

106TH CONGRESS  
2D SESSION

# 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.

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## IN THE SENATE OF THE UNITED STATES

MAY 4, 2000

Mr. CAMPBELL (for himself and Mr. ALLARD) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

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## A BILL

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.

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; FINDINGS; DEFINITIONS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Colorado Ute Settlement Act Amendments of 2000”.

6 (b) FINDINGS.—Congress makes the following find-  
7 ings:

1           (1) In order to provide for a full and final set-  
2           tlement of the claims of the Colorado Ute Indian  
3           Tribes on the Animas and La Plata Rivers, the  
4           Tribes, the State of Colorado, and certain of the  
5           non-Indian parties to the Agreement have proposed  
6           certain modifications to the Colorado Ute Indian  
7           Water Rights Settlement Act of 1988 (Public Law  
8           100–585; 102 Stat. 2973).

9           (2) The claims of the Colorado Ute Indian  
10          Tribes on all rivers in Colorado other than the  
11          Animas and La Plata Rivers have been settled in ac-  
12          cordance with the provisions of the Colorado Ute In-  
13          dian Water Rights Settlement Act of 1988 (Public  
14          Law 100–585; 102 Stat. 2973).

15          (3) The Indian and non-Indian communities of  
16          southwest Colorado and northwest New Mexico will  
17          be benefited by a settlement of the tribal claims on  
18          the Animas and La Plata Rivers that provides the  
19          Tribes with a firm water supply without taking  
20          water away from existing uses.

21          (4) The Agreement contemplated a specific  
22          timetable for the delivery of irrigation and municipal  
23          and industrial water and other benefits to the Tribes  
24          from the Animas-La Plata Project, which timetable  
25          has not been met. The provision of irrigation water

1 can not presently be satisfied under the current im-  
2 plementation of the Federal Water Pollution Control  
3 Act (33 U.S.C. 1251 et seq.) and the Endangered  
4 Species Act of 1973 (16 U.S.C. 1531 et seq.).

5 (5) In order to meet the requirements of the  
6 Endangered Species Act of 1973 (16 U.S.C. 1531 et  
7 seq.), and in particular the various biological opin-  
8 ions issued by the Fish and Wildlife Service, the  
9 amendments made by this Act are needed to provide  
10 for a significant reduction in the facilities and water  
11 supply contemplated under the Agreement.

12 (6) The substitute benefits provided to the  
13 Tribes under the amendments made by this Act, in-  
14 cluding the waiver of capital costs and the provisions  
15 of funds for natural resource enhancement, result in  
16 a settlement that provides the Tribes with benefits  
17 that are equivalent to those that the Tribes would  
18 have received under the Colorado Ute Indian Water  
19 Rights Settlement Act of 1988 (Public Law 100-  
20 585; 102 Stat. 2973).

21 (7) The requirement that the Secretary of the  
22 Interior comply with the National Environmental  
23 Policy Act of 1969 (42 U.S.C. 4321 et seq.) and  
24 other national environmental laws before imple-  
25 menting the proposed settlement will ensure that the

1 satisfaction of the tribal water rights is accomplished  
2 in an environmentally responsible fashion.

3 (8) Federal courts have considered the nature  
4 and the extent of Congressional participation when  
5 reviewing Federal compliance with the requirements  
6 of the National Environmental Policy Act of 1969  
7 (42 U.S.C. 4321 et seq.).

8 (9) In considering the full range of alternatives  
9 for satisfying the water rights claims of the South-  
10 ern Ute Indian Tribe and Ute Mountain Ute Indian  
11 Tribe, Congress has held numerous legislative hear-  
12 ings and deliberations, and reviewed the considerable  
13 record including the following documents:

14 (A) The Final EIS No. INT-FES-80-18,  
15 dated July 1, 1980.

16 (B) The Draft Supplement to the FES No.  
17 INT-DES-92-41, dated October 13, 1992.

18 (C) The Final Supplemental to the FES  
19 No. 96-23, dated April 26, 1996;

20 (D) The Draft Supplemental EIS, dated  
21 January 14, 2000.

