

117TH CONGRESS  
2D SESSION

# S. 5068

To amend the Northwestern New Mexico Rural Water Projects Act to make improvements to that Act, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

OCTOBER 11, 2022

Mr. KING (for Mr. LUJÁN) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

NOVEMBER 29, 2022

Committee discharged; referred to the Committee on Indian Affairs

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## A BILL

To amend the Northwestern New Mexico Rural Water Projects Act to make improvements to that Act, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Navajo-Gallup Water  
5 Supply Project Amendments Act of 2022”.

1 **SEC. 2. DEFINITIONS.**

2 Section 10302 of the Northwestern New Mexico  
3 Rural Water Projects Act (43 U.S.C. 407 note; Public  
4 Law 111–11) is amended—

5 (1) by redesignating paragraphs (12), (13),  
6 (14), (15), (16), (17), (18), (19), (20), (21), (22),  
7 (23), (24), (25), (26), (27), (28), (29), and (30) as  
8 paragraphs (13), (14), (15), (16), (17), (18), (19),  
9 (20), (21), (22), (23), (24), (25), (28), (29), (30),  
10 (31), (32), and (33), respectively;

11 (2) by inserting after paragraph (11) the fol-  
12 lowing:

13 “(12) DEFERRED CONSTRUCTION FUND.—The  
14 term ‘Deferred Construction Fund’ means the Nav-  
15 ajo Nation’s Navajo-Gallup Water Supply Project  
16 Deferred Construction Fund established by section  
17 10602(i)(1)(A).”;

18 (3) in paragraph (14) (as so redesignated)—

19 (A) in the paragraph heading, by striking  
20 “DRAFT” and inserting “FINAL ENVIRON-  
21 MENTAL”;

22 (B) by striking “Draft Impact” and insert-  
23 ing “Final Environmental”;

24 (C) by striking “draft environmental” and  
25 inserting “final environmental”; and

1 (D) by striking “March 2007” and insert-  
2 ing “July 6, 2009”;

3 (4) in paragraph (19) (as so redesignated), by  
4 striking “Draft” and inserting “Final Environ-  
5 mental”;

6 (5) by inserting after paragraph (25) (as so re-  
7 designated) the following:

8 “(26) PROJECT SERVICE AREA.—The term  
9 ‘Project Service Area’ means the area that encom-  
10 passes the 43 Nation chapters, the southwest por-  
11 tion of the Jicarilla Apache Reservation, and the  
12 City that is identified to be served by the Project,  
13 as illustrated in figure IV–5 (Drawing No. 1695–  
14 406–49) of the Final Environmental Impact State-  
15 ment.

16 “(27) SAN JUAN GENERATING STATION.—The  
17 term ‘San Juan Generating Station’ means the coal-  
18 fired, 4-unit electric power plant and ancillary fea-  
19 tures located by the San Juan Mine near Waterflow,  
20 New Mexico.”; and

21 (6) by adding at the end the following:

22 “(34) WORKING COST ESTIMATE.—The term  
23 ‘Working Cost Estimate’ means the Bureau of Rec-  
24 lamation document entitled ‘NGWSP October 2020  
25 WCE’ and dated May 20, 2021, that details the

1 costs totaling \$1,705,174,000, at the October 2020  
2 price level, of the Project, as configured on that  
3 date.”.

4 **SEC. 3. NAVAJO-GALLUP WATER SUPPLY PROJECT.**

5 (a) AUTHORIZATION OF NAVAJO-GALLUP WATER  
6 SUPPLY PROJECT.—Section 10602 of the Northwestern  
7 New Mexico Rural Water Projects Act (Public Law 111–  
8 11; 123 Stat. 1379) is amended—

9 (1) in subsection (a)—

10 (A) in the subsection heading, by striking  
11 “IN GENERAL” and inserting “AUTHORIZA-  
12 TION”;

13 (B) by striking “The Secretary” and in-  
14 serting the following:

15 “(1) IN GENERAL.—The Secretary”;

