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

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

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

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

I yield back the balance of my time.

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

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

And before finally concluding, I would note to my colleagues, and I did not really want to do this for fear of scaring off support from my side of the aisle, but I will note that a third of these bills have a cosponsorship of the gentleman from Arizona (Mr. FLAKE), not an individual known around here for his prolific spending habits. So I do that, again, with the trepidation of scaring off support from my side of the aisle for the pending measure. I will conclude, Mr. Speaker, by asking all Members to support this measure.

I yield back the balance of my time.

The SPEAKER pro tempore. All time for debate on the bill has expired.

The Chair understands that the amendment will not be offered.

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

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

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

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

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

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

The yeas and nays were ordered.

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

AAMODT LITIGATION SETTLEMENT ACT

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

The Clerk read the title of the bill.

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

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

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

H.R. 3342

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

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

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

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—POJOAQUE BASIN REGIONAL WATER SYSTEM

Sec. 101. Authorization of Regional Water System.
Sec. 102. Operating Agreement.
Sec. 103. Acquisition of Pueblo water supply for the Regional Water System.
Sec. 104. Delivery and allocation of Regional Water System capacity and water.
Sec. 105. Aamodt Settlement Pueblos' Fund.
Sec. 106. Environmental compliance.
Sec. 107. Authorization of appropriations.

TITLE II—POJOAQUE BASIN INDIAN WATER RIGHTS SETTLEMENT

Sec. 201. Settlement Agreement and contract approval.
Sec. 202. Environmental compliance.
Sec. 203. Conditions precedent and enforcement date.
Sec. 204. Waivers and releases.
Sec. 205. Effect.

SEC. 2. DEFINITIONS.

In this Act:

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

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

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

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

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

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

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

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

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

(iii) the acquisition of water rights.

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

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

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

(A) receive water distributed by the Authority; and

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

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

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

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

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

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

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

(13) POJOAQUE BASIN.—

(A) IN GENERAL.—The term ''Pojoaque Basin'' means the geographic area limited by a surface water divide (which can be drawn on a topographic map), within which area rainfall and runoff flow into arroyos, drainages, and named tributaries that eventually drain to—

(i) the Rio Pojoaque; or

(ii) the 2 unnamed arroyos immediately south; and

(iii) 2 arroyos (including the Arroyo Alamo) that are north of the confluence of the Rio Pojoaque and the Rio Grande.

(B) INCLUSION.—The term ''Pojoaque Basin'' includes the San Ildefonso Eastern Reservation recognized by section 8 of Public Law 87–231 (75 Stat. 505).

(14) PUEBLO.—The term ''Pueblo'' means each of the pueblos of Nambe, Pojoaque, San Ildefonso, or Tesuque.

(15) PUEBLOS.—The term ''Pueblos'' means collectively the Pueblos of Nambe, Pojoaque, San Ildefonso, and Tesuque.

(16) PUEBLO LAND.—The term ''Pueblo land'' means any real property that is—

(A) held by the United States in trust for a Pueblo within the Pojoaque Basin;

(B)(i) owned by a Pueblo within the Pojoaque Basin before the date on which a court approves the Settlement Agreement; or

(ii) acquired by a Pueblo on or after the date on which a court approves the Settlement Agreement, if the real property is located—

(I) within the exterior boundaries of the Pueblo, as recognized and conformed by a patent issued under the Act of December 22, 1858 (11 Stat. 374, chapter V); or

(II) within the exterior boundaries of any territory set aside for the Pueblo by law, executive order, or court decree;

(C) owned by a Pueblo or held by the United States in trust for the benefit of a Pueblo outside the Pojoaque Basin that is located within the exterior boundaries of the Pueblo as recognized and confirmed by a patent issued under the Act of December 22, 1858 (11 Stat. 374, chapter V); or

(D) within the exterior boundaries of any real property located outside the Pojoaque Basin set aside for a Pueblo by law, executive order, or court decree, if the land is within or contiguous to land held by the United States in trust for the Pueblo as of January 1, 2005.

(17) PUEBLO WATER FACILITY.—

(A) IN GENERAL.—The term ''Pueblo Water Facility'' means—

(i) a portion of the Regional Water System that serves only water customers on Pueblo land; and

(ii) portions of a Pueblo water system in existence on the date of enactment of this Act that serve water customers on non-Pueblo land, also in existence on the date of enactment of this Act, or their successors, that are—

(I) depicted in the final project design, as modified by the drawings reflecting the completed Regional Water System; and

(II) described in the Operating Agreement.

(B) INCLUSIONS.—The term ''Pueblo Water Facility'' includes—

(i) the barrier dam and infiltration project on the Rio Pojoaque described in the Engineering Report; and

(ii) the Tesuque Pueblo infiltration pond described in the Engineering Report.

(18) REGIONAL WATER SYSTEM.—

(A) IN GENERAL.—The term ''Regional Water System'' means the Regional Water System described in section 101(a).

(B) EXCLUSIONS.—The term ''Regional Water System'' does not include the County or Pueblo water supply delivered through the Regional Water System.

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

(20) SAN JUAN-CHAMA PROJECT ACT.—The term ''San Juan-Chama Project Act'' means sections 8 through 18 of the Act of June 13, 1962 (76 Stat. 96, 97).

(21) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(22) SETTLEMENT AGREEMENT.—The term ''Settlement Agreement'' means the stipulated and binding agreement among the State, the Pueblos, the United States, the County, and the City dated January 19, 2006, and signed by all of the government parties to the Settlement Agreement (other than the United States) on May 3, 2006, and as amended in conformity with this Act.

(23) STATE.—The term ''State'' means the State of New Mexico.

TITLE I—POJOAQUE BASIN REGIONAL WATER SYSTEM

SEC. 101. AUTHORIZATION OF REGIONAL WATER SYSTEM.

(a) IN GENERAL.—The Secretary, acting through the Commissioner of Reclamation, shall plan, design, and construct a regional water system in accordance with the Settlement Agreement, to be known as the ''Regional Water System''—

(1) to divert and distribute water to the Pueblos and to the County Water Utility, in accordance with the Engineering Report; and

(2) that consists of—

(A) surface water diversion facilities at San Ildefonso Pueblo on the Rio Grande; and

(B) any treatment, transmission, storage and distribution facilities and wellfields for the County Distribution System and Pueblo Water Facilities that are necessary to supply 4,000 acre-feet of water within the Pojoaque Basin, unless modified in accordance with subsection (d)(2).

(b) FINAL PROJECT DESIGN.—The Secretary shall issue a final project design within 90 days of completion of the environmental compliance described in section 106 for the Regional Water System that—

(1) is consistent with the Engineering Report; and

(2) includes a description of any Pueblo Water Facilities.

(c) ACQUISITION OF LAND; WATER RIGHTS.—

(1) ACQUISITION OF LAND.—Upon request, and in exchange for the funding which shall be provided in section 107(c), the Pueblos shall consent to the grant of such easements and rights-of-way as may be necessary for the construction of the Regional Water System at no cost to the Secretary. To the extent that the State or County own easements or rights-of-way that may be used for construction of the Regional Water System, the State or County shall provide that land or interest in land as necessary for construction at no cost to the Secretary. The Secretary shall acquire any other land or interest in land that is necessary for the construction of the Regional Water System.

(2) WATER RIGHTS.—The Secretary shall not condemn water rights for purposes of the Regional Water System.

(d) CONDITIONS FOR CONSTRUCTION.—

(1) IN GENERAL.—The Secretary shall not begin construction of the Regional Water System facilities until the date on which—

(A) the Secretary executes—

(i) the Settlement Agreement; and

(ii) the Cost-Sharing and System Integration Agreement; and

(B) the State and the County have entered into an agreement with the Secretary to contribute the non-Federal share of the costs of the construction in accordance with the Cost-Sharing and System Integration Agreement.

(2) MODIFICATIONS TO REGIONAL WATER SYSTEM.—

(A) IN GENERAL.—The State and the County, in agreement with the Pueblos, the City, and other signatories to the Cost-Sharing and System Integration Agreement, may modify the extent, size, and capacity of the County Distribution System as set forth in the Cost-Sharing and System Integration Agreement.

(B) EFFECT.—A modification under subparagraph (A)—

(i) shall not affect implementation of the Settlement Agreement so long as the provisions in section 203 are satisfied; and

(ii) may result in an adjustment of the State and County cost-share allocation as set forth in the Cost-Sharing and System Integration Agreement.

(e) APPLICABLE LAW.—The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) shall not apply to the design and construction of the Regional Water System.

(f) CONSTRUCTION COSTS.—

(1) PUEBLO WATER FACILITIES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the expenditures of the Secretary to construct the Pueblo Water Facilities under this section shall not exceed $106,400,000.

(B) EXCEPTION.—The amount described in subparagraph (A) shall be increased or decreased, as appropriate, based on ordinary fluctuations in construction costs since October 1, 2006, as determined using applicable engineering cost indices.

(2) COSTS TO PUEBLO.—The costs incurred by the Secretary in carrying out activities to construct the Pueblo Water Facilities under this section shall not be reimbursable to the United States.

(3) COUNTY DISTRIBUTION SYSTEM.—The costs of constructing the County Distribution System shall be at State and local expense.

(g) STATE AND LOCAL CAPITAL OBLIGATIONS.—The State and local capital obligations for the Regional Water System described in the Cost-Sharing and System Integration Agreement shall be satisfied on the payment of the State and local capital obligations described in the Cost-Sharing and System Integration Agreement.

(h) CONVEYANCE OF REGIONAL WATER SYSTEM FACILITIES.—

(1) IN GENERAL.—Subject to paragraph (2), on completion of the construction of the Regional Water System, the Secretary, in accordance with the Operating Agreement, shall convey to—

(A) each Pueblo the portion of any Pueblo Water Facility that is located within the boundaries of the Pueblo, including any land or interest in land located within the boundaries of the Pueblo that is acquired by the United States for the construction of the Pueblo Water Facility;

(B) the County the County Distribution System, including any land or interest in land acquired by the United States for the construction of the County Distribution System; and

(C) the Authority any portions of the Regional Water System that remain after making the conveyances under subparagraphs (A) and (B), including any land or interest in land acquired by the United States for the construction of the portions of the Regional Water System.

(2) CONDITIONS FOR CONVEYANCE.—The Secretary shall not convey any portion of the Regional Water System facilities under paragraph (1) until the date on which—

(A) construction of the Regional Water System is complete; and

(B) the Operating Agreement is executed in accordance with section 102.

(3) SUBSEQUENT CONVEYANCE.—On conveyance by the Secretary under paragraph (1), the Pueblos, the County, and the Authority shall not reconvey any portion of the Regional Water System conveyed to the Pueblos, the County, and the Authority, respectively, unless the reconveyance is authorized by an Act of Congress enacted after the date of enactment of this Act.