22 (c) DEFINITIONS.—In this Act:

23 (1) AGREEMENT.—The term “Agreement” has  
24 the meaning given that term in section 3(1) of the

1 Colorado Ute Indian Water Rights Settlement Act of  
2 1988 (Public Law 100–585; 102 Stat. 2973).

3 (2) ANIMAS-LA PLATA PROJECT.—The term  
4 “Animas-La Plata Project” has the meaning given  
5 that term in section 3(2) of the Colorado Ute Indian  
6 Water Rights Settlement Act of 1988 (Public Law  
7 100–585; 102 Stat. 2973).

8 (3) DOLORES PROJECT.—The term “Dolores  
9 Project” has the meaning given that term in section  
10 3(3) of the Colorado Ute Indian Water Rights Set-  
11 tlement Act of 1988 (Public Law 100–585; 102  
12 Stat. 2974).

13 (4) TRIBE; TRIBES.—The term “tribe” or  
14 “tribes” has the meaning given that term in section  
15 3(6) of the Colorado Ute Indian Water Rights Set-  
16 tlement Act of 1988 (Public Law 100–585; 102  
17 Stat. 2974).

18 **SEC. 2. AMENDMENTS TO SECTION 6 OF THE COLORADO**  
19 **UTE INDIAN WATER RIGHTS SETTLEMENT**  
20 **ACT OF 1988.**

21 Subsection (a) of section 6 of the Colorado Ute In-  
22 dian Water Rights Settlement Act of 1988 (Public Law  
23 100–585; 102 Stat. 2975) is amended to read as follows:

24 “(a) RESERVOIR; MUNICIPAL AND INDUSTRIAL  
25 WATER.—

1           “(1) FACILITIES.—

2                   “(A) IN GENERAL.—After the date of en-  
3           actment of this subsection, but prior to January  
4           1, 2005, the Secretary, in order to settle the  
5           outstanding claims of the Tribes on the Animas  
6           and La Plata Rivers, acting through the Bu-  
7           reau of Reclamation, is specifically authorized  
8           to—

9                   “(i) complete construction of, and op-  
10           erate and maintain, a reservoir, a pumping  
11           plant, a reservoir inlet conduit, and appur-  
12           tenant facilities with sufficient capacity to  
13           divert and store water from the Animas  
14           River to provide for an average annual de-  
15           pletion of 57,100 acre-feet of water to be  
16           used for a municipal and industrial water  
17           supply, which facilities shall—

18                   “(I) be designed and operated in  
19           accordance with the hydrologic regime  
20           necessary for the recovery of the en-  
21           dangered fish of the San Juan River  
22           as determined by the San Juan River  
23           Recovery Implementation Program;

24                   “(II) include an inactive pool of  
25           an appropriate size to be determined

1 by the Secretary following the comple-  
2 tion of required environmental compli-  
3 ance activities; and

4 “(III) include those recreation fa-  
5 cilities determined to be appropriate  
6 by agreement between the State of  
7 Colorado and the Secretary that shall  
8 address the payment of any of the  
9 costs of such facilities by the State of  
10 Colorado in addition to the costs de-  
11 scribed in paragraph (3); and

12 “(ii) deliver, through the use of the  
13 project components referred to in clause  
14 (i), municipal and industrial water  
15 allocations—

16 “(I) with an average annual de-  
17 pletion not to exceed 16,525 acre-feet  
18 of water, to the Southern Ute Indian  
19 Tribe for its present and future needs;

20 “(II) with an average annual de-  
21 pletion not to exceed 16,525 acre-feet  
22 of water, to the Ute Mountain Ute In-  
23 dian Tribe for its present and future  
24 needs;

1           “(III) with an average annual de-  
2           pletion not to exceed 2,340 acre-feet  
3           of water, to the Navajo Nation for its  
4           present and future needs;

5           “(IV) with an average annual de-  
6           pletion not to exceed 10,400 acre-feet  
7           of water, to the San Juan Water  
8           Commission for its present and future  
9           needs;

10          “(V) with an average annual de-  
11          pletion of an amount not to exceed  
12          2,600 acre-feet of water, to the  
13          Animas-La Plata Conservancy Dis-  
14          trict for its present and future needs;

15          “(VI) with an average annual de-  
16          pletion of an amount not to exceed  
17          5,230 acre-feet of water, to the State  
18          of Colorado for its present and future  
19          needs; and

20          “(VII) with an average annual  
21          depletion of an amount not to exceed  
22          780 acre-feet of water, to the La  
23          Plata Conservancy District of New  
24          Mexico for its present and future  
25          needs.