16 (C) in paragraph (1) (as so designated), by  
17 striking “Draft Impact Statement” and insert-  
18 ing “Final Environmental Impact Statement, as  
19 further refined in, and including the facilities  
20 identified in, the Working Cost Estimate and  
21 any subsequent supplemental documents pre-  
22 pared in accordance with the National Environ-  
23 mental Policy Act of 1969 (42 U.S.C. 4321 et  
24 seq.).”; and

25 (D) by adding at the end the following:

1           “(2) ADDITIONAL SERVICE AREAS.—

2                   “(A) FINDINGS.—Congress finds that—

3                           “(i) expanding the Project Service  
4                           Area would create opportunities to increase  
5                           service for additional Nation Tribal mem-  
6                           bers and would not increase the cost of the  
7                           Project beyond authorization levels de-  
8                           scribed in section 10609(a); and

9                           “(ii) the unit operations and mainte-  
10                           nance costs of the Project would be re-  
11                           duced by adding more customers to the  
12                           Project.

13                   “(B) AUTHORIZATIONS FOR ADDITIONAL  
14                   PROJECT SERVICE AREAS.—

15                           “(i) NEW MEXICO.—In addition to de-  
16                           livering water supply from the Project to  
17                           the Nation communities in the San Juan  
18                           River Basin, the Nation may expand the  
19                           Project Service Area in order to deliver  
20                           water supply from the Project to commu-  
21                           nities of the Nation within the Rio San  
22                           Jose Basin, New Mexico.

23                           “(ii) ARIZONA.—In addition to deliv-  
24                           ering water supply from the Project to the  
25                           Nation communities of Fort Defiance and

1 Window Rock, Arizona, and subject to sec-  
2 tion 10603(c)(1), the Nation may expand  
3 the Project Service Area in order to deliver  
4 water supply from the Project to the Na-  
5 tion community of Lupton, Arizona, within  
6 the Little Colorado River Basin, Arizona.”;

7 (2) in subsection (b)—

8 (A) in the matter preceding paragraph  
9 (1)—

10 (i) by inserting “acquire,” before  
11 “construct,”; and

12 (ii) by striking “Draft Impact State-  
13 ment” and inserting “Final Environmental  
14 Impact Statement, as further refined in,  
15 and including the facilities identified in,  
16 the Working Cost Estimate and any subse-  
17 quent supplemental documents prepared in  
18 accordance with the National Environ-  
19 mental Policy Act of 1969 (42 U.S.C.  
20 4321 et seq.)”;

21 (B) by striking paragraph (1) and insert-  
22 ing the following:

23 “(1) SAN JUAN GENERATING STATION.—

24 “(A) IN GENERAL.—The water conveyance  
25 and storage facilities associated with the San

1 Juan Generating Station, including the diver-  
2 sion dam, the intake structure, the river pump-  
3 ing plant, the pipeline from the river to the res-  
4 ervoir, the dam and associated reservoir, the  
5 power line between the river and reservoir, and  
6 any associated land, rights-of-way, easements,  
7 or ancillary features.

8 “(B) WAIVER OF APPRAISAL.—Notwith-  
9 standing any other provision of law, the Sec-  
10 retary may waive an appraisal relating to the  
11 acquisition of the water conveyance and storage  
12 facilities associated with the San Juan Gener-  
13 ating Station described in subparagraph (A).”;

14 (C) in paragraph (2)(A)—

15 (i) by striking “River near Kirtland,  
16 New Mexico,” and inserting “Generating  
17 Station Reservoir”; and

18 (ii) by inserting “generally” before  
19 “follows United States Highway 491”;

20 (D) in paragraph (3)(A), by inserting  
21 “generally” before “follows United States High-  
22 way 550”; and

23 (E) in paragraph (5), by inserting “(in-  
24 cluding any reservoir facility)” after “treatment  
25 facility”;

1 (3) in subsection (c)—

2 (A) in the subsection heading, by inserting  
3 “AND FACILITIES” after “LAND”;

