

108TH CONGRESS
1ST SESSION

S. 222

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

IN THE SENATE OF THE UNITED STATES

JANUARY 28, 2003

Mr. KYL (for himself and Mr. MCCAIN) introduced the following bill; which
was read twice and referred to the Committee on Indian Affairs

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:

9 (1) It is the policy of the United States, in
10 keeping with its trust responsibility to Indian tribes,

1 to promote Indian self-determination, religious free-
2 dom, political and cultural integrity, and economic
3 self-sufficiency, and to settle, wherever possible, the
4 water rights claims of Indian tribes without lengthy
5 and costly litigation.

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

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

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

24 (5) Recognizing that the final resolution of the
25 Zuni Indian Tribe's water claims through litigation

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

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

21 (7) To facilitate the wetland restoration project
22 contemplated under the Settlement Agreement, the
23 Zuni Indian Tribe acquired certain lands along the
24 Little Colorado River near or adjacent to its Res-
25 ervation that are important for the success of the

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

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

20 (9) To advance the goals of Federal Indian pol-
21 icy and consistent with the trust responsibility of the
22 United States to the Tribe, it is appropriate that the
23 United States participate in the implementation of
24 the Settlement Agreement and contribute funds for
25 the rehabilitation of religious riparian areas and

1 other purposes to enable the Tribe to use its water
2 entitlement in developing its Reservation.

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

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

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

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

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

16 **SEC. 3. DEFINITIONS.**

17 In this Act:

18 (1) EASTERN LCR BASIN.—The term “Eastern
19 LCR basin” means the portion of the Little Colo-
20 rado River basin in Arizona upstream of the con-
21 fluence of Silver Creek and the Little Colorado
22 River, as identified on Exhibit 2.10 of the Settle-
23 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 $\frac{1}{2}$ NE $\frac{1}{4}$, N
 3 $\frac{1}{2}$ S $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, N $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$
 4 4, NE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$.

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

7 (A) Section 14: SE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$;

8 (B) Section 16: S $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$;

9 (C) Section 19: S $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$;

10 (D) Section 20: S $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$, E
 11 $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$;

12 (E) Section 21: N $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NE
 13 $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$
 14 NE $\frac{1}{4}$, N $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ NE
 15 $\frac{1}{4}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$
 16 NW $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$;

17 (F) Section 22: SW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$,
 18 NW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$
 19 4, SE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$, SE
 20 $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ N $\frac{1}{2}$ SE $\frac{1}{4}$, N
 21 $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$;

22 (G) Section 24: N $\frac{1}{2}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ SE
 23 $\frac{1}{4}$;

24 (H) Section 29: N $\frac{1}{2}$ N $\frac{1}{2}$;

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-

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

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

(4) EXPENDITURE PLAN.—

(A) IN GENERAL.—The Zuni Tribe shall submit to the Secretary for approval an expenditure plan for any portion of the funds made available under this Act that the Zuni Tribe does not withdraw under this subsection.

(B) DESCRIPTION.—The expenditure plan shall describe the manner in which, and the purposes for which, funds of the Zuni Tribe remaining in the Fund will be used.

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

(5) ANNUAL REPORT.—The Zuni Tribe shall 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-

tion under Federal, State, or other law, for claims of interference with the trust responsibility of the United States to the Zuni Tribe arising out of the negotiation of the Settlement Agreement or this Act.

(B) INJURY OR THREAT OF INJURY TO WATER QUALITY.—The Tribe, on behalf of itself and its members, is authorized, as part of the performance of its obligations under the Settlement Agreement, to waive and release, subject to paragraphs 11.4, 11.6, and 11.7 of the Settlement Agreement, all claims against the State of Arizona, or any agency or political subdivision thereof, or any other person, entity, corporation, or municipal corporation under Federal, State, or other law, for—

(i) any and all past and present claims, including natural resource damage claims under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.), or any other applicable statute, for injury to water quality accruing 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 accrue 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 Arizona;
12 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

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

(b) TRIBAL USE OF WATER.—

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

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

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

(C) the State of Arizona may not regulate or tax such water rights or uses (except that the court with jurisdiction over the decree entered pursuant to the Settlement Agreement or the Norviel Decree Court may assess administrative 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

rights-of-way or expansions of existing rights-of-way for roads, utilities, and other accommodations to adjoining landowners if—

(i) the proposed right-of-way is necessary to the needs of the applicant;

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

(iii) the proposed right-of-way acquisition will comply with the procedures in part 169 of title 25, Code of Federal Regulations, not inconsistent with this subsection and other generally applicable Federal laws unrelated to the acquisition of interests across trust lands.

(B) ALTERNATIVES.—If the criteria described in clauses (i) through (iii) of subparagraph (A) are not met, the Secretary may propose an alternative right-of-way, or other accommodation that complies with the criteria.

(d) CERTAIN CLAIMS PROHIBITED.—The United States shall make no claims for reimbursement of costs arising out of the implementation of this Act or the Settlement 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.

○