1           “(B) APPLICABILITY OF OTHER FEDERAL  
2 LAW.—The responsibilities of the Secretary de-  
3 scribed in subparagraph (A) are subject to the  
4 requirements of Federal laws related to the pro-  
5 tection of the environment and otherwise appli-  
6 cable to the construction of the proposed facili-  
7 ties, including the National Environmental Pol-  
8 icy Act of 1969 (42 U.S.C. 4321 et seq.), the  
9 Clean Water Act (42 U.S.C. 7401 et seq.), and  
10 the Endangered Species Act of 1973 (16 U.S.C.  
11 1531 et seq.). Nothing in this Act shall be con-  
12 strued to predetermine or otherwise affect the  
13 outcome of any analysis conducted by the Sec-  
14 retary or any other Federal official under appli-  
15 cable laws.

16           “(C) LIMITATION.—

17           “(i) IN GENERAL.—If constructed, the  
18 facilities described in subparagraph (A)  
19 shall not be used in conjunction with any  
20 other facility authorized as part of the  
21 Animas-La Plata Project without express  
22 authorization from Congress.

23           “(ii) CONTINGENCY IN APPLICA-  
24 TION.—If the facilities described in sub-

1 paragraph (A) are not constructed and op-  
2 erated, clause (i) shall not take effect.

3 “(2) TRIBAL CONSTRUCTION COSTS.—Construc-  
4 tion costs allocable to the facilities that are required  
5 to deliver the municipal and industrial water alloca-  
6 tions described in subclauses (I), (II) and (III) of  
7 paragraph (1)(A)(ii) shall be nonreimbursable to the  
8 United States.

9 “(3) NONTRIBAL WATER CAPITAL OBLIGA-  
10 TIONS.—Under the provisions of section 9 of the Act  
11 of August 4, 1939 (43 U.S.C. 485h), the nontribal  
12 municipal and industrial water capital repayment  
13 obligations for the facilities described in paragraph  
14 (1)(A)(i) may be satisfied upon the payment in full  
15 of the nontribal water capital obligations prior to the  
16 initiation of construction. The amount of the obliga-  
17 tions described in the preceding sentence shall be de-  
18 termined by agreement between the Secretary of the  
19 Interior and the entity responsible for such repay-  
20 ment as to the appropriate reimbursable share of the  
21 construction costs allocated to that entity’s munic-  
22 ipal water supply. Such agreement shall take into  
23 account the fact that the construction of facilities to  
24 provide irrigation water supplies from the Animas-  
25 La Plata Project is not authorized under paragraph

1 (1)(A)(i) and no costs associated with the design or  
2 development of such facilities, including costs associ-  
3 ated with environmental compliance, shall be allo-  
4 cable to the municipal and industrial users of the fa-  
5 cilities authorized under such paragraph.

6 “(4) TRIBAL WATER ALLOCATIONS.—

7 “(A) IN GENERAL.—With respect to mu-  
8 nicipal and industrial water allocated to a Tribe  
9 from the Animas-La Plata Project or the Dolo-  
10 res Project, until that water is first used by a  
11 Tribe or used pursuant to a water use contract  
12 with the Tribe, the Secretary shall pay the an-  
13 nual operation, maintenance, and replacement  
14 costs allocable to that municipal and industrial  
15 water allocation of the Tribe.

16 “(B) TREATMENT OF COSTS.—A Tribe  
17 shall not be required to reimburse the Secretary  
18 for the payment of any cost referred to in sub-  
19 paragraph (A).