4 (B) in paragraph (1), by striking “any  
5 land or interest in land that is” and inserting  
6 “any land or facilities, or interest in land or fa-  
7 cilities, that are”; and

8 (C) by adding at the end the following:

9 “(4) LAND TO BE TAKEN INTO TRUST.—

10 “(A) IN GENERAL.—On satisfaction of the  
11 conditions described in paragraph (7) of the  
12 Agreement and after the requirements of sec-  
13 tions 10701(e) and 10703 are met, the Sec-  
14 retary shall take legal title to the following land  
15 and, subject to subparagraph (D), hold that  
16 land in trust for the benefit of the Nation:

17 “(i) Fee land of the Nation, includ-  
18 ing—

19 “(I) the parcels of land on which  
20 the Tohlakai Pumping Plant, Reach  
21 12A and Reach 12B, are located, in-  
22 cluding, in McKinley County, New  
23 Mexico—



1                   “(aa) sec. 5, T. 16 N., R. 18  
2                   W., New Mexico Prime Meridian;  
3                   and

4                   “(bb) sec. 33, T. 17 N., R.  
5                   17 W., New Mexico Prime Merid-  
6                   ian (except lot 9 and the NW<sup>1</sup>/<sub>4</sub>  
7                   of lot 4);

8                   “(II) the parcel of land on which  
9                   Reach 12.1 is located, including—

10                   “(aa) NW<sup>1</sup>/<sub>4</sub> and SW<sup>1</sup>/<sub>4</sub> sec.  
11                   5, T. 16 N., R. 18 W.;

12                   “(bb) N<sup>1</sup>/<sub>2</sub> sec. 11, T. 16 N.,  
13                   R. 19 W.; and

14                   “(cc) sec. 12, T. 16 N., R.  
15                   20 W.; and

16                   “(III) the parcel of land on which  
17                   Reach 12.2 is located, including  
18                   NW<sup>1</sup>/<sub>4</sub>. sec. 2, T. 16 N., R. 21 W.

19                   “(ii) Public domain land managed by  
20                   the Bureau of Land Management, includ-  
21                   ing—

22                   “(I) the parcel of land on which  
23                   the Cutter Lateral Water Treatment  
24                   Plant is located, including S<sup>1</sup>/<sub>2</sub> sec. 9,

1 T. 25 N., R. 9 W., New Mexico Prime  
2 Meridian; and

3 “(II) the parcel of land on which  
4 the Navajo Agricultural Products In-  
5 dustry turnout is located, including  
6 NW<sup>1</sup>/<sub>4</sub> and NE<sup>1</sup>/<sub>4</sub> sec. 34, T. 26 N.,  
7 R. 9 W., New Mexico Prime Meridian.

8 “(iii) Public domain land managed by  
9 the Bureau of Reclamation, including the  
10 land underlying the San Juan Generating  
11 Station facilities acquired by the United  
12 States.

13 “(B) PART OF NAVAJO NATION.—The land  
14 taken into trust under subparagraph (A) shall  
15 be part of the Navajo Reservation and adminis-  
16 tered in accordance with the laws and regula-  
17 tions generally applicable to land held in trust  
18 by the United States for the benefit of an In-  
19 dian Tribe.

20 “(C) LIMITATIONS.—The land taken into  
21 trust under subparagraph (A) shall be subject  
22 to valid existing rights, contracts, and manage-  
23 ment agreements, including easements and  
24 rights-of-way.

