRATION.—

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

16 (A) July 1, 2030; or

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

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

22 (A) the waivers and releases under sub-
23 sections (a) and (b) shall—

24 (i) expire; and

25 (ii) have no further force or effect;

1 (B) the authorization, ratification, con-
2 firmation, and execution of the Agreement
3 under section 4 shall no longer be effective;

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

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

19 (E) except for Federal funds used to ac-
20 quire or construct property that is returned to
21 the Federal Government under subparagraph
22 (D), the United States shall be entitled to offset
23 any Federal funds made available to carry out
24 this Act that were expended or withdrawn, or
25 any funds made available to carry out this Act

1 from other Federal authorized sources, together
2 with any interest accrued on those funds,
3 against any claims against the United States—

4 (i) relating to water rights in the
5 State asserted by—

6 (I) the Nation or any user of the
7 Navajo Nation's Water Rights; or

8 (II) any other matter covered by
9 subsection (b); or

10 (ii) in any future settlement of water
11 rights of the Navajo Nation.

12 **SEC. 10. SATISFACTION OF CLAIMS.**

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

18 **SEC. 11. CONSENT OF UNITED STATES TO JURISDICTION**
19 **FOR JUDICIAL REVIEW OF A NAVAJO NATION**
20 **WATER USE PERMIT DECISION.**

21 (a) CONSENT.—On the Enforceability Date, the con-
22 sent of the United States is hereby given, with the consent
23 of the Navajo Nation under Article 17.14.4 of the Agree-
24 ment, to jurisdiction in the District Court for the Thir-
25 teenth Judicial District of the State of New Mexico, and

1 in the New Mexico Court of Appeals and the New Mexico
2 Supreme Court on appeal therefrom in the same manner
3 as provided under New Mexico law, over an action filed
4 in such District Court by any party to a Navajo Nation
5 Water Use Permit administrative proceeding under Article
6 17.10.4 of the Agreement for the limited and sole purpose
7 of judicial review of a Navajo Nation Water Use Permit
8 decision under article 17.10.5 of the Agreement.

9 (b) LIMITATION.—The consent of the United States
10 for review of a Navajo Nation Water Use Permit is limited
11 to judicial review, based on the record developed through
12 the administrative process of the Navajo Nation, under a
13 standard of judicial review limited to determining whether
14 the Navajo Nation decision on the application for the Nav-
15 ajo Nation Water Use Permit—

16 (1) is supported by substantial evidence;

17 (2) is not arbitrary, capricious, or contrary to
18 law;

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

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

23 (c) NAVAJO NATION WATER CODE AND INTERPRE-
24 TATION.—

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

6 (2) PROVISIONS OF THE NAVAJO NATION
7 WATER CODE.—To the extent that a State court
8 conducting judicial review under this section must
9 interpret provisions of Navajo Nation law that are
10 not express provisions of the Navajo Nation Water
11 Code or Navajo Nation water law, the State court
12 shall certify the question of interpretation to the
13 Navajo Nation court.

14 (3) NO CERTIFICATION.—Any issues of inter-
15 pretation of standards in article 17.10.6 of the
16 Agreement are not subject to certification.

17 (4) LIMITATION.—Nothing in this section limits
18 the jurisdiction of the Decree Court to interpret and
19 enforce the Agreement.

20 **SEC. 12. MISCELLANEOUS PROVISIONS.**

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

24 (b) OTHER TRIBES NOT ADVERSELY AFFECTED.—
25 Nothing in this Act quantifies or diminishes any land or

1 water right, or any claim or entitlement to land or water,
2 of an Indian Tribe, band, Pueblo, or community other
3 than the Navajo Nation.

4 (c) EFFECT ON CURRENT LAW.—Nothing in this Act
5 affects any provision of law (including regulations) in ef-
6 fect on the day before the date of enactment of this Act
7 with respect to pre-enforcement review of any Federal en-
8 vironmental enforcement action.

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

11 **SEC. 13. RELATION TO ALLOTTEES.**

12 (a) NO EFFECT ON CLAIMS OF ALLOTTEES.—Noth-
13 ing in this Act or the Agreement shall affect the rights
14 or claims of Allottees, or the United States, acting in its
15 capacity as trustee for or on behalf of Allottees, for water
16 rights or damages relating to land allotted by the United
17 States to Allottees.

18 (b) RELATIONSHIP OF DECREE TO ALLOTTEES.—

19 (1) SEPARATE ADJUDICATION.—Notwith-
20 standing whether an Allotment is patented pursuant
21 to section 1 of the Act of February 8, 1887 (com-
22 monly known as the “Indian General Allotment
23 Act”) (24 Stat. 388, chapter 119; 25 U.S.C. 331)
24 (as in effect on the day before the date of enactment
25 of the Indian Land Consolidation Act Amendments

1 of 2000 (Public Law 106–462; 114 Stat. 1991)) or
2 section 4 of that Act (24 Stat. 389, chapter 119; 25
3 U.S.C. 334), as determined by the Secretary, when
4 adjudicated—

5 (A) water rights for Allotments shall be
6 separate from the Navajo Nation’s Water
7 Rights; and

8 (B) no water rights for Allotments shall be
9 included in the Navajo Partial Final Judgment
10 and Decree.

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

24 (3) ALLOTTEE WATER RIGHTS TO BE ADJU-
25 DICATED.—Allottees, or the United States, acting in

1 its capacity as trustee for Allottees, may make water
2 rights claims, and those claims may be adjudicated
3 in the Rio San José Stream System or the Rio
4 Puerco Basin.

5 **SEC. 14. EXPANSION OF NAVAJO-GALLUP WATER SUPPLY**
6 **PROJECT SERVICE AREA.**

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

12 (b) EXPANSION OF PROJECT SERVICE AREA AU-
13 THORIZED.—The Nation may expand the service area for
14 the Project in order to deliver water supply from the
15 Project to communities of the Nation within the Rio San
16 José Basin in the State.

17 (c) APPROVAL OF FINAL DESIGN FOR EXPANSION.—
18 If water will be supplied from facilities of the Project to
19 the Rio San José Basin at a time when the Bureau of
20 Reclamation still holds title to those facilities, the Navajo
21 Nation shall—

22 (1) obtain approval, in writing, from the Com-
23 missioner of Reclamation for the final design of the
24 connection and related facilities needed to connect

1 the extension into the Rio San José area from those
2 facilities; and

3 (2) coordinate construction of the connection
4 and related facilities with the Commissioner of Rec-
5 lamation.

6 **SEC. 15. ANTIDEFICIENCY.**

7 The United States shall not be liable for any failure
8 to carry out any obligation or activity authorized by this
9 Act, including any obligation or activity under the Agree-
10 ment, if adequate appropriations are not provided ex-
11 pressly by Congress to carry out the purposes of this Act.