with traffic congestion and air pollution.

The bipartisan brownfields bill will make major strides in revitalizing sites across the country. They are small sites, typically for $200,000 and less. They can be turned into productive urban centers or rural centers where commerce can take place and jobs exist.

The bill provides critically needed funds to assess and clean up abandoned and underutilized brownfield sites. They can use them for parks and greenways. They encourage cleanup and redevelopment of the properties by providing another important element: legal protection for innocent parties such as contiguous property owners and prospective purchasers, innocent land owners. They need to know that their liabilities are limited. Otherwise they are not going to take the risk in putting money into the sites.

It helps, also, to encourage other cleanups of State and local sites creating a certainty for those who would invest there, and ensures protection for public health. When the sites are revitalized, the results are obvious: jobs, a stronger local tax base, curbing sprawl, preserving open space, and protecting the health of our citizens.

Some suggest there are other ways to solve this problem by revitalizing or reforming or reauthorizing our Superfund Program. That is a nice idea, but unfortunately, we have been working 8 years to get the parties together to get the Superfund Program reauthorized. The Superfund handles the enormous sites that dot our landscape, without success.

I, personally, since I have been so involved in the environmental committee and in environmental issues, wanted to get to work on Superfund and get it done before I left the Senate, which is effectively in the next few days. I will have lost my opportunity to talk on this floor and get some of the things done that we still have ahead. The value of this legislation is real and it is current.

While the sites, by their very definition, are not the size of Superfund sites, the overwhelming majority of brownfields are not Federal cleanup problems but are being cleaned up by States and local governments.

This bill will give incentives and protection at those hundreds of thousands of State sites. We owe this relief to our communities. They can take the money and get an investor to develop the site. We should not hold this bill hostage. There are 67 Members, two-thirds of the Senate, bipartisan, who do not want to see this bill lying around here and not getting passed. Mr. President, 67 Senators have spoken. Business groups support this, as do environmentalists, and State and local governments. The legislation ought to pass.

It is a very simple task. The time for this bill to pass is now. I hope my colleagues will act to move this legislation as quickly as possible. They have cosponsored the bill. If we can just put it in the line of things, it need not take a long time to debate or discuss. I hope we can pass this legislation soon.

I yield the floor.

MAKING FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 2001

The PRESIDING OFFICER. Under the previous order, H.J. Res. 114 is read the third time and passed.

The motion to reconsider is laid upon the table.

COLORADO UTE SETTLEMENT ACT AMENDMENTS OF 2000

The PRESIDING OFFICER. The Senator from Colorado.

Mr. CAMPBELL. I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 723, S. 2508, as under a previous order. I further ask consent that any votes ordered with respect to that legislation be stacked to occur at a time to be determined by the majority leader with the concurrence of the minority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2508) to amend the Colorado Ute Indian Water Rights Settlement Act of 1988 to provide for a final settlement of the claims of the Colorado Ute Indian Tribes, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 4303

Mr. CAMPBELL. Mr. President, I call up my amendment No. 4303.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Colorado [Mr. CAMPBELL], for himself, Mr. ALLARD, Mr. BINGAMAN, and Mr. DOMENICI, proposes an amendment numbered 4303.

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. CAMPBELL. I ask unanimous consent that 30 minutes of debate on the bill be under my control, and that 30 minutes of debate on Senator FEINGOLD's amendment be divided, 20 minutes under Senator FEINGOLD's control and 10 minutes under my control.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CAMPBELL. Mr. President, I am pleased to be joined in offering the proposed amendment by three of my distinguished colleagues: Senator ALLARD, who is with me on the floor tonight; Senator BINGAMAN; and Senator DOMENICI from New Mexico. This is a bipartisan effort. I thank each of them for their support. All four of us representing the States of Colorado and New Mexico have actively supported this project since its inception. And, hopefully, S. 2508 will be the last time we need to deal with this long overdue project.

In 1956 and 1968, decades ago—in fact, before I was ever elected to any public office—the United States promised the residents of southwestern Colorado they could count on the Government to assist them in developing the region by ensuring an adequate and reliable water supply for the benefit of the tribes and the non-Indian community. In fact, in 1968, this project was authorized at the same time as the central Arizona project and the central Utah project, both of which have been completed.

Even before that, nearly 100 years before in 1868, the United States made a treaty that guaranteed the southern Ute and Ute Mountain Indian tribes of California a permanent homeland. No one could suggest this did not include the right to an adequate water supply.

In 1987, as a freshman Member of the House of Representatives, I introduced legislation to settle the Ute water rights claims. This settlement act was signed by President Ronald Reagan in November of 1988. For the next two Congresses, I worked to obtain the funding needed to implement this agreement, as did my colleagues from New Mexico and Colorado. The 1988 settlement act is currently the law of the land.

Unfortunately, that law has never been complied with. When I came to the Senate, I worked to secure the funding for the massive environmental studies needed on the proposed projects. I have also worked to prevent misguided attempts to deauthorize or defund this necessary project. The Federal Government's responsibility to build this project is even more urgent because the Colorado Ute tribes have claims to much of the water that is already being used and has been used for generations by their non-Indian neighbors.

The urgency of this bill has increased too because under the 1988 Agreement the Tribes can go back to court to sue the Federal Government if the project was not completed by the year 2000. That is obviously not going to happen.

The four of us I have fought for the fulfillment of these promises because I know what will happen if the Government is allowed to forget its promise to this region and walk away from its commitment to provide a firm water supply. Most important, the united States, the State of Colorado, the two Ute Tribes, and the non-Indian residents will spend the next few decades and millions of dollars in the Federal courts fighting for the limited water supply that exists in this region. There will only be losers in this fight because the non-Indians will lose the legal right to use the water, and the indians may never have the ability to put the water to use. The ironic part is that if

this issue ends up in the courts—it will pit one Federal agency against another with your tax money paying for attorneys on both sides.

As the author of the Colorado Ute Indian Water Rights Settlement Act of 1988 and now as the chairman of the Senate Indian Affairs Committee, I have an additional responsibility to make the United States fulfill its promise to this region.

The Ute Water Rights Settlement Act of 1988 is a commitment to the Ute Tribes. This commitment is very similar to the 472 treaties previously approved by the United States Senate. In those treaties, each tribe agreed to give up a great deal in return for a guarantee that the United States would recognize and protect the tribes' rights to the reservation land guaranteed to them by the treaty. Also, as with other treaties, the opponents did not even wait until the ink was dry before they began trying to convince the United States to break its terms. Even though the States of Colorado and New Mexico have spent over $40 million to implement their part of the agreement. and Congress has already appropriated over $50 million which went to pay the Tribes to drop their lawsuits.

All of the 472 other treaties have been violated by the United States. But in this case, if the government does not fulfill the treaty terms, it is not only the Indians who will suffer, but all of the non-Indians in the region.

As many of my colleagues are aware, the United States has two choices when it comes to the Ute water rights: we can build the facilities needed to store water for the tribes or we can reallocate the water from those who are presently using it. Estimates are that between ¼ and ½ of all non-Indian irrigators would lose their water rights if we forcibly reallocate it.

Throughout a negotiation process sponsored by the state of Colorado, the tribes and local water users tried to convince the project opponents that reallocating the limited water supply is an unrealistic, risky, and disruptive way to resolve the tribal water rights claims; because it deprives hundreds of non-Indian water users of their rights to life giving water.

Clearly, the ALP opponents will continue to oppose any project that provides any water storage. Compromise—and this bill is the 4th one—is not in their vocabulary. When the opponents tried to use environmental laws to delay and frustrate the project, the coalition of Indian tribes and local water users responded in two ways. First, they agreed to reduce the size of the project, so it could be built in a manner consistent with numerous existing environmental studies and reports, and would cost ⅓ of the cost of the original project. They also insisted that any reduction in the project size should require the government to make use of its existing studies when analyzing the project's environmental impact; rather than restart the whole process all over again.

It was difficult to convince me that we should follow this strategy and agree to build only a small part of the ALP that was passed in 1988. When I introduced this proposal in the last Congress, I knew that even a substantially reduced project would not satisfy the project's opponents. They don't want a smaller project: they want a dead project. I also knew that these opponents would work to mischaracterize any attempt to make use of the existing environmental documents. We did not have to wait very long for everyone to see that each of these concerns was correct. During the 105th Congress, the last time we reached a compromise and a bill was introduced, an administration official appeared before my committee and opposed a bill that offered to downsize the project in order to settle the tribal water rights claims.

