

108TH CONGRESS  
1ST SESSION

# H. R. 495

To approve the settlement of the water rights claims of the Zuni Indian Tribe in Apache County, Arizona, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 29, 2003

Mr. RENZI (for himself, Mr. HAYWORTH, Mr. PASTOR, Mr. GRIJALVA, and Mr. KOLBE) introduced the following bill; which was referred to the Committee on Resources

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## A BILL

To approve the settlement of the water rights claims of the Zuni Indian Tribe in Apache County, Arizona, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Zuni Indian Tribe  
5 Water Rights Settlement Act of 2003”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—Congress makes the following find-  
8 ings:

1           (1) It is the policy of the United States, in  
2           keeping with its trust responsibility to Indian tribes,  
3           to promote Indian self-determination, religious free-  
4           dom, political and cultural integrity, and economic  
5           self-sufficiency, and to settle, wherever possible, the  
6           water rights claims of Indian tribes without lengthy  
7           and costly litigation.

8           (2) Quantification of rights to water and devel-  
9           opment of facilities needed to use tribal water sup-  
10          plies effectively is essential to the development of  
11          viable Indian reservation communities, particularly  
12          in arid western States.

13          (3) On August 28, 1984, and by actions subse-  
14          quent thereto, the United States established a res-  
15          ervation for the Zuni Indian Tribe in Apache Coun-  
16          ty, Arizona upstream from the confluence of the Lit-  
17          tle Colorado and Zuni Rivers for long-standing reli-  
18          gious and sustenance activities.

19          (4) The water rights of all water users in the  
20          Little Colorado River basin in Arizona have been in  
21          litigation since 1979, in the Superior Court of the  
22          State of Arizona in and for the County of Apache  
23          in Civil No. 6417, In re The General Adjudication  
24          of All Rights to Use Water in the Little Colorado  
25          River System and Source.

1           (5) Recognizing that the final resolution of the  
2           Zuni Indian Tribe's water claims through litigation  
3           will take many years and entail great expense to all  
4           parties, continue to limit the Tribe's access to water  
5           with economic, social, and cultural consequences to  
6           the Tribe, prolong uncertainty as to the availability  
7           of water supplies, and seriously impair the long-term  
8           economic planning and development of all parties,  
9           the Tribe and neighboring non-Indians have sought  
10          to settle their disputes to water and reduce the bur-  
11          dens of litigation.

12          (6) After more than 4 years of negotiations,  
13          which included participation by representatives of  
14          the United States, the Zuni Indian Tribe, the State  
15          of Arizona, and neighboring non-Indian communities  
16          in the Little Colorado River basin, the parties have  
17          entered into a Settlement Agreement to resolve all of  
18          the Zuni Indian Tribe's water rights claims and to  
19          assist the Tribe in acquiring surface water rights, to  
20          provide for the Tribe's use of groundwater, and to  
21          provide for the wetland restoration of the Tribe's  
22          lands in Arizona.

23          (7) To facilitate the wetland restoration project  
24          contemplated under the Settlement Agreement, the  
25          Zuni Indian Tribe acquired certain lands along the

1 Little Colorado River near or adjacent to its Res-  
2 ervation that are important for the success of the  
3 project and will likely acquire a small amount of  
4 similarly situated additional lands. The parties have  
5 agreed not to object to the United States taking title  
6 to certain of these lands into trust status; other  
7 lands shall remain in tribal fee status. The parties  
8 have worked extensively to resolve various govern-  
9 mental concerns regarding use of and control over  
10 those lands, and to provide a successful model for  
11 these types of situations, the State, local, and tribal  
12 governments intend to enter into an Intergovern-  
13 mental Agreement that addresses the parties' gov-  
14 ernmental concerns.

15 (8) Pursuant to the Settlement Agreement, the  
16 neighboring non-Indian entities will assist in the  
17 Tribe's acquisition of surface water rights and devel-  
18 opment of groundwater, store surface water supplies  
19 for the Zuni Indian Tribe, and make substantial ad-  
20 ditional contributions to carry out the provisions of  
21 the Settlement Agreement.

22 (9) To advance the goals of Federal Indian pol-  
23 icy and consistent with the trust responsibility of the  
24 United States to the Tribe, it is appropriate that the  
25 United States participate in the implementation of

1 the Settlement Agreement and contribute funds for  
2 the rehabilitation of religious riparian areas and  
3 other purposes to enable the Tribe to use its water  
4 entitlement in developing its Reservation.

5 (b) PURPOSES.—The purposes of this Act are—

6 (1) to approve, ratify, and confirm the Settle-  
7 ment Agreement entered into by the Tribe and  
8 neighboring non-Indians;

9 (2) to authorize and direct the Secretary of the  
10 Interior to execute and perform the Settlement  
11 Agreement and related waivers;

12 (3) to authorize and direct the United States to  
13 take legal title and hold such title to certain lands  
14 in trust for the benefit of the Zuni Indian Tribe; and

15 (4) to authorize the actions, agreements, and  
16 appropriations as provided for in the Settlement  
17 Agreement and this Act.

18 **SEC. 3. DEFINITIONS.**

19 In this Act:

20 (1) EASTERN LCR BASIN.—The term “Eastern  
21 LCR basin” means the portion of the Little Colo-  
22 rado River basin in Arizona upstream of the con-  
23 fluence of Silver Creek and the Little Colorado  
24 River, as identified on Exhibit 2.10 of the Settle-  
25 ment Agreement.

1           (2) FUND.—The term “Fund” means the Zuni  
2 Indian Tribe Water Rights Development Fund es-  
3 tablished by section 6(a).

4           (3) INTERGOVERNMENTAL AGREEMENT.—The  
5 term “Intergovernmental Agreement” means the  
6 intergovernmental agreement between the Zuni In-  
7 dian Tribe, Apache County, Arizona and the State  
8 of Arizona described in article 6 of the Settlement  
9 Agreement.

10          (4) PUMPING PROTECTION AGREEMENT.—The  
11 term “Pumping Protection Agreement” means an  
12 agreement, described in article 5 of the Settlement  
13 Agreement, between the Zuni Tribe, the United  
14 States on behalf of the Tribe, and a local landowner  
15 under which the landowner agrees to limit pumping  
16 of groundwater on his lands in exchange for a waiv-  
17 er of certain claims by the Zuni Tribe and the  
18 United States on behalf of the Tribe.

19          (5) RESERVATION; ZUNI HEAVEN RESERVA-  
20 TION.—The term “Reservation” or “Zuni Heaven  
21 Reservation”, also referred to as “Kolhu:wala:wa”,  
22 means the following property in Apache County, Ari-  
23 zona: Sections 26, 27, 28, 33, 34, and 35, Township  
24 15 North, Range 26 East, Gila and Salt River Base  
25 and Meridian; and Sections 2, 3, 4, 9, 10, 11, 13,

1 14, 15, 16, 23, 26, and 27, Township 14 North,  
2 Range 26 East, Gila and Salt River Base and Me-  
3 ridian.