(4) INTEREST OF THE UNITED STATES.—On conveyance of a portion of the Regional Water System under paragraph (1), the United States shall have no further right, title, or interest in and to the portion of the Regional Water System conveyed.

(5) ADDITIONAL CONSTRUCTION.—On conveyance of a portion of the Regional Water System

under paragraph (1), the Pueblos, County, or the Authority, as applicable, may, at the expense of the Pueblos, County, or the Authority, construct any additional infrastructure that is necessary to fully use the water delivered by the Regional Water System.

(6) LIABILITY.—

(A) IN GENERAL.—Effective on the date of conveyance of any land or facility under this section, the United States shall not be held liable by any court for damages of any kind arising out of any act, omission, or occurrence relating to the land and facilities conveyed, other than damages caused by acts of negligence by the United States, or by employees or agents of the United States, prior to the date of conveyance.

(B) TORT CLAIMS.—Nothing in this section increases the liability of the United States beyond the liability provided in chapter 171 of title 28, United States Code (commonly known as the ''Federal Tort Claims Act'').

(7) EFFECT.—Nothing in any transfer of ownership provided or any conveyance thereto as provided in this section shall extinguish the right of any Pueblo, the County, or the Regional Water Authority to the continuous use and benefit of each easement or right of way for the use, operation, maintenance, repair, and replacement of Pueblo Water Facilities, the County Distribution System or the Regional Water System or for wastewater purposes as provided in the Cost-Sharing and System Integration Agreement.

SEC. 102. OPERATING AGREEMENT.

(a) IN GENERAL.—The Pueblos and the County shall submit to the Secretary an executed Operating Agreement for the Regional Water System that is consistent with this Act, the Settlement Agreement, and the Cost-Sharing and System Integration Agreement not later than 180 days after the later of—

(1) the date of completion of environmental compliance and permitting; or

(2) the date of issuance of a final project design for the Regional Water System under section 101(b).

(b) APPROVAL.—Not later than 180 days after receipt of the operating agreement described in subsection (a), the Secretary shall approve the Operating Agreement upon determination that the Operating Agreement is consistent with this Act, the Settlement Agreement, and the Cost-Sharing and System Integration Agreement.

(c) CONTENTS.—The Operating Agreement shall include—

(1) provisions consistent with the Settlement Agreement and the Cost-Sharing and System Integration Agreement and necessary to implement the intended benefits of the Regional Water System described in those documents;

(2) provisions for—

(A) the distribution of water conveyed through the Regional Water System, including a delineation of—

(i) distribution lines for the County Distribution System;

(ii) distribution lines for the Pueblo Water Facilities; and

(iii) distribution lines that serve both—

(I) the County Distribution System; and

(II) the Pueblo Water Facilities;

(B) the allocation of the Regional Water System capacity;

(C) the terms of use of unused water capacity in the Regional Water System;

(D) the construction of additional infrastructure and the acquisition of associated rights-of-way or easements necessary to enable any of the Pueblos or the County to fully use water allocated to the Pueblos or the County from the Regional Water System, including provisions addressing when the construction of such additional infrastructure requires approval by the Authority;

(E) the allocation and payment of annual operation, maintenance, and replacement costs for the Regional Water System, including the portions of the Regional Water System that are used to treat, transmit, and distribute water to both the Pueblo Water Facilities and the County Water Utility;

(F) the operation of wellfields located on Pueblo land;

(G) the transfer of any water rights necessary to provide the Pueblo water supply described in section 103(a);

(H) the operation of the Regional Water System with respect to the water supply, including the allocation of the water supply in accordance with section 3.1.8.4.2 of the Settlement Agreement so that, in the event of a shortage of supply to the Regional Water System, the supply to each of the Pueblos' and to the County's distribution system shall be reduced on a prorata basis, in proportion to each distribution system's most current annual use; and

(I) dispute resolution; and

(3) provisions for operating and maintaining the Regional Water System facilities before and after conveyance under section 101(h), including provisions to—

(A) ensure that—

(i) the operation of, and the diversion and conveyance of water by, the Regional Water System is in accordance with the Settlement Agreement;

(ii) the wells in the Regional Water System are used in conjunction with the surface water supply of the Regional Water System to ensure a reliable firm supply of water to all users of the Regional Water System, consistent with the intent of the Settlement Agreement that surface supplies will be used to the maximum extent feasible;

(iii) the respective obligations regarding delivery, payment, operation, and management are enforceable; and

(iv) the County has the right to serve any new water users located on non-Pueblo land in the Pojoaque Basin; and

(B) allow for any aquifer storage and recovery projects that are approved by the Office of the New Mexico State Engineer.

(d) EFFECT.—Nothing in this Act precludes the Operating Agreement from authorizing phased or interim operations if the Regional Water System is constructed in phases.

SEC. 103. ACQUISITION OF PUEBLO WATER SUPPLY FOR THE REGIONAL WATER SYSTEM.

(a) IN GENERAL.—For the purpose of providing a reliable firm supply of water from the Regional Water System for the Pueblos in accordance with the Settlement Agreement, the Secretary, on behalf of the Pueblos, shall—

(1) acquire water rights to—

(A) 302 acre-feet of Nambe reserved water described in section 2.6.2 of the Settlement Agreement pursuant to section 107(c)(1)(C); and

(B) 1141 acre-feet from water acquired by the County for water rights commonly referred to as ''Top of the World'' rights in the Aamodt Case;

(2) enter into a contract with the Pueblos for 1,079 acre-feet in accordance with section 11 of the San Juan-Chama Project Act; and

(3) by application to the State Engineer, seek approval to divert the water acquired and made available under paragraphs (1) and (2) at the points of diversion for the Regional Water System, consistent with the Settlement Agreement and the Cost-Sharing and System Integration Agreement.

(b) FORFEITURE.—The nonuse of the water supply secured by the Secretary for the Pueblos under subsection (a) shall in no event result in forfeiture, abandonment, relinquishment, or other loss thereof.

(c) TRUST.—The Pueblo water supply secured under subsection (a) shall be held by the United States in trust for the Pueblos.

(d) APPLICABLE LAW.—The water supply made available pursuant to subsection (a)(2) shall be subject to the San Juan-Chama Project Act, and no preference shall be provided to the Pueblos as a result of subsection (c) with regard to the delivery or distribution of San Juan-Chama Project water or the management or operation of the San Juan-Chama Project.

(e) CONTRACT FOR SAN JUAN-CHAMA PROJECT WATER SUPPLY.—With respect to the contract for the water supply required by subsection (a)(2), such San Juan-Chama Project contract shall be pursuant to the following terms:

(1) WAIVERS.—Notwithstanding the provisions of the San Juan-Chama Project Act, or any other provision of law—

(A) the Secretary shall waive the entirety of the Pueblos' share of the construction costs for the San Juan-Chama Project, and pursuant to that waiver, the Pueblos' share of all construction costs for the San Juan-Chama Project, inclusive of both principal and interest, due from 1972 to the execution of the contract required by subsection (a)(2), shall be nonreimbursable;

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

(C) the costs associated with any water made available from the San Juan-Chama Project which were determined nonreimbursable and nonreturnable pursuant to Public Law No. 88–293, 78 Stat. 171 (March 26, 1964), shall remain nonreimbursable and nonreturnable.

(2) TERMINATION.—The contract shall provide that it shall terminate only upon the following conditions—

(A) failure of the United States District Court for the District of New Mexico to enter a final decree for the Aamodt Case by December 15, 2012, or within the time period of any extension of that deadline granted by the court; or

(B) entry of an order by the United States District Court for the District of New Mexico voiding the final decree and Settlement Agreement for the Aamodt Case pursuant to section 10.3 of the Settlement Agreement.

(f) LIMITATION.—The Secretary shall use the water supply secured under subsection (a) only for the purposes described in the Settlement Agreement.

(g) FULFILLMENT OF WATER SUPPLY ACQUISITION OBLIGATIONS.—Compliance with subsections (a) through (f) shall satisfy any and all obligations of the Secretary to acquire or secure a water supply for the Pueblos pursuant to the Settlement Agreement.

(h) RIGHTS OF PUEBLOS IN SETTLEMENT AGREEMENT UNAFFECTED.—Notwithstanding the provisions of subsections (a) through (g), the Pueblos, the County or the Regional Water Authority may acquire any additional water rights to ensure all parties to the Settlement Agreement receive the full allocation of water provided by the Settlement Agreement and nothing in this Act amends or modifies the quantities of water allocated to the Pueblos thereunder.

SEC. 104. DELIVERY AND ALLOCATION OF REGIONAL WATER SYSTEM CAPACITY AND WATER.

(a) ALLOCATION OF REGIONAL WATER SYSTEM CAPACITY.—

(1) IN GENERAL.—The Regional Water System shall have the capacity to divert from the Rio Grande a quantity of water sufficient to provide—

(A) up to 4,000 acre-feet of consumptive use of water; and

(B) the requisite peaking capacity described in—

(i) the Engineering Report; and

(ii) the final project design.

(2) ALLOCATION TO THE PUEBLOS AND COUNTY WATER UTILITY.—Of the capacity described in paragraph (1)—

(A) there shall be allocated to the Pueblos—

(i) sufficient capacity for the conveyance of 2,500 acre-feet consumptive use; and

(ii) the requisite peaking capacity for the quantity of water described in clause (i); and

(B) there shall be allocated to the County Water Utility—

(i) sufficient capacity for the conveyance of up to 1,500 acre-feet consumptive use; and

(ii) the requisite peaking capacity for the quantity of water described in clause (i).

(3) APPLICABLE LAW.—Water shall be allocated to the Pueblos and the County Water Utility under this subsection in accordance with—

(A) this title;

(B) the Settlement Agreement; and

(C) the Operating Agreement.

(b) DELIVERY OF REGIONAL WATER SYSTEM WATER.—The Authority shall deliver water from the Regional Water System—

(1) to the Pueblos water in a quantity sufficient to allow full consumptive use of up to 2,500 acre-feet per year of water rights by the Pueblos in accordance with—

(A) the Settlement Agreement;

(B) the Operating Agreement; and

(C) this title; and

(2) to the County water in a quantity sufficient to allow full consumptive use of up to 1,500 acre-feet per year of water rights by the County Water Utility in accordance with—

(A) the Settlement Agreement;

(B) the Operating Agreement; and

(C) this title.

(c) ADDITIONAL USE OF ALLOCATION QUANTITY AND UNUSED CAPACITY.—The Regional Water System may be used to—

(1) provide for use of return flow credits to allow for full consumptive use of the water allocated in the Settlement Agreement to each of the Pueblos and to the County; and

(2) convey water allocated to one of the Pueblos or the County Water Utility for the benefit of another Pueblo or the County Water Utility or allow use of unused capacity by each other through the Regional Water System in accordance with an intergovernmental agreement between the Pueblos, or between a Pueblo and County Water Utility, as applicable, if—

(A) such intergovernmental agreements are consistent with the Operating Agreement, the Settlement Agreement, and this Act;

(B) capacity is available without reducing water delivery to any Pueblo or the County Water Utility in accordance with the Settlement Agreement, unless the County Water Utility or Pueblo contracts for a reduction in water delivery or Regional Water System capacity;

(C) the Pueblo or County Water Utility contracting for use of the unused capacity or water has the right to use the water under applicable law; and

(D) any agreement for the use of unused capacity or water provides for payment of the operation, maintenance, and replacement costs associated with the use of capacity or water.

