



CONGRESSIONAL BUDGET OFFICE  
COST ESTIMATE

July 29, 2008

**S. 1171**

**Northwestern New Mexico Rural Water Projects Act**

*As reported by the Senate Committee on Energy and Natural Resources  
on June 25, 2008*

**SUMMARY**

S. 1171 would establish a new Reclamation Water Settlements Fund to implement water settlements that the United States has entered into. The bill also would ratify a settlement agreement between the United States, the state of New Mexico, and the Navajo Nation. Ratifying the settlement agreement would:

- Authorize the rehabilitation of water infrastructure in northwestern New Mexico;
- Provide for water deliveries to the Navajo and Jicarilla Apache Nations and the city of Gallup, New Mexico;
- Secure water rights for the Navajo Nation; and
- Create a trust fund for the Navajo Nation.

CBO estimates that enacting S. 1171 would increase net direct spending by \$620 million over the 2009-2018 period. We estimate that implementing the legislation also would increase discretionary spending by \$132 million over that period, assuming appropriation of the estimated amounts.

S. 1171 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

S. 1171 could impose a private-sector mandate, as defined in UMRA, if the Secretary of the Interior acquires land using eminent domain for the Navajo-Gallup Water Supply Project. Based on information from the Department of the Interior, CBO estimates that the cost of the mandate would fall below the annual threshold established by UMRA for private-sector mandates (\$136 million in 2008, adjusted annually for inflation).

## ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of S. 1171 is shown in the following table. The costs of this legislation fall within budget functions 300 (natural resources and environment) and 450 (community and regional development).

	By Fiscal Year, in Millions of Dollars										2009- 2009-	
	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2013	2018
<b>CHANGES IN DIRECT SPENDING</b>												
Expenditures from Reclamation Water Settlements Fund												
Estimated Budget Authority	120	123	125	128	129	131	133	135	136	138	625	1,298
Estimated Outlays	60	60	60	60	60	60	65	65	65	65	300	620
Interest Earnings on Navajo Nation Trust Fund												
Estimated Budget Authority	*	1	1	1	2	2	2	3	3	3	5	18
Estimated Outlays	0	0	0	0	0	0	0	0	0	0	0	0
Total Changes												
Estimated Budget Authority	120	124	126	129	131	133	135	138	139	141	630	1,316
Estimated Outlays	60	60	60	60	60	60	65	65	65	65	300	620
<b>CHANGES IN SPENDING SUBJECT TO APPROPRIATION</b>												
Conjunctive-Use Wells												
Estimated Authorization Level	10	16	20	20	10	13	0	0	0	0	76	89
Estimated Outlays	6	12	18	20	13	14	4	2	0	0	69	89
Irrigation Rehabilitation												
Estimated Authorization Level	11	13	14	5	0	0	0	0	0	0	43	43
Estimated Outlays	7	10	14	9	2	1	0	0	0	0	42	43
Navajo Nation Trust Fund												
Estimated Authorization Level	6	6	6	6	6	4	4	4	4	4	30	50
Estimated Outlays	0	0	0	0	0	0	0	0	0	0	0	0
Total Changes												
Estimated Authorization Level	27	35	40	31	16	17	4	4	4	4	149	182
Estimated Outlays	13	22	32	29	15	15	4	2	0	0	111	132

Note: \* = less than \$500,000.

## **BACKGROUND**

In 2005, New Mexico and the Navajo Nation signed a settlement agreement resolving a water rights dispute. The United States would become party to the agreement upon enactment of S. 1171, provided that the settlement agreement is modified to be consistent with the bill and certain other conditions are met. Based on information from the Department of the Interior (DOI), CBO assumes that the settlement agreement will be finalized around 2025 because all parties will have executed their responsibilities under the settlement.

Titles I, III, and IV would secure water rights for the Navajo Nation; authorize construction of a water-supply pipeline and conjunctive-use wells (wells that combine the use of surface water and groundwater to maximize water resources); rehabilitate irrigation infrastructure; and establish a Navajo Nation Water Resources Development Trust Fund.

Title II of S. 1171 would create a new Reclamation Water Settlements Fund to implement future water settlements between the United States and various state, local, tribal, and private entities. Monies for the proposed Water Settlements Fund would come from the existing Reclamation Fund. Under current law, the government collects fees from water and power contractors and those fees—classified as offsetting receipts—are deposited into the Reclamation Fund, where they cannot be spent without further appropriation. The bill would divert a portion of those receipts to the Water Settlements Fund and make them permanently appropriated. Thus, the expenditures from the Water Settlements Fund would represent an increase in direct spending.

The Water Settlements Fund would be available for all water settlements, but S. 1171 would create four priorities: The Navajo-Gallup Water Supply Project, other New Mexico water settlements, Montana water settlements, and an Arizona water settlement. The Navajo-Gallup Water Supply Project would be authorized by title III of S. 1171. The other three projects would require subsequent legislation to ratify the agreements before they could be implemented. The costs reflected in this estimate pertain only to the Navajo-Gallup Water Supply Project and other water settlements that already have been ratified by the Congress.