4 (6) SECRETARY.—The term “Secretary” means  
5 the Secretary of the Interior.

6 (7) SETTLEMENT AGREEMENT.—The term  
7 “Settlement Agreement” means that agreement  
8 dated June 7, 2002, together with all exhibits there-  
9 to. The parties to the Settlement Agreement include  
10 the Zuni Indian Tribe and its members, the United  
11 States on behalf of the Tribe and its members, the  
12 State of Arizona, the Arizona Game and Fish Com-  
13 mission, the Arizona State Land Department, the  
14 Arizona State Parks Board, the St. Johns Irrigation  
15 and Ditch Co., the Lyman Water Co., the Round  
16 Valley Water Users’ Association, the Salt River  
17 Project Agricultural Improvement and Power Dis-  
18 trict, the Tucson Electric Power Company, the City  
19 of St. Johns, the Town of Eagar, and the Town of  
20 Springerville.

21 (8) SRP.—The term “SRP” means the Salt  
22 River Project Agricultural Improvement and Power  
23 District, a political subdivision of the State of Ari-  
24 zona.

1           (9) TEP.—The term “TEP” means Tucson  
2       Electric Power Company.

3           (10) TRIBE, ZUNI TRIBE, OR ZUNI INDIAN  
4       TRIBE.—The terms “Tribe”, “Zuni Tribe”, or “Zuni  
5       Indian Tribe” means the body politic and federally  
6       recognized Indian nation, and its members.

7           (11) ZUNI LANDS.—The term “Zuni Lands”  
8       means all the following lands, in the State of Ari-  
9       zona, that, on the effective date described in section  
10      9(a), are—

11                   (A) within the Zuni Heaven Reservation;

12                   (B) held in trust by the United States for  
13      the benefit of the Tribe or its members; or

14                   (C) held in fee within the Little Colorado  
15      River basin by or for the Tribe.

16   **SEC. 4. AUTHORIZATION, RATIFICATIONS, AND CONFIRMA-**  
17                   **TIONS.**

18      (a) SETTLEMENT AGREEMENT.—To the extent the  
19      Settlement Agreement does not conflict with the provi-  
20      sions of this Act, such Settlement Agreement is hereby  
21      approved, ratified, confirmed, and declared to be valid.  
22      The Secretary is authorized and directed to execute the  
23      Settlement Agreement and any amendments approved by  
24      the parties necessary to make the Settlement Agreement  
25      consistent with this Act. The Secretary is further author-

1 ized to perform any actions required by the Settlement  
2 Agreement and any amendments to the Settlement Agree-  
3 ment that may be mutually agreed upon by the parties  
4 to the Settlement Agreement.

5 (b) AUTHORIZATION OF APPROPRIATIONS.—There is  
6 authorized to be appropriated to the Zuni Indian Tribe  
7 Water Rights Development Fund established in section  
8 6(a), \$19,250,000, to be allocated by the Secretary as fol-  
9 lows:

10 (1) \$3,500,000 for fiscal year 2004, to be used  
11 for the acquisition of water rights and associated  
12 lands, and other activities carried out, by the Zuni  
13 Tribe to facilitate the enforceability of the Settle-  
14 ment Agreement, including the acquisition of at  
15 least 2,350 acre-feet per year of water rights before  
16 the deadline described in section 9(b).

17 (2) \$15,750,000, of which \$5,250,000 shall be  
18 made available for each of fiscal years 2004, 2005,  
19 and 2006, to take actions necessary to restore, reha-  
20 bilitate, and maintain the Zuni Heaven Reservation,  
21 including the Sacred Lake, wetlands, and riparian  
22 areas as provided for in the Settlement Agreement  
23 and under this Act.

24 (c) OTHER AGREEMENTS.—Except as provided in  
25 section 9, the following 3 separate agreements, together

1 with all amendments thereto, are approved, ratified, con-  
2 firmed, and declared to be valid:

3 (1) The agreement between SRP, the Zuni  
4 Tribe, and the United States on behalf of the Tribe,  
5 dated June 7, 2002.

6 (2) The agreement between TEP, the Zuni  
7 Tribe, and the United States on behalf of the Tribe,  
8 dated June 7, 2002.

9 (3) The agreement between the Arizona State  
10 Land Department, the Zuni Tribe, and the United  
11 States on behalf of the Tribe, dated June 7, 2002.

12 **SEC. 5. TRUST LANDS.**

13 (a) NEW TRUST LANDS.—Upon satisfaction of the  
14 conditions in paragraph 6.2 of the Settlement Agreement,  
15 and after the requirements of section 9(a) have been met,  
16 the Secretary shall take the legal title of the following  
17 lands into trust for the benefit of the Zuni Tribe:

18 (1) In T. 14 N., R. 27 E., Gila and Salt River  
19 Base and Meridian:

20 (A) Section 13: SW 1/4, S 1/2 NE 1/4 SE  
21 1/4, W 1/2 SE 1/4, SE 1/4 SE 1/4;

22 (B) Section 23: N 1/2, N 1/2 SW 1/4, N  
23 1/2 SE 1/4, SE 1/4 SE 1/4, N 1/2 SW 1/4 SE  
24 1/4, SE 1/4 SW 1/4 SE 1/4;

1 (C) Section 24: NW 1/4, SW 1/4, S 1/2  
 2 NE 1/4, N 1/2 SE 1/4; and

3 (D) Section 25: N 1/2 NE 1/4, SE 1/4 NE  
 4 1/4, NE 1/4 SE 1/4.

5 (2) In T. 14 N., R. 28 E., Gila and Salt River  
 6 Base and Meridian:

7 (A) Section 19: W 1/2 E 1/2 NW 1/4, W  
 8 1/2 NW 1/4, W 1/2 NE 1/4 SW 1/4, NW 1/4  
 9 SW 1/4, S 1/2 SW 1/4;

10 (B) Section 29: SW 1/4 SW 1/4 NW 1/4,  
 11 NW 1/4 NW 1/4 SW 1/4, S 1/2 N 1/2 SW 1/  
 12 4, S 1/2 SW 1/4, S 1/2 NW 1/4 SE 1/4, SW  
 13 1/4 SE 1/4;

14 (C) Section 30: W 1/2 , SE 1/4; and

15 (D) Section 31: N 1/2 NE 1/4, N 1/2 S 1/  
 16 2 NE 1/4, S 1/2 SE 1/4 NE 1/4, NW 1/4, E  
 17 1/2 SW 1/4, N 1/2 NW 1/4 SW 1/4, SE 1/4  
 18 NW 1/4 SW 1/4, E 1/2 SW 1/4 SW 1/4, SW  
 19 1/4 SW 1/4 SW 1/4.