SEC. 105. AAMODT SETTLEMENT PUEBLOS' FUND.

(a) ESTABLISHMENT OF THE AAMODT SETTLEMENT PUEBLOS' FUND.—There is established in the Treasury of the United States a fund, to be known as the ''Aamodt Settlement Pueblos' Fund,'' consisting of—

(1) such amounts as are made available to the Fund under section 107(c) or other authorized sources; and

(2) any interest earned from investment of amounts in the Fund under subsection (b).

(b) MANAGEMENT OF THE FUND.—The Secretary shall manage the Fund, invest amounts in the Fund, and make amounts available from the Fund for distribution to the Pueblos in accordance with—

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

(2) this Act.

(c) INVESTMENT OF THE FUND.—On the date set forth in section 203(a)(1), the Secretary shall invest amounts in the Fund in accordance with—

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

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

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

(d) TRIBAL MANAGEMENT PLAN.—

(1) IN GENERAL.—A Pueblo may withdraw all or part of the Pueblo's portion of the Fund on approval by the Secretary of a tribal management plan as described in the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.).

(2) REQUIREMENTS.—In addition to the requirements under the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.), the tribal management plan shall require that a Pueblo spend any amounts withdrawn from the Fund in accordance with the purposes described in section 107(c).

(3) ENFORCEMENT.—The Secretary may take judicial or administrative action to enforce the provisions of any tribal management plan to ensure that any amounts withdrawn from the Fund under an approved tribal management plan are used in accordance with this title.

(4) LIABILITY.—If a Pueblo or the Pueblos exercise the right to withdraw amounts from the Fund, neither the Secretary nor the Secretary of the Treasury shall retain any liability for the expenditure or investment of the amounts withdrawn.

(5) EXPENDITURE PLAN.—

(A) IN GENERAL.—The Pueblos shall submit to the Secretary for approval an expenditure plan for any portion of the amounts in the Fund that the Pueblos do not withdraw under this subsection.

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

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

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

(6) NO PER CAPITA PAYMENTS.—No part of the principal of the Fund, or the interest or income accruing on the principal shall be distributed to any member of a Pueblo on a per capita basis.

(7) AVAILABILITY OF AMOUNTS FROM THE FUND.—

(A) APPROVAL OF SETTLEMENT AGREEMENT.—Amounts made available under subparagraphs (A) and (C) of section 107(c)(1) or from other authorized sources shall be available for expenditure or withdrawal only after the date on which the United States District Court for the District of New Mexico issues an order approving the Settlement Agreement.

(B) COMPLETION OF CERTAIN PORTIONS OF REGIONAL WATER SYSTEM.—Amounts made available under section 107(c)(1)(B) or from other authorized sources shall be available for expenditure or withdrawal only after those portions of the Regional Water System described in section 1.5.24 of the Settlement Agreement have been declared substantially complete by the Secretary.

(C) FAILURE TO FULFILL CONDITIONS PRECEDENT.—If the conditions precedent in section 203 have not been fulfilled by September 15, 2017, the United States shall be entitled to set off any funds expended or withdrawn from the amounts appropriated pursuant to section 107(c), together with any interest accrued, against any claims asserted by the Pueblos against the United States relating to the water rights in the Pojoaque Basin.

SEC. 106. ENVIRONMENTAL COMPLIANCE.

(a) IN GENERAL.—In carrying out this title, the Secretary shall comply with each law of the Federal Government relating to the protection of the environment, including—

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

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

(b) NATIONAL ENVIRONMENTAL POLICY ACT.—Nothing in this Act affects the outcome of any analysis conducted by the Secretary or any other Federal official under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

SEC. 107. AUTHORIZATION OF APPROPRIATIONS.

(a) REGIONAL WATER SYSTEM.—

(1) IN GENERAL.—Subject to paragraph (4), there is authorized to be appropriated to the Secretary for the planning, design, and construction of the Regional Water System and the conduct of environmental compliance activities under section 106 an amount not to exceed $106,400,000, as adjusted under paragraph (3), for the period of fiscal years 2010 through 2022, to remain available until expended.

(2) PRIORITY OF FUNDING.—Of the amounts authorized under paragraph (1), the Secretary shall give priority to funding—

(A) the construction of the San Ildefonso portion of the Regional Water System, consisting of—

(i) the surface water diversion, treatment, and transmission facilities at San Ildefonso Pueblo; and

(ii) the San Ildefonso Pueblo portion of the Pueblo Water Facilities; and

(B) that part of the Regional Water System providing 475 acre-feet to Pojoaque Pueblo pursuant to section 2.2 of the Settlement Agreement.

(3) ADJUSTMENT.—The amount authorized under paragraph (1) shall be adjusted annually to account for increases in construction costs since October 1, 2006, as determined using applicable engineering cost indices.

(4) LIMITATIONS.—

(A) IN GENERAL.—No amounts shall be made available under paragraph (1) for the construction of the Regional Water System until the date on which the United States District Court for the District of New Mexico issues an order approving the Settlement Agreement.

(B) RECORD OF DECISION.—No amounts made available under paragraph (1) shall be expended unless the record of decision issued by the Secretary after completion of an environmental impact statement provides for a preferred alternative that is in substantial compliance with the proposed Regional Water System, as defined in the Engineering Report.

(b) ACQUISITION OF WATER RIGHTS.—There is authorized to be appropriated to the Secretary funds for the acquisition of the water rights under section 103(a)(1)(B)—

(1) in the amount of $5,400,000.00 if such acquisition is completed by December 31, 2010; and

(2) the amount authorized under paragraph (b)(1) shall be adjusted according to the CPI Urban Index commencing January 1, 2011.

(c) AAMODT SETTLEMENT PUEBLOS' FUND.—

(1) IN GENERAL.—There is authorized to be appropriated to the Fund the following amounts for the period of fiscal years 2010 through 2022:

(A) $15,000,000, which shall be allocated to the Pueblos, in accordance with section 2.7.1 of the Settlement Agreement, for the rehabilitation, improvement, operation, maintenance, and replacement of the agricultural delivery facilities, waste water systems, and other water-related infrastructure of the applicable Pueblo. The amount authorized herein shall be adjusted according to the CPI Urban Index commencing October 1, 2006.

(B) $37,500,000, which shall be allocated to an account, to be established not later than January 1, 2016, to assist the Pueblos in paying the Pueblos' share of the cost of operating, maintaining, and replacing the Pueblo Water Facilities and the Regional Water System.

(C) $5,000,000 and any interest thereon, which shall be allocated to the Pueblo of Nambe for the acquisition of the Nambe reserved water rights in accordance with section 103(a)(1)(A). The amount authorized herein shall be adjusted according to the CPI Urban Index commencing

January 1, 2011. The funds provided under this section may be used by the Pueblo of Nambe only for the acquisition of land, other real property interests, or economic development.

(2) OPERATION, MAINTENANCE, AND REPLACEMENT COSTS.—

(A) IN GENERAL.—Prior to conveyance of the Regional Water System pursuant to section 101, the Secretary is authorized to and shall pay any operation, maintenance or replacement costs associated with the Pueblo Water Facilities or the Regional Water System up to an amount that does not exceed $5,000,000, which is authorized to be appropriated to the Secretary.

(B) OBLIGATION OF FEDERAL GOVERNMENT AFTER COMPLETION.—The amount authorized under subparagraph (A) shall expire after the date on which construction of the Regional Water System is completed and the amounts required to be deposited in the account have been deposited under this section by the Federal Government.

TITLE II—POJOAQUE BASIN INDIAN WATER RIGHTS SETTLEMENT

SEC. 201. SETTLEMENT AGREEMENT AND CONTRACT APPROVAL.

(a) APPROVAL.—To the extent the Settlement Agreement and the Cost-Sharing and System Integration Agreement do not conflict with this Act, the Settlement Agreement and the Cost-Sharing and System Integration Agreement (including any amendments to the Settlement Agreement and the Cost-Sharing and System Integration Agreement that are executed to make the Settlement Agreement or the Cost-Sharing and System Integration Agreement consistent with this Act) are authorized, ratified, and confirmed.

(b) EXECUTION.—To the extent the Settlement Agreement and the Cost-Sharing and System Integration Agreement do not conflict with this Act, the Secretary shall execute the Settlement Agreement and the Cost-Sharing and System Integration Agreement (including any amendments that are necessary to make the Settlement Agreement or the Cost-Sharing and System Integration Agreement consistent with this Act).

(c) AUTHORITIES OF THE PUEBLOS.—

(1) IN GENERAL.—Each of the Pueblos may enter into contracts to lease or exchange water rights or to forbear undertaking new or expanded water uses for water rights recognized in section 2.1 of the Settlement Agreement for use within the Pojoaque Basin in accordance with the other limitations of section 2.1.5 of the Settlement Agreement provided that section 2.1.5 is amended accordingly.

(2) EXECUTION.—The Secretary shall not execute the Settlement Agreement until such amendment is accomplished under paragraph (1).

(3) APPROVAL BY SECRETARY.—Consistent with the Settlement Agreement as amended under paragraph (1), the Secretary shall approve or disapprove a lease entered into under paragraph (1).

(4) PROHIBITION ON PERMANENT ALIENATION.—No lease or contract under paragraph (1) shall be for a term exceeding 99 years, nor shall any such lease or contract provide for permanent alienation of any portion of the water rights made available to the Pueblos under the Settlement Agreement.

(5) APPLICABLE LAW.—Section 2116 of the Revised Statutes (25 U.S.C. 177) shall not apply to any lease or contract entered into under paragraph (1).

(6) LEASING OR MARKETING OF WATER SUPPLY.—The water supply provided on behalf of the Pueblos pursuant to section 103(a)(1) may only be leased or marketed by any of the Pueblos pursuant to the intergovernmental agreements described in section 104(c)(2).

(d) AMENDMENTS TO CONTRACTS.—The Secretary shall amend the contracts relating to the Nambe Falls Dam and Reservoir that are necessary to use water supplied from the Nambe Falls Dam and Reservoir in accordance with the Settlement Agreement.

SEC. 202. ENVIRONMENTAL COMPLIANCE.

(a) EFFECT OF EXECUTION OF SETTLEMENT AGREEMENT.—The execution of the Settlement Agreement under section 201(b) shall not constitute a major Federal action under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

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

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

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

SEC. 203. CONDITIONS PRECEDENT AND ENFORCEMENT DATE.