But this left the administration with no feasible way to resolve the tribal claims. In fact, as the Department of Interior began to produce a new supplemental environmental impact statement, it compared the smaller project with the idea of just buying water rights. Even the present management of the Department of Interior could not deny that the only realistic, feasible alternative available to the government is to store some of the waters of the Animas River.

The Record of Decision signed by the Interior Secretary on September 25, 2000 explicitly and implicitly recognize all of these facts. It can be found at http://indian.senate.gov.

In fact Mr. President, the lateness of having this Record of Decision on file is the reason we could not move this bill sooner. For the first time, this administration is strongly on record in favor of settling tribal water claims by building an off-stream storage facility at Ridges Basin. The Record of Decision also rejects the any alternative to settling the tribal water claims, especially the unrealistic, risky, and disruptive schemes that have been proposed by the opponents of the ALP.

Although I have agreed to sponsor this amendment, which implements the Record of Decision, I am still very concerned that the non-Indian beneficiaries of the project have been asked to give up too much. I am sure that there are those who will ask these people to give up even more. But I think that they have given up more than enough.

Under my amendment, the Animas-La Plata Project will consist of the facilities needed to divert and impound water in an off-stream reservoir. This provision will only take effect if these features are actually constructed. By taking this step, a number of potential project beneficiaries agree to forgo a substantial number of benefits that were promised to them by their own government in 1968.

In my view, the Federal Government is not fulfilling all of its obligation to these people, but they seem to have no alternative. They will receive substantially fewer benefits than they were promised. In addition, they will bear an even greater share of the cost for the benefits than those using Federal reclamation projects in other states, especially in the States of Arizona, California, and Utah which were originally authorized at the same time in 1968.

Many people now regret the subsidy of western water development, so they are taking it out on the ALP. However, in this case, they cannot do this without injuring the Ute Tribes. Some people will argue that they are only opposed to the part of the project that provides water to non-Indians. But the Ute Tribes refuse to allow the Federal Government to break all of its promises to the non-Indian project beneficiaries. Why? Because the Ute tribes know that they will be next. The tribes and their non-Indian neighbors have held together in a unique and strong coalition of Indians and their non-Indian neighbors that from my perspective is quite rare.

This project has been an 18 year effort for myself, for Senator BINGAMAN, Senator ALLARD and Senator DOMENICI. We worked together on it. The tribes have worked in good faith with the non-Indian project users to produce an agreement that allows the project to be built in a manner consistent with every existing environmental study and standard. We are consistent in the writing of this bill. As I understand the Record of Decision, the Department of Interior has also concluded that the time for studying the project has come to an end. And the time for actually fulfilling the government's promises to Indians and non-Indians is finally at hand.

For these reasons, I ask my colleagues to support S. 2508 as presented in amendment No. 4303. This is the last best chance for the United States to live up to the obligations freely embraced in 1956, 1968, and 1988, not to mention the 1868 treaty with the Ute Tribe.

Mr. President, I ask unanimous consent the following letters of support of the bipartisan version of S. 2508 be printed in the RECORD, opposed to the Feingold amendment: From the State of Colorado, the Governor of Colorado, the Attorney General of Colorado, elected tribal governments of Ute Mountain and Southern Ute Indian Tribe, and the Native American Rights Fund.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

STATE OF COLORADO,
Denver, CO, October 17, 2000.

DEAR REPRESENTATIVE: Before you decide whether to support the scaled-down Animas La Plata Project as described in H.R. 3112 and S. 2508 (as now proposed by Senator Campbell), the people of the State of Colorado urge you to consider the following facts:

The Clinton Administration has completed NEPA review of the scaled-down ALP as proposed by Secretary Babbitt in August of 1998.

The Department of Interior's Final EIS, and the accompanying Record of Decision

signed by Secretary Babbitt, both determined that the scaled-down project ''is the environmentally preferred alternative, to implement the 1988 Settlement Act'' with the Colorado Ute Tribes.

The proposed amendments by Senators Campbell and Allard ensure repayment of all non-Indian water supply costs. There are no ''caps'' on the non-Indian repayment obligation. In fact, the bill calls for an up-front payment and a final cost allocation after the project is completed. The Record of Decision and the Campbell/Allard amendment both require repayment to comply with federal law—it is the opponents who want to change federal law with respect to project repayment.

The legislation allows for only the construction of the scaled-down project—it prevents construction of any part of the ALP that is not explicitly referenced in the bill. This preserves the complex balance of interstate issues on the Colorado River while preventing the construction of components not referenced in the legislation.

The amendments proposed by Senators Campbell and Allard remove any language from the bill that could remotely be construed as ''sufficiency language'' that would preclude future environmental review. Through the Record of Decision, the Department of the Interior, the Environmental Protection Agency and the Council on Environmental Quality call on Congress to amend the 1988 Act to provide for the construction of the scaled-back project.

In light of the federal government's trust obligation to the Colorado Ute Indian Tribes, Congress has a responsibility to know the facts about the project. Once you know the facts, I'm sure you will join us in supporting legislation to resolve this 100 year Indian water rights controversy. Thank you.

Sincerely,

BILL OWENS,
Governor.

ATTORNEY GENERAL OF COLORADO,
Denver, CO, June 16, 2000.

Re: Animas-La Plata project

Wesley Warren,
Associate Director for Natural Resources, the Environment and Science, Office of Management and Budget, Old Executive Office Building, Washington, DC.

DEAR WESLEY: Thank you for meeting with me by telephone yesterday. I think our discussion was very productive. I want to follow up with a more detailed explanation of why it is important to the State of Colorado that Ute Tribes settlement legislation not deauthorize those features of the Animas-La Plata Project that are not currently contemplated.

In 1956, Congress enacted the Colorado River Storage Project Act to enable the states of the Upper Colorado River Basin to use their compact allocations. CRSP is composed of four initial storage units—Aspinall, Flaming Gorge, Navajo, and Glen Canyon—and 25 additional authorized participating projects in Colorado, New Mexico, Utah, and Wyoming—eight of which (including Animas-La Plata) have not been built.

The CRSP Act authorized a separate fund in the United States Treasury, the Upper Colorado River Basin Fund. Revenues in the Basin Fund collected in connection with operation of the initial units are used first to repay the operating costs of the initial units and second to repay the United States Treasury investment costs previously spent on those units. Any excess revenues from the initial units are then used to help repay the Treasury for participating project irrigation costs within each upper basin state that exceed the irrigators' ability to repay. These excess revenues are apportioned among Colorado (46%), Utah (21.5%), Wyoming (15.5%), and New Mexico (17%).

This allocation of Basin Fund revenues was the result of hard bargaining among the upper basin states. Colorado anticipated that a large part of its allocation would be used to repay the irrigation costs of the Animas-La Plata Project, and those costs are still included in the apportioned revenue repayment schedule. Although H.R. 3112 and S. 2508 authorize a much smaller project than originally contemplated and completely eliminate irrigation uses, the authorized participating project still serves as a ''placeholder'' for Colorado's share of the Basin Fund. Colorado could in the future seek legislation that would allow it to use those revenues for other purposes, such as the endangered species recovery programs on the Colorado River, San Juan River, and Platte River.

Environmental and ''green scissors'' organizations have raised the concern that, unless the remainder of Animas-La Plata is deauthorized, the reduced project will be a foot in the door for a larger project. H.R. 3112 and S. 2508 address that concern by explicitly requiring express Congressional authorization before any other facilities could be added. Moreover, any additional facilities would be subject to all the requirements of NEPA, the Clean Water Act, and the Endangered Species Act. In short, any attempt to build additional project facilities would encounter all the obstacles that have blocked construction in the past.

Although I believe that the ''delinking'' language of H.R. 3112 and S. 2508 is adequate to ensure that the smaller project is not the opening wedge for a larger project, Colorado and its water users are willing to work with the Administration to satisfy its concerns. We ask that you meet us halfway, however, and to insist on language that could deprive Colorado of the benefit of hard-fought negotiations and a carefully crafted agreement with the other upper basin states and the United States. This narrow Indian water rights settlement legislation is not the place to try to resolve broader ''law of the river'' issues.

