

112TH CONGRESS
2^D SESSION

H. R. 1461

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 20, 2012

Received

AN ACT

To authorize the Mescalero Apache Tribe to lease adjudicated
water rights.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Mescalero Apache
3 Tribe Leasing Authorization Act”.

4 **SEC. 2. DEFINITIONS.**

5 In this Act:

6 (1) **ADJUDICATED WATER RIGHTS.**—The term
7 “adjudicated water rights” means water rights that
8 were adjudicated to the Tribe in *State v. Lewis*, 116
9 N.M. 194, 861 P. 2d 235 (1993).

10 (2) **SECRETARY.**—The term “Secretary” means
11 the Secretary of the Interior.

12 (3) **STATE.**—The term “State” means the State
13 of New Mexico.

14 (4) **TRIBE.**—The term “Tribe” means the Mes-
15 calero Apache Tribe.

16 **SEC. 3. AUTHORIZATION TO LEASE ADJUDICATED WATER**
17 **RIGHTS.**

18 (a) **IN GENERAL.**—Notwithstanding any other provi-
19 sion of law, subject to subsections (b) and (c), the Tribe
20 may lease, enter into a contract with respect to, or other-
21 wise transfer to another party, for another purpose, or to
22 another place of use in the State, all or any portion of
23 the adjudicated water rights.

24 (b) **STATE LAW.**—In carrying out any action under
25 subsection (a), the Tribe shall comply with all laws (in-

1 cluding regulations) of the State with respect to the leas-
2 ing or transfer of water rights.

3 (c) ALIENATION; MAXIMUM TERM.—

4 (1) ALIENATION.—The Tribe shall not perma-
5 nently alienate any adjudicated water rights.

6 (2) MAXIMUM TERM.—The term of any water
7 use lease, contract, or other agreement under this
8 section (including a renewal of such an agreement)
9 shall be not more than 99 years.

10 (d) LIABILITY.—The Secretary shall not be liable to
11 the Tribe or any other person for any loss or other det-
12 riment resulting from a lease, contract, or other arrange-
13 ment entered into pursuant to this section.

14 (e) PURCHASES OR GRANTS OF LAND FROM INDI-
15 ANS.—The authorization provided by this Act for the leas-
16 ing, contracting, and transfer of the adjudicated water
17 rights shall be considered to satisfy any requirement for
18 authorization of the action by treaty or convention im-
19 posed by section 2116 of the Revised Statutes (25 U.S.C.
20 177).

21 (f) PROHIBITION ON FORFEITURE.—The nonuse of
22 all or any portion of the adjudicated water rights by a
23 lessee or contractor shall not result in the forfeiture, aban-
24 donment, relinquishment, or other loss of all or any por-
25 tion of the adjudicated water rights.

1 (g) APPLICABILITY.—This Act shall not apply to
2 leasing, contracting, or transfer of the adjudicated water
3 rights on the Tribe’s reservation.

Passed the House of Representatives September 19,
2012.

Attest:

KAREN L. HAAS,
Clerk.