(a) CONDITIONS PRECEDENT.—

(1) IN GENERAL.—Upon the fulfillment of the conditions precedent described in paragraph (2), the Secretary shall publish in the Federal Register by September 15, 2017, a statement of finding that the conditions have been fulfilled.

(2) REQUIREMENTS.—The conditions precedent referred to in paragraph (1) are the conditions that—

(A) to the extent that the Settlement Agreement conflicts with this title, the Settlement Agreement has been revised to conform with this title;

(B) the Settlement Agreement, so revised, including waivers and releases pursuant to section 204, has been executed by the appropriate parties and the Secretary;

(C) Congress has fully appropriated, or the Secretary has provided from other authorized sources, all funds authorized by section 107, with the exception of subsection (a)(1) of that section, by December 15, 2016;

(D) the Secretary has acquired and entered into appropriate contracts for the water rights described in section 103(a);

(E) for purposes of section 103(a), permits have been issued by the New Mexico State Engineer to the Regional Water Authority to change the points of diversion to the mainstem of the Rio Grande for the diversion and consumptive use of at least 2,381 acre-feet by the Pueblos as part of the water supply for the Regional Water System, subject to the conditions that—

(i) the permits shall be free of any condition that materially adversely affects the ability of the Pueblos or the Regional Water Authority to divert or use the Pueblo water supply described in section 103(a), including water rights acquired in addition to those described in section 103(a), in accordance with section 103(g); and

(ii) the Settlement Agreement shall establish the means to address any permit conditions to ensure the ability of the Pueblos to fully divert and consume at least 2,381 acre-feet as part of the water supply for the Regional Water System, including defining the conditions that will not constitute a material adverse affect;

(F) the State has enacted any necessary legislation and provided any funding that may be required under the Settlement Agreement;

(G) a partial final decree that sets forth the water rights and other rights to water to which the Pueblos are entitled under the Settlement Agreement and this title and that substantially conforms to the Settlement Agreement has been approved by the United States District Court for the District of New Mexico; and

(H) a final decree that sets forth the water rights for all parties to the Aamodt Case and that substantially conforms to the Settlement Agreement has been approved by the United States District Court for the District of New Mexico by June 15, 2017.

(b) EXPIRATION DATE.—If all the conditions precedent described in subsection (a)(2) have not been fulfilled by September 15, 2017—

(1) the Settlement Agreement and this Act including waivers described in those documents shall no longer be effective; and

(2) any funds that have been appropriated under this Act but not expended shall immediately revert to the general fund of the United States Treasury.

(c) ENFORCEMENT DATE.—The Settlement Agreement shall become enforceable as of the date that the United States District Court for the District of New Mexico enters a partial final decree pursuant to subsection (a)(2)(E) and an Interim Administrative Order consistent with the Settlement Agreement.

(d) EFFECTIVENESS OF WAIVERS.—The waivers and releases executed pursuant to section 204 shall become effective as of the date that the Secretary publishes the notice required by subsection (a)(1).

(e) REQUIREMENTS FOR DETERMINATION OF SUBSTANTIAL COMPLETION OF THE REGIONAL WATER SYSTEM.—

(1) CRITERIA FOR SUBSTANTIAL COMPLETION OF REGIONAL WATER SYSTEM.—Subject to the provisions in section 101(d) concerning the extent, size, and capacity of the County Distribution System, the Regional Water System shall be determined to be substantially completed if the infrastructure has been constructed capable of—

(A) diverting, treating, transmitting, and distributing a supply of 2,500 acre-feet of water to the Pueblos; and

(B) diverting, treating, and transmitting the quantity of water specified in the Engineering Report to the County Distribution System.

(2) CONSULTATION.—On or after June 30, 2021, at the request of 1 or more of the Pueblos, the Secretary shall consult with the Pueblos and confer with the County and the State on whether the criteria in paragraph (1) for substantial completion of the Regional Water System have been met or will be met by June 30, 2024.

(3) WRITTEN DETERMINATION BY SECRETARY.—Not earlier than June 30, 2021, at the request of 1 or more of the Pueblos and after the consultation required by paragraph (2), the Secretary shall—

(A) determine whether the Regional Water System has been substantially completed based on the criteria described in paragraph (1); and

(B) submit a written notice of the determination under subparagraph (A) to—

(i) the Pueblos;

(ii) the County; and

(iii) the State.

(4) RIGHT TO REVIEW.—

(A) IN GENERAL.—A determination by the Secretary under paragraph (3)(A) shall be considered to be a final agency action subject to judicial review by the Decree Court under sections 701 through 706 of title 5, United States Code.

(B) FAILURE TO MAKE TIMELY DETERMINATION.—

(i) IN GENERAL.—If a Pueblo requests a written determination under paragraph (3) and the Secretary fails to make such a written determination by the date described in clause (ii), there shall be a rebuttable presumption that the failure constitutes agency action unlawfully withheld or unreasonably delayed under section 706 of title 5, United States Code.

(ii) DATE.—The date referred to in clause (i) is the date that is the later of—

(I) the date that is 180 days after the date of receipt by the Secretary of the request by the Pueblo; and

(II) June 30, 2023.

(C) EFFECT OF ACT.—Nothing in this Act gives any Pueblo or Settlement Party the right to judicial review of a determination of the Secretary regarding whether the Regional Water System has been substantially completed except under subchapter II of chapter 5, and chapter 7, of title 5, United States Code (commonly known as the ''Administrative Procedure Act'').

(5) RIGHT TO VOID FINAL DECREE.—

(A) IN GENERAL.—Not later than June 30, 2024, on a determination by the Secretary, after consultation with the Pueblos, that the Regional Water System is not substantially complete, 1 or more of the Pueblos, or the United States acting

on behalf of a Pueblo, shall have the right to notify the Decree Court of the determination.

(B) EFFECT.—The Final Decree shall have no force or effect on a finding by the Decree Court that a Pueblo, or the United States acting on behalf of a Pueblo, has submitted proper notification under subparagraph (A).

(f) VOIDING OF WAIVERS.—If the Final Decree is void under subsection (e)(5)—

(1) the Settlement Agreement shall no longer be effective;

(2) the waivers and releases executed pursuant to section 204 shall no longer be effective; and

(3) any unexpended Federal funds, together with any interest earned on those funds, and title to any property acquired or constructed with expended Federal funds shall be returned to the Federal Government, unless otherwise agreed to by the Pueblos and the United States and approved by Congress.

SEC. 204. WAIVERS AND RELEASES.

(a) CLAIMS BY THE PUEBLOS AND THE UNITED STATES.—In return for recognition of the Pueblos' water rights and other benefits, including waivers and releases by non-Pueblo parties, as set forth in the Settlement Agreement and this Act, the Pueblos, on behalf of themselves and their members, and the United States acting in its capacity as trustee for the Pueblos are authorized to execute a waiver and release of—

(1) all claims for water rights in the Pojoaque Basin that the Pueblos, or the United States acting in its capacity as trustee for the Pueblos, asserted, or could have asserted, in any proceeding, including the Aamodt Case, up to and including the waiver effectiveness date identified in section 203(d), except to the extent that such rights are recognized in the Settlement Agreement or this Act;

(2) all claims for water rights for lands in the Pojoaque Basin and for rights to use water in the Pojoaque Basin that the Pueblos, or the United States acting in its capacity as trustee for the Pueblos, might be able to otherwise assert in any proceeding not initiated on or before the date of enactment of this title, except to the extent that such rights are recognized in the Settlement Agreement or this Act;

(3) all claims for damages, losses or injuries to water rights or claims of interference with, diversion or taking of water (including claims for injury to land resulting from such damages, losses, injuries, interference with, diversion, or taking) for land within the Pojoaque Basin that accrued at any time up to and including the waiver effectiveness date identified in section 203(d);

(4) their defenses in the Aamodt Case to the claims previously asserted therein by other parties to the Settlement Agreement;

(5) all pending and future inter se challenges to the quantification and priority of water rights of non-Pueblo wells in the Pojoaque Basin, except as provided by section 2.8 of the Settlement Agreement;

(6) all pending and future inter se challenges against other parties to the Settlement Agreement;

(7) all claims for damages, losses, or injuries to water rights or claims of interference with, diversion or taking of water (including claims for injury to land resulting from such damages, losses, injuries, interference with, diversion, or taking of water) attributable to City of Santa Fe pumping of groundwater that has effects on the ground and surface water supplies of the Pojoaque Basin, provided that this waiver shall not be effective by the Pueblo of Tesuque unless there is a water resources agreement executed between the Pueblo of Tesuque and the City of Santa Fe; and

(8) all claims for damages, losses, or injuries to water rights or claims of interference with, diversion or taking of water (including claims for injury to land resulting from such damages, losses, injuries, interference with, diversion, or taking of water) attributable to County of Santa Fe pumping of groundwater that has effects on the ground and surface water supplies of the Pojoaque Basin.

(b) CLAIMS BY THE PUEBLOS AGAINST THE UNITED STATES.—The Pueblos, on behalf of themselves and their members, are authorized to execute a waiver and release of—

(1) all claims against the United States, its agencies, or employees, relating to claims for water rights in or water of the Pojoaque Basin or for rights to use water in the Pojoaque Basin that the United States acting in its capacity as trustee for the Pueblos asserted, or could have asserted, in any proceeding, including the Aamodt Case;

(2) all claims against the United States, its agencies, or employees relating to damages, losses, or injuries to water, water rights, land, or natural resources due to loss of water or water rights (including damages, losses or injuries to hunting, fishing, gathering or cultural rights due to loss of water or water rights; claims relating to interference with, diversion or taking of water or water rights; or claims relating to failure to protect, acquire, replace, or develop water, water rights or water infrastructure) within the Pojoaque Basin that first accrued at any time up to and including the waiver effectiveness date identified in section 203(d);

(3) all claims against the United States, its agencies, or employees for an accounting of funds appropriated by Acts, including the Act of December 22, 1927 (45 Stat. 2), the Act of March 4, 1929 (45 Stat. 1562), the Act of March 26, 1930 (46 Stat. 90), the Act of February 14, 1931 (46 Stat. 1115), the Act of March 4, 1931 (46 Stat. 1552), the Act of July 1, 1932 (47 Stat. 525), the Act of June 22, 1936 (49 Stat. 1757), the Act of August 9, 1937 (50 Stat. 564), and the Act of May 9, 1938 (52 Stat. 291), as authorized by the Pueblo Lands Act of June 7, 1924 (43 Stat. 636), and the Pueblo Lands Act of May 31, 1933 (48 Stat. 108), and for breach of Trust relating to funds for water replacement appropriated by said Acts that first accrued before the date of enactment of this Act;

(4) all claims against the United States, its agencies, or employees relating to the pending litigation of claims relating to the Pueblos' water rights in the Aamodt Case; and

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

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

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

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

(3) all rights to use and protect water rights acquired pursuant to state law to the extent not inconsistent with the Partial Final Decree, Final Decree, and the Settlement Agreement;

(4) all claims against persons other than Parties to the Settlement Agreement for damages, losses or injuries to water rights or claims of interference with, diversion or taking of water (including claims for injury to lands resulting from such damages, losses, injuries, interference with, diversion, or taking of water) within the Pojoaque Basin arising out of activities occurring outside the Pojoaque Basin;

(5) all claims relating to activities affecting the quality of water including any claims the Pueblos may have under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) (including claims for damages to natural resources), the Safe Drinking Water Act (42 U.S.C. 300f et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), and the regulations implementing those laws;

(6) all claims against the United States relating to damages, losses, or injuries to land or natural resources not due to loss of water or water rights (including hunting, fishing, gathering or cultural rights);

(7) all claims for water rights from water sources outside the Pojoaque Basin for land outside the Pojoaque Basin owned by a Pueblo or held by the United States for the benefit of any of the Pueblos; and

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

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

(1) affects the ability of the United States acting in its sovereign capacity to take actions authorized by law, including any laws relating to health, safety, or the environment, including the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), the Safe Drinking Water Act (42 U.S.C. 300f et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), and the regulations implementing those laws;

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

(3) confers jurisdiction on any State court to—

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

(B) conduct judicial review of Federal agency action;

(e) TOLLING OF CLAIMS.—

(1) IN GENERAL.—Each applicable period of limitation and time-based equitable defense relating to a claim described in this section shall be tolled for the period beginning on the date of enactment of this Act and ending on June 30, 2021.