Another issue that is important to Colorado and its water users is the repayment provision. We agree that the non-Indian project partners should pay their full share of project costs. However, it is important that Colorado water users have the option of paying their share as a lump sum prior to construction. In agreeing to a smaller project, the State of Colorado and its water users are giving up substantial benefits negotiated as part of the original settlement and Phase I of the project. In return, we should receive reasonable certainty as to project costs. I also urge the Administration to deal fairly with water users in determining reimbursable costs. For instance, they should not be held responsible for sunk costs associated with water that will not be provided to them by the reduced project.

I appreciate the Administration's support for this legislation. I am committed to working with the Administration to achieve final settlement this session. Please feel free to call me if I can be of any assistance.

Sincerely,

KEN SALAZAR.

UTE MOUNTAIN UTE TRIBE,
SOUTHERN UTE INDIAN TRIBE,
October 18, 2000.

DEAR SENATOR: We are writing as the elected leaders of the Southern Ute and Ute Mountain Ute Indian Tribes to ask that you support the bipartisan version of S. 2508 introduced by Senators Campbell, Bingaman, Domenici and Allard on October 6, 2000, and oppose the amendment offered by Senator Feingold of Wisconsin.

The bipartisan version of S. 2508 is the product of years of hard work by our Tribes, the States of Colorado and New Mexico and local water users. Just like any other settlement, S. 2508 is the result of many compromises that were required to make it acceptable to all of the affected parties. Our settlement has the full support of the Clinton Administration.

Senator Feingold's proposed amendment upsets this delicate balance. First, it singles out the non-Indian parties to our settlement to pay the costs for recreation and fishery uses which benefit the general public. Such costs have never before been imposed on those who use water from federal reclamation projects. Second, the amendment demands that Colorado, alone among the Colorado River Basin States, surrender significant revenues from the power generated on the Colorado River in order to settle the pending tribal claims to water. These belated and punitive changes impose an unfair burden on our settlement partners.

Please help us to complete the settlement of our tribal water rights by opposing Senator Feingold's amendment which undermines the equitable agreement which the Tribes and our non-Indian neighbors have negotiated.

Sincerely,

JOHN BAKER, Jr.,
Chairman, Southern Ute Indian Tribe.
ERNEST HEUSE, Sr.,
Chairman, Ute Mountain Ute Tribe.

NEW MEXICO
INTERESTATE STREAM COMMISSION,
Santa Fe, NM, October 19, 2000.

Senator BEN NIGHTHORSE CAMPBELL,
Chairman, Senate Indian Affairs Committee, Washington, DC

DEAR SENATOR CAMPBELL: As chairman of the New Mexico Interstate Stream Commission, I urge you to defeat Sen. Russell Feinglold's proposed amendments to S. 2508 because they are unfair and contrary to current law. Your substitute bill, which is the product of compromise and sacrifice by New Mexico, should be passed without amendment.

The substitute bill we have is fair to the parties, and it should not be changed at this late date. The proposal to make fish and wildlife mitigation expenses reimbursable is patently unfair to the people of New Mexico. The recreation facility is in Colorado, and making New Mexicans pay for the mitigation is unreasonable. More importantly, the provision is contrary to the 1956 Colorado River Storage Project Act, Section 620g of the Act specifically says that fish and wildlife mitigation activities will be non-reimbursable.

The irony is that if the project proponents had not reached a compromise to settle the Indian water claims and built the Animas-La Plata Project, the mitigation costs would not be reimbursable. But this amendment punishes new Mexico and the Colorado non-Indians for compromising by taking away that protection and making the costs reimbursable. Likewise, the amendment to remove the protection of the Colorado River Storage Project Act on payment issues is unjust. It is an issue of simple fairness. Additionally, this is not the proper vehicle for changing Reclamation law. The amendments should be defeated.

The amendment to change the deauthorization provision of the bill also should be defeated. Under the current bill, once the ALP is constructed, any further facilities would require Congressional action. This in effect is deauthorization. Under Feingold's amendment, the deauthorization is included in the bill, but there is no guarantee of construction of the project.

We've seen the federal government back out of building this project many, many times, and we don't trust them. We want the project to be built, then we'll accept the provision that additional facilities must obtain separate Congressional authorization. Reversing the order, as provided in the amendment, is not acceptable.

Both versions have equivalent results in terms of making sure additional facilities obtain new Congressional approval, but Feingold's version does not give us the necessary guarantee that the project will be built before the provision takes effect. It should be defeated along with the rest of his amendments.

Senator Campbell, I appreciate your hard work on this important legislation, and I urge you to pass it without the amendments offered at the 11th hour.

Sincerely,

RICHARD P. CHENEY,
Chairman.

SAN JUAN WATER COMMISSION,
Farmington, NM, October 19, 2000.

Senator BEN NIGHTHORSE CAMPBELL,
Chairman, Senate Indian Affairs Committee, Washington, DC.

DEAR SENATOR CAMPBELL: As Executive Director of the San Juan Water Commission, I urge you to defeat Sen. Russell Feingold's proposed amendments to your S. 2508 as amended because they are unfair and contrary to current law. Your substitute bill, which is the product of hard compromise and sacrifice by New Mexico, should be passed without further amendment.

The substitute bill treats all parties fairly, and it should not be changed now. The proposal to make fish and wildlife mitigation expenses reimbursable is grossly unfair to New Mexico. The recreation facility is in Colorado, and making New Mexicans pay for the mitigation is unreasonable. More importantly, the provision is contrary to the 1956 Colorado River Storage Project Act. Section 620 g of the Act specifically says that fish and wildlife mitigation activities will be non-reimbursable.

If the project proponents had not reached a compromise to settle the Indian water claims and built the Animas-La Plata Project, the mitigation costs would not be reimbursable. But this amendment punishes New Mexico and the Colorado non-Indians for compromising by taking away that protection and making the costs reimbursable. Likewise, the amendment to remove the protection of the Colorado River Storage Project Act on payment issues is unjust. Additionally, this is not the proper vehicle for changing Reclamation law. The amendments should be defeated.

The amendment to change the deauthorization provision of the bill also should be defeated. Both versions have equivalent results in terms of making sure additional facilities obtain new Congressional approval, but Feingold's version does not give us the necessary guarantee that the project will be built before the provision takes effect. It should be defeated along with the rest of his amendments.

If the Feingold amendments are passed, the San Juan Water Commission will be forced to reconsider its support for S. 2508 as you reported it in the Congressional Record. Senator Campbell, we appreciate your hard work on this important legislation, and I urge you to pass it without the amendments.

Sincerely,

L. RANDY KIRKPATRICK.

UTE MOUNTAIN UTE TRIBE
SOUTHERN UTE INDIAN TRIBE,
September 13, 2000.

TAKE NOTE: IT'S NOT YOUR FATHER'S ALP
(H.R. 3112 AND S. 2508)

No matter how things change, they remain the same.

Opponents of the Colorado Ute Indian Water Rights Settlement Act and proposed amendments which would drastically reduce the size and cost of the Animas-La Plata Project continue to distort the truth about our Tribes, the project's impacts and its costs.

The Southern Ute and Ute Mountain Ute Indian Tribes, and our sister Tribes the Navajo Nation and the Jicarilla Apache Tribe, strongly support legislation which would amend the original Settlement Act of 1988 to provide for the construction of a downsized reservoir.

Opponents still believe they know better than the Tribes themselves how best to settle our water rights claims. In a September 5 letter from the Green Scissors Campaign, they say there is a less costly and less environmentally destructive way to achieve that goal. They offer you no explanation of what that alternative is. They also don't tell you that the recently completed analysis under NEPA finds that the least costly and least environmentally destructive solution to resolving our water rights is to build the reduced-size project. The nonstructural alternative favored by the opponents of the Indian settlement will cost more than the down-sized ALP and that its impact on wetlands in particular is more destructive than ALP. And, they won't tell you that our Tribes have emphatically rejected the nonstructural alternative.

Still, the opponents of our Indian water rights settlement say the project as proposed is a foot in the door for the project authorized in 1968. Read carefully, H.R. 3112 and S. 2508 clearly cut the tie between this project and any other facilities for purposes of our settlement, and the bills explicitly state that any additional facilities separate from this project would require new authorization from Congress.

