

HOUSE JOINT MEMORIAL 22

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

James Roger Madalena

A JOINT MEMORIAL

REQUESTING CONGRESS TO CONTINUE FUNDING ITS APPROPRIATE SHARE OF THE COSTS ASSOCIATED WITH THE BENEFITS RECEIVED BY INDIAN TRIBES AND THE UNITED STATES, AS TRUSTEE, FROM SETTLING INDIAN WATER RIGHTS DISPUTES.

WHEREAS, the United States government has a trust responsibility to American Indians established through treaties and agreements with Indian tribes and affirmed by the United States supreme court; and

WHEREAS, Indian tribes gave up lands in return for goods, money and other resources promised by the United States government; and

WHEREAS, in exchange for taking Indian land and Indian resources, the United States made binding legal agreements that tribes would exercise sovereign authority within their

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1 reservation boundaries and be funded in perpetuity by the
2 United States government; and

3 WHEREAS, pursuant to the trust responsibility, the United
4 States has a legal obligation to protect Indian tribes' assets
5 and provide needed services to Indian people; and

6 WHEREAS, the United States supreme court, in *Winters v.*
7 *United States*, established that, when the United States
8 government established reservations for Indian tribes, it also,
9 by implication, reserved appurtenant water, then
10 unappropriated, to the extent needed to satisfy both present
11 and future needs of the reservations; and

12 WHEREAS, the United States government has supported
13 settlement negotiations that are consistent with its trust
14 responsibilities to Indian tribes in the Aamodt, Taos and
15 Navajo Nation water rights settlements; and

16 WHEREAS, the Aamodt, Taos and Navajo Nation water rights
17 settlements contain appropriate funding and cost-sharing by the
18 United States government proportionate to the benefits received
19 by all parties benefiting from the settlements; and

20 WHEREAS, continuing to provide adequate funding for
21 pending Indian water rights disputes in the same cost-sharing
22 proportions as past Indian water rights settlements provides
23 certainty for all stakeholders; and

24 WHEREAS, the New Mexico legislature created the Indian
25 water rights settlement fund to aid the implementation of the

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1 state's portion of Indian water rights settlements based on the
2 cost-sharing proportions of the Aamodt, Taos and Navajo Nation
3 water rights settlements; and

4 WHEREAS, the fund is used to pay the state's portion of
5 the cost necessary to implement Indian water rights settlements
6 approved by the legislature and the United States congress; and

7 WHEREAS, there are still pending Indian water rights
8 disputes in New Mexico that need to be settled to satisfy both
9 present and future water needs of the Indian tribes, nations
10 and pueblos of New Mexico; and

11 WHEREAS, the New Mexico legislature requires continued
12 full funding and cost-sharing by the United States government
13 to reach settlements in the pending Indian water rights
14 disputes in New Mexico;

15 NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE
16 STATE OF NEW MEXICO that congress be requested to provide full
17 funding to cover the costs associated with the benefits
18 received by Indian tribes and the United States, as trustee, in
19 the same cost-sharing proportions as the Aamodt, Taos and
20 Navajo Nation water rights settlements; and

21 BE IT FURTHER RESOLVED that copies of this memorial be
22 transmitted to the speaker of the United States house of
23 representatives, the president pro tempore of the United States
24 senate, the New Mexico congressional delegation, the assistant
25 secretary for Indian affairs of the department of the interior

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and the state engineer.

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