1           “(D) SAVINGS CLAUSE.—Nothing in this  
2 paragraph affects any—

3           “(i) water right of the Nation in exist-  
4 ence on the day before the date of enact-  
5 ment of the Navajo-Gallup Water Supply  
6 Project Amendments Act of 2022; and

7           “(ii) right or claim of the Nation to  
8 any land or interest in land in existence on  
9 the day before the date of enactment of the  
10 Navajo-Gallup Water Supply Project  
11 Amendments Act of 2022.”;

12           (4) in subsection (d)(1)(D), by striking “Draft”  
13 and inserting “Final Environmental”;

14           (5) in subsection (e)—

15           (A) by striking “The Secretary” and in-  
16 sserting the following:

17           “(1) IN GENERAL.—The Secretary”; and

18           (B) by adding at the end the following:

19           “(2) RENEWABLE ENERGY AND HYDRO-  
20 ELECTRIC POWER.—

21           “(A) RENEWABLE ENERGY.—For any por-  
22 tion of the Project that does not have access to  
23 Colorado River Storage Project power, the Sec-  
24 retary may use not more than \$6,250,000 of

1 the amounts made available under section  
2 10609(a)(1) to develop renewable energy.

3 “(B) HYDROELECTRIC POWER.—Notwith-  
4 standing whether a Project facility has access  
5 to Colorado River Storage Project power, the  
6 Secretary may use not more than \$1,250,000 of  
7 the \$6,250,000 authorized to be used to develop  
8 renewable energy under subparagraph (A) to  
9 develop hydroelectric power for any Project fa-  
10 cility that can use hydraulic head to produce  
11 electricity.”;

12 (6) in subsection (h)(1), in the matter pre-  
13 ceding subparagraph (A), by inserting “, store,”  
14 after “treat”; and

15 (7) by adding at the end the following:

16 “(i) DEFERRED CONSTRUCTION OF PROJECT FA-  
17 CILITIES.—

18 “(1) DEFERRED CONSTRUCTION OF PROJECT  
19 FACILITIES.—On mutual agreement between the Na-  
20 tion and the Secretary, and the Jicarilla Apache Na-  
21 tion if the deferred Project facilities benefit the  
22 Jicarilla Apache Nation, construction of selected  
23 Project facilities may be deferred to save operation  
24 and maintenance expenses associated with that con-  
25 struction.

1           “(2) DEFERRED CONSTRUCTION FUND.—

2           “(A) ESTABLISHMENT.—There is estab-  
3           lished in the Treasury a fund, to be known as  
4           the ‘Navajo Nation’s Navajo-Gallup Water Sup-  
5           ply Project Deferred Construction Fund’, to  
6           consist of—

7           “(i) amounts that correspond to por-  
8           tions of the Project that have been de-  
9           ferred under paragraph (1); and

10          “(ii) any interest or other gains on  
11          amounts referred to in clause (i).

12          “(B) USE OF THE DEFERRED CONSTRUC-  
13          TION FUND.—The Nation may use amounts in  
14          the Deferred Construction Fund—

15          “(i) to construct Project facilities that  
16          have been deferred under paragraph (1);  
17          or

18          “(ii) to construct alternate facilities  
19          agreed on under subparagraph (C).

20          “(C) ALTERNATE FACILITIES CONSISTENT  
21          WITH THE PURPOSE OF THE PROJECT.—On  
22          agreement between the Nation and the Sec-  
23          retary, and the Jicarilla Apache Nation if the  
24          deferred Project facilities benefit the Jicarilla  
25          Apache Nation, and in compliance with all ap-

1           plicable environmental and cultural resource  
2           protection laws, facilities other than those pre-  
3           viously agreed to be deferred under paragraph  
4           (1) may be constructed if those alternate facili-  
5           ties are consistent with the purposes of the  
6           Project described in section 10601.

7           “(3) AMOUNTS TO BE DEPOSITED.—Funds allo-  
8           cated from the amounts made available under sec-  
9           tion 10609(a)(1) to build facilities referred to in  
10          paragraph (1) shall be deposited into the Deferred  
11          Construction Fund.

12          “(4) ADJUSTMENTS.—On deposit of amounts  
13          into the Deferred Construction Fund under para-  
14          graph (3), the adjustments to authorized appropria-  
15          tions under section 10609(a)(2) shall no longer  
16          apply to those amounts.