The local rafting industry, devastated this year by drought says the project will forever affect their livelihood and dewater the river. In fact, the current NEPA analysis finds that, on average, only six of 112 rafting days with flow of 300 cfs or higher would be lost.

Opponents of our settlement continue to claim that our non-Indian neighbors will get subsidized water for development and that they are the true beneficiaries of H.R. 3112 and S. 2508. The bills provide for small amounts of water for the two non-Indian water districts for rural and domestic use purposes, and storage of water already allocated to New Mexico communities. Current law does not require that "other project costs" be paid by water users as suggested by our opponents, and the non-Indians will be required to pay an amount determined by agreement with the Administration for their portion of the water.

Finally, to suggest that "a water project of this size should not be constructed without full and fair environmental review" is ludicrous. The settlement was approved in 1988. Repeated environmental and public review have taken place before that and since then. An entirely new NEPA analysis has just been completed and we are awaiting the issuance of a Record of Decision. The pending NEPA document indicates this proposal to be the best way, economically and environmentally, to provide full settlement of our legitimate claims. It also concludes it is the best alternative for the other Tribes—Navajo and Jicarilla—in the basin.

Let's get to the bottom line. No project, regardless of its size or the amount of water provided to our people, will ever get the support of our opponents. Storage of our water is our "foot in the door" for a long-term, firm supply of water for present and future generations of Utes.

When the House Resources Committee marked up H.R. 3112, only one member voted no and one voted present. In the Senate Indian Affairs Committee, no opposing votes were cast. Clearly there is recognition of sacrifices made in the name of fulfilling our settlement.

Those who have fought the Animas-Las Plata Project and our settlement as a symbol of the past (Jurassic Park) should declare victory and move on. Costs are cut by two-thirds, the lion's share of the water goes to our Tribes and irrigation facilities have been eliminated. Everyone has compromised except the opponents.

We hope that you will look at today's Animas-La Plata Project, and how much has been foregone by our non-Indian neighbors in order to fulfill the promise of the 1988 Act and the government's word of more than a century ago.

Thank you in advance for keeping faith and supporting amendments to the Colorado Ute Indian Water Rights Settlement Act.

Chairman JOHN E. BAKER, Jr.,
Southern Ute Indian Tribe.

Chairman ERNEST HOUSE, Sr.,
Southern Ute Indian Tribe.

NATIVE AMERICAN RIGHTS FUND,
Boulder, CO, October 18, 2000.

DEAR SENATOR: I am distressed by continued opposition to the Colorado Ute Indian Water Rights Settlement and construction of a much-downsized Animas-La Plata Project to implement the settlement passed in 1988. The Native American Rights Fund also opposes the Feingold amendments to the pending Senate bill S. 2508.

During the last 12 years, I have watched the Southern Ute and Ute Mountain Ute Indian Tribes struggle to achieve their goal of a firm water supply for present and future generations, without taking water away from their neighbors. In the course of that struggle, many sacrifices have been made in an effort to address concerns opponents raised about project cost, environmental impacts, even the allocation of water between Indians and non-Indians.

Now, those who have sacrificed nothing—made no compromises at all—continued to urge Congress to reject the amendments which would downsize the project. It seems nothing will satisfy project opponents except no project at all.

I urge you to support the Campbell amendment to the Colorado Ute Indian Water Rights Settlement Act. Those amendments implement the Record of Decision signed by the Secretary of the Interior Bruce Babbitt on September 26 of this year. NARF also urges a no vote on the proposed amendments by Senator Feingold. Further delay in satisfying the Utes' legitimate claims is further injustice to the Ute people.

Sincerely,

JOHN E. ECHOHAWK.

Mr. CAMPBELL. Mr. President, before I yield the floor, I would like to yield a few minutes to Senator ALLARD, my colleague, who has also worked on this bill for so long.

Mr. ALLARD addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, I thank my colleague from Colorado for yielding me some time here. This is an important piece of legislation that my colleague has been working for. I rise in support of S. 2508, called the Colorado Ute Settlement Act Amendments of 2000. It has been worked on for some 18 years by my colleague, Senator BEN NIGHTHORSE CAMPBELL. I wish to take a few moments to commend everyone who has worked on behalf of this piece of legislation, and for their efforts to resolve this issue.

In Colorado, earlier this year—maybe it was last year—there was a group of us who did get together, Congressman MCINNIS, myself, we had Senator CAMPBELL, and Secretary of Interior Babbitt.

We got together what we called the great sand dunes conference. All four of us walked up on those great majestic sand dunes. We talked about the future of the great sand dunes, and we had a discussion about the Animas project. At that point, we had our staffs standing off on the far side. All of our supporters were wondering what the four of us were talking about. We were talking about common ground and how we could come to an agreement to get the Animas-La Plata project passed. It was a great opportunity my colleague took at that time to talk to the Secretary of Interior while he was breathing some of that fresh mountain air of Colorado and clearing his thinking a little bit, and that got things off to a good start.

This new legislation is a product of that meeting, and it reflects significant compromises and challenges we all faced in getting to this historical moment.

Growing up in rural Colorado and throughout my tenure as a public servant, it seems the Animas-La Plata conflict has endured. Every time water and water projects were discussed, the promises and unsettled claims to the Colorado Ute Indian tribes always persisted.

Now the time has come for the Federal Government to fulfill its obligations to the Ute Indian tribes and satisfy the water treaty.

The project was originally authorized in 1968 with the help of then-Congressman Wayne Aspinall, a good friend of the Allard family and former chairman of the House Interior Committee. I knew Mr. Aspinall. He served Colorado honorably. Over the past 32 years, since authorization, we have tried to get this project completed with bipartisan efforts by former Congressmen Ray Kogovsek and Mike Strang. Now, with the outstanding leadership of Senator CAMPBELL, who for 14 years has championed this project, I believe the end is near. After 132 years, the time has come for the United States to finally do the right thing and meet its treaty obligations.

I commend Senator CAMPBELL for his tireless efforts, from his days in the House of Representatives, to his current time in the Senate and through three different Presidential administrations, to fulfill our Nation's treaty obligations.

I yield the floor.

The PRESIDING OFFICER (Mr. BENNETT). The Senator from Colorado.

Mr. CAMPBELL. Mr. President, I yield to my friend from New Mexico, Senator BINGAMAN, who has worked long and hard on this issue.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I thank my colleague from Colorado. Senator CAMPBELL has worked very hard on this. This has been a major project of his. I do not know how many conversations he and I have had on this subject in the last 2 years, but I can tell you it has been many. There have been many of those conversations.

In 1988, Congress passed legislation endorsing a settlement of Indian water rights for the southern Ute and Ute Mountain Indian Tribe which had been agreed to by the Departments of Justice and Interior, the two tribes, and the State of Colorado and the State of New Mexico. But that 1988 legislation envisioned an Animas-La Plata River Project that would meet a number of regional water needs, including the water for the Navajo Nation and the non-Indian communities.

The project envisioned by that legislation has proven infeasible to implement in terms of the cost and also in terms of the environmental consequences, but the need to settle these water rights and live up to the national commitment to these two tribes remains. The two Ute tribes and their neighbors within the San Juan basin have developed a revamped water allocation for a downsized Animas project which the Ute tribes will agree to as a settlement of their water rights. The allocation also supplies a much needed water supply to the Shiprock community of the Navajo Nation and continues the concept that tribes in non-Indian communities must work together collaboratively on a regional basis to solve their water needs.

The downsized project is in accordance with the final environmental impact statement issued by the Department of the Interior. In the judgment of the Secretary of Interior, it would comply with Federal environmental laws. He has made that very clear. The Secretary has determined that the project authorized in this legislation also will meet the trust responsibilities of the United States with regard to the settlement of the water rights of these two tribes.

This is a project and an issue that has been a concern of people in the northwest part of New Mexico for many years. I have seen various versions of this project discussed and considered over this period of time. I am persuaded that this final so-called ''Animas Lite,'' which is what is generally discussed, or the name that has come to be attached to what is now being considered by the Senate, is a good resolution of many conflicting and competing concerns.

I hope very much that we can pass this bill, that we can do so without amendment, and that we can send it to the President for his action.

Again, I commend Senator CAMPBELL for his hard work in getting us to this point. I hope very much we can follow his lead and send this legislation to the President for his signature.

Mr. President, I yield the floor and yield back my time.