Title IV would require the Secretary of the Interior to invest the amounts appropriated to the Navajo Nation Water Resources Development Trust Fund. The interest earnings would not be available for expenditure until after December 30, 2019.

## **BASIS OF ESTIMATE**

For this estimate, CBO assumes that S. 1171 will be enacted at the beginning of fiscal year 2009 and that the authorized and estimated amounts will be appropriated for each fiscal year. CBO estimates that enacting S. 1171 would increase net direct spending by \$620 million over the 2009-2018 period. In addition, we estimate that implementing the legislation would increase discretionary spending by \$132 million over the 2009-2018 period, assuming appropriation of the estimated amounts.

### **Direct Spending**

Title III of the legislation would authorize the Secretary of the Interior to construct the Navajo-Gallup Water Supply Project. The Bureau of Reclamation (the bureau) would build a pipeline and associated facilities to divert water from the San Juan River and deliver it to the Navajo Nation, the city of Gallup, and the Jicarilla Apache Nation of New Mexico for drinking water. The Navajo Nation would not be required to reimburse the federal government for its share of the construction costs. The city of Gallup and the Jicarilla Apache Nation would be required to enter into repayment contracts for between 25 percent and 35 percent of their share of the capital costs of the project. The city of Gallup and the Jicarilla Apache Nation could wait for construction to be completed before beginning repayment, or they could elect to prepay their share of the construction costs. For this analysis, CBO assumes that all repayments would begin after completion of the project, which we expect would be in 2025.

Under the bill, the proposed Water Settlements Fund would receive \$120 million per year from 2009 to 2023 in offsetting receipts from the Reclamation Fund. The fund also would be credited with interest earnings on any of its unspent balances. Such interest would be considered an intrabudgetary transfer and would add to the amounts available to be spent without future appropriation.

Based on information from the bureau, CBO estimates that enacting S. 1171 would increase net direct spending by \$620 million over the 2009-2018 period. Approximately \$600 million would be used to construct the Navajo-Gallup Water Supply project, and another \$20 million would be used to build infrastructure related to other existing tribal water settlements. Additional expenditures for current projects would continue past 2019. Remaining unspent amounts in the Water Settlements Fund would be spent when tribal water settlements are ratified in future legislation.

CBO estimates that interest earnings on the Navajo Nation Water Resources Development Trust Fund would total \$18 million. That amount could not be spent until December 31, 2019, so annual interest deposits would be recorded as budget authority only over the 2009-2018 period. After that time, amounts in the fund would continue to earn interest until they are expended, which is estimated to occur around 2025. In total, CBO estimates that spending of interest earnings would total \$29 million over the 2019-2025 period.

### **Spending Subject to Appropriation**

In accordance with the settlement agreement, title III would authorize construction of several water infrastructure projects in New Mexico and Arizona. Title IV would establish a trust fund for the Navajo Nation. Assuming appropriation of the authorized amounts, CBO estimates that implementing the bill would increase discretionary spending by \$132 million over the 2009-2018 period.

**Conjunctive-Use Wells.** Section 306 would authorize the Secretary of the Interior to construct conjunctive-use wells in the San Juan, Little Colorado, and Rio Grande river basins in New Mexico and the Little Colorado river basin in Arizona. The groundwater diverted by the wells would be used for municipal and domestic purposes. Based on historical spending patterns for similar projects, CBO estimates that construction of the wells would cost \$89 million over the 2009-2018 period.

**Rehabilitation of Irrigation Infrastructure.** Sections 307 and 308 would authorize the Secretary to rehabilitate or reconstruct certain irrigation projects. Based on historical spending patterns for similar projects, CBO estimates that rehabilitating the irrigation infrastructure would cost \$43 million over the 2009-2018 period.

**Trust Fund.** Title IV would authorize the appropriation of \$50 million over the 2009-2018 period (\$6 million each year over the 2009-2013 period and \$4 million a year over the 2014-2018 period) to be deposited into the Navajo Nation Water Resources Development Trust Fund. The Secretary of the Interior would be required to invest those amounts in U.S. Treasury obligations.

Amounts in the fund could not be spent by the tribe until December 31, 2019, and certain deadlines specified in the agreement are met. Funds would be used to construct, operate, and maintain certain water project facilities owned or operated by the Navajo Nation. Based on information provided by DOI, CBO estimates that the tribe would spend most of the amounts over the 2020-2025 period. If certain conditions of the settlement are not met by March 1, 2025 (or a later date approved by the court), any unspent funds would be returned to the Treasury, and the settlement would be void.

## **ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS**

S. 1171 contains no intergovernmental mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. Enactment of the bill would benefit the Navajo Nation, the Jicarilla Apache Nation, and several local governments. Any costs to those governments would be incurred voluntarily.

## **ESTIMATED IMPACT ON THE PRIVATE SECTOR**

S. 1