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

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

SEC. 205. EFFECT.

Nothing in this Act or the Settlement Agreement affects the land and water rights, claims, or entitlements to water of any Indian tribe, pueblo, or community other than the Pueblos.

The SPEAKER pro tempore. After 1 hour of debate on the bill, as amended, it shall be in order to consider the amendment printed in part B of House Report 111–399 if offered by the gentleman from California (Mr. MCCLINTOCK) or his designee, which shall be considered read, and shall be debatable for 10 minutes equally divided and controlled by the proponent and an opponent.

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

The Chair recognizes the gentleman from West Virginia.

GENERAL LEAVE

Mr. RAHALL. Mr. Speaker, I ask unanimous consent that all Members

may have 5 legislative days in which to revise and extend their remarks and insert extraneous material on H.R. 3342.

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

There was no objection.

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

We are now proceeding with the second of three bills to implement Indian water rights settlement agreements being considered by this body today. The pending measure, like the previous bill, is sponsored by our colleague BEN RAY LUJÁN of New Mexico and cosponsored by MARTIN HEINRICH of that State.

This legislation would settle the water rights of four pueblos in New Mexico under an agreement with the State of New Mexico, Santa Fe County, the city of Santa Fe, and individual water users. It would end 44 years of active litigation involving over 2,500 defendants by ratifying the settlement agreement and funding a regional water system for all water users in the valley.

The previous bill we considered would end 40 years of litigation. The one we are currently considering would end 44 years of litigation. I would say to my colleagues that today we are making history. The American people want certainty. During these tough economic times, we all want to have certainty in our lives. But for many, a long-year certainty with respect to water has not been the case in the Rio Grande watershed. Today we can provide that certainty.

The pending measure would secure water to meet the current and future needs of the pueblos involved, protect water users that make the region unique, preserve irrigation in the area, and provide water for all the region's residents. As in the case of H.R. 3342, water rights settlements improve water management by providing certainty not just to the quantification of a tribe's water rights but also to the water rights of all users. Certainty provides opportunities for economic development, for Indian and non-Indians alike. Where Indian water rights are unquantified, there is often tension and conflict between tribes and their neighbors. The best settlements, like the ones before us today, replace tension with collaboration, mutual interdependence, and trust.

I commend the team of LUJÁN and HEINRICH for their hard work on this matter. I again would acknowledge the long hours of work that have been put into this measure by the distinguished gentlewoman from California, GRACE NAPOLITANO, in her position as chairwoman for our Subcommittee on Water and Power. She has gone through countless hours of hearings and discussions and meetings on these bills. I thank the four pueblos and their settlement partners for their hard work and dedication.

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

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

The arguments that I made on the previous bill are exactly applicable to this bill. So let me simply summarize. To summarize, I believe, and we believe on this side, that settlement agreements are in the best interests for all parties involved. But there is an element that needs to be highlighted because settlement agreements generally at the end cost money, and the missing part of these agreements on these three bills that we are considering today is, What is the cost to the taxpayer?

We need to have transparency when we make that decision, and that decision, unfortunately, was not afforded to us in committee, and at the last minute, it was afforded to us in a very ambiguous way. So it's for that reason, while I support the claims settlements as a general principle, not having all the information, I must oppose this bill, as I did the last bill. And with the next bill coming up, I will say essentially the same thing.

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

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Mr. RAHALL. Mr. Speaker, I am happy to yield such time as she may consume to the distinguished gentlewoman from California (Mrs. NAPOLITANO), the chairlady of our Water and Power Subcommittee.

Mrs. NAPOLITANO. Thank you, Chairman RAHALL and Ranking Member HASTINGS.

You have heard about the three bills. We are here today on these three pieces of legislation that would settle the water rights of six Native American nations in New Mexico and Arizona. The people on these reservations inhabit the same sacred lands as their fathers, their grandfathers, and many generations before. These three bills would provide them with the water that their ancestors were entitled to but never received.

We often take for granted the most basic of our resources, water. The people of the pueblos and the high country of Arizona never have. They understand the value of water and its importance in their cultures and well-being. Water is the lifeblood of these individuals, and when they were assigned reservations of land, their assumption was that they would also have access to the water they needed to survive. They were not, and hence for the last 140-plus years, these individual Americans have been fighting for the right to this most basic of resources, water. It is time today for us to do something about this for these six native nations.

Mr. Chairman, you mentioned Charlie Dorame in your statement as an example of the type of dedication that has been made for these water rights settlements and the subsequent legislation. Leaders in each tribe and pueblo have invested many decades in trying to acquire water rights that for generations came without legal restrictions but instead were part of their homeland.

For many years these tribes have been treated as second-class citizens of our great country, America. We have taken their lands. We have taken their resources, and we have even taken their water. But instead of complaining, these pueblos and tribes have worked with the Federal Government and the local governments to legally, and I might add very costly, attempt to acquire access to something that always has been part of their lives, water.

Members of these tribes across the country today continue to work to support their sovereign nations. They work with the States and work with the local partners who see the benefit of the settlement not just for the tribal communities but for the entire region.

Mr. Speaker, I would like to say that I have Colorado River Water Users Association's 2010 resolutions, the Western States Water Council, and the National Congress of American Indians here in support of this legislation, people looking for local and regional solutions, just as we have been directing them to do.

Mr. Speaker, I have brought with me these resolutions so we can understand that they have wide support, not only from the Native American areas but also from their neighbors and their friends within the area. Each of these organizations supports the settlement of Indian reserved water rights by negotiation or agreement. They realize in order to plan for the future and for their economy, we need to provide certainty to a basic human right, water.

These resolutions are consistent with the administration's views of supporting collaborative negotiations as an inherent responsibility to Federal trustees to Indian tribes and their members. Most importantly, we can not, we must not forget that we are talking about Americans, Native Americans, human beings. These tribes and pueblos have done everything that we have asked of them and have taken the long walk to walk with the Federal Government's legal restraints and now are in sight of securing for their people a basic human right, water.

After decades, these people have made huge efforts to play by the government rules to acquire rightful access to water that traditionally came with the land that they lived on. The price for these people has been high, the walk long and filled with many disappointments and many empty promises.

I ask that you support this legislation today. Support it because these Native Americans have followed all of the rules, procedures, and hurdles that our government has laid out. Support the legislation because it is the right thing to do and because it is supported by all local community and regional water managers; and, most importantly, because it is time to provide

certainty to the tribes and the pueblos and the people of New Mexico and Arizona that we can do right by them. At the end of the day for this one precious resource, water, we can sit down and appreciate doing the right thing for them.

Water, Mr. Speaker, which you are drinking, is running short in the U.S. We need to preserve it and take care of it, and none other more than our Native Americans love the Earth and what Mother Nature gives us. Help us pass this bill.

2010 RESOLUTIONS ADOPTED BY THE RESOLUTIONS COMMITTEE OF THE COLORADO RIVER WATER USERS ASSOCIATION, DECEMBER 9, 2009

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* * * production. The federal government should pay for replacement power due to operational changes for recreation, fishery or the environment.

5. Reclamation-constructed and maintained water storage and conveyance systems situated throughout the Colorado River Basin are critically important to the economies, the quality of life and the survival of the people who depend upon waters from the Basin. In order to avoid huge financial impacts associated with performing maintenance that was deferred or making future repairs on an emergency basis, Congress should recognize and appropriate requisite funding to maintain aging, critically important water project infrastructure in the Colorado River Basin and across the West.

6. Reclamation should immediately commence and fully implement the measures identified in its Managing for Excellence action plan, issued in response to the National Research Council's Managing Construction and Infrastructure in the 21st Century Bureau of Reclamation report, including transfer of operation and maintenance responsibility to project sponsors when they are capable and willing to take over such responsibility.

RESOLUTION NO. 2010–4—COLORADO RIVER SALINITY CONTROL

The CRWUA urges continued funding and implementation of measures to control the salinity of the Colorado River. The Administration should request and Congress should provide sufficient funding for the Colorado River Basin Salinity Control Program.

RESOLUTION NO. 2010–5—SETTLEMENT OF INDIAN RESERVED RIGHTS

The CRWUA supports the settlement of Indian reserved water rights by negotiation or agreement, recognizing that:

1. Settlements should result in the least possible disruption of existing water uses and the economies based on those uses, while at the same time providing the affected tribes with the firm water supplies required to meet the long-term needs of the reservation inhabitants and to establish lasting tribal economies.

2. The achievement of these objectives requires federally funded water projects designed to ensure that all of the tribal water needs in the subject basin or watershed are met.

3. Appropriate participation of the Federal, State, local governmental and Tribal entities, and non-Indian water users in the settlement process is required for the success of any negotiated settlement.

4. Any water rights settlements that have been approved by the respective parties should be immediately and fully funded to implement their terms within the specified timeframes. The Federal Government must take advantage of existing funding authorizations, such as Title VI, Emergency Fund for Indian Safety and Health, of P.L. 110–293, by complying in a timely manner with Congressional mandates and budgeting funds, while continuing to explore and develop new creative solutions to fund Indian water rights settlements.