Mr. DOMENICI. Mr. President, I am very pleased today, Mr. President, that Senator CAMPBELL introduced this critical legislation, and am proud to have supported and cosponsored his efforts from the beginning. He and I have faced many a battle regarding this issue over the years. I believe, however, that this legislation reflects the cooperative efforts among the parties to secure needed water supplies in Colorado and New Mexico, and I am pleased it may finally become law.

While we are running out of time in this Congress, the Secretary of Interior signed a Record of Decision on September 25 supporting these amendments, and his staff helped to negotiate them. The time is ripe for action. After years of hard work by the proponents, everyone is ready to move forward.

The Southern Utes and the Ute Mountain Utes have a 5-year window before they have to sue to enforce their water rights. Passage of this legislation will settle negotiated claims by the Colorado Ute Tribes on the Animas and La Plata Rivers, while protecting other water users.

For years now, the San Juan Water Commission, together with non-Indian water users in New Mexico, Colorado, and the Ute Mountain Ute and Southern Ute tribes have been negotiating with the Department of the Interior, the Environmental Protection Agency and other to resolve the complex problems surrounding the Animas-La Plata project and water usage in the four corners area. The bill has Administration support, which has been long-fought and hard-won. Finally, the administration has shown their interest in settling the Colorado Ute Indian water rights claims by accepting the tribes' own suggestions and water needs of the Four Corners non-Indian community.

In New Mexico, this legislation will provide needed water for the Navajo Community of Shiprock and protect San Juan-Chama project water, on which tribes, towns and cities along the Rio Grande rely. The New Mexico portion of the project will be used by the San Juan Water Commission to provide water to the residents of North Western New Mexico and by the Navajos for their use in the Northern Navajo Nation. This legislation is not intended to quantify or otherwise adversely affect the water rights of the Navajos, and they support this legislation.

In anticipation of development of the Animas-La Plata project, the state of

New Mexico set aside 49,200 acre feet of water in 1956. Importantly, this legislation allows the State Engineer from the State of New Mexico to return all or any portion of the New Mexico water right permit to the Interstate Stream Commission or the Animas-La Plata beneficiaries.

I am pleased the proponents of the Animas-La Plata project have participated in the long process to search for compromise. I support the direction of the participants in this process to reduce costs, provide environmental benefits, and provide water for the Colorado Ute tribes under the 1988 Settlement Act.

Mr. President, the administration has a duty to protect the federal trust relationship with the Ute tribes, as well as a duty to the state of New Mexico to make good on the promises of 40 years ago. S. 2508 represents a compromise for which all parties affected have labored long and hard to achieve. It is the long-overdue vehicle for implementing the United States' promise of water to New Mexico, Colorado and the Colorado Ute tribes while still addressing the needs of endangered species and the American taxpayer. Water scarcity continues to be a critical issue in the arid West and no one would benefit from litigation of water rights if we do not press forward.

According to recent scientific predictions, rationing may be required within the next two years. Successful development of additional water in the San Juan Basin, with its endangered fish, will give the rest of New Mexico good arguments why other endangered fish, such as the silvery minnow, can co-exist with additional water development. Additionally, successful settlement of the two tribes' claims will remove the threat of disrupting the water supply vital to the economic and industrial base for Northwest New Mexico, which contributes to the rest of New Mexico. The citizens of Northwest New Mexico have waited more than 40 years for this water—that's long enough.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. CAMPBELL. Mr. President, I thank my friend and colleague from New Mexico. We are neighbors. Certainly his northern New Mexico area and the southwest Colorado area have histories which are very similar, our present is similar, and our futures are literally tied together. I thank him for the years of service and hard work he has done on this issue.

Mr. President, I have no further comments. I ask unanimous consent, as under the agreement, Senator FEINGOLD be recognized to offer his amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Wisconsin.

AMENDMENT NO. 4326 TO AMENDMENT NO. 4303

Mr. FEINGOLD. Mr. President, I thank the Senator from Colorado. Pursuant to the previous order, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD] proposes an amendment numbered 4326 to amendment No. 4303.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 10 of the amendment, line 11, insert '', to restrict the availability or scope of judicial review, or to in any way affect the outcome of judicial review of any decision based on such analysis'' before the period.

On page 10 of the amendment, strike lines 12 through 23 and insert the following:

''(C) LIMITATION.—No facilities of the Animas-La Plata Project, as authorized under the Act of April 11, 1956 (43 U.S.C. 620)(commonly referred to as the 'Colorado River Storage Act'), other than those specifically authorized in subparagraph (A), are authorized after the date of enactment of this Act.

On page 11 of the amendment, beginning on line 21, strike ''Such repayment'' and all that follows through ''.).'' on line 24.

On page 12 of the amendment, line 9, insert after the period the following: ''Fish and wildlife mitigation costs associated with the facilities described in paragraph (1)(A)(i) shall be reimbursable joint costs of the Animas-La Plata Project. Recreation costs shall be 100 percent reimbursable by non-tribal users.''.

On page 13 of the amendment, beginning on line 2, strike ''Additional'' and all that follows through line 6.

Mr. FEINGOLD. Mr. President, I rise to offer an amendment to the substitute offered by my colleague from Colorado, Mr. CAMPBELL. I do so fully acknowledging that the Animas-La Plata project, as outlined by the Senator from Colorado's substitute amendment, has undergone a significant modification from its original configuration. What was a more than $750 million dam, reservoir, pumping plant, and associated pipelines and irrigation components, is now proposed to be a much smaller and less costly reservoir project to satisfy the Ute and Navajo claims and provide water delivery to the Navajo Reservation. The scaled-down project is now a $278 million project to build a reservoir and pipeline according to the administration's Record of Decision released on September 25, 2000.

The Senator from Colorado and I have shared an interest in settling the Utes' claims for many years. We agree that those claims must be settled and that construction of a reservoir is an acceptable way to achieve that goal. Moreover, he has worked to accomplish that objective. In passing his substitute, Congress will be seeking to downsize the project to effectuate a settlement that satisfies the tribes water needs at 100 percent Federal cost, which is appropriate. However, and I want to make this clear to colleagues, the sized-down project also provides a significant new water supply for non-tribal municipal and industrial use. The Senator from Colorado's substitute amendment guarantees that about 35 percent of the water held in the reservoir would be stored for use by non-tribal interests: 10,400 acre feet for the San Juan Water Commission; 2,600 acre feet for the Animas-La Plata Conservancy District; 5,230 acre feet for the State of Colorado; and 780 acre feet to the La Plata Conservancy District of New Mexico.

So this legislation is not solely an Indian water rights settlement. The Senator from Colorado and I differ in our opinions as to how the nontribal entities should be treated in this legislation, and that is why I am offering my amendment today. I want to make sure that the outcome Congress is ''seeking'' to implement through this legislation is one that it actually finds. I have three reasons for offering this amendment, which I will describe in a little bit of detail.

First, I remain concerned that the substitute only does half the job with respect to making sure that the taxpayers are off the hook for the original full-scale project. Those who support the construction of the Animas-La Plata project now want to proceed with an alternative which they believe to be a cheaper and scaled-down version of the original project. They want to do so, however, without expressly deauthorizing the original project. It appear to me that proponents won't give up the authorization for the original project because it provides them with the ultimate insurance. Should this alternative be infeasible, retaining the original authorization would allow a fallback position for proceeding with the old project. My amendment makes it absolutely clear that Congress is granting its approval only for the scaled-back year 2000 version of the project and not the original 1956 version of the project.

By deauthorizing all additional features of the old project, Congress would ensure that no such project features or components could be built without a demonstration by the project proponents that such features meet specific economic and engineering standards designed to protect the Federal Treasury, public safety and welfare. The Reclamation Project Act of 1939 requires engineering feasibility reports, cost estimates and economic analyses for a ''new project, new division of a project, or new supplemental works on a project * * *'' A project which is not authorized would be considered a ''new project, new division of a project, or new supplemental works on a project'' and be subject to the planning and reporting requirements. The substitute of the Senator from Colorado allows a future Congress to give its approval for a project or part of a project which has previously been authorized as part of the Animas-La Plata project as described in the Colorado River Storage Project Act of 1956.

So, what it comes down to without my amendment, it is not clear that the additional construction would be subject to any feasibility requirements. I think taxpayers have a right to know that information.