20 “(5) REPAYMENT OF PRO RATA SHARE.—Upon  
21 a Tribe’s first use of an increment of a municipal  
22 and industrial water allocation described in para-  
23 graph (4), or the Tribe’s first use of such water pur-  
24 suant to the terms of a water use contract—

1           “(A) repayment of that increment’s pro  
2           rata share of those allocable construction costs  
3           for the Dolores Project shall be made by the  
4           Tribe; and

5           “(B) the Tribe shall bear a pro rata share  
6           of the allocable annual operation, maintenance,  
7           and replacement costs of the increment as re-  
8           ferred to in paragraph (4).”.

9 **SEC. 3. COMPLIANCE WITH THE NATIONAL ENVIRON-**  
10 **MENTAL POLICY ACT OF 1969.**

11           Section 6 of the Colorado Ute Indian Water Rights  
12 Settlement Act of 1988 (Public Law 100–585; 102 Stat.  
13 2975) is amended by adding at the end the following:

14           “(i) COMPLIANCE WITH THE NATIONAL ENVIRON-  
15 MENTAL POLICY ACT OF 1969.—

16           “(1) AUTHORITY.—Nothing in this Act shall be  
17 construed to alter, amend, or modify the authority  
18 or discretion of the Secretary or any other Federal  
19 official under the National Environmental Policy Act  
20 of 1969 (42 U.S.C. 4321 et seq.) or any other Fed-  
21 eral law.

22           “(2) DETERMINATION OF CONGRESS.—Subject  
23 to paragraph (3), in any defense to a challenge of  
24 the Final Environmental Impact Statement prepared  
25 pursuant to the Notice of Intent to Prepare a Draft

1 Environmental Impact Statement, as published in  
2 the Federal Register on January 4, 1999 (64 Fed  
3 Reg 176–179), or the compliance with the National  
4 Environmental Policy Act of 1969 (42 U.S.C. 4321  
5 et seq.) or the Federal Water Pollution Control Act  
6 (33 U.S.C. 1251 et seq.), and in addition to the  
7 Record of Decision and any other documents or ma-  
8 terials submitted in defense of its decision, the  
9 United States may assert in its defense that Con-  
10 gress, based upon the deliberations and review de-  
11 scribed in paragraph (9) of section 1(b) of the Colo-  
12 rado Ute Settlement Act Amendments of 2000, has  
13 determined that the alternative described in such  
14 Final Statement meets the Federal government’s  
15 water supply obligations to the Ute tribes under this  
16 Act in a manner that provides the most benefits to,  
17 and has the least impact on, the quality of the  
18 human environment.

19 “(3) APPLICATION OF PROVISION.—This sub-  
20 section shall only apply if Alternative #4, as pre-  
21 sented in the Draft Supplemental Environmental  
22 Impact Statement dated January 14, 2000, or an al-  
23 ternative substantially similar to Alternative #4, is  
24 selected by the Secretary.

1           “(4) NO EFFECT OF MODIFICATION OF FACILI-  
2           TIES.—The application of this section shall not be  
3           affected by a modification of the facilities described  
4           in subsection (a)(1)(A)(i) to address the provisions  
5           in the San Juan River Recovery Implementation  
6           Program.”.

7   **SEC. 4. COMPLIANCE WITH THE ENDANGERED SPECIES**  
8                           **ACT OF 1973.**

9           Section 6 of the Colorado Ute Indian Water Rights  
10          Settlement Act of 1988 (Public Law 100–585; 102 Stat.  
11          2975), as amended by section 3, is amended by adding  
12          at the end the following:

13          “(j) COMPLIANCE WITH THE ENDANGERED SPECIES  
14          ACT OF 1973.—

15                 “(1) AUTHORITY.—Nothing in this section shall  
16                 be construed to alter, amend, or modify the author-  
17                 ity or discretion of the Secretary or any other Fed-  
18                 eral official under the Endangered Species Act of  
19                 1973 (16 U.S.C. 1531 et seq.) or any other Federal  
20                 law.