RESOLUTION OF THE WESTERN STATES WATER COUNCIL IN SUPPORT OF INDIAN WATER RIGHTS SETTLEMENTS, OCTOBER 17, 2008

WHEREAS, the Western States Water Council, an organization of eighteen western states, and adjunct to the Western Governors' Association has consistently supported negotiated settlement of Indian water rights disputes; and

WHEREAS, the public interest and sound public policy require the resolution of Indian water rights claims in a manner that is least disruptive to existing uses of water; and

WHEREAS, negotiated quantification of Indian water rights claims is a highly desirable process which can achieve quantifications fairly, efficiently, and with the least cost; and

WHEREAS, the advantages of negotiated settlements include: (i) the ability to be flexible and to tailor solutions to the unique circumstances of each situation; (ii) the ability to promote conservation and sound water management practices; and (iii) the ability to establish the basis for cooperative partnerships between Indian and non-Indian communities; and

WHEREAS, the successful resolution of certain claims may require ''physical solutions,'' such as development of federal water projects and improved water delivery and application techniques; and

WHEREAS, the United States has developed many major water projects that compete for use of waters claimed by Indians and non-Indians, and has a responsibility to both to assist in resolving such conflicts; and

WHEREAS, the settlement of Native American water claims, and land claims, is one of the most important aspects of the United States' trust obligation to Native Americans and is of vital importance to the country as a whole; and

WHEREAS, current budgetary policy makes it difficult for the Administration, the states and the tribes to negotiate settlements knowing that the settlements may not be funded because funding must be offset by a corresponding reduction in some other tribe or essential Interior Department program.

NOW, THEREFORE, BE IT RESOLVED, that the Western States Water Council reiterates its support for the policy of encouraging negotiated settlements of Indian water rights disputes as the best solution to a critical problem that affects almost all of the Western States; and

BE IT FURTHER RESOLVED, that the Western States Water Council urges the Administration to support its stated policy in favor of Indian land and water settlements with a strong fiscal commitment for meaningful federal contributions to these settlements that recognizes the trust obligations of the United States government; and

BE IT FURTHER RESOLVED, that Congress should explore opportunities to provide funding for the Bureau of Reclamation to undertake project construction related to settlements from revenues accruing to the Reclamation Fund, recognizing the existence of other legitimate needs that may be financed by these reserves.

BE IT FURTHER RESOLVED, that steps be taken to change current budgetary policy to ensure that any land or water settlement, once authorized by the Congress and approved by the President, will be funded without a corresponding offset to some other tribe or essential Interior Department program.

THE NATIONAL CONGRESS OF AMERICAN INDIANS RESOLUTION NO. DEN–07–069—USE OF THE RECLAMATION FUND FOR INDIAN WATER RIGHTS SETTLEMENTS

WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, the settlement of Indian water rights claims is one of the most important aspects of the United States' trust obligations to Native Americans and is of vital importance to the country as a whole; and

WHEREAS, despite the Department of the Interior's (DOI's) long-standing policy favoring the settlement of Indian water rights claims, the Administration has taken an increasingly narrow and restrictive view of its responsibility to fund Indian water rights settlements; and

WHEREAS, under current budgetary policy of the Administration, funding of Indian water rights settlements must be offset by a corresponding reduction in some other discretionary component of the DOI's budget, putting Indian tribes in the untenable position of having to seek funding of these settlements at the expense of some other tribe or essential DOI program; and

WHEREAS, there are currently three Indian water rights settlements affecting six tribes already signed and completed in New Mexico for which federal funding is necessary, including the Aamodt settlement, to which the Pueblo of Tesuque is a signatory; and

WHEREAS, nationwide many other tribes are working on water settlements for which federal funding is necessary; and

WHEREAS, under the Reclamation Act of June 17, 1902, the Reclamation Fund was envisioned as the principal source of funds to finance water development in the seventeen western states, with revenues accruing from project water and power sales, project repayments and receipts from public land sales, federal oil and mineral-related royalties, and other related sources; and

WHEREAS, the unobligated balance in the Reclamation Fund has grown annually in recent years and should serve as a source of funding for Indian water rights settlements.

NOW THEREFORE BE IT RESOLVED, that the NCAI does hereby support the policy of encouraging negotiated settlements of Indian water rights disputes as the best solution to a critical problem that affects almost all of the western states of the United States; and

BE IT FURTHER RESOLVED, that the NCAI urges the Administration to support its stated policy in favor of Indian water rights settlements with a strong fiscal commitment for meaningful federal contributions to these settlements that recognizes

the trust obligations of the United States government; and

BE IT FURTHER RESOLVED, that the NCAI supports changing the current budgetary policy to ensure that any Indian water rights settlement, once authorized by the Congress and approved by the President, will be funded without a corresponding offset to some other tribe or essential DOI program; and

BE IT FURTHER RESOLVED, that the NCAI supports allocation of sources of revenue for the Reclamation Fund to be used to fund Indian water rights settlements and respectfully requests that Congress and the Administration support allocation of monies from the Reclamation Fund or sources paid into it to fund Indian water rights settlements; and

BE IT FURTHER RESOLVED, that the NCAI commits to advocate to the Administration, including the Office of Management and Budget, and Congress that the Reclamation Fund be used to fund Indian water rights settlements; and

BE IT FURTHER RESOLVED, that within four months the NCAI will convene a special water rights meeting with affected tribes and invite key federal agencies to participate. After the initial meeting, NCAI will convene a special water rights meeting at least annually, and report progress to tribal leaders on this resolution at every regular meeting; and

BE IT FINALLY RESOLVED, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

Mr. HASTINGS of Washington. Mr. Speaker, I reserve the balance of my time.

Mr. RAHALL. Mr. Speaker, it is my pleasure to yield to the lead sponsor of this legislation, Mr. BEN RAY LUJÁN.

Mr. LUJÁN. Mr. Speaker, I rise today in support of H.R. 3342, the Aamodt Litigation Settlement Act. Before I begin, I would like to thank my colleagues on the Resource Committee: Chairman RAHALL; Chairwoman Napolitano; my colleague from New Mexico, Mr. HEINRICH; and Ranking Member HASTINGS.

I also want to thank the Tesuque Acequia Association; David Ortiz and the Rio Pojoaque Acequia and Well Water Association; D.L. Sanders and the office of the New Mexico State Engineer; Santa Fe County, the city of Santa Fe; and the tribal leaders from Nambe, Pojoaque, Tesuque and San Ildefonso. Thank you for your hard work over the past decade to reach these settlements.

The testimony of the settlement parties and tough negotiations and debate has made the consideration of these bills possible today. The parties to this settlement have worked for a very long time to come up with solutions that are equitable and fair to all water users in the Pojoaque Valley, including tribal and non-tribal residents alike.

Our water resources are precious in New Mexico. Without a reliable water supply, we cannot improve human health, protect our cultures and traditions, or grow our economies. This settlement will protect water resources, advance the implementation of effective water management, and ensure future access to water resources for all residents encompassed by the settlement. That is what makes H.R. 3342, the Aamodt Litigation Settlement Act of 2009, so important.

I would like to submit for the RECORD letters I have received from the State of New Mexico, the County of Santa Fe, the Rio Pojoaque Acequia and Well Water Association, the Tesuque Acequia Association and others who have asked Congress to take a serious look at the importance of approving these settlements because this piece of legislation is so vital to the prolonged existence of culture and agriculture in my district.

It has taken over 40 years, countless court proceedings, congressional hearings and mediations before this bill arrived at this point. The people of the Pojoaque Valley and surrounding communities have debated and negotiated this water settlement since the 1960s. Parties have informed me, Mr. Speaker, if legislative action does not move forward, the Federal Court is prepared to resume legal proceedings on the underlying Aamodt lawsuit. This litigation would have dire effects upon all non-water rights holders in the basin and incur tremendous court costs and legal fees on American taxpayers. The cost to the government of continued litigation would, and probably will, exceed the cost of the settlement itself.

We heard today, Mr. Speaker, that we did hear from the Attorney General's office saying that they did prefer this course of action to litigation. Senators BINGAMAN and UDALL of New Mexico introduced legislation in the 110th Congress to enshrine this settlement and conducted hearings before the House Resources Committee and the Senate Committee on Indian Affairs. In the 111th Congress, New Mexico's Senators and I reintroduced this bill with my colleague, MARTIN HEINRICH from New Mexico, with improved revisions that took the considerations of the settlement parties into account; and in doing so, we improved the settlement.

In September, additional hearings were held on this bill, and H.R. 3254 was supported at markup in the Natural Resources Committee by unanimous and bipartisan support. This settlement is about people and the quality of life in small rural communities. The future of this community depends on the availability and dependability of a water supply. This settlement ensures just that.

Rather than continuing a course of costly litigation that could tear a community apart, I ask my colleagues to join me in voting to enact these settlements. Thank you again for the leadership to the members of the Subcommittee on Water and Power and the members of the Natural Resources Committee for their support.

You know, Mr. Speaker, as we talk about water settlements going forward, I know that Democrats and Republicans from this side of the aisle and from the other side of the aisle, we all have the honor of representing constituencies that include Native Americans and tribal communities. In New Mexico there was a school project. They asked the kids to draw pictures where they get their water from. Most kids in school districts across New Mexico drew pictures of water faucets going into water bottles, things of that nature. There were children from Native American communities who drew pictures of their mother and fathers, brothers and sisters carrying water jugs to get water into their homes. They drew pictures of their fathers driving pickup trucks with large water containers like you would to provide water to animals out on the range.

I hope we don't lose sight, Mr. Speaker, of the fact that water is a very precious resource and there are still many people across this great Nation of ours who don't have access to it.

COUNTY OF SANTA FE,
STATE OF NEW MEXICO,
Santa Fe, NM, January 14, 2010.

Re Support for Aamodt Litigation Settlement Legislation.

Hon. BEN RAY LUJÁN,
Andrew Jones, Legislative Director, Cannon House Office Bldg., House of Representatives, Washington, DC.

DEAR CONGRESSMAN LUJÁN: On behalf of Santa Fe County, I want to affirm the County's strong support for the Aamodt Litigation Settlement Act (H.R. 3342). Santa Fe County expresses its great appreciation to you for your continued support of the settlement and urges your help in securing passage of this very important legislation.

As I testified this past session before the House Subcommittee on Water and Power, the settlement will achieve a fair and equitable resolution of the difficult and entrenched water disputes that have plagued the Pojoaque Valley for so many years. Rather than defining winners and losers, the settlement protects existing uses and allows for future growth by careful management of available water resources. At the same time, it recognizes and safeguards time immemorial and senior use priorities of Pueblos and early Spanish acequias. The settlement also creates a reliable supply to more recent domestic and commercial uses, and is flexible enough to account for changing uses in the future. Without settlement, I am certain valley residents will be subjected to intractable and divisive litigation for many years, fostering regional conflict and leaving junior water users at great risk of curtailment.

Also, as I have previously testified, I recognize that some of my non-Pueblo constituents continue to be dissatisfied with the settlement. Consequently, the County will be conducting a series of community outreach and settlement focus meetings in the coming months. We will do this even if the legislation is first enacted into law. The County has contracted with the adjudication ombudsman program at the University of New Mexico to facilitate the community outreach program. The purpose of the meetings will be to hear public concerns and to provide information about the settlement. Ultimately, the settlement must be accepted by the community to succeed.