Moreover, newly authorized projects are also subject to the Economic and Environmental Principles and Guidelines for Water and Land Resources Implementation Studies—known as ''Principles and Guidelines''—promulgated pursuant to the Water Resources Planning Act of 1965. The Principles and Guidelines are the seminal policy statement requiring Bureau projects to integrate full economic cost recovery, financial and economic feasibility principles, and protection of the environment into planning for water resource projects. The Principles and Guidelines are the bridge between the old era of costly and economically ruinous Bureau projects and a new era of careful, resource protective planning. Many Members of this body fought hard to ensure these reforms would move forward. The old full-size Animas-La Plata project has not been analyzed under the Principles and Guidelines. One of the key criticisms of the old project has been the Bureau of Reclamation's failure to utilize the current discount rate, the cost of any electric power revenues produced by the project, and other economic variables in its studies. So if my amendment becomes law, any future features would be subject to the planning requirements of the Principles and Guidelines.

The second point of my amendment is that it requires that nontribal water users actually pay recreation and fish and wildlife costs. The nontribal project proponents have argued that because section 8 of the Colorado River Storage Project Act of 1956 makes recreational and fish and wildlife costs nonreimbursable for the projects it authorized, they should not have to repay such costs. ALP in its original, 1956, design, with no Indian water rights purposes or beneficiaries, was authorized by CRSP. I believe that the nontribal water users should pay these costs for a couple of reasons.

First, the administration's Final Supplemental Environmental Impact Statement for ALP takes the position that the version of the ALP project now being proposed for construction is so significantly different in size, features and purposes that the limitation in section 8 of CRSP does not apply. Page 5, Section 1.8 of that appendix states:

> A contemporary determination of reimbursable and non-reimbursable project costs is justifiable based on the significant re-defining of the current project's purpose and limitation of water use as well as current Administration policies.

Second, as the just-quoted language implies, the policy of the current administration, as well as the policy of preceding administrations throughout the 1980s and 1990s, has been to seek reimbursement of recreation and fish and wildlife mitigation costs of Federal water projects. There are numerous examples, such as the Garrison project, Central Utah Project, and the Central Valley Project Improvement Act. Many Members of this body worked hard to enact these reforms. In fact, obtaining reimbursement for recreation and fish and wildlife mitigation costs has been an element of Federal policy dating back to the Fish and Wildlife Coordination Act of 1946, Federal Water Project Recreation Acts of 1965 and 1974, and various Water Resource Development Acts, most notably WRDA 1986.

Obtaining reimbursement for fish and wildlife and recreation costs is far from unprecedented, and, in fact, is consistent both with contemporary policy and with the actual practice of recent years. We are authorizing a smaller project today, and that smaller project should be held to year 2000 reimbursement standards.

In addition to making clear the intent of Congress to require the repayment of fish and wildlife costs, my amendment further clarifies the amount of construction costs that the nontribal water users have to repay to the Federal Government. The substitute of the Senator from Colorado gives the nontribal water users the right to prepay for construction. At the end of the construction they are given the choice of electing whether to make a second payment to settle their account with the Federal Government. If they choose to enter into a new contract, under the terms of the substitute, they are required to only repay construction costs that are ''reasonable and unforeseen.'' I think that allowing a second bite at the apple by giving water users the option of not making the second payment is a big enough gift from the taxpayers. I have repeatedly opposed prepayment because I believe and feel that the taxpayers often get stuck for contract delays and cost overruns. I am concerned that the substitute opens the door to allowing the definition of ''reasonable and unforseen'' to be argued in court. My amendment makes it clear that, when the final tally is levied, even though that is a practice I find questionable, it should include all of the costs—all the costs—the Federal Government has incurred.

Third, and finally, I remain concerned that the findings in section 1(b) of the substitute may have the unintended effect of influencing a court's review of the sufficiency of agency compliance with Federal environmental laws applicable to the Animas-La Plata project. My amendment adds language to the bill to make sure that tampering with court review does not occur.

Colleagues may say, well, these are only findings in the bill. What effect could they possibly have on a court? I would ask my colleagues to first ask themselves what other purpose these findings could possible have in this bill that is not to have influence on a court.

Second, these finds are a compromise from the prior version of S. 2508, which included explicit determinations by Congress entitled ''compliance with the National Environmental Policy Act'' and ''compliance with the Endangered Species Act of 1973'' and which relied in part upon the findings. These sections have been deleted from the substitute, but the findings remain as determinations by Congress that could be used to attempt to influence judicial review of compliance with environmental laws.

For example, the finding in section 1(b)(5) states in effect that the passage of S. 2508 is ''in order to meet the requirements of the Endangered Species Act.'' The finding that Congress has reviewed all of the environmental studies—section 1(b)(8)—in combination with the finding that Congress has decided to enact S. 2508 to implement the Record of Decision that resulted from those environmental studies—section 1(b)(10)—would have the effect, I am afraid, of influencing a court's review of a challenge to the adequacy of the studies or the soundness of the decision contained in the Record of Decision.

Indications of Congress's substantive views about a proposed project, as expressed in the legislation authorizing the project, have been used by the federal courts in evaluating whether the project complies with applicable federal environmental laws. Because the findings in S. 2508 appear to be designed to influence judicial review, as explained above, and because the precise intent of the findings is open to interpretation, a reviewing court could ascribe little weight, extreme weight, or no weight at all to these findings during the course of ruling upon a citizen suit.

To neutralize this potential impact upon a reviewing court in a subsequent citizen challenge to environmental compliance, I propose to add language, so that section 2(a)(1)(B) will read:

> Nothing in this Act shall be construed to predetermine or otherwise affect the outcome of any analysis conducted by the Secretary or any other federal official under applicable laws, to restrict the availability or scope of judicial review, or to in any way affect the outcome of judicial review of any decision based on such analysis.

I believe overall that this amendment in all its parts will make this bill better. It commits the Federal Government solely to the construction of a reservoir and protects the taxpayer. It preserves the right of courts to review the project's environmental compliance and it ensures that the nontribal water recipients pay their fair share. So, Mr. President, I urge my colleagues to support this amendment.

Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

Mr. FEINGOLD. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. There are 8½ minutes.

Mr. FEINGOLD. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. CAMPBELL. Pursuant to the unanimous consent agreement, I will, at the end of my statement, move to table Senator FEINGOLD's amendment. Also pursuant to that agreement, I request 10 minutes of the 30 that has been agreed to under the unanimous consent.

Each of the changes proposed by Senator FEINGOLD is either unnecessary or would have the opposite effect to what he intends. I will tell the Senator, who I consider a good friend, that I was in his State just last week with his very fine Governor, Tommy Thompson, traveling across the State doing several things. It was raining the whole time I was there. I rather marveled about how green and nice it was and how much water it had. I was somewhat envious coming from a State that has to store roughly 85 percent of its water needs a year. And as I looked around, I saw many roads and bridges and more than one or two lakes that I think had been paid for with the taxpayers' money in one form or another.

I would tell him that if he lived in a State such as mine or any of the Western States, as the Presiding Officer lives, he would understand how desperately we need water and how in a fast growing State it puts more and more strains and stresses on existing water.

I will talk about the Senator's amendment a little bit. Senator FEINGOLD's amendment proposes that we make existing Federal reclamation law inapplicable to non-Indian project beneficiaries. The Senator asks the Senate to amend S. 2508 to eliminate all references to the Colorado River Storage Project Act of 1956. I don't know the age of the Senator, but I have a hunch it was about the time he was born. I assume Senator FEINGOLD believes that his amendment will make the repayment obligations more fair. In fact, it would be completely unfair to require these individuals to bear a greater repayment burden than all the other projects constructed under the authority of the 1956 and 1968 act. It would, in fact, in my view, be somewhat discriminatory against non-Indians.

If the Senate makes any of the changes proposed by Senator FEINGOLD, we will be saying that existing Federal law should not control the repayment obligation of the non-Indian water users of the project. Other water users up and down the Colorado River—and there are many in our States, as the Presiding Officer knows—will have their repayment obligation set by existing Federal law, but those getting water from this part of the Colorado River system and at this late hour will be told that a new law controls their repayment obligation.