21                 “(2) DETERMINATION OF CONGRESS.—Subject  
22                 to paragraph (3), in any defense to a challenge of  
23                 the Biological Opinion resulting from the Bureau of  
24                 Reclamation Biological Assessment, January 14,  
25                 2000, or the compliance with the Endangered Spe-

1       cies Act of 1973 (16 U.S.C. 1531 et seq.), and in  
2       addition to the Record of Decision and any other  
3       documents or materials submitted in defense of its  
4       decision, the United States may assert in its defense  
5       that Congress, based on the deliberations and review  
6       described in paragraph (9) of section 1(b) of the  
7       Colorado Ute Settlement Act Amendments of 2000,  
8       has determined that constructing and operating the  
9       facilities described in subsection (a)(1)(A)(i) meets  
10      the Federal government’s water supply obligation to  
11      the Ute tribes under that Act without violating the  
12      Endangered Species Act of 1973 (16 U.S.C. 1531 et  
13      seq.).

14           “(3) APPLICATION OF PROVISION.—This sub-  
15      section shall only apply if the Biological Opinion re-  
16      ferred to in paragraph (2) or any reasonable and  
17      prudent alternative suggested by the Secretary pur-  
18      suant to section 7 of the Endangered Species Act of  
19      1973 (16 U.S.C. 1536) authorizes an average an-  
20      nual depletion of at least 57,100 acre-feet of water.

21           “(4) NO EFFECT OF MODIFICATION OF FACILI-  
22      TIES.—The application of this subsection shall not  
23      be affected by a modification of the facilities de-  
24      scribed in subsection (a)(1)(A)(i) to address the pro-

1       visions in the San Juan River Recovery Implementa-  
2       tion Program.”.

3   **SEC. 5. MISCELLANEOUS.**

4       The Colorado Ute Indian Water Rights Settlement  
5   Act of 1988 (Public Law 100–585; 102 Stat. 2973) is  
6   amended by adding at the end the following:

7   **“SEC. 15. NEW MEXICO AND NAVAJO NATION WATER**  
8               **MATTERS.**

9       “(a) ASSIGNMENT OF WATER PERMIT.—Upon the  
10   request of the State Engineer of the State of New Mexico,  
11   the Secretary shall, in a manner consistent with applicable  
12   State law, assign, without consideration, to the New Mex-  
13   ico Animas-La Plata Project beneficiaries or the New  
14   Mexico Interstate Stream Commission any portion of the  
15   Department of the Interior’s interest in New Mexico Engi-  
16   neer Permit Number 2883, dated May 1, 1956, in order  
17   to fulfill the New Mexico purposes of the Animas-La Plata  
18   Project, so long as the permit assignment does not affect  
19   the application of the Endangered Species Act of 1973  
20   (16 U.S.C. 1531 et seq.) to the use of the water involved.

21       “(b) NAVAJO NATION MUNICIPAL PIPELINE.—The  
22   Secretary may construct a water line to augment the exist-  
23   ing system that conveys the municipal water supplies, in  
24   an amount not less than 4,680 acre-feet per year, of the  
25   Navajo Nation to the Navajo Indian Reservation at

1 Shiprock, New Mexico. The Secretary shall comply with  
2 all applicable environmental laws with respect to such  
3 water line. Construction costs allocated to the Navajo Na-  
4 tion for such water line shall be nonreimbursable to the  
5 United States.

6 “(c) PROTECTION OF NAVAJO WATER CLAIMS.—  
7 Nothing in this Act shall be construed to quantify or oth-  
8 erwise adversely affect the water rights and the claims of  
9 entitlement to water of the Navajo Nation.

10 **“SEC. 16. TRIBAL RESOURCE FUNDS.**

11 “(a) ESTABLISHMENT.—

12 “(1) AUTHORIZATION OF APPROPRIATIONS.—

13 There is authorized to be appropriated to carry out  
14 this section, \$20,000,000 for fiscal year 2001 and  
15 \$20,000,000 for fiscal year 2002. Not later than 60  
16 days after amounts are appropriated and available  
17 to the Secretary for a fiscal year under this para-  
18 graph, the Secretary shall make a payment to each  
19 of the Tribal Resource Funds established under  
20 paragraph (2). Each such payment shall be equal to  
21 50 percent of the amount appropriated for the fiscal  
22 year involved.

23 “(2) FUNDS.—The Secretary shall establish  
24 a—

1                   “(A) Southern Ute Tribal Resource Fund;  
2                   and  
3                   “(B) Ute Mountain Ute Tribal Resource  
4                   Fund.