20 (b) FUTURE TRUST LANDS.—Upon satisfaction of  
 21 the conditions in paragraph 6.2 of the Settlement Agree-  
 22 ment, after the requirements of section 9(a) have been  
 23 met, and upon acquisition by the Zuni Tribe, the Sec-  
 24 retary shall take the legal title of the following lands into  
 25 trust for the benefit of the Zuni Tribe:

1           (1) In T. 14 N., R. 26E., Gila and Salt River  
 2 Base and Meridian: Section 25: N 1/2 NE 1/4, N  
 3 1/2 S 1/2 NE 1/4, NW 1/4, N 1/2 NE 1/4 SW 1/  
 4 4, NE 1/4 NW 1/4 SW 1/4.

5           (2) In T. 14 N., R. 27 E., Gila and Salt River  
 6 Base and Meridian:

7           (A) Section 14: SE 1/4 SW 1/4, SE 1/4;

8           (B) Section 16: S 1/2 SW 1/4 SE 1/4;

9           (C) Section 19: S 1/2 SE 1/4 SE 1/4;

10          (D) Section 20: S 1/2 SW 1/4 SW 1/4, E  
 11 1/2 SE 1/4 SE 1/4;

12          (E) Section 21: N 1/2 NE 1/4, E 1/2 NE  
 13 1/4 NW 1/4, SE 1/4 NW 1/4, W 1/2 SW 1/4  
 14 NE 1/4, N 1/2 NE 1/4 SW 1/4, SW 1/4 NE  
 15 1/4 SW 1/4, E 1/2 NW 1/4 SW 1/4, SW 1/4  
 16 NW 1/4 SW 1/4, W 1/2 SW 1/4 SW 1/4;

17          (F) Section 22: SW 1/4 NE 1/4 NE 1/4,  
 18 NW 1/4 NE 1/4, S 1/2 NE 1/4, N 1/2 NW 1/  
 19 4, SE 1/4 NW1/4, N 1/2 SW 1/4 NW 1/4, SE  
 20 1/4 SW 1/4 NW 1/4, N 1/2 N 1/2 SE 1/4, N  
 21 1/2 NE 1/4 SW 1/4;

22          (G) Section 24: N 1/2 NE 1/4, S 1/2 SE  
 23 1/4;

24          (H) Section 29: N 1/2 N 1/2;

1 (I) Section 30: N 1/2 N 1/2, N 1/2 S 1/  
2 2 NW 1/4, N 1/2 SW 1/4 NE 1/4; and

3 (J) Section 36: SE 1/4 SE 1/4 NE 1/4,  
4 NE 1/4 NE 1/4 SE 1/4.

5 (3) In T. 14 N., R. 28 E., Gila and Salt River  
6 Base and Meridian:

7 (A) Section 18: S 1/2 NE 1/4, NE 1/4 SW  
8 1/4, NE 1/4 NW 1/4 SW 1/4, S 1/2 NW 1/4  
9 SW 1/4, S 1/2 SW 1/4, N 1/2 SE 1/4, N 1/2  
10 SW 1/4 SE 1/4, SE 1/4 SE 1/4;

11 (B) Section 30: S 1/2 NE 1/4, W 1/2 NW  
12 1/4 NE 1/4; and

13 (C) Section 32: N 1/2 NW 1/4 NE 1/4,  
14 SW 1/4 NE 1/4, S 1/2 SE 1/4 NE 1/4, NW 1/  
15 4, SW 1/4, N 1/2 SE 1/4, SW 1/4 SE 1/4, N  
16 1/2 SE 1/4 SE 1/4, SW 1/4 SE 1/4 SE 1/4.

17 (c) NEW RESERVATION LANDS.—Upon satisfaction  
18 of the conditions in paragraph 6.2 of the Settlement  
19 Agreement, after the requirements of section 9(a) have  
20 been met, and upon acquisition by the Zuni Tribe, the Sec-  
21 retary shall take the legal title of the following lands in  
22 Arizona into trust for the benefit of the Zuni Tribe and  
23 make such lands part of the Zuni Indian Tribe Reserva-  
24 tion in Arizona: Section 34, T. 14 N., R. 26 E., Gila and  
25 Salt River Base and Meridian.

1 (d) LIMITATION ON SECRETARIAL DISCRETION.—  
2 The Secretary shall have no discretion regarding the ac-  
3 quisitions described in subsections (a), (b), and (c).

4 (e) LANDS REMAINING IN FEE STATUS.—The Zuni  
5 Tribe may seek to have the legal title to additional lands  
6 in Arizona, other than the lands described in subsection  
7 (a), (b), or (c), taken into trust by the United States for  
8 the benefit of the Zuni Indian Tribe pursuant only to an  
9 Act of Congress enacted after the date of enactment of  
10 this Act specifically authorizing the transfer for the ben-  
11 efit of the Zuni Tribe.

12 (f) FINAL AGENCY ACTION.—Any written certifi-  
13 cation by the Secretary under subparagraph 6.2.B of the  
14 Settlement Agreement constitutes final agency action  
15 under the Administrative Procedure Act and is reviewable  
16 as provided for under chapter 7 of title 5, United States  
17 Code.

18 (g) NO FEDERAL WATER RIGHTS.—Lands taken  
19 into trust pursuant to subsection (a), (b), or (c) shall not  
20 have Federal reserved rights to surface water or ground-  
21 water.

22 (h) STATE WATER RIGHTS.—The water rights and  
23 uses for the lands taken into trust pursuant to subsection  
24 (a) or (c) must be determined under subparagraph 4.1.A  
25 and article 5 of the Settlement Agreement. With respect

1 to the lands taken into trust pursuant to subsection (b),  
2 the Zuni Tribe retains any rights or claims to water asso-  
3 ciated with these lands under State law, subject to the  
4 terms of the Settlement Agreement.

5 (i) FORFEITURE AND ABANDONMENT.—Water rights  
6 that are appurtenant to lands taken into trust pursuant  
7 to subsection (a), (b), or (c) shall not be subject to for-  
8 feiture and abandonment.

9 (j) AD VALOREM TAXES.—With respect to lands that  
10 are taken into trust pursuant to subsection (a) or (b), the  
11 Zuni Tribe shall make payments in lieu of all current and  
12 future State, county, and local ad valorem property taxes  
13 that would otherwise be applicable to those lands if they  
14 were not in trust.

15 (k) AUTHORITY OF TRIBE.—For purposes of com-  
16 plying with this section and article 6 of the Settlement  
17 Agreement, the Tribe is authorized to enter into—

18 (1) the Intergovernmental Agreement between  
19 the Zuni Tribe, Apache County, Arizona, and the  
20 State of Arizona; and

21 (2) any intergovernmental agreement required  
22 to be entered into by the Tribe under the terms of  
23 the Intergovernmental Agreement.

24 (l) FEDERAL ACKNOWLEDGEMENT OF INTERGOV-  
25 ERNMENTAL AGREEMENTS.—

1           (1) IN GENERAL.—The Secretary shall acknowl-  
2           edge the terms of any intergovernmental agreement  
3           entered into by the Tribe under this section.

4           (2) NO ABROGATION.—The Secretary shall not  
5           seek to abrogate, in any administrative or judicial  
6           action, the terms of any intergovernmental agree-  
7           ment that are consistent with subparagraph 6.2.A of  
8           the Settlement Agreement and this Act.