I have to ask my colleagues, why should these project users be singled out in this manner? The most unfair part of this amendment is that it would be part of an Indian water rights settlement act. These non-Indian people are only being treated differently because they agreed to accept the smaller project as part of their agreement with the Ute Indian tribes. As the chairman of the Indian Affairs Committee, I can't think of a worse precedent or message to send. In my view, we ought to be rewarding the non-Indian neighbors who have worked cooperatively with their Indian neighbors, not making them pay more money for their cooperation.

If any of the repayment provisions proposed by Senator FEINGOLD were to pass, I would have to advise my non-Indian constituents that it is actually in their best interest to break their agreement with the tribes, because the price they must pay for fulfilling their commitment to the tribes is to give up all the rights they already have under existing law. I am sure that isn't what the Senator intends, but that will be the result of the proposed amendment.

Senator FEINGOLD's proposed change concerning project deauthorization has the same effect. Under my bill, the only parts of the project that are to be constructed are the components that are explicitly included in S. 2508. Every other part of the project cannot be built unless and until they are authorized by Congress. That is the compromise on deauthorizing the project. The administration agrees with this compromise. It was even accepted in the House Resources Committee on a bipartisan vote.

This compromise is fair because it only becomes effective if the small part of the project is actually constructed. The Senator from Wisconsin asks the non-Indian project beneficiaries, including the State of Colorado, to accept project deauthorization now and accept the Government's promise that a smaller project will be built someday. I can tell you, with the history of promises made by the Federal Government to Indians, in fact to many people in the West, I am somewhat skeptical. I know the Republican Governor of the State of Colorado and the Democratic Attorney General also reject this idea. I ask the Senate to reject it as well. It is simply not fair.

Senator FEINGOLD also proposes a provision concerning judicial review. I assume this is intended to preserve judicial review. At best, however, this will have no effect because there is nothing in the bill that constricts judicial review. There is nothing to preserve. Since the provision has no obvious application, we should be concerned that a court will be encouraged to make some kind of a provision that doesn't exist now. Maybe a court will decide to interpret the provision as an invitation to ignore all the work Congress and the administration have done to analyze the project and its alternative. There is simply no reason to take that risk.

The administration has had its say in its record of decision. Congress will have its say by enacting S. 2508. There is nothing in the bill that prevents the court from doing what courts do or what they are supposed to do. They can have their say on whether the other two branches have followed the law. There is no reason to supplement or enhance the authority of the Federal courts with respect to this bill or the project.

The most unfair change suggested by the Senator is his desire to require nontribal recreation costs be made nonreimbursable. First, this is directly contrary to existing law. Ever since Congress enacted the Colorado River Storage Project Act in 1956, all recreation and fish and wildlife enhancement costs are nonreimbursable. Senator FEINGOLD proposes we do away with that part of the law. This would require water users in New Mexico to pay for recreation facilities or benefits in Colorado. Again, this provision would be included in an Indian water rights settlement. I think it is completely unfair to have New Mexico bear additional unwarranted expenses solely because they agreed to be part of this historic agreement.

I am sure the Senator from Wisconsin means well, but meaning well is not a test of whether we should amend S. 2508. Upon inspection, none of the proposed changes is necessary and most will be harmful. Each of them would wreck years of good faith negotiations among the parties. Also, they would mean breaking explicit promises made decades ago by the Federal Government.

For those reasons, I urge my colleagues to vote to table the proposed amendment, and I move to table the amendment and ask for the yeas and nays as outlined under the unanimous consent agreement.

The PRESIDING OFFICER. The motion to table is not in order until all time has been used or yielded back.

Mr. CAMPBELL. I will withhold.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. I thank the Chair. As I understand, I have 8 minutes remaining.

The PRESIDING OFFICER. That is correct.

Mr. FEINGOLD. Mr. President, let me briefly respond to my colleague's remarks. Let me, first, indicate not only am I not insensitive to the needs of Colorado, my mother is a native of Colorado, who did not come to Wisconsin until she came to college. I have great affection for the State and certainly respect the water needs that are so central to the State and to Western States.

Let me respond to the specific points because I think we have worked together well to try to narrow our differences and to come up with this agreement in a way to try to have these matters discussed on the Senate floor in an expeditious way and to have

a vote and to have the matter go forward as appropriate.

The first point the Senator seemed to put his greatest emphasis on was whether or not the non-Native American users of the water should somehow be put in the same position of others who were the beneficiaries of the previous projects that were based in 1956. He suggested that somehow it would be discriminatory for these individuals and families to have to pay certain costs that the others did not have to pay in the past. I suppose that is one way to look at it, but I really look at it a different way.

I don't see the people who have benefited from some of these water projects in the past as really the relevant group. The relevant people now are those of us here today, both those who need the help of the water, the Native Americans and others, but also the taxpayers today. To not alter the repayment system for this is to ignore the reforms that have occurred since 1956.

There has been an effort and success in legislating a different way to handle this, to make sure that some of these expenses are reimbursed. I understand there may be those in this situation who may believe it is unfair that they are not put in the same position as those in the past, but I don't really understand how that is as important or relevant as making sure the taxpayers of today are not unfairly being discriminated against by having to pay more than they should for this project.

The Senator from Colorado even alluded in his initial remarks to the fact that he could at least understand the criticism of some of the past water projects. I think that same argument holds for some of the failure to reimburse on some of the past water projects.

This is not just my idea. I want to assure you that the OMB in this matter in their report on the Animas La-Plata project indicated this kind of reimbursement is entirely appropriate.

I will ask to have printed in the RECORD a statement of administration policy in support of my amendment. It reads in part:

> The administration understands that Senator FEINGOLD is proposing to offer a floor amendment to S. 2508. The amendment would provide additional safeguards concerning existing environmental laws, a more explicit deauthorization of unplanned project features, additional safeguarding of proposed taxpayer investment in this project, and would update the project's cost-sharing—

I emphasize ''cost sharing''—

> to reflect current Administration policy for fish and wildlife mitigation and recreation costs.

I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF ADMINISTRATION POLICY

S. 2508—TO AMEND THE COLORADO UTE INDIAN WATER RIGHTS SETTLEMENT ACT OF 1988

The Administration supports S. 2508 as proposed to be modified by the manager's amendment. The bill, as amended, would accomplish the important goal of providing for a final settlement of the water rights claims of the Colorado Ute Indian Tribes that complies with our environmental laws by authorizing a scaled-down Animas-La Plata project in conjunction with a water acquisition fund.

The Administration had noted concerns with S. 2508, as introduced, because it: (1) contained objectionable language relating to compliance with the nation's environmental laws, (2) did not adequately eliminate the extensive number of Animas project features previously authorized but not currently contemplated, and (3) shifted the risk of unforeseen construction cost increases to federal taxpayers. The latest version of the bill as modified by the manager's amendment satisfactorily addresses these concerns.

In addition, the Administration understands that Senator Feingold is proposing to offer a floor amendment to S. 2508. The amendment would provide additional safeguards concerning existing environmental laws, a more explicit deauthorization of unplanned project features, additional safeguarding of the proposed taxpayer investment in this project, and would update the project's cost-sharing to reflect current Administration policy for fish and wildlife mitigation and recreation costs.

The Administration would support the Feingold amendment, which is consistent with the Administration's Animas proposal as outlined in the Interior Department's July 2000 Final Supplemental Environmental Impact Statement and subsequent Record of Decision. However, if the Feingold amendment does not pass, the Administration supports S. 2508 as modified by the manager's amendment.

Mr. FEINGOLD. Mr. President, I am not talking about something that is actually discriminatory. It is simply inconsistent with the law and the policy with regard to how these projects should be handled today to protect taxpayers—not in 1956.

Second, the Senator from Colorado talked about the fact that, yes, our bill does try to make sure that this project, since it has been scaled down—and I give the Senator credit for that—in fact, that is what we authorized. We don't leave the door open for sort of behind-the-scenes reauthorization of this.

He does point out clearly that in certain contexts it would be necessary to actually formally reauthorize the project for additional aspects of the project.

But my understanding is—and the reason we offered this is—if this current scaled-down project is not built, there would not be a requirement of a new authorization; that the situation would revert back without the need for more authorization for the much larger project. I believe it was something like $750 million.

It is not that the Senator is wrong about the fact that there are some situations where there might be the requirement for an authorization in the future. But if it isn't built—the Senator has alluded to the possibility it wouldn't happen—if, in fact, his central complaint is that it hasn't happened, and if it doesn't happen, we don't go back to an open process to figure out what this ought to be. It automatically gets reauthorized.