5           A separate account shall be maintained for each  
6           such Fund.

7           “(b) ADJUSTMENT.—To the extent that the amount  
8           appropriated under subsection (a)(1) in any fiscal year is  
9           less than the amount authorized for such fiscal year under  
10          such subsection, the Secretary shall, subject to the avail-  
11          ability of appropriations, pay to each of the Tribal Reserve  
12          Funds an adjustment amount equal to the interest income,  
13          as determined by the Secretary in his or her sole discre-  
14          tion, that would have been earned on the amount author-  
15          ized but not appropriated under such subsection had that  
16          amount been placed in the Fund as required under such  
17          subsection.

18          “(c) TRIBAL DEVELOPMENT.—

19                  “(1) INVESTMENT.—The Secretary shall, in the  
20                  absence of an approved tribal investment plan pro-  
21                  vided for under paragraph (2), invest the amount in  
22                  each Tribal Resource Fund in accordance with the  
23                  Act entitled, ‘An Act to authorize the deposit and in-  
24                  vestment of Indian funds’ approved June 24, 1938  
25                  (25 U.S.C. 162a). The Secretary shall disburse, at

1 the request of a Tribe, the principal and income in  
2 its Resource Fund, or any part thereof, in accord-  
3 ance with a resource acquisition and enhancement  
4 plan approved under paragraph (3).

5 “(2) INVESTMENT PLAN.—

6 “(A) IN GENERAL.—In lieu of the invest-  
7 ment provided for in paragraph (1), a Tribe  
8 may submit a tribal investment plan applicable  
9 to all or part of the Tribe’s Tribal Resource  
10 Fund.

11 “(B) APPROVAL.—Not later than 60 days  
12 after the date on which an investment plan is  
13 submitted under subparagraph (A), the Sec-  
14 retary shall approve such investment plan if the  
15 Secretary finds that the plan is reasonable and  
16 sound. If the Secretary does not approve such  
17 investment plan, the Secretary shall set forth in  
18 writing and with particularity the reasons for  
19 such disapproval. If such investment plan is ap-  
20 proved by the Secretary, the Tribal Resource  
21 Fund involved shall be disbursed to the Tribe to  
22 be invested by the Tribe in accordance with the  
23 approved investment plan.

24 “(C) COMPLIANCE.—The Secretary may  
25 take such steps as the Secretary determines to

1 be necessary to monitor the compliance of a  
2 Tribe with an investment plan approved under  
3 subparagraph (B). The United States shall not  
4 be responsible for the review, approval, or audit  
5 of any individual investment under the plan.  
6 The United States shall not be directly or indi-  
7 rectly liable with respect to any such invest-  
8 ment, including any act or omission of the  
9 Tribe in managing or investing such funds.

10 “(D) ECONOMIC DEVELOPMENT PLAN.—

11 The principal and income derived from tribal  
12 investments under an investment plan approved  
13 under subparagraph (B) shall be subject to the  
14 provisions of this section and shall be expended  
15 only in accordance with an economic develop-  
16 ment plan approved under paragraph (3).

17 “(3) ECONOMIC DEVELOPMENT PLAN.—

18 “(A) IN GENERAL.—Each Tribe shall sub-  
19 mit to the Secretary a resource acquisition and  
20 enhancement plan for all or any portion of its  
21 Tribal Resource Fund.

22 “(B) APPROVAL.—Not later than 60 days  
23 after the date on which a plan is submitted  
24 under subparagraph (A), the Secretary shall ap-  
25 prove such investment plan if the Secretary

1 finds that the plan is reasonably related to the  
2 protection, acquisition, enhancement, or devel-  
3 opment of natural resources for the benefit of  
4 the Tribe and its members. If the Secretary  
5 does not approve such plan, the Secretary shall,  
6 at the time of such determination, set forth in  
7 writing and with particularity the reasons for  
8 such disapproval.

9 “(C) MODIFICATION.—Subject to the ap-  
10 proval of the Secretary, each Tribe may modify  
11 a plan approved under subparagraph (B).