9           (3) REMOVAL.—

10           (A) IN GENERAL.—Except as provided in  
11           subparagraph (B), if a judicial action is com-  
12           menced during a dispute over any intergovern-  
13           mental agreement entered into under this sec-  
14           tion, and the United States is allowed to inter-  
15           vene in such action, the United States shall not  
16           remove such action to the Federal courts.

17           (B) EXCEPTION.—The United States may  
18           seek removal if—

19                   (i) the action concerns the Secretary’s  
20                   decision regarding the issuance of rights-  
21                   of-way under section 8(c);

22                   (ii) the action concerns the authority  
23                   of a Federal agency to administer pro-  
24                   grams or the issuance of a permit under—

1 (I) the Federal Water Pollution  
2 Control Act (33 U.S.C. 1251 et seq.);

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

5 (III) the Clean Air Act (42  
6 U.S.C. 7401 et seq.); or

7 (IV) any other Federal law spe-  
8 cifically addressed in intergovern-  
9 mental agreements; or

10 (iii) the intergovernmental agreement  
11 is inconsistent with a Federal law for the  
12 protection of civil rights, public health, or  
13 welfare.

14 (m) RULE OF CONSTRUCTION.—Nothing in this Act  
15 shall be construed to affect the application of the Act of  
16 May 25, 1918 (25 U.S.C. 211) within the State of Ari-  
17 zona.

18 (n) DISCLAIMER.—Nothing in this section repeals,  
19 modifies, amends, changes, or otherwise affects the Sec-  
20 retary’s obligations to the Zuni Tribe pursuant to the Act  
21 entitled “An Act to convey certain lands to the Zuni In-  
22 dian Tribe for religious purposes” approved August 28,  
23 1984 (Public Law 98–408; 98 Stat. 1533) (and as amend-  
24 ed by the Zuni Land Conservation Act of 1990 (Public  
25 Law 101–486; 104 Stat. 1174)).

1 **SEC. 6. DEVELOPMENT FUND.**

2 (a) ESTABLISHMENT OF THE FUND.—

3 (1) IN GENERAL.—There is established in the  
4 Treasury of the United States a fund to be known  
5 as the “Zuni Indian Tribe Water Rights Develop-  
6 ment Fund”, to be managed and invested by the  
7 Secretary, consisting of—

8 (A) the amounts authorized to be appro-  
9 priated in section 4(b); and

10 (B) the appropriation to be contributed by  
11 the State of Arizona pursuant to paragraph 7.6  
12 of the Settlement Agreement.

13 (2) ADDITIONAL DEPOSITS.—The Secretary  
14 shall deposit in the Fund any other monies paid to  
15 the Secretary on behalf of the Zuni Tribe pursuant  
16 to the Settlement Agreement.

17 (b) MANAGEMENT OF THE FUND.—The Secretary  
18 shall manage the Fund, make investments from the Fund,  
19 and make monies available from the Fund for distribution  
20 to the Zuni Tribe consistent with the American Indian  
21 Trust Fund Management Reform Act of 1994 (25 U.S.C.  
22 4001 et seq.) (referred to in this section as the “Trust  
23 Fund Reform Act”), this Act, and the Settlement Agree-  
24 ment.

25 (c) INVESTMENT OF THE FUND.—The Secretary  
26 shall invest amounts in the Fund in accordance with—

1           (1) the Act of April 1, 1880 (21 Stat. 70, ch.  
2           41, 25 U.S.C. 161);

3           (2) the first section of the Act of June 24,  
4           1938 (52 Stat. 1037, ch. 648, 25 U.S.C. 162a); and

5           (3) subsection (b).

6           (d) AVAILABILITY OF AMOUNTS FROM THE FUND.—

7           The funds authorized to be appropriated pursuant to sec-  
8           tion 3104(b)(2) and funds contributed by the State of Ari-  
9           zona pursuant to paragraph 7.6 of the Settlement Agree-  
10          ment shall be available for expenditure or withdrawal only  
11          after the requirements of section 9(a) have been met.

12          (e) EXPENDITURES AND WITHDRAWAL.—

13           (1) TRIBAL MANAGEMENT PLAN.—

14           (A) IN GENERAL.—The Zuni Tribe may  
15           withdraw all or part of the Fund on approval  
16           by the Secretary of a tribal management plan  
17           as described in the Trust Fund Reform Act.

18           (B) REQUIREMENTS.—In addition to the  
19           requirements under the Trust Fund Reform  
20           Act, the tribal management plan shall require  
21           that the Zuni Tribe spend any funds in accord-  
22           ance with the purposes described in section  
23           4(b).

24           (2) ENFORCEMENT.—The Secretary may take  
25           judicial or administrative action to enforce the provi-

1 sions of any tribal management plan to ensure that  
2 any monies withdrawn from the Fund under the  
3 plan are used in accordance with this Act.

4 (3) LIABILITY.—If the Zuni Tribe exercises the  
5 right to withdraw monies from the Fund, neither the  
6 Secretary nor the Secretary of the Treasury shall re-  
7 tain any liability for the expenditure or investment  
8 of the monies withdrawn.

9 (4) EXPENDITURE PLAN.—

10 (A) IN GENERAL.—The Zuni Tribe shall  
11 submit to the Secretary for approval an expend-  
12 iture plan for any portion of the funds made  
13 available under this Act that the Zuni Tribe  
14 does not withdraw under this subsection.

15 (B) DESCRIPTION.—The expenditure plan  
16 shall describe the manner in which, and the  
17 purposes for which, funds of the Zuni Tribe re-  
18 maining in the Fund will be used.

19 (C) APPROVAL.—On receipt of an expendi-  
20 ture plan under subparagraph (A), the Sec-  
21 retary shall approve the plan if the Secretary  
22 determines that the plan is reasonable and con-  
23 sistent with this Act.

24 (5) ANNUAL REPORT.—The Zuni Tribe shall  
25 submit to the Secretary an annual report that de-

1 scribes all expenditures from the Fund during the  
2 year covered by the report.

3 (f) FUNDS FOR ACQUISITION OF WATER RIGHTS.—

4 (1) WATER RIGHTS ACQUISITIONS.—Notwith-  
5 standing subsection (e), the funds authorized to be  
6 appropriated pursuant to section 4(b)(1)—

7 (A) shall be available upon appropriation  
8 for use in accordance with section 4(b)(1); and

9 (B) shall be distributed by the Secretary to  
10 the Zuni Tribe on receipt by the Secretary from  
11 the Zuni Tribe of a written notice and a tribal  
12 council resolution that describe the purposes for  
13 which the funds will be used.

14 (2) RIGHT TO SET OFF.—In the event the re-  
15 quirements of section 9(a) have not been met and  
16 the Settlement Agreement has become null and void  
17 under section 9(b), the United States shall be enti-  
18 tled to set off any funds expended or withdrawn  
19 from the amount appropriated pursuant to section  
20 4(b)(1), together with any interest accrued, against  
21 any claims asserted by the Zuni Tribe against the  
22 United States relating to water rights at the Zuni  
23 Heaven Reservation.