On behalf of Santa Fe County, I greatly appreciate your help with this matter.

Sincerely,

HARRY B. MONTOYA,
Santa Fe County Commissioner.

RIO DE TESUQUE ACEQUIA ASSOCIATION,
Santa Fe, NM, January 18, 2010.

DEAR CONGRESSMEN LUJÁN, TEAGUE AND HEINRICH: As president of the board of directors of the Rio De Tesuque Acequia Association, I have been asked to reiterate our support for the proposed settlement agreement of the long standing Aamodt water rights litigation, as per H.R. 3342.

We represent 5 acequias and over 150 irrigation users (parciantes). We have worked with our neighbors at the Tesuque Pueblo for several decades now and we all feel that the settlement represents a good solution for both parties.

The settlement assures all parties a good and reliable water supply for both the acequias and the domestic users. As irrigators, we know the importance of this and know that we cannot be serious about agriculture unless we know we have a reliable source of water.

We appreciate your support and look forward to your vote in support of legislation that will enable the settlement.

Sincerely,

MARGO CUTLER,
President.

Santa Fe, NM, January 18, 2010.

Re H.R. 3342, The Aamodt Litigation Settlement Act.

Hon. BEN RAY LUJÁN,
Cannon House Office Building,
Washington, DC.

DEAR REPRESENTATIVE LUJÁN: I write in strong support of H.R. 3342, The Aamodt Litigation Settlement Act. As you know, my Administration has been instrumental in bringing the interested parties together to reach a settlement and potential closure to this matter. I have witnessed the extraordinary effort that all of the parties have exerted to successfully resolve some of the most contentious issues related to the Aamodt litigation. The parties' commitment to resolution is commendable and should be recognized. Should Congress not pass this Act, it will not only be disappointing to all involved but could also open all of the parties up to more litigation and costly delay.

For its part, New Mexico stands ready to meet its obligations under any settlement. Through legislation that I supported and ultimately signed into law, the State has already committed in statute $1.0 million in bonding authority as part of the State's share of any settlement. As such, the State is ready to assist in the implementation of any settlement achieved through the passage of H.R. 3342.

Passage of this bill would not only end more than forty years of contentious litigation, but would render a conclusion that is amendable to many. I urge you and your colleagues to pass H.R. 332 and I offer any support that you may need to achieve this worthy goal.

Sincerely,

BILL RICHARDSON,
Governor.

RIO POJOAQUE ACEQUIA
AND WATER WELL USERS ASSOCIATION,
January 14, 2010.

Hon. BEN RAY LUJÁN,
Attention Andrew Jones, Legislative Director,
House of Representatives, Washington, DC.

DEAR REPRESENTATIVE LUJAN: On behalf of the Rio Pojoaque Acequia and Water Well Users Association, I am writing to you to reiterate our strong support for the Aamodt Litigation Settlement Act (H.R. 3342), legislation you introduced in July 2009 and favorably reported by the Committee on. Natural Resources on January 12, 2010.

I understand the House of Representatives will consider this important legislation when it resumes legislative business during the week of January 18, 2010. As you know well, this legislation would ratify the settlement of a Federal lawsuit that was filed in 1966. The settlement itself subject to years of intense negotiations by the State of New Mexico, the City and County of Santa Fe, the Pueblos of Nambe, Pojoaque, San Ildefonso, and Tesuque and others and was signed by these parties in 2006.

In addition to resolving the water claims of the Four Pueblos and providing certainty in terms of long-term water supplies in the region, the centerpiece of H.R. 3342 is the construction of a regional water system that will provide water for residential, municipal, agricultural, and business uses and will serve the Pueblo and non-Pueblo residents in the Pojoaque Basin. I feel compelled to remind you that in the absence of congressional action on H.R. 3342, the parties would return to court and, given the priority of the Pueblos' water rights, the resulting ruling would likely be far more detrimental to the other water users in the Basin.

Thank you for your commitment to settling the Aamodt litigation and your strong support for the citizens of the Pojoaque Basin.

Sincerely,

MEADE P. MARTIN,
Vice President, Rio Pojoaque Acequia
and Water Well Users Association.

POJOAQUE VALLEY
IRRIGATION DISTRICT,
Santa Fe, NM, January 14, 2010.

Hon. BEN RAY LUJÁN,
Attention Andrew Jones, Legislative Director,
House of Representatives, Washington, DC.

DEAR REPRESENTATIVE LUJÁN: On behalf of the 18 acequia associations and over 700 water users that comprise the Pojoaque Valley Irrigation District, I am writing to you to reiterate our strong support for the Aamodt Litigation Settlement Act (H.R. 3342), legislation you introduced in July 2009 and favorably reported by the Committee on Natural Resources on January 12, 2010.

I understand the House of Representatives will consider this important legislation when it resumes legislative business during the week of January 18, 2010. As you know well, this legislation would ratify the settlement of a Federal lawsuit that was filed in 1966. The settlement itself subject to years of intense negotiations by the State of New Mexico, the City and County of Santa Fe, the Pueblos of Nambe, Pojoaque, San Ildefonso, and Tesuque and others and was signed by these parties in 2006.

In addition to resolving the water claims of the Four Pueblos and providing certainty in terms of long-term water supplies in the region, the centerpiece of H.R.3342 is the construction of a regional water system that will provide water for residential, municipal, agricultural, and business uses and will serve the Pueblo and non-Pueblo residents in the Pojoaque Basin. I feel compelled to remind you that in the absence of congressional action on H.R. 3342, the parties would return to court and, given the priority of the Pueblos' water rights, the resulting ruling would likely be far more detrimental to the other water users in the Basin.

Thank you for your commitment to settling the Aamodt litigation and your strong support for the citizens of the Pojoaque Basin.

Sincerely,

DAVID ORTIZ,
Chairman,
Pojoaque Valley Irrigation.

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

Mr. Speaker, the issue that we are debating here is not the settlement claims per se. I think we all in this House agree that if you can get agreement with parties involved in litigation and come to agreement amongst them, that is good policy. That has very well been explained by my friends on the other side of the aisle. But what is at issue here is the third part, and that is: Is this claim going to be beneficial to the taxpayers by not costing the taxpayers more than if they went through litigation? That is what the issue is. It is very clear.

Now, the gentleman from New Mexico just a moment ago said something to the effect that this would save the taxpayers money by not going through litigation. I would like to ask the gentleman, and I will yield to the gentleman if he can provide me documents as to that fact. I would be more than happy to yield to the gentleman if he can provide that to me.

Mr. LUJÁN. I appreciate the ranking member from the Natural Resources Committee yielding to me.

Mr. Speaker, what we have here is clear language on the dockets of the State of New Mexico that has been expressed by many of the parties which encouraged them to go to litigation, that very much do hold—that senior water rights holders in the State of New Mexico, which these tribal communities are, do hold senior water rights.

Mr. HASTINGS of Washington. Reclaiming my time, Mr. Speaker, the question I asked the gentleman was about a statement that he made that it would be more costly to go through litigation than to settlement. I asked the gentleman very specifically if he has documentation to that effect. And so I hope that the gentleman would respond to me on that point because that is the difference in this debate on this bill and the last bill.

I would be more than happy to yield to the gentleman if he has that documentation.

Mr. LUJÁN. Mr. Speaker, as we are talking about the importance of how we can achieve cost savings to taxpayers across the country, it is important that we understand the laws and the protections that are held to those individuals that are senior water rights users, which clearly is the reason why so many people could be impacted. And as litigation continues, the cost of litigation adds additional cost to the taxpayers of the country.

Mr. HASTINGS of Washington. Mr. Speaker, I want to interrupt.

Do you have documentation to that point? We asked the Department of Justice specifically on that point, and they have not responded. Do you have documentation on that point? Listen, if this saves the taxpayer money, I am totally in favor of it. All we are asking is for that documentation. If the gentleman has it, please provide it. Does the gentleman have it?

I yield to the gentleman from New Mexico.

Mr. LUJÁN. Mr. Speaker, it is clear that I don't have the response that my ranking member colleague may be looking for. But his counsel may inform him as well as our counsel has informed us that some of that documentation is not public record at this time. With that, I tried to answer the question, but I apologize to the ranking member that we are not able to provide the answer that the ranking member may be looking for.

Mr. HASTINGS of Washington. Reclaiming my time, Mr. Speaker, I just want to emphasize, this is the core point. The gentleman just said he doesn't have it, and yet we are being asked here, Members of the U.S. House, representing everybody in this country, taxpayers who may not be involved with this, to pass judgment and support this settlement agreement when we don't know if the cost is beneficial or not. That's the issue.

I would hope, as I said in my closing remarks on the first bill, when we have future settlements coming forward we can have this information, full transparency, Mr. Speaker, in committee so we don't have to go through this drill on the floor and go back and forth and then unfortunately have somebody say we don't have this documentation.

Mr. Speaker, that's the issue here. We are not arguing about the benefits of the claims. I am sure that they are very good. There have been long negotiations.

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

Mr. RAHALL. Mr. Speaker, I am happy once again to yield such time as he may consume to the cosponsor of this litigation, the gentleman from New Mexico (Mr. HEINRICH).

Mr. HEINRICH. Mr. Speaker, I am very pleased to stand in solidarity with my colleague, Representative BEN RAY LUJÁN, in bringing this very challenging chapter in New Mexico history to a close. I also want to thank Chairman RAHALL and Chairwoman Napolitano for their support of this settlement.

The Aamodt water rights litigation is literally the oldest active case in our Nation's Federal Court, literally older than myself and my colleague. Since 1966, these communities have waited for a resolution to this case. The bill here before us represents the culmination of decades of hard work and difficult compromise by the effective stakeholders to negotiate an agreement that meets each community's long-term needs.

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During the committee hearings we heard from representatives of local, State, and Pueblo governments. And I want to commend each of them for their enduring efforts to achieve this settlement.

The Aamodt water settlement will enable the Secretary of Interior, through the Bureau of Reclamation, to create a long-awaited regional water system. That system will be jointly operated by Santa Fe County, along with the four northern New Mexico Pueblos, and provide a great deal of certainty to all Rio Grande water users. Sixty percent of its capacity will deliver water to the Pueblos, 40 percent will go to the county water utility.

This legislation has been a generation or more in the making, and I look forward to its long-awaited contribution to the well-being of the Pueblos and the future of the entire State of New Mexico.

I would urge my colleagues' support.

Mr. HASTINGS of Washington. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from California (Mr. DANIEL E. LUNGREN).

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, I rise in support of the idea of transparency in this and in all things. I think that some observers may not appreciate the issues that are before us when we are dealing with Indian rights, whether it is settlement or something else, because of the unique situation of Native Americans in the United States and how the relationship that we have with the Indian Nations is as a result directly of the Constitution of the United States.

