

Calendar No. 522

112TH CONGRESS
2^D SESSION

S. 134

[Report No. 112-218]

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

IN THE SENATE OF THE UNITED STATES

JANUARY 25 (legislative day, JANUARY 5), 2011

Mr. BINGAMAN (for himself and Mr. UDALL of New Mexico) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

SEPTEMBER 19, 2012

Reported by Mr. AKAKA, without amendment

A BILL

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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Mescalero Apache
5 Tribe Leasing Authorization Act”.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

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

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

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

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

13 **SEC. 3. AUTHORIZATION TO LEASE ADJUDICATED WATER**
14 **RIGHTS.**

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

21 (b) **STATE LAW.**—In carrying out any action under
22 subsection (a), the Tribe shall comply with all laws (in-
23 cluding regulations) of the State with respect to the leas-
24 ing or transfer of water rights.

25 (c) **ALIENATION; MAXIMUM TERM.**—

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

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

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

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

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

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