



CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

October 4, 2004

S. 437

Arizona Water Settlements Act

*As reported by the Senate Committee on Energy and Natural Resources
on September 28, 2004*

SUMMARY

S. 437 would approve and ratify the Gila River Indian Community Water Rights Settlement Act, amend the Southern Arizona Water Rights Settlement Act of 1982, and affirm the right of the San Carlos Apache Tribe to make future claims for water rights. CBO estimates that enacting S. 437 would increase direct spending by \$445 million over the 2005-2014 period. Additional direct spending would continue long after 2014 under the bill. In addition, assuming appropriation of the necessary amounts, CBO estimates that implementing S. 437 would add \$5 million to discretionary spending over the 2005-2009 period.

Title I of S. 437 would settle a dispute between the federal government and Arizona concerning water distribution among state, tribal, and nongovernmental interests from the Central Arizona Project (CAP), a 336-mile canal that moves water from Lake Havasu City, Arizona, to Tucson. This bill would designate 47 percent of CAP water for Indian uses and 53 percent for non-Indian municipal, industrial, or agricultural uses. In addition, the bill would amend the Colorado River Basin Project Act to make funds in the Lower Colorado River Basin Development (LCRBD) Fund available without further appropriation to fund construction, operation, and maintenance of water infrastructure projects associated with implementing Indian water rights settlements, and other costs starting in 2010.

Title II would authorize, confirm, and ratify the Gila River Indian Community Water Rights Settlement agreement between the Gila River Indian Community, the state of Arizona, the Secretary of the Interior, and other local water users. The bill would provide funds for the rehabilitation of the San Carlos Irrigation Project and construction of the New Mexico Unit of the CAP in addition to other projects. In addition, the bill would provide \$53 million to establish the Gila River Indian Community Water Operations, Maintenance, and Replacement (OM&R) Trust Fund.

Title III of S. 437 would rewrite the Southern Arizona Water Rights Settlement Act of 1982 as the Southern Arizona Water Rights Settlement Amendments Act of 2003. The title would establish water delivery requirements and construction obligations with respect to the San Xavier Indian Reservation and the Schuk Toak District, delineate permissible uses of the water, and authorize the development of various water management plans, groundwater monitoring programs, and resource studies. Title III also would provide for the waiver and release of water rights claims of the Tohono O'odham Nation (formerly the Papago Tribe). Finally, it would reauthorize two trust funds—a cooperative fund for OM&R costs associated with water delivery to the Reservation and District and a trust fund established for the Tohono O'odham Nation, granting the Nation full access to both the interest earned and the principle amount in the fund.

S. 437 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments. Any costs or duties imposed by this bill upon state, local, or tribal governments would be assumed by them voluntarily as parties to settlement agreements.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

S. 437's estimated budgetary impact over the next five years is shown in Table 1. (The estimated budgetary effects after 2009 are discussed below.) The costs of this legislation fall within budget functions 300 (natural resources and environment) and 450 (community and regional development).

BASIS OF ESTIMATE

For this estimate, CBO assumes that S. 437 will be enacted near the beginning of fiscal year 2005 and that the necessary amounts will be appropriated for each fiscal year.

Direct Spending

CBO estimates that enacting S. 437 would increase direct spending by \$445 million over the 2005-2014 period. CBO's estimate of the bill's impact on direct spending over the next 10 years is shown in Table 2.

Debt Relief. Section 106 would forgive debt owed to the federal government from water contractors in Arizona in exchange for relinquishing the contractors' entitlements to water from the Central Arizona Project. The debt payment would otherwise offset a portion of the capital costs associated with the CAP. CBO estimates that enacting this section would result in a loss of receipts of about \$2 million a year, beginning in 2005.

