

## **S. 1207, the “Navajo Utah Water Rights Settlement Act of 2019” (Romney-Sinema-McSally)**

S. 1207 would settle a decades-long negotiation among the Navajo Nation, federal government and the State of Utah over water rights for Utah Navajos. It is the top legislative priority for the Navajo Nation, which is the largest American Indian tribe in the U.S.

Passing this bill is an important part of keeping a longstanding promise by the federal government to Native American tribal members. It would significantly contribute to the water needs of the Navajo Nation in Utah – half of its population lacks indoor plumbing – and resolve a legal claim in a fiscally responsible way designed to prevent millions in additional legal costs.

### **Why Is Congress Involved?**

Many disputes over Indian water rights date as far back as the early 19<sup>th</sup> century. After the federal government established dozens of reservations, primarily in the West, questions arose about whether tribes had a right to access water for irrigation and agriculture on the reservation lands. In 1908, the Supreme Court clarified, in *Winters v. United States*, that when the federal government provided land for reservations, it also provided rights to enough water for tribes to be self-sufficient.

In 1990, the federal government developed a way to settle “Winters rights” claims in an orderly, cost-effective and fair manner – without the need for expensive, lengthy litigation. Under the new guidelines, state, tribal and federal negotiators would agree on the terms of a settlement to vindicate tribal water rights. Congress could then establish the agreement in law, which would be executed by the Secretary of the Interior.

### **Why Is the Bill Needed?**

Today, the Navajo Nation in Utah has a population of more than 5,000 with a reservation that covers 1,900 square miles in Utah. During World War II, Navajo “code talkers” served the country heroically to maintain communications secrecy. Yet, while the Navajo Reservation was established in 1868, its water rights in Utah have never been formally recognized.

Settling this claim is important for several reasons. First, it would fund desperately needed water infrastructure for the Utah portion of the Navajo Nation. Second, it would honor the historic trust relationship between the federal government and the Navajo Nation. Third, it would ensure the settlement is consistent with Western water compacts. Fourth, it would protect taxpayers from millions in potential litigation costs.

S. 1207 is the product of an extensive negotiation that began in 2003 between the Navajo Nation, the State of Utah and the federal government. All parties support this bill.

Importantly, this bill demonstrates a commitment to working towards orderly, cost-effective, and fair Indian water right settlements in western states.

On September 7, 2018, in a joint letter to Congress, the Departments of Justice and the Interior said, “The Administration supports the Navajo-Utah Settlement Act because it fulfills important Federal trust obligations, promotes tribal self-sufficiency, supports stability for all interested parties, and provides funds for municipal water infrastructure for the delivery of clean drinking water.”

On October 3, 2018, during the 115<sup>th</sup> Congress, the bill advanced out of the Senate Indian Affairs Committee by voice vote.

### **What Does the Bill Do?**

The Navajo Utah Water Rights Settlement Act of 2019 would do the following:

- Settle all current and future claims by the Navajo Nation for water rights within Utah, thus precluding costly future litigation for all parties;
- Provide the Navajo Nation with the right to deplete 81,500 acre-feet of water per year from Utah’s Colorado River Basin apportionment;
- Authorize \$210 million in funding for water infrastructure on Utah portion of Navajo Nation to access the water, which will help provide clean drinking water; and
- Require the State of Utah to contribute \$8 million towards the settlement (Utah has already approved the funding).