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White Mountain Apache Tribe Water Rights Quantification Act

United States 117th Congress

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PUBLIC LAW 117-342—JAN. 5, 2023

Public Law 117–342
117th Congress

An Act

Jan. 5, 2023
[S. 3168]

To amend the White Mountain Apache Tribe Water Rights Quantification Act of 2010 to modify the enforceability date for certain provisions, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WHITE MOUNTAIN APACHE TRIBE RURAL WATER SYSTEM.

(a) **EXTENSION OF ENFORCEABILITY DATE.**—

(1) **IN GENERAL.**—Section 309(d)(2) of the White Mountain Apache Tribe Water Rights Quantification Act of 2010 (Public Law 111–291; 124 Stat. 3088; 133 Stat. 2669) is amended—

(A) in the matter preceding subparagraph (A), by striking “April 30, 2023” and inserting “December 30, 2027”; and

(B) in subparagraph (A), by striking “May 1, 2023” and inserting “December 31, 2027”.

(2) **CONFORMING AMENDMENT.**—Section 3(b)(2) of the White Mountain Apache Tribe Rural Water System Loan Authorization Act (Public Law 110–390; 122 Stat. 4191; 124 Stat. 3092) is amended by striking “beginning on” and all that follows through the period at the end and inserting “beginning on December 31, 2027.”

(b) **COST INDEXING.**—Section 312(c) of the White Mountain Apache Tribe Water Rights Quantification Act of 2010 (Public Law 111–291; 124 Stat. 3095) is amended by striking “All amounts made available under” and all that follows through the period at the end and inserting the following:

“(1) **WHITE MOUNTAIN APACHE TRIBE WATER RIGHTS SETTLEMENT SUBACCOUNT.**—All amounts made available under subsection (a) shall be adjusted as necessary to reflect the changes since October 1, 2007, in the construction cost indices applicable to the types of construction involved in the construction of the WMAT rural water system and the maintenance of the WMAT rural water system.

“(2) **WMAT SETTLEMENT FUND.**—All amounts made available under subsection (b)(2) shall be adjusted annually to reflect the changes since October 1, 2007, in the construction cost indices applicable to the types of construction involved in the construction of the WMAT rural water system and the maintenance of the WMAT rural water system.

“(3) **WMAT MAINTENANCE FUND.**—All amounts made available under subsection (b)(3) shall be adjusted on deposit to reflect changes since October 1, 2007, in the Consumer Price

Index for All Urban Consumers West Urban 50,000 to 1,500,000 published by the Bureau of Labor Statistics.

“(4) WMAT COST OVERRUN SUBACCOUNT.—Of the amounts made available under subsection (e)(2)—

“(A) \$35,000,000 shall be adjusted as necessary to reflect the changes since October 1, 2007, in the construction cost indices applicable to the types of construction involved in the construction of the WMAT rural water system and the maintenance of the WMAT rural water system; and

“(B) additional funds, in excess of the amount referred to in subparagraph (A), shall be adjusted as necessary to reflect the changes since April 1, 2021, in the construction cost indices applicable to the types of construction involved in the construction of the WMAT rural water system and the maintenance of the WMAT rural water system.

“(5) CONSTRUCTION COSTS ADJUSTMENT.—The amounts made available under subsections (a), (b)(2), and (e)(2) shall be adjusted to address construction cost changes necessary to account for unforeseen market volatility that may not otherwise be captured by engineering cost indices, as determined by the Secretary, including repricing applicable to the types of construction and current industry standards involved.

“(6) PROHIBITION.—Notwithstanding any other provision of law, after the enforceability date, any increase in the amounts appropriated under subsections (a)(1), (b)(3)(B), and (e)(2)(A) because of cost indexing shall not be available from funds in the Treasury not otherwise appropriated.

“(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated funding for the purposes provided in this subsection.”

(c) FUNDING FOR WMAT COST OVERRUN SUBACCOUNT.—Section 312(e)(2)(B) of the White Mountain Apache Tribe Water Rights Quantification Act of 2010 (Public Law 111-291; 124 Stat. 3095) is amended by striking “\$11,000,000” and inserting “\$541,000,000”.

(d) RETURN TO TREASURY.—

(1) IN GENERAL.—Section 312(e)(4)(B) of the White Mountain Apache Tribe Water Rights Quantification Act of 2010 (Public Law 111-291; 124 Stat. 3096) is amended, in the matter preceding clause (i), by striking “shall be—” and all that follows through the period at the end of clause (ii) and inserting “shall be returned to the general fund of the Treasury.”

(2) CONFORMING AMENDMENT.—Section 312(b)(2) of the White Mountain Apache Tribe Water Rights Quantification Act of 2010 (Public Law 111-291; 124 Stat. 3093; 132 Stat. 1626) is amended by striking subparagraph (B) and inserting the following:

“(B) TRANSFERS TO FUND.—There is authorized to be appropriated to the Secretary for deposit in the WMAT Settlement Fund \$78,500,000.”

Appropriation
authorization.