17          “(5) DEADLINE TO CONSTRUCT PROJECT FA-  
18          CILITIES.—On deposit of all amounts into the De-  
19          ferred Construction Fund for construction of Project  
20          facilities agreed on under paragraph (1), the Sec-  
21          retary shall be deemed to have met the obligation  
22          under section 10701(e)(1)(A)(ix).

23          “(6) FUTURE CONSTRUCTION OF PROJECT FA-  
24          CILITIES.—On agreement between the Nation and  
25          the Secretary, and the Jicarilla Apache Nation if the

1 deferred Project facilities benefit the Jicarilla  
2 Apache Nation, the Nation shall use amounts depos-  
3 ited into the Deferred Construction Fund to con-  
4 struct—

5 “(A) Project facilities deferred under para-  
6 graph (1); or

7 “(B) alternate Project facilities described  
8 in paragraph (2)(C).”.

9 (b) DELIVERY AND USE OF NAVAJO-GALLUP WATER  
10 SUPPLY PROJECT WATER.—Section 10603(a)(3)(B) of  
11 the Northwestern New Mexico Rural Water Projects Act  
12 (Public Law 111–11; 123 Stat. 1383) is amended—

13 (1) in clause (i), by inserting “or, if generated  
14 on City-owned facilities, by the City” after “the Na-  
15 tion”; and

16 (2) in clause (ii), by inserting “, except that the  
17 City shall retain all revenue from the sale of hydro-  
18 electric power that is generated on City-owned facili-  
19 ties” after “hydroelectric power”.

20 (c) PROJECT CONTRACTS.—Section 10604 of the  
21 Northwestern New Mexico Rural Water Projects Act  
22 (Public Law 111–11; 123 Stat. 1388) is amended—

23 (1) in subsection (b)(3)—

1 (A) in subparagraph (A), by striking “sub-  
2 paragraph (B)” and inserting “subparagraphs  
3 (B) and (C)”;

4 (B) in subparagraph (B)—

5 (i) in the subparagraph heading, by  
6 striking “MINIMUM PERCENTAGE” and in-  
7 serting “MAXIMUM PERCENTAGE”;

8 (ii) by striking “at least 25 percent”  
9 and inserting “not more than 25 percent”;  
10 and

11 (iii) by striking “, but shall in no  
12 event exceed 35 percent”; and

13 (C) by adding at the end the following:

14 “(C) MAXIMUM REPAYMENT OBLIGA-  
15 TION.—The repayment obligation of the City  
16 referred to in subparagraphs (A) and (B) shall  
17 not exceed \$76,000,000.”;

18 (2) in subsection (c)(1)(B), by inserting “sub-  
19 section (f) and” before “section 10603(g)”;

20 (3) in subsection (d)(1), by striking “Draft”  
21 and inserting “Final Environmental”;

22 (4) in subsection (e), by striking “Draft” and  
23 inserting “Final Environmental”; and

24 (5) in subsection (f)—



1 (A) by redesignating paragraphs (1)  
2 through (5) as subparagraphs (A) through (E),  
3 respectively, and indenting appropriately;

4 (B) by inserting before subparagraph (A)  
5 (as so designated) the following:

6 “(1) NAVAJO NATION.—”;

7 (C) in paragraph (1) (as so designated)—

8 (i) in subparagraph (A) (as so reded-  
9 igned), by striking “may waive” and all  
10 that follows through the period at the end  
11 and inserting “shall waive, for a period of  
12 15 years, the operation, maintenance, and  
13 replacement costs allocable to the Na-  
14 tion.”;

15 (ii) in subparagraph (B) (as so reded-  
16 igned)—

17 (I) by striking “paragraph (1)”  
18 and inserting “subparagraph (A) ex-  
19 pires”;

20 (II) by striking “allocated”; and

21 (III) by inserting “that are allo-  
22 cated to the Nation” after “Project”;

23 (iii) in subparagraph (C) (as so reded-  
24 igned), by striking “paragraph (1)” and  
25 inserting “subparagraph (A)”;