24 (3) WATER RIGHTS.—Any water rights ac-  
25 quired with funds described in paragraph (1) shall

1 be credited against any water rights secured by the  
2 Zuni Tribe, or the United States on behalf of the  
3 Zuni Tribe, for the Zuni Heaven Reservation in the  
4 Little Colorado River General Stream Adjudication  
5 or in any future settlement of claims for those water  
6 rights.

7 (g) NO PER CAPITA DISTRIBUTIONS.—No part of the  
8 Fund shall be distributed on a per capita basis to members  
9 of the Zuni Tribe.

10 **SEC. 7. CLAIMS EXTINGUISHMENT; WAIVERS AND RE-**  
11 **LEASES.**

12 (a) FULL SATISFACTION OF MEMBERS' CLAIMS.—

13 (1) IN GENERAL.—The benefits realized by the  
14 Tribe and its members under this Act, including re-  
15 tention of any claims and rights, shall constitute full  
16 and complete satisfaction of all members' claims  
17 for—

18 (A) water rights under Federal, State, and  
19 other laws (including claims for water rights in  
20 groundwater, surface water, and effluent) for  
21 Zuni Lands from time immemorial through the  
22 effective date described in section 9(a) and any  
23 time thereafter; and

24 (B) injuries to water rights under Federal,  
25 State, and other laws (including claims for

1 water rights in groundwater, surface water, and  
2 effluent, claims for damages for deprivation of  
3 water rights, and claims for changes to under-  
4 ground water table levels) for Zuni Lands from  
5 time immemorial through the effective date de-  
6 scribed in section 9(a).

7 (2) NO RECOGNITION OR ESTABLISHMENT OF  
8 INDIVIDUAL WATER RIGHT.—Nothing in this Act  
9 recognizes or establishes any right of a member of  
10 the Tribe to water on the Reservation.

11 (b) TRIBE AND UNITED STATES AUTHORIZATION  
12 AND WATER QUANTITY WAIVERS.—The Tribe, on behalf  
13 of itself and its members and the Secretary on behalf of  
14 the United States in its capacity as trustee for the Zuni  
15 Tribe and its members, are authorized, as part of the per-  
16 formance of their obligations under the Settlement Agree-  
17 ment, to execute a waiver and release, subject to para-  
18 graph 11.4 of the Settlement Agreement, for claims  
19 against the State of Arizona, or any agency or political  
20 subdivision thereof, or any other person, entity, corpora-  
21 tion, or municipal corporation, under Federal, State, or  
22 other law for any and all—

23 (1) past, present, and future claims to water  
24 rights (including water rights in groundwater, sur-  
25 face water, and effluent) for Zuni Lands from time

1       immemorial through the effective date described in  
2       section 9(a) and any time thereafter, except for  
3       claims within the Zuni Protection Area as provided  
4       in article 5 of the Settlement Agreement;

5           (2) past and present claims for injuries to  
6       water rights (including water rights in groundwater,  
7       surface water, and effluent and including claims for  
8       damages for deprivation of water rights and any  
9       claims for changes to underground water table lev-  
10      els) for Zuni Lands from time immemorial through  
11      the effective date described in section 9(a); and

12          (3) past, present, and future claims for water  
13      rights and injuries to water rights (including water  
14      rights in groundwater, surface water, and effluent  
15      and including any claims for damages for depriva-  
16      tion of water rights and any claims for changes to  
17      underground water table levels) from time immemo-  
18      rial through the effective date described in section  
19      9(a), and any time thereafter, for lands outside of  
20      Zuni Lands but located within the Little Colorado  
21      River basin in Arizona, based upon aboriginal occu-  
22      pancy of lands by the Zuni Tribe or its predecessors.

23      (c) TRIBAL WAIVERS AGAINST THE UNITED  
24      STATES.—The Tribe is authorized, as part of the perform-  
25      ance of its obligations under the Settlement Agreement,

1 to execute a waiver and release, subject to paragraphs  
2 11.4 and 11.6 of the Settlement Agreement, for claims  
3 against the United States (acting in its capacity as trustee  
4 for the Zuni Tribe or its members, or otherwise acting  
5 on behalf of the Zuni Tribe or its members), including  
6 any agencies, officials, or employees thereof, for any and  
7 all—

8           (1) past, present, and future claims to water  
9           rights (including water rights in groundwater, sur-  
10          face water, and effluent) for Zuni Lands, from time  
11          immemorial through the effective date described in  
12          section 9(a) and any time thereafter;

13          (2) past and present claims for injuries to  
14          water rights (including water rights in groundwater,  
15          surface water, and effluent and any claims for dam-  
16          ages for deprivation of water rights) for Zuni Lands  
17          from time immemorial through the effective date de-  
18          scribed in section 9(a);

19          (3) past, present, and future claims for water  
20          rights and injuries to water rights (including water  
21          rights in groundwater, surface water, and effluent  
22          and any claims for damages for deprivation of water  
23          rights) from time immemorial through the effective  
24          date described in section 9(a), and any time there-  
25          after, for lands outside of Zuni Lands but located

1 within the Little Colorado River basin in Arizona,  
2 based upon aboriginal occupancy of lands by the  
3 Zuni Tribe or its predecessors;

4 (4) past and present claims for failure to pro-  
5 tect, acquire, or develop water rights of, or failure  
6 to protect water quality for, the Zuni Tribe within  
7 the Little Colorado River basin in Arizona from time  
8 immemorial through the effective date described in  
9 section 9(a); and

10 (5) claims for breach of the trust responsibility  
11 of the United States to the Zuni Tribe arising out  
12 of the negotiation of the Settlement Agreement or  
13 this Act.

14 (d) TRIBAL WAIVER OF WATER QUALITY CLAIMS  
15 AND INTERFERENCE WITH TRUST CLAIMS.—

16 (1) CLAIMS AGAINST THE STATE AND OTH-  
17 ERS.—

18 (A) INTERFERENCE WITH TRUST RESPON-  
19 SIBILITY.—The Tribe, on behalf of itself and its  
20 members, is authorized, as part of the perform-  
21 ance of its obligations under the Settlement  
22 Agreement, to waive and release all claims  
23 against the State of Arizona, or any agency or  
24 political subdivision thereof, or any other per-  
25 son, entity, corporation, or municipal corpora-

1           tion under Federal, State, or other law, for  
2           claims of interference with the trust responsi-  
3           bility of the United States to the Zuni Tribe  
4           arising out of the negotiation of the Settlement  
5           Agreement or this Act.