(e) CONVEYANCE OF TITLE TO TRIBE.—Section 307(d)(2)(E) of the White Mountain Apache Tribe Water Rights Quantification Act of 2010 (Public Law 111-291; 124 Stat. 3082; 132 Stat. 1626) is amended, in the matter preceding clause (i), by striking “water system—” and all that follows through the period at the end of

clause (ii)(II) and inserting “water system is substantially complete, as determined by the Secretary in accordance with subsection (k).”.

(f) REQUIREMENTS FOR DETERMINATION OF SUBSTANTIAL COMPLETION OF THE WMAT RURAL WATER SYSTEM.—Section 307 of the White Mountain Apache Tribe Water Rights Quantification Act of 2010 (Public Law 111-291; 124 Stat. 3080; 132 Stat. 1626) is amended by adding at the end the following:

“(k) REQUIREMENTS FOR DETERMINATION OF SUBSTANTIAL COMPLETION OF THE WMAT RURAL WATER SYSTEM.—The WMAT rural water system shall be determined to be substantially complete if—

“(1) the infrastructure constructed is capable of storing, diverting, treating, transmitting, and distributing a supply of water as set forth in the final project design described in subsection (c); or

“(2) the Secretary—

“(A) expended all of the available funding provided to construct the WMAT rural water system; and

“(B) despite diligent efforts, cannot complete construction as described in the final project design described in subsection (c) due solely to the lack of additional authorized funding.”.

(g) REQUIREMENT.—Section 310(b) of the White Mountain Apache Tribe Water Rights Quantification Act of 2010 (Public Law 111-291; 124 Stat. 3090) is amended by adding at the end the following:

“(3) EXPENDITURES.—If, before the enforceability date, Federal funds are expended to carry out activities described in subparagraph (A) or (C) of paragraph (2) in excess of the amounts provided pursuant to the White Mountain Apache Tribe Rural Water System Loan Authorization Act (Public Law 110-390; 122 Stat. 4191), such expenditures shall be accounted for as White Mountain Apache Tribe Water Rights Settlement Subaccount funds.”.

(h) ENFORCEABILITY DATE EFFECTIVENESS.—Section 309(d)(1) of the White Mountain Apache Tribe Water Rights Quantification Act of 2010 (Public Law 111-291; 124 Stat. 3088; 133 Stat. 2669) is amended—

(1) by redesignating subparagraphs (D) through (G) as subparagraphs (E) through (H), respectively; and

(2) by inserting after subparagraph (C) the following:

“(D) such amount, up to the amount made available under section 312(e)(2), as the Secretary determines to be necessary to construct the WMAT rural water system that is capable of storing, diverting, treating, transmitting, and distributing a supply of water as set forth in the final project design described in section 307(c) has been deposited in the WMAT Cost Overrun Subaccount;”.

(i) PROHIBITION.—Section 312(e) of the White Mountain Apache Tribe Water Rights Quantification Act of 2010 (Public Law 111-291; 124 Stat. 3095) is amended by adding at the end the following:

“(5) PROHIBITION.—Notwithstanding any other provision of law, any amounts made available under paragraph (2)(B) shall not be made available from—

“(A) the Indian Water Rights Settlement Completion Fund established by section 70101(a) of the Infrastructure Investment and Jobs Act (25 U.S.C. 149(a)); or

“(B) the Reclamation Water Settlements Fund established by section 10501(a) of the Omnibus Public Land Management Act of 2009 (43 U.S.C. 407(a)).”

(j) OVERSIGHT AND ACCOUNTING.—Section 312 of the White Mountain Apache Tribe Water Rights Quantification Act of 2010 (Public Law 111–291; 124 Stat. 3093) is amended by adding at the end the following:

“(h) OVERSIGHT AND ACCOUNTING.—

“(1) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection and annually thereafter, the Director of the Bureau shall submit to the Committee on Indian Affairs of the Senate and the Committee on Natural Resources of the House of Representatives an annual report that describes all expenditures, during the year covered by the report, from—

“(A) the WMAT Settlement Fund established by subsection (b)(2)(A) and the WMAT Maintenance Fund established by subsection (b)(3)(A) (referred to in this subsection as the ‘Funds’); and

“(B) the WMAT Cost Overrun Subaccount established by subsection (e)(1) (referred to in this subsection as the ‘Subaccount’).

“(2) INCLUSIONS.—Each report under paragraph (1) shall include, but not be limited to:

“(A) Progress and cost accounting on the planning, design and construction of the Miner Flat Dam and any additional water supply facilities resulting from expenditures from the Funds and the Subaccount.

“(B) A cost accounting of the administrative expenses related to activities resulting from expenditures from the Funds and the Subaccount.

“(C) A cost accounting of the environmental regulatory and economic process related to activities resulting from expenditures from the Funds and the Subaccount.

“(D) A projection of such costs described in subparagraphs (A), (B), and (C) for the next fiscal year and specific goals and objectives for the next fiscal year.

“(E) Whether those projections and specific goals and objectives have been met and any barriers encountered in the last fiscal year.”

Approved January 5, 2023.

LEGISLATIVE HISTORY—S. 3168:

SENATE REPORTS: No. 117–285 (Comm. on Indian Affairs).

CONGRESSIONAL RECORD, Vol. 168 (2022):

Dec. 19, considered and passed Senate.

Dec. 21, considered and passed House.