1 (iv) by striking subparagraph (D) (as  
2 so redesignated) and inserting the fol-  
3 lowing:

4 “(D) ANTIDEFICIENCY.—The Secretary  
5 shall not be liable for any failure to carry out  
6 any obligation or activity authorized by this  
7 subsection if adequate appropriations are not  
8 provided expressly by an Act of Congress to  
9 carry out the purposes of this subsection.”; and

10 (v) by striking subparagraph (E) (as  
11 so redesignated) and inserting the fol-  
12 lowing:

13 “(E) TERMINATION OF WAIVER.—The  
14 waiver authorized under subparagraph (A) shall  
15 terminate with respect to a section of the  
16 Project on the earlier of—

17 “(i) the date on which that section of  
18 the Project is transferred to the Nation  
19 under section 10602(f); and

20 “(ii) the date on which the waiver  
21 granted by the Secretary under that sub-  
22 paragraph has been in place for 15  
23 years.”; and

24 (D) by adding at the end the following:

25 “(2) JICARILLA APACHE NATION.—

1           “(A) IN GENERAL.—On the date on which  
2 the Secretary declares a section of the Project  
3 to be substantially complete and delivery of  
4 water generated by and through that section of  
5 the Project can be made to the Jicarilla Apache  
6 Nation, the Secretary shall waive, for a period  
7 of 10 years, the operation, maintenance, and re-  
8 placement costs allocable to the Jicarilla  
9 Apache Nation.

10           “(B) SUBSEQUENT PAYMENT BY  
11 JICARILLA APACHE NATION.—After a waiver  
12 under subparagraph (A) expires, the Jicarilla  
13 Apache Nation shall pay all operation, mainte-  
14 nance, and replacement costs of that section of  
15 the Project that are allocated to the Jicarilla  
16 Apache Nation.

17           “(C) PAYMENT BY UNITED STATES.—Any  
18 operation, maintenance, or replacement costs  
19 waived by the Secretary under subparagraph  
20 (A) shall be paid by the United States and shall  
21 be nonreimbursable.

22           “(D) ANTIDEFICIENCY.—The Secretary  
23 shall not be liable for any failure to carry out  
24 any obligation or activity authorized by this  
25 subsection if adequate appropriations are not

1 provided expressly by an Act of Congress to  
2 carry out the purposes of this subsection.

3 “(3) CITY OF GALLUP.—

4 “(A) IN GENERAL.—On the date on which  
5 the Secretary declares a section of the Project  
6 to be substantially complete and delivery of  
7 water generated by and through that section of  
8 the Project can be made to the City, the Sec-  
9 retary shall waive, for a period of 10 years, the  
10 operation, maintenance, and replacement costs  
11 allocable to the City.

12 “(B) SUBSEQUENT PAYMENT BY CITY OF  
13 GALLUP.—After a waiver under subparagraph  
14 (A) expires, the City shall pay all operation,  
15 maintenance, and replacement costs of that sec-  
16 tion of the Project that are allocated to the  
17 City.

18 “(C) PAYMENT BY UNITED STATES.—Any  
19 operation, maintenance, or replacement costs  
20 waived by the Secretary under subparagraph  
21 (A) shall be paid by the United States and shall  
22 be nonreimbursable.

23 “(D) ANTIDEFICIENCY.—The Secretary  
24 shall not be liable for any failure to carry out  
25 any obligation or activity authorized by this

1 subsection if adequate appropriations are not  
2 provided expressly by an Act of Congress to  
3 carry out the purposes of this subsection.”.

4 (d) AUTHORIZATION OF CONJUNCTIVE USE  
5 WELLS.—Section 10606 of the Northwestern New Mexico  
6 Rural Water Projects Act (Public Law 111–11; 123 Stat.  
7 1392) is amended by adding at the end the following:

8 “(i) WELLS SERVING THE CITY OF GALLUP RE-  
9 GIONAL WATER SYSTEM.—

10 “(1) IN GENERAL.—The Secretary shall enter  
11 into a financial assistance agreement with the City  
12 to provide funding, using amounts made available  
13 under section 10609(b)(3), for the construction or  
14 rehabilitation of wells and related pipeline facilities  
15 to provide capacity for the diversion and distribution  
16 by the City of not more than 1,500 acre feet of  
17 groundwater per year.