That is what troubles me. That is what I want to nail down. I want to make sure this project actually fits the size it needs to be and the people who need the help will get the help they deserve.

Finally, the Senator spoke about the third part of our amendment. In fact, in our amendment we want to make sure there is the opportunity for the full judicial review that is appropriate in situations such as this.

The Senator says the bill does nothing to undo the possibility of additional review. But I have raised the concern about some of the findings that are placed in the bill and why those findings would be there if they were not in some way to influence the court.

I accept his statement. That is not his intent.

All we are trying to do is have some language, which I read into the Record. It is very simple. It states clearly that the information and findings should not be used in a way that would preclude the court from using the current laws that apply to this situation.

That is all. It certainly does no harm to the Senator's position—unless, in fact, there is something in the bill that is intended to prevent the courts from having the full opportunity to review that they now are required to do under current law.

Mr. President, I reserve the remainder of my time.

Mr. CAMPBELL. Mr. President, I guess we could talk about everything, put it on spreadsheets, and talk about the dollars spent. But the Senator from Wisconsin mentioned something that I think is very important. He talked about the relevancy.

It seems to me that relevancy is part of the big picture and whether we ought to keep our promises. After 474 broken treaties by this Nation towards Indians, isn't it time we kept one?

We made a promise in 1935 to senior citizens called Social Security. If we can break our promise to one class of people in America, why can't we break it to another? Why can't we break our promise made to senior citizens? I will tell you why. We can't and won't because it is called stepping on a third rail called the AARP. Some thirty-million seniors belong to it—or more, for all I know—and they would absolutely come down the throat of everybody that is a Member of this body. So we don't fool around with them. We don't break our promises to people with high-powered lobbyists and full-time lawyers and lots of members that can write letters and oust us out of office.

Indians can't do that. There are not many of them. They don't have much money. They lost almost everything. So they have very little voice here. It is easy to take away the promise that we made to them. I think it is wrong. We talk about relevancy. This Nation ought to be greater than that, and keep our promises.

The statement of administration policy in the last paragraph basically says

they would support this bill with or without the Feingold amendment.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I will be very brief. I respect the Senator's time, and I want to keep my promise.

I want to be absolutely clear in the Record. There is absolutely nothing in the amendment I am proposing that in any way breaks the promise to the Utes and others who will certainly benefit from this project. We are very careful about that.

But it talks about the size of the project. It is a project that the Senator from Colorado has agreed to as a scaled-down project. But surely he is not suggesting that he is breaking a promise to anybody with that proposal; therefore, neither am I by suggesting it be that size.

I just want to be sure that somehow we do not end up with a wholly larger project later on, which the Senator from Colorado has agreed to leave aside, and certainly make sure that various reimbursements become, under law, a standard practice in these kinds of situations. Certainly, that is not a breach of a promise.

This is the law of the land and the way we do these things at this point to protect our taxpayers. Surely, it is not a breach of a promise to suggest that there ought to be a chance for the kind of judicial review that should occur in situations such as this.

In fact, I would suggest to the Senator—because I think we work together well on this—that I promised months ago that my goal here was not to put a hold on the bill so it could never come up. All I said was I would like an opportunity to offer some amendment. We worked together. I agreed to a time limit, which is exactly what is happening here. The promise was kept in that regard as well.

I am trying to be constructive and improve this bill. And the administration agrees. Even though they agreed fundamentally with the legislation, they also agree that my amendment is not harmful, but is, in fact, beneficial in making the bill better in the context of keeping our promises.

I yield the remainder of my time.

Mr. CAMPBELL. Mr. President, I yield any remaining time. I move to table the Feingold amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Alabama.

ALABAMA'S DISTINGUISHED PRINCIPAL OF THE YEAR, TERRY BEASLEY

Mr. SESSIONS. Mr. President, this Capital and in the world too seldom do people of real achievement, people who have given of themselves sacrificially for others, receive proper recognition. As Leo Durocher once said, ''Nice guys finish last.'' But, today there is good news. I want to celebrate the fact that good things do happen to those who serve in America. Often, it takes time, often it comes only after long years of service, but our country still remains capable of recognizing excellence.

Today I want to describe for you the magnificent contributions to children, to teachers, to community and to the highest ideals of education and enrichment that have been made by Alabama's Distinguished Principal of the Year, Mr. Terry Beasley. The Greeks once said that the purpose of education is more than technical learning, it was to make a person ''good''. In those days, people apparently didn't have the difficulty distinguishing between good and the bad that we seem to have today. In addition to academic excellence, in abundance, Terry Beasley exemplifies ''the good.''

Although I did not know he was being considered for this award and had absolutely nothing to do with his selection, the name ''Mr. Beasley'' has always held the highest position in our family. You see, he taught our children at Mary B. Austin elementary School, a part of the public school system in Mobile County, AL, my home. He taught math and his name was mentioned with the greatest respect, even awe, by my children.

You could tell just the way they said ''Mr. Beasley'' and how often the name ''Mr. Beasley'' was repeated, that they knew he was special.

My wife, Mary, a former elementary school teacher herself, was a regular volunteer parent in the classroom at Mary B. Austin. She knew Mr. Beasley then and the fire reputation he had with teachers, principal, parents and students. People still talk about the famous school playday when Mr. Beasley would not only play ball with the children but would race the bases and slide into home. Our friends, also, with children in the school, frequently discussed his remarkable skill as a teacher and his dedication to teaching.

Before he became a teacher. Terry Beasley was a minister and youth director at a Mobile church. He considered that perhaps teaching could be a calling too, and decided to give it a try. In fact, the scripture lists ''teacher'' as a person who can be called. So he decided to give it a try. It was a divine inspiration, indeed. As he told me recently, it soon became clear to him that ''I had found my calling in teaching''. His first job was at Mary B. Austin. Certainly, his later skills as a principal benefitted from the fact that he was able to work under and observe the great leadership skills of Glenys Mason, who was principal at Austin at the time, and to work with excellent teachers.

Later, he moved across Mobile Bay to the Baldwin County school system and became principal at Fairhope Elementary School. They have 370 students and 36 teachers in the second and third grade school. Under Mr. Beasley's leadership the school has flourished.

Last year the school was recognized as having the best physical fitness program in Alabama, and was also recognized for its Kindness and Justice Program which teaches kindness and consideration to others with reference to the teachings of Dr. Martin Luther King.—We need to be intentional about these character programs. Finally, the school was also recognized as having the best elementary environmental science program in Alabama. In fact, the third graders drafted a statute which became Alabama law to name the Red Hill Salamander as the state amphibian. As a result of this work, and the efforts of the teachers, the student scores on the Stanford Achievement Test showed a significant increase.

Fairhope Elementary is a wonderful school with a diverse student population. 23 percent of the students are on free or reduced lunch and 18 percent are minority students. Mr. Beasley has created a learning environment that is dedicated to helping each child reach his/her fullest potential. He is in the classroom constantly, assisting teachers, training teachers, and insisting on excellence. His leadership is extraordinary. Being a good teacher has certainly helped him be a great principal.

As he told me, ''Math is my love, I don't claim to be an expert, but I love it. If we can't make math real then kids won't learn.'' These are not just words for Mr. Beasley. His intense interest in helping children led him to study how they learn. His experience caused him to write a paper on ''writing math''. Ohio State University wants to publish it. In this technique, Mr. Beasley encourages students to write out in their own words exactly the processes they are going through when they do their math calculations. From this experience, the student comes to understand what they do not know and the teacher is able to help them. It helps them to relieve their anxiety about math and makes them more comfortable with it. Mr. Beasley quotes John Updike as saying, ''Writing helps me clear up my fuzzy thoughts''. He adds, ''Write about math and it becomes clear.'' A principal is a valuable thing indeed, as is an exceptional teacher. This nation needs to venerate them, to lift them up and to celebrate their accomplishments. Hundreds of thousand of them strive daily to help each child learn too often with little recognition.

As Mr. Beasley notes, the scripture lists teaching as a ''calling.'' It is good for us to praise and give thanks to those who touched us with their work and those who daily work to prepare the next generation for service.

Terry Beasley is a great American with a powerful determination to fulfill his calling—to help make young people better and to help them learn. He is a native of Waynesboro, Mississippi, and his wife, Charlotte, also