TABLE 1. BUDGETARY IMPACT OF S. 437 OVER THE 2005-2009 PERIOD

	By Fiscal Year, in Millions of Dollars					
	2004	2005	2006	2007	2008	2009
CHANGES IN DIRECT SPENDING						
Estimated Budget Authority	0	2	2	2	2	2
Estimated Outlays	0	2	2	2	2	2
SPENDING SUBJECT TO APPROPRIATION						
Spending Under Current Law						
Budget Authority ^a	34	0	0	0	0	0
Estimated Outlays	22	7	5	0	0	0
Proposed Changes						
Estimated Authorization Level	0	1	1	1	1	1
Estimated Outlays	0	1	1	1	1	1
Spending Under S. 437						
Estimated Authorization Level ^a	34	1	1	1	1	1
Estimated Outlays	22	8	6	1	1	1

a. The 2004 level is the amount appropriated for that year for Central Arizona Project construction.

Lower Colorado River Basin Development Fund. Section 107 would authorize the Secretary of the Interior to pay for certain benefits and water projects from funds deposited into the Lower Colorado River Basin Development Fund without further appropriation action. Under current law, approximately \$55 million a year is deposited in that fund. Starting in 2010, however, the bill would authorize the Secretary to spend those accumulated funds and interest earnings on authorized projects, such as the rehabilitation of the San Carlos Irrigation Project, construction of the New Mexico Unit of the Central Arizona Project, and construction of CAP distribution systems for the Gila River Indian Community as well as the San Carlos Apache Tribe and the Tohono O'odham Nation. In addition, the bill would establish an account within the LCRBD Fund to pay obligations resulting from future Indian water settlements approved by the Congress. CBO estimates that enacting this section would increase direct spending by about \$425 million over the 2010-2014 period.

TABLE 2. ESTIMATED IMPACT OF S. 437 ON DIRECT SPENDING OVER THE 2005-2014 PERIOD

	By Fiscal Year, in Millions of Dollars									
	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Estimated Budget Authority	2	2	2	2	2	132	78	77	96	100
Estimated Outlays	2	2	2	2	2	105	66	78	90	96

Spending in 2010 would be greater than in other years because estimated expenses in that year include \$53 million to establish the Gila River Indian Community Water Operations, Maintenance, and Replacement Trust Fund. Such trust funds that are held and managed in a fiduciary capacity by the federal government on behalf of Indian tribes are treated as nonfederal entities. As a result, outlays for this new trust fund would be recorded on the budget in the year that all funds are provided to the tribe and the settlement agreement is final.

Spending Subject to Appropriation

CBO estimates that implementing three provisions of S. 437 would cost \$5 million over the 2005-2009 period. Under S. 437, none of the sections discussed below would be eligible for funding from the LCRBD Fund.

Biological Opinions. Section 110 would authorize the appropriation of such sums as are necessary to comply with biological opinions issued by the U.S. Fish and Wildlife Service as a result of impacts to the surrounding ecosystem from the operation of the Central Arizona Project. Based on information from the Bureau of Reclamation, CBO estimates that implementing this provision would cost about \$5 million over the 2005-2009 period, assuming appropriation of the necessary funds.

Water Storage. Section 105 would authorize the Secretary to work with the state of Arizona to develop a program to store water underground for use during drought conditions. The bill would authorize the appropriation of such sums as are necessary to pay for the federal share of this program. Based on information from the bureau, CBO estimates that implementing this provision would cost about \$20 million assuming adjustments for anticipated inflation, but those costs are likely to occur after 2009.

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

S. 437 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. Enacting this bill is a necessary step to implement settlement agreements among a number of parties in Arizona, including the state, Indian tribes, and the Central Arizona Water Conservation District. Any costs or duties imposed by this bill upon any of these governments would be assumed by them voluntarily as parties to these agreements.

ESTIMATE PREPARED BY:

Federal Costs: Julie Middleton and Mike Waters
Impact on State, Local, and Tribal Governments: Marjorie Miller
Impact on the Private Sector: Selena Caldera

ESTIMATE APPROVED BY:

Peter H. Fontaine
Deputy Assistant Director for Budget Analysis