18 “(2) WATER RIGHTS.—The water rights associ-  
19 ated with any wells constructed or rehabilitated  
20 under paragraph (1)—

21 “(A) shall not be considered to be part of  
22 the Agreement; and

23 “(B) shall be considered to be already ex-  
24 isting water rights permitted by the New Mex-

1           ico State Engineer to the City for municipal  
2           and domestic uses.

3           “(3) TITLE TO WELLS.—Title to the wells and  
4           related pipeline facilities constructed or rehabilitated  
5           in accordance with paragraph (1) shall remain with  
6           the City at all times.

7           “(4) ASSOCIATED COSTS.—All operation, main-  
8           tenance, and replacement costs associated with wells  
9           and related pipeline facilities constructed or rehabili-  
10          tated in accordance with paragraph (1) shall be the  
11          responsibility of the City.”.

12          (e) AUTHORIZATION OF APPROPRIATIONS.—Section  
13          10609 of the Northwestern New Mexico Rural Water  
14          Projects Act (Public Law 111–11; 123 Stat. 1395) is  
15          amended—

16               (1) in subsection (a)—

17                   (A) in paragraph (1), by striking  
18                   “\$870,000,000 for the period of fiscal years  
19                   2009 through 2024” and inserting  
20                   “\$1,923,200,000 for the period of fiscal years  
21                   2009 through 2029”;

22                   (B) by striking paragraph (2) and insert-  
23                   ing the following:

24                   “(2) ADJUSTMENTS.—

1           “(A) IN GENERAL.—The amount under  
2 paragraph (1) shall be adjusted by such  
3 amounts as may be required—

4           “(i) by reason of changes since Octo-  
5 ber 2020 in construction cost changes in  
6 applicable regulatory standards, as indi-  
7 cated by engineering cost indices applicable  
8 to the types of construction involved; and

9           “(ii) to address construction cost  
10 changes necessary to account for unfore-  
11 seen market volatility that may not other-  
12 wise be captured by engineering cost indi-  
13 ces described in clause (i), as determined  
14 by the Secretary, including repricing appli-  
15 cable to the types of construction and cur-  
16 rent industry standards involved.

17           “(B) DEFERRED CONSTRUCTION FUND.—  
18 Amounts deposited in the Deferred Construc-  
19 tion Fund shall not be adjusted pursuant to  
20 this paragraph.”; and

21           (C) in paragraph (4)(B), by striking “10  
22 years” and inserting “15 years”;

23           (2) in subsection (b)—

24           (A) in paragraph (1), by striking  
25 “\$30,000,000, as adjusted under paragraph

1 (3), for the period of fiscal years 2009 through  
2 2019” and inserting “\$37,500,000, as adjusted  
3 under paragraph (4), for the period of fiscal  
4 years 2009 through 2032”;

5 (B) in paragraph (2), by striking “2024”  
6 and inserting “2032”;

7 (C) by redesignating paragraphs (3)  
8 through (6) as paragraphs (4) through (7), re-  
9 spectively;

10 (D) by inserting after paragraph (2) the  
11 following:

12 “(3) CITY OF GALLUP WELLS.—There is au-  
13 thorized to be appropriated for the construction or  
14 rehabilitation and operation and maintenance of con-  
15 junctive use wells for the City \$18,000,000, as ad-  
16 justed under paragraph (4), for the period of fiscal  
17 years 2021 through 2029.”;

18 (E) in paragraph (4) (as so redesign-  
19 nated)—

20 (i) by striking “The amount under  
21 paragraph (1)” and inserting the following:

22 “(A) SAN JUAN WELLS AND WELLS IN THE  
23 LITTLE COLORADO AND RIO GRANDE BASINS.—  
24 The amount under paragraphs (1) and (2)”;  
25 and



1 (ii) by adding at the end the fol-  
 2 lowing:

3 “(B) CITY OF GALLUP WELLS.—The  
 4 amount under paragraph (3) shall be adjusted  
 5 by such amounts as may be required by reason  
 6 of changes since 2021 in construction costs, as  
 7 indicated by engineering cost indices applicable  
 8 to the types of construction or rehabilitation in-  
 9 volved.”;

10 (F) in paragraph (5) (as so redesignated),  
 11 by striking “paragraphs (1) and (2)” and in-  
 12 serting “paragraphs (1), (2), and (3)”; and

13 (G) in paragraph (6) (as so redesignated),  
 14 by striking “paragraphs (1) and (2)” and in-  
 15 serting “paragraphs (1), (2), and (3)”.

16 (f) TAXATION OF CONSTRUCTION, OPERATION, AND  
 17 MAINTENANCE OF PROJECT FACILITIES.—Part III of the  
 18 Northwestern New Mexico Rural Water Projects Act  
 19 (Public Law 111–11; 123 Stat. 1379) is amended by add-  
 20 ing at the end the following:

21 **“SEC. 10610. TAXATION OF CONSTRUCTION, OPERATION,  
 22 AND MAINTENANCE OF PROJECT FACILITIES.**

23 “(a) NATION LAND.—Any activity constituting the  
 24 construction, operation, or maintenance of Project facili-  
 25 ties—

1           “(1) shall, if the activity takes place on land  
2           that is held in trust by the United States for the  
3           benefit of the Nation, be subject to taxation by the  
4           Nation; and

5           “(2) shall not be subject to any fee, tax, assess-  
6           ment, levy, or other charge imposed by any State or  
7           political subdivision of a State.

8           “(b) OTHER LAND.—Any activity constituting the  
9           construction, operation, or maintenance of Project facili-  
10          ties—

11           “(1) shall, if the activity takes place on land  
12           other than the land described in subsection (a)(1),  
13           be subject to taxation by the State in which the land  
14           is located, or by a political subdivision of that State  
15           to the extent authorized by the laws of that State;  
16           and

17           “(2) shall not be subject to any fee, tax, assess-  
18           ment, levy, or other charge imposed by the Nation.”.

19   **SEC. 4. NAVAJO NATION WATER RIGHTS.**

20           (a) AGREEMENT.—Section 10701(e)(1)(A) of the  
21           Northwestern New Mexico Rural Water Projects Act  
22           (Public Law 111–11; 123 Stat. 1400) is amended—

23           (1) in clause (ix), by striking “2024” and in-  
24           serting “2029”; and

25           (2) by adding at the end the following:

1                   “(x) DEFERRED CONSTRUCTION  
2                   FUND.—

3                   “(I) IN GENERAL.—Not later  
4                   than December 31, 2029, the United  
5                   States shall make all deposits into the  
6                   Deferred Construction Fund in ac-  
7                   cordance with section 10602(i)(3).

8                   “(II) PROJECT DEADLINE.—On  
9                   deposit of the amounts into the De-  
10                  ferred Construction Fund under sub-  
11                  clause (I), even if certain Project fa-  
12                  cilities have not yet been constructed,  
13                  the Secretary shall be deemed to have  
14                  met the deadline described in clause  
15                  (ix).”.

16                  (b) WAIVERS AND RELEASES.—Section 10703 of the  
17                  Northwestern New Mexico Rural Water Projects Act  
18                  (Public Law 111–11; 123 Stat. 1403) is amended—

19                   (1) in subsection (d)(1)(A), by striking “2025”  
20                   and inserting “2030”; and

21                   (2) in subsection (e)(2), in the matter preceding  
22                   subparagraph (A), by striking “2025” and inserting  
23                   “2030”.

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