6           (B) INJURY OR THREAT OF INJURY TO  
7           WATER QUALITY.—The Tribe, on behalf of itself  
8           and its members, is authorized, as part of the  
9           performance of its obligations under the Settle-  
10          ment Agreement, to waive and release, subject  
11          to paragraphs 11.4, 11.6, and 11.7 of the Set-  
12          tlement Agreement, all claims against the State  
13          of Arizona, or any agency or political subdivi-  
14          sion thereof, or any other person, entity, cor-  
15          poration, or municipal corporation under Fed-  
16          eral, State, or other law, for—

17               (i) any and all past and present  
18               claims, including natural resource damage  
19               claims under the Comprehensive Environ-  
20               mental Response, Compensation, and Li-  
21               ability Act of 1980 (42 U.S.C. 9601 et  
22               seq.), the Oil Pollution Act of 1990 (33  
23               U.S.C. 2701 et seq.), or any other applica-  
24               ble statute, for injury to water quality ac-  
25               cruing from time immemorial through the

1 effective date described in section 9(a), for  
2 lands within the Little Colorado River  
3 basin in the State of Arizona; and

4 (ii) any and all future claims, includ-  
5 ing natural resource damage claims under  
6 the Comprehensive Environmental Re-  
7 sponse, Compensation, and Liability Act of  
8 1980 (42 U.S.C. 9601 et seq.), the Oil  
9 Pollution Act of 1990 (33 U.S.C. 2701 et  
10 seq.), or any other applicable statute, for  
11 injury or threat of injury to water quality,  
12 accruing after the effective date described  
13 in section 9(a), for any lands within the  
14 Eastern LCR basin caused by—

15 (I) the lawful diversion or use of  
16 surface water;

17 (II) the lawful withdrawal or use  
18 of underground water, except within  
19 the Zuni Protection Area, as provided  
20 in article 5 of the Settlement Agree-  
21 ment;

22 (III) the Parties' performance of  
23 any obligations under the Settlement  
24 Agreement;

1 (IV) the discharge of oil associ-  
2 ated with routine physical or mechan-  
3 ical maintenance of wells or diversion  
4 structures not inconsistent with appli-  
5 cable law;

6 (V) the discharge of oil associ-  
7 ated with routine start-up and oper-  
8 ation of well pumps not inconsistent  
9 with applicable law; or

10 (VI) any combination of the  
11 causes described in subclauses (I)  
12 through (V).

13 (2) CLAIMS OF THE UNITED STATES.—The  
14 Tribe, on behalf of itself and its members, is author-  
15 ized to waive its right to request that the United  
16 States bring—

17 (A) any claims for injuries to water quality  
18 under the natural resource damage provisions  
19 of the Comprehensive Environmental Response,  
20 Compensation, and Liability Act of 1980 (42  
21 U.S.C. 9601 et seq.), the Oil Pollution Act of  
22 1990 (33 U.S.C. 2701 et seq.) or any other ap-  
23 plicable statute, for lands within the Little Col-  
24 orado River Basin in the State of Arizona, ac-

1           cruing from time immemorial through the effec-  
2           tive date described in section 9(a); and

3           (B) any future claims for injuries or threat  
4           of injury to water quality under the natural re-  
5           source damage provisions of the Comprehensive  
6           Environmental Response, Compensation, and  
7           Liability Act of 1980 (42 U.S.C. 9601 et seq.),  
8           the Oil Pollution Act of 1990 (33 U.S.C. 2701  
9           et seq.), or any other applicable statute, accru-  
10          ing after the effective date described in section  
11          9(a), for any lands within the Eastern LCR  
12          basin, caused by—

13                   (i) the lawful diversion or use of sur-  
14                   face water;

15                   (ii) the lawful withdrawal or use of  
16                   underground water, except within the Zuni  
17                   Protection Area, as provided in article 5 of  
18                   the Settlement Agreement;

19                   (iii) the Parties' performance of any  
20                   obligations under the Settlement Agree-  
21                   ment;

22                   (iv) the discharge of oil associated  
23                   with routine physical or mechanical main-  
24                   tenance of wells or diversion structures not  
25                   inconsistent with applicable law;

- 1 (v) the discharge of oil associated with  
2 routine start-up and operation of well  
3 pumps not inconsistent with applicable law;  
4 or  
5 (vi) any combination of the causes de-  
6 scribed in clauses (i) through (v).

7 (3) LIMITATIONS.—Notwithstanding the au-  
8 thorization for the Tribe’s waiver of future water  
9 quality claims in paragraph (1)(B)(ii) and the waiv-  
10 er in paragraph (2)(B), the Tribe, on behalf of itself  
11 and its members, retains any statutory claims for in-  
12 jury or threat of injury to water quality under the  
13 Comprehensive Environmental Response, Compensa-  
14 tion, and Liability Act of 1980 (42 U.S.C. 9601 et  
15 seq.) and the Oil Pollution Act of 1990 (33 U.S.C.  
16 2701 et seq.), as described in subparagraph  
17 11.4(D)(3) and (4) of the Settlement Agreement,  
18 that acerue at least 30 years after the effective date  
19 described in section 9(a).

20 (e) WAIVER OF UNITED STATES WATER QUALITY  
21 CLAIMS RELATED TO SETTLEMENT LAND AND WATER.—

22 (1) PAST AND PRESENT CLAIMS.—As part of  
23 the performance of its obligations under the Settle-  
24 ment Agreement, the United States waives and re-  
25 leases, subject to the retentions in paragraphs 11.4,

1 11.6 and 11.7 of the Settlement Agreement, all  
2 claims against the State of Arizona, or any agency  
3 or political subdivision thereof, or any other person,  
4 entity, corporation, or municipal corporation for—

5 (A) all past and present common law  
6 claims accruing from time immemorial through  
7 the effective date described in section 9(a) arising  
8 from or relating to water quality in which  
9 the injury asserted is to the Tribe's interest in  
10 water, trust land, and natural resources in the  
11 Little Colorado River basin in the State of Ari-  
12 zona; and

13 (B) all past and present natural resource  
14 damage claims accruing through the effective  
15 date described in section 9(a) arising from or  
16 relating to water quality in which the claim is  
17 based on injury to natural resources or threat  
18 to natural resources in the Little Colorado  
19 River basin in Arizona, only for those cases in  
20 which the United States, through the Secretary  
21 or other designated Federal official, would act  
22 on behalf of the Tribe as a natural resource  
23 trustee pursuant to the National Contingency  
24 Plan, as set forth, as of the date of enactment

1           of this Act, in section 300.600(b)(2) of title 40,  
2           Code of Federal Regulations.