12 “(D) LIABILITY.—The United States shall  
13 not be directly or indirectly liable for any claim  
14 or cause of action arising from the approval of  
15 a plan under this paragraph, or from the use  
16 and expenditure by the Tribe of the principal or  
17 interest of the Funds.

18 “(d) LIMITATION ON PER CAPITA DISTRIBUTIONS.—  
19 No part of the principal contained in the Tribal Resource  
20 Fund, or of the income accruing to such funds, or the rev-  
21 enue from any water use contract, shall be distributed to  
22 any member of either Tribe on a per capita basis.

23 “(e) LIMITATION ON SETTING ASIDE FINAL CON-  
24 SENT DECREE.—Neither the Tribes nor the United States  
25 shall have the right to set aside the final consent decree

1 solely because the requirements of subsection (c) are not  
2 complied with or implemented.

3 **“SEC. 17. COLORADO UTE SETTLEMENT FUND.**

4 “(a) ESTABLISHMENT OF FUND.—There is hereby  
5 established within the Treasury of the United States a  
6 fund to be known as the ‘Colorado Ute Settlement Fund.’

7 “(b) AUTHORIZATION OF APPROPRIATIONS.—There  
8 is authorized to be appropriated to the Colorado Ute Set-  
9 tlement Fund such funds as are necessary to complete the  
10 construction of the facilities described in section  
11 6(a)(1)(A) within 6 years of the date of enactment of this  
12 section. Such funds are authorized to be appropriated for  
13 each of the first 5 fiscal years beginning with the first  
14 full fiscal year following the date of enactment of this sec-  
15 tion.

16 “(c) INTEREST.—Amounts appropriated under sub-  
17 section (b) shall accrue interest, to be paid on the dates  
18 that are 1, 2, 3, 4, and 5 years after the date of enactment  
19 of this section, at a rate to be determined by the Secretary  
20 of the Treasury taking into consideration the average mar-  
21 ket yield on outstanding Federal obligations of comparable  
22 maturity, except that no such interest shall be paid during  
23 any period where a binding final court order prevents con-  
24 struction of the facilities described in section 6(a)(1)(A).

1 **“SEC. 18. FINAL SETTLEMENT.**

2 “(a) IN GENERAL.—The construction of the facilities  
3 described in section 6(a)(1)(A), the allocation of the water  
4 supply from those facilities to the Tribes as described in  
5 that section, and the provision of funds to the Tribes in  
6 accordance with sections 16 and 17 shall constitute final  
7 settlement of the tribal claims to water rights on the  
8 Animas and La Plata Rivers in the State of Colorado.

9 “(b) STATUTORY CONSTRUCTION.—Nothing in this  
10 section shall be construed to affect the right of the Tribes  
11 to water rights on the streams and rivers described in the  
12 Agreement, other than the Animas and La Plata Rivers,  
13 to receive the amounts of water dedicated to tribal use  
14 under the Agreement, or to acquire water rights under the  
15 laws of the State of Colorado.

16 “(c) ACTION BY THE ATTORNEY GENERAL.—The At-  
17 torney General shall file with the District Court, Water  
18 Division Number 7, of the State of Colorado, such instru-  
19 ments as may be necessary to request the court to amend  
20 the final consent decree to provide for the amendments  
21 made to this Act under the Colorado Ute Indian Water  
22 Rights Settlement Act Amendments of 2000.

23 **“SEC. 19. STATUTORY CONSTRUCTION; TREATMENT OF**  
24 **CERTAIN FUNDS.**

25 “(a) IN GENERAL.—Nothing in the amendments  
26 made by the Colorado Ute Settlement Act Amendments

1 of 2000 shall be construed to affect the applicability of  
2 any provision of this Act.

3       “(b) TREATMENT OF UNCOMMITTED PORTION OF  
4 COST-SHARING OBLIGATION.—The uncommitted portion  
5 of the cost-sharing obligation of the State of Colorado re-  
6 ferred to in section 6(a)(3) shall be made available, upon  
7 the request of the State of Colorado, to the State of Colo-  
8 rado after the date on which payment is made of the  
9 amount specified in that section.”.

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