

**Hearing before the House Committee on Natural Resources  
Subcommittee on Water, Wildlife, and Fisheries**

**H.R. 3977**

**Navajo-Gallup Water Supply Project Amendments Act of 2023**

**H.R. 6599**

**Technical Corrections to the Northwestern New Mexico Rural Water Projects Act, Taos Pueblo Indian Water Rights Settlement Act, and Aamodt Litigation Settlement Act**

**H.R. 8940**

**Northeastern Arizona Indian Water Rights Settlement Act of 2024**

**Statement of Tanya Trujillo  
New Mexico Deputy State Engineer**

**July 23, 2024**

Mr. Chairman Bentz, Vice Chair Kiggans, and members of the Committee, I am Tanya Trujillo, New Mexico Deputy State Engineer. My agency, the Office of the State Engineer, is responsible for the administration of water rights in New Mexico. The State Engineer has authority over the supervision, measurement, appropriation, and distribution of all surface and groundwater in New Mexico, including all interstate streams and rivers. I appreciate the opportunity to submit this testimony to you today and provide comments on behalf of the State of New Mexico regarding H.R. 3977, *Navajo-Gallup Water Supply Project Amendments Act of 2023*; H.R. 6599, *Technical Corrections to the Northwestern New Mexico Rural Water Projects Act, Taos Pueblo Indian Water Rights Settlement Act, and Aamodt Litigation Settlement Act*; and H.R. 8940, *Northeastern Arizona Indian Water Rights Settlement Act of 2024*.

The State of New Mexico supports the resolution of Indian Water Rights claims through negotiated settlements, including the claims of the Taos, Nambe, Pojoaque, Tesuque and San Ildefonso referenced in H.R. 6599, and the claims of the Navajo Nation in New Mexico referenced

in H.R. 3977 and H.R. 6599 and the claims of the Navajo Nation, the Hopi Tribe and the San Juan Southern Paiute Tribe in Arizona referenced in H.R. 8940. The State fully supports the language in H.R. 3977 and H.R. 6599 and requests the Committee to move forward with those bills as quickly as possible. New Mexico has participated in recent discussions with the Navajo Nation regarding amendments to H.R. 8940 that will be necessary to ensure New Mexico's interests can be protected and details related to New Mexico's position regarding H.R. 8940 are stated below.

#### **A. Implications for New Mexico's 1948 Compact Apportionment**

Pursuant to the 1948 Upper Colorado River Basin Compact, New Mexico is entitled to a total quantity of consumptive use per annum of 11.25 percent of the water apportioned to the States of the Upper Division by the 1922 Colorado River Compact. New Mexico's Upper Basin water use is currently about half of its apportionment. Most of New Mexico's plans to develop its apportionment in the San Juan River Basin are for tribal water development that has been authorized by Congress pursuant to the Indian water rights settlements between the State and the Jicarilla Apache Nation and the State and the Navajo Nation. New Mexico is proposing amendments to H.R. 8940 to eliminate the possibility that this settlement could negatively affect New Mexico's ability to implement the previously approved settlements and otherwise utilize and protect New Mexico's Colorado River Basin apportionment.

#### **B. Implications for ESA Compliance in New Mexico**

The San Juan River is designated as critical habitat for the Colorado pikeminnow and the razorback sucker from Farmington, New Mexico to Lake Powell. The U.S. Bureau of Reclamation releases water from Navajo Reservoir as needed throughout the year to ensure that certain target flows beneficial to the endangered fish are met daily. Since 1992, the releases have occurred in

coordination with the San Juan River Basin Recovery Implementation Program. Under the Endangered Species Act, these environmental flows provide ESA coverage for all existing diversions below Navajo Reservoir, including all diversions in New Mexico. New Mexico is proposing to amend H.R. 8940 to ensure that the ESA releases, in conjunction with diversions of water to support the settlement, do not have a negative effect on the amount of water available for New Mexico to use from its Colorado River Basin apportionment.

### **C. Implications for Water Use and Storage in New Mexico**

Amendments will be required to protect storage rights for New Mexico parties in Navajo Reservoir and Frank Chee Willetto, Sr. Reservoir. The proposed settlement between the Nation and Arizona calls for storing the Navajo Nation's water, including portions of the Navajo Nation's Lower Basin Colorado River Water, in those two reservoirs in New Mexico. New Mexico is proposing an amendment, so that the new storage authorization does not adversely impact the existing New Mexico water users who benefit from storage in those reservoirs. New Mexico is also proposing an amendment to ensure that any evaporation or transit losses associated with the Navajo Nation's Lower Basin Colorado River Water stored in New Mexico would be accounted for against Arizona's apportionment.

### **D. Initial Areas of Proposed Amendments from New Mexico**

- Adding language addressing conditions for storage and diversion of water in New Mexico.
- Ensuring that the State of New Mexico, acting through the New Mexico Interstate Stream Commission and/or the State Engineer will be able to issue permits and approve agreements for storage, diversion, delivery and operations that will have effects on New Mexico water uses.
- Adding language to protect New Mexico's Compact apportionment and ensure further development of that apportionment.
- Adding language regarding accounting for water that is diverted from sources in New Mexico for use in Utah and/or Arizona including coverage of losses.
- Ensuring consistency with applicable provisions in P.L. 111-11.

- Limiting the use, leasing or transfer of water apportioned to the State of New Mexico without agreement of the State of New Mexico and issuance of appropriate permits.

## **Conclusion**

Mr. Chairman Bentz, Vice Chair Kiggans, and members of the Committee, the State of New Mexico asks you to support H.R. 3977 and H.R. 6599. The State of New Mexico also asks you to support H.R. 8940 with the inclusion of the amendments as referenced in this testimony and further developed in coordination with the Navajo Nation and other parties to the Arizona settlement. New Mexico appreciates the opportunity to provide this testimony and coordinate with the Committee on these bills as they move forward.

I thank you for your consideration and stand ready to provide any support necessary to encourage the passage of these critical pieces of legislation.