3           (2) FUTURE CLAIMS.—As part of the perform-  
4           ance of its obligations under the Settlement Agree-  
5           ment, the United States waives and releases, subject  
6           to the retentions in paragraphs 11.4, 11.6 and 11.7  
7           of the Settlement Agreement, the State of Arizona,  
8           or any agency or political subdivision thereof, or any  
9           other person, entity, corporation, or municipal cor-  
10          poration for—

11                   (A) all future common law claims arising  
12                   from or relating to water quality in which the  
13                   injury or threat of injury asserted is to the  
14                   Tribe’s interest in water, trust land, and nat-  
15                   ural resources in the Eastern LCR basin in Ari-  
16                   zona accruing after the effective date described  
17                   in section 9(a) caused by—

18                           (i) the lawful diversion or use of sur-  
19                           face water;

20                           (ii) the lawful withdrawal or use of  
21                           underground water, except within the Zuni  
22                           Protection Area, as provided in article 5 of  
23                           the Settlement Agreement;

1 (iii) the Parties' performance of any  
2 obligations under the Settlement Agree-  
3 ment;

4 (iv) the discharge of oil associated  
5 with routine physical or mechanical main-  
6 tenance of wells or diversion structures not  
7 inconsistent with applicable law;

8 (v) the discharge of oil associated with  
9 routine start-up and operation of well  
10 pumps not inconsistent with applicable law;  
11 or

12 (vi) any combination of the causes de-  
13 scribed in clauses (i) through (v); and

14 (B) all future natural resource damage  
15 claims accruing after the effective date de-  
16 scribed in section 9(a) arising from or relating  
17 to water quality in which the claim is based on  
18 injury to natural resources or threat to natural  
19 resources in the Eastern LCR basin in Arizona,  
20 only for those cases in which the United States,  
21 through the Secretary or other designated Fed-  
22 eral official, would act on behalf of the Tribe as  
23 a natural resource trustee pursuant to the Na-  
24 tional Contingency Plan, as set forth, as of the  
25 date of enactment of this Act, in section

1           300.600(b)(2) of title 40, Code of Federal Reg-  
2           ulations, caused by—

3                   (i) the lawful diversion or use of sur-  
4                   face water;

5                   (ii) the lawful withdrawal or use of  
6                   underground water, except within the Zuni  
7                   Protection Area as provided in article 5 of  
8                   the Settlement Agreement;

9                   (iii) the Parties' performance of their  
10                  obligations under this Settlement Agree-  
11                  ment;

12                  (iv) the discharge of oil associated  
13                  with routine physical or mechanical main-  
14                  tenance of wells or diversion structures not  
15                  inconsistent with applicable law;

16                  (v) the discharge of oil associated with  
17                  routine start-up and operation of well  
18                  pumps not inconsistent with applicable law;

19                  or

20                  (vi) any combination of the causes de-  
21                  scribed in clauses (i) through (v).

22           (f) EFFECT.—Subject to subsections (b) and (e),  
23           nothing in this Act or the Settlement Agreement affects  
24           any right of the United States, or the State of Arizona,  
25           to take any actions, including enforcement actions, under

1 any laws (including regulations) relating to human health,  
2 safety and the environment.

3 **SEC. 8. MISCELLANEOUS PROVISIONS.**

4 (a) WAIVER OF SOVEREIGN IMMUNITY.—If any party  
5 to the Settlement Agreement or a Pumping Protection  
6 Agreement files a lawsuit only relating directly to the in-  
7 terpretation or enforcement of this Act, the Settlement  
8 Agreement, an agreement described in paragraph (1), (2),  
9 or (3) of section 4(c), or a Pumping Protection Agree-  
10 ment, naming the United States or the Tribe as a party,  
11 or if any other landowner or water user in the Little Colo-  
12 rado River basin in Arizona files a lawsuit only relating  
13 directly to the interpretation or enforcement of Article 11,  
14 the rights of de minimis users in subparagraph 4.2.D or  
15 the rights of underground water users under Article 5 of  
16 the Settlement Agreement, naming the United States or  
17 the Tribe as a party—

18 (1) the United States, the Tribe, or both may  
19 be added as a party to any such litigation, and any  
20 claim by the United States or the Tribe to sovereign  
21 immunity from such suit is hereby waived, other  
22 than with respect to claims for monetary awards ex-  
23 cept as specifically provided for in the Settlement  
24 Agreement; and

1           (2) the Tribe may waive its sovereign immunity  
2           from suit in the Superior Court of Apache County,  
3           Arizona for the limited purposes of enforcing the  
4           terms of the Intergovernmental Agreement, and any  
5           intergovernmental agreement required to be entered  
6           into by the Tribe under the terms of the Intergov-  
7           ernmental Agreement, other than with respect to  
8           claims for monetary awards except as specifically  
9           provided in the Intergovernmental Agreement.

10          (b) TRIBAL USE OF WATER.—

11           (1) IN GENERAL.—With respect to water rights  
12           made available under the Settlement Agreement and  
13           used on the Zuni Heaven Reservation—

14                   (A) such water rights shall be held in trust  
15                   by the United States in perpetuity, and shall  
16                   not be subject to forfeiture or abandonment;

17                   (B) State law shall not apply to water uses  
18                   on the Reservation;

19                   (C) the State of Arizona may not regulate  
20                   or tax such water rights or uses (except that  
21                   the court with jurisdiction over the decree en-  
22                   tered pursuant to the Settlement Agreement or  
23                   the Norviel Decree Court may assess adminis-  
24                   trative fees for delivery of this water);

1           (D) subject to paragraph 7.7 of the Settle-  
2           ment Agreement, the Zuni Tribe shall use  
3           water made available to the Zuni Tribe under  
4           the Settlement Agreement on the Zuni Heaven  
5           Reservation for any use it deems advisable;

6           (E) water use by the Zuni Tribe or the  
7           United States on behalf of the Zuni Tribe for  
8           wildlife or instream flow use, or for irrigation to  
9           establish or maintain wetland on the Reserva-  
10          tion, shall be considered to be consistent with  
11          the purposes of the Reservation; and

12          (F)(i) not later than 3 years after the  
13          deadline described in section 9(b), the Zuni  
14          Tribe shall adopt a water code to be approved  
15          by the Secretary for regulation of water use on  
16          the lands identified in subsections (a) and (b)  
17          of section 5 that is reasonably equivalent to  
18          State water law (including statutes relating to  
19          dam safety and groundwater management); and

20          (ii) until such date as the Zuni Tribe  
21          adopts a water code described in clause (i), the  
22          Secretary, in consultation with the State of Ari-  
23          zona, shall administer water use and water reg-  
24          ulation on lands described in that clause in a  
25          manner that is reasonably equivalent to State

1 law (including statutes relating to dam safety  
2 and groundwater management).

3 (2) LIMITATION.—

4 (A) IN GENERAL.—Except as provided in  
5 subparagraph (B), the Zuni Tribe or the United  
6 States shall not sell, lease, transfer, or trans-  
7 port water made available for use on the Zuni  
8 Heaven Reservation to any other place.

9 (B) EXCEPTION.—Water made available to  
10 the Zuni Tribe or the United States for use on  
11 the Zuni Heaven Reservation may be severed  
12 and transferred from the Reservation to other  
13 Zuni Lands if the severance and transfer is ac-  
14 complished in accordance with State law (and  
15 once transferred to any lands held in fee, such  
16 water shall be subject to State law).

17 (c) RIGHTS-OF-WAY.—

18 (1) NEW AND FUTURE TRUST LAND.—The land  
19 taken into trust under subsections (a) and (b) of  
20 section 5 shall be subject to existing easements and  
21 rights-of-way.