Often it is good for us to remind ourselves of the first principles involved when we are dealing with these issues. And therefore, Mr. Speaker, I would like to also mention that today, in a blow for freedom, in a tremendous action of a return to first principles under the Constitution, the United States Supreme Court finally got it right. The United States Supreme Court, in the case of Citizens United v. Federal Election Commission, finally focused on the first amendment and talked about the essence of the first amendment being political speech.

We have been distracted so often in other decisions by the Court that they have lost in many times their focus on the fact that the first amendment is in essence a protection of our political speech. And today they overruled a previous case where they had wandered from that. They said to us that Congress cannot in fact make choices between preferred speakers and nonpreferred speakers, preferred organizations and nonpreferred organizations.

And here is one of the kernels of truth contained in today's majority opinion. "Political speech is so ingrained in this country's culture that speakers find ways around campaign finance laws." That oftentimes in this body we, in the effort to try and cleanse the political system from the possibility of people who might take undue advantage of it, render political speech to the sidelines. And the Court has said the people are smarter than that. They can get around that, and therefore we ought to attempt to allow the full flowering of political speech.

The Court also said this. "Rapid changes to technology—and the creative dynamic inherent in the concept of free expression—counsel against upholding a law that restricts political speech in certain media or by certain speakers." This is a great day, Mr. Speaker. This is a great day. The Court said, "Differential treatment of media corporations and other corporations cannot be squared with the first amendment, and there is no support for the view that the amendment's original meaning would permit suppressing media corporations' political speech."

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. HASTINGS of Washington. I yield the gentleman an additional 30 seconds.

Mr. DANIEL E. LUNGREN of California. It is said that their previous decision in Austin allows "censorship that is vast in its reach, suppressing the speech of both for-profit and nonprofit, both small and large, corporations."

Earlier this week the people of Massachusetts reminded us that here the people prevail, that the Constitution starts with the words, "We, the people." That despite what the pundits say, despite what special interests say, the people prevail. Today the Supreme Court said the people can speak. It is a great day.

Mr. RAHALL. Mr. Speaker, I have no further requests for time, and I am prepared to yield back the balance of my time.

Mr. HASTINGS of Washington. Mr. Speaker, if I understand, the gentleman will be the last speaker. I know my friend Mr. MCCLINTOCK is not going to offer his amendment. So I will close and I will yield myself the balance of the time by simply saying, Mr. Speaker, that the issue here is not the benefits of these settlements. We think those settlements are good. The one element that we have a question on is what is the cost to the taxpayer? I think that is a very, very legitimate issue for us in the U.S. House to consider.

So with that reason, as I mentioned earlier, I have to reluctantly oppose all three of these bills. And I would hope in the future at the committee level we can have this full transparency on future settlements that we will inevitably have in this Congress.

With that, Mr. Speaker, I urge my colleagues to vote "no" on this bill, and I yield back the balance of my time.

Mr. RAHALL. Mr. Speaker, just to conclude and reiterate what I have already said, that 44 years of litigation is far too long, 40 years of litigation is far too long. We all know the tremendous costs involved in litigation to the Federal taxpayer, the amount of salaries paid to judges, lawyers. We could go on and on about the costs that the taxpayer ends up bearing over some 44 years of litigation, longer time period than Moses spent in the desert. So with that, I would say that this bill is certainly economical to the American taxpayers, and I would urge its passage.

I yield back the balance of my time.

The SPEAKER pro tempore. All time for debate on the bill has expired.

The Chair understands that the amendment will not be offered.

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

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

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

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

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

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

The yeas and nays were ordered.

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

WHITE MOUNTAIN APACHE TRIBE WATER RIGHTS QUANTIFICATION ACT OF 2009

Mr. RAHALL. Mr. Speaker, pursuant to House Resolution 1017, I call up the bill (H.R. 1065) to resolve water rights claims of the White Mountain Apache Tribe in the State of Arizona, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

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

The amendment in the nature of a substitute printed in the bill, modified by the amendment printed in part C of House Report 111–399, is adopted.

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

H.R. 1065

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''White Mountain Apache Tribe Water Rights Quantification Act of 2009''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) proceedings to determine the nature and extent of the water rights of the White Mountain Apache Tribe, members of the Tribe, the United States, and other claimants are pending in—

(A) the consolidated civil action in the Superior Court of the State of Arizona for the County of Maricopa styled In re the General Adjudication of All Rights To Use Water In The Gila River System and Source, W–1 (Salt), W–2 (Verde), W–3 (Upper Gila), W–4 (San Pedro); and

(B) the civil action pending in the Superior Court of the State of Arizona for the County of Apache styled In re the General Adjudication of All Rights to Use Water in the Little Colorado River System and Source and numbered CIV–6417;

(2) a final resolution of those proceedings might—

(A) take many years;

(B) entail great expense; and

(C) prolong uncertainty concerning the availability of water supplies;

(3) the Tribe, non-Indian communities located near the reservation of the Tribe, and other Arizona water users have entered into the WMAT Water Rights Quantification Agreement—

(A) to permanently quantify the water rights of the Tribe, members of the Tribe, and the United States in its capacity as trustee for the Tribe and members in accordance with the Agreement; and

(B) to seek funding, in accordance with applicable law, for the implementation of the Agreement;

(4) it is the policy of the United States to quantify and settle Indian water rights claims, and to promote Indian self-determination and economic self-sufficiency, without lengthy and costly litigation, if practicable;

(5) certainty concerning the extent of the water rights of the Tribe will—

(A) provide opportunities for economic development of all parties to the proceeding; and

(B) assist the Tribe to achieve self-determination and self-sufficiency; and

(6) in keeping with the trust responsibility of the United States to Indian tribes, and to promote tribal sovereignty and economic self-sufficiency, it is appropriate that the United States implement the Agreement.

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

(1) to authorize, ratify, and confirm the Agreement;

(2) to authorize and direct the Secretary to execute the Agreement and carry out all obligations of the Secretary under the Agreement;

(3) to authorize the actions and appropriations necessary for the United States to meet the obligations of the United States under the Agreement and this Act; and

(4) to permanently resolve certain damage claims and all water rights claims among—

(A) the Tribe and its members;

(B) the United States in its capacity as trustee for the Tribe and its members;

(C) the parties to the Agreement; and

(D) all other claimants in the proceedings referred to in subsection (a)(1).

SEC. 3. DEFINITIONS.

In this Act:

(1) AGREEMENT.—The ''Agreement'' means—

(A) the WMAT Water Rights Quantification Agreement dated January 13, 2009; and

(B) any amendment or exhibit (including exhibit amendments) to that agreement that are—

(i) made in accordance with this Act; or

(ii) otherwise approved by the Secretary.

(2) BUREAU.—The term ''Bureau'' means the Bureau of Reclamation.

(3) CAP.—The term ''CAP'' means the reclamation project authorized and constructed by the United States in accordance with title III of the Colorado River Basin Project Act (43 U.S.C. 1521 et seq.).

(4) CAP CONTRACTOR.—The term ''CAP contractor'' means an individual or entity that has entered into a long-term contract (as that term is used in the repayment stipulation) with the United States for delivery of water through the CAP system.

(5) CAP FIXED OM&R CHARGE.—The term ''CAP fixed OM&R charge'' has the meaning given the term in the repayment stipulation.

(6) CAP M&I PRIORITY WATER.—The term ''CAP M&I priority water'' means the CAP water having a municipal and industrial delivery priority under the repayment contract.

(7) CAP SUBCONTRACTOR.—The term ''CAP subcontractor'' means an individual or entity that has entered into a long-term subcontract (as that term is used in the repayment stipulation) with the United States and the District for the delivery of water through the CAP system.

(8) CAP SYSTEM.—The term ''CAP system'' means—

(A) the Mark Wilmer Pumping Plant;

(B) the Hayden-Rhodes Aqueduct;

(C) the Fannin-McFarland Aqueduct;

(D) the Tucson Aqueduct;

(E) any pumping plant or appurtenant works of a feature described in any of subparagraphs (A) through (D); and

(F) any extension of, addition to, or replacement for a feature described in any of subparagraphs (A) through (E).

(9) CAP WATER.—The term ''CAP water'' means ''Project Water'' (as that term is defined in the repayment stipulation).

(10) CONTRACT.—The term ''Contract'' means—

(A) the proposed contract between the Tribe and the United States attached as exhibit 7.1 to the Agreement and numbered 08–XX–30–W0529; and

(B) any amendments to that contract.

(11) DISTRICT.—The term ''District'' means the Central Arizona Water Conservation District, a political subdivision of the State that is the contractor under the repayment contract.

(12) ENFORCEABILITY DATE.—The term ''enforceability date'' means the date described in section 9(d)(1).

(13) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(14) INJURY TO WATER RIGHTS.—

(A) IN GENERAL.—The term ''injury to water rights'' means an interference with, diminution of, or deprivation of, a water right under Federal, State, or other law.

(B) INCLUSIONS.—The term ''injury to water rights'' includes—

(i) a change in the groundwater table; and

(ii) any effect of such a change.

(C) EXCLUSION.—The term ''injury to water rights'' does not include any injury to water quality.

(15) LOWER COLORADO RIVER BASIN DEVELOPMENT FUND.—The term ''Lower Colorado River Basin Development Fund'' means the fund established by section 403 of the Colorado River Basin Project Act (43 U.S.C. 1543).

(16) OFF-RESERVATION TRUST LAND.—The term ''off-reservation trust land'' means land—

(A) located outside the exterior boundaries of the reservation that is held in trust by the United States for the benefit of the Tribe as of the enforceability date; and

(B) depicted on the map attached to the Agreement as exhibit 2.57.

(17) OPERATING AGENCY.—The term ''Operating Agency'' means the 1 or more entities authorized to assume responsibility for the care, operation, maintenance, and replacement of the CAP system.

(18) REPAYMENT CONTRACT.—The term ''repayment contract'' means—

(A) the contract between the United States and the District for delivery of water and repayment of the costs of the CAP, numbered 14–06–W–245 (Amendment No. 1), and dated December 1, 1988; and

(B) any amendment to, or revision of, that contract.

(19) REPAYMENT STIPULATION.—The term ''repayment stipulation'' means the stipulated judgment and the stipulation for judgment (including any exhibits to those documents) entered on November 21, 2007, in the United States District Court for the District of Arizona in the consolidated civil action styled Central Arizona Water Conservation District v. United States, et al., and numbered CIV 95–625–TUC–WDB (EHC) and CIV 95–1720–PHX–EHC.

(20) RESERVATION.—

(A) IN GENERAL.—The term ''reservation'' means the land within the exterior boundary of the White Mountain Indian Reservation established by the Executive order dated November 9, 1871, as modified by subsequent Executive orders and Acts of Congress—

(i) known on the date of enactment of this Act as the ''Fort Apache Reservation'' pursuant to the Act of June 7, 1897 (30 Stat. 62, chapter 3); and

(ii) generally depicted on the map attached to the Agreement as exhibit 2.81.