22 (2) ADDITIONAL RIGHTS-OF-WAY.—

23 (A) IN GENERAL.—Notwithstanding any  
24 other provision of law, the Secretary, in con-  
25 sultation with the Tribe, shall grant additional

1 rights-of-way or expansions of existing rights-  
2 of-way for roads, utilities, and other accom-  
3 modations to adjoining landowners if—

4 (i) the proposed right-of-way is nec-  
5 essary to the needs of the applicant;

6 (ii) the proposed right-of-way will not  
7 cause significant and substantial harm to  
8 the Tribe’s wetland restoration project or  
9 religious practices; and

10 (iii) the proposed right-of-way acquisi-  
11 tion will comply with the procedures in  
12 part 169 of title 25, Code of Federal Regu-  
13 lations, not inconsistent with this sub-  
14 section and other generally applicable Fed-  
15 eral laws unrelated to the acquisition of in-  
16 terests across trust lands.

17 (B) ALTERNATIVES.—If the criteria de-  
18 scribed in clauses (i) through (iii) of subpara-  
19 graph (A) are not met, the Secretary may pro-  
20 pose an alternative right-of-way, or other ac-  
21 commodation that complies with the criteria.

22 (d) CERTAIN CLAIMS PROHIBITED.—The United  
23 States shall make no claims for reimbursement of costs  
24 arising out of the implementation of this Act or the Settle-  
25 ment Agreement against any Indian-owned land within the

1 Tribe's Reservation, and no assessment shall be made in  
2 regard to such costs against such lands.

3 (e) VESTED RIGHTS.—Except as described in para-  
4 graph 5.3 of the Settlement Agreement (recognizing the  
5 Zuni Tribe's use of 1,500 acre-feet per annum of ground-  
6 water) this Act and the Settlement Agreement do not cre-  
7 ate any vested right to groundwater under Federal or  
8 State law, or any priority to the use of groundwater that  
9 would be superior to any other right or use of groundwater  
10 under Federal or State law, whether through this Act, the  
11 Settlement Agreement, or by incorporation of any ab-  
12 stract, agreement, or stipulation prepared under the Set-  
13 tlement Agreement. Notwithstanding the preceding sen-  
14 tence, the rights of parties to the agreements referred to  
15 in paragraph (1), (2), or (3) of section 4(c) and paragraph  
16 5.8 of the Settlement Agreement, as among themselves,  
17 shall be as stated in those agreements.

18 (f) OTHER CLAIMS.—Nothing in the Settlement  
19 Agreement or this Act quantifies or otherwise affects the  
20 water rights, claims, or entitlements to water of any In-  
21 dian tribe, band, or community, other than the Zuni In-  
22 dian Tribe.

23 (g) NO MAJOR FEDERAL ACTION.—

24 (1) IN GENERAL.—Execution of the Settlement  
25 Agreement by the Secretary as provided for in sec-

1       tion 4(a) shall not constitute major Federal action  
2       under the National Environmental Policy Act (42  
3       U.S.C. 4321 et seq.).

4               (2) SETTLEMENT AGREEMENT.—In imple-  
5       menting the Settlement Agreement, the Secretary  
6       shall comply with all aspects of—

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

9                       (B) the Endangered Species Act of 1973  
10                      (16 U.S.C. 1531 et seq.); and

11                     (C) all other applicable environmental laws  
12                     (including regulations).

13 **SEC. 9. EFFECTIVE DATE FOR WAIVER AND RELEASE AU-**  
14 **THORIZATIONS.**

15       (a) IN GENERAL.—The waiver and release authoriza-  
16       tions contained in subsections (b) and (c) of section 7 shall  
17       become effective as of the date the Secretary causes to  
18       be published in the Federal Register a statement of all  
19       the following findings:

20                     (1) This Act has been enacted in a form ap-  
21       proved by the parties in paragraph 3.1.A of the Set-  
22       tlement Agreement.

23                     (2) The funds authorized by section 4(b) have  
24       been appropriated and deposited into the Fund.

1           (3) The State of Arizona has appropriated and  
2 deposited into the Fund the amount required by  
3 paragraph 7.6 of the Settlement Agreement.

4           (4) The Zuni Indian Tribe has either purchased  
5 or acquired the right to purchase at least 2,350  
6 acre-feet per annum of surface water rights, or  
7 waived this condition as provided in paragraph 3.2  
8 of the Settlement Agreement.

9           (5) Pursuant to subparagraph 3.1.D of the Set-  
10 tlement Agreement, the severance and transfer of  
11 surface water rights that the Tribe owns or has the  
12 right to purchase have been conditionally approved,  
13 or the Tribe has waived this condition as provided  
14 in paragraph 3.2 of the Settlement Agreement.

15           (6) Pursuant to subparagraph 3.1.E of the Set-  
16 tlement Agreement, the Tribe and Lyman Water  
17 Company have executed an agreement relating to  
18 the process of the severance and transfer of surface  
19 water rights acquired by the Zuni Tribe or the  
20 United States, the pass-through, use, or storage of  
21 the Tribe's surface water rights in Lyman Lake, and  
22 the operation of Lyman Dam.

23           (7) Pursuant to subparagraph 3.1.F of the Set-  
24 tlement Agreement, all the parties to the Settlement

1 Agreement have agreed and stipulated to certain Ar-  
2 izona Game and Fish abstracts of water uses.

3 (8) Pursuant to subparagraph 3.1.G of the Set-  
4 tlement Agreement, all parties to the Settlement  
5 Agreement have agreed to the location of an obser-  
6 vation well and that well has been installed.

7 (9) Pursuant to subparagraph 3.1.H of the Set-  
8 tlement Agreement, the Zuni Tribe, Apache County,  
9 Arizona and the State of Arizona have executed an  
10 Intergovernmental Agreement that satisfies all of  
11 the conditions in paragraph 6.2 of the Settlement  
12 Agreement.

13 (10) The Zuni Tribe has acquired title to the  
14 section of land adjacent to the Zuni Heaven Res-  
15 ervation described as Section 34, Township 14  
16 North, Range 26 East, Gila and Salt River Base  
17 and Meridian.

18 (11) The Settlement Agreement has been modi-  
19 fied if and to the extent it is in conflict with this Act  
20 and such modification has been agreed to by all the  
21 parties to the Settlement Agreement.

22 (12) A court of competent jurisdiction has ap-  
23 proved the Settlement Agreement by a final judg-  
24 ment and decree.

1           (b) DEADLINE FOR EFFECTIVE DATE.—If the publi-  
2 cation in the Federal Register required under subsection  
3 (a) has not occurred by December 31, 2006, sections 4  
4 and 5, and any agreements entered into pursuant to sec-  
5 tions 4 and 5 (including the Settlement Agreement and  
6 the Intergovernmental Agreement) shall not thereafter be  
7 effective and shall be null and void. Any funds and the  
8 interest accrued thereon appropriated pursuant to section  
9 4(b)(2) shall revert to the Treasury, and any funds and  
10 the interest accrued thereon appropriated pursuant to  
11 paragraph 7.6 of the Settlement Agreement shall revert  
12 to the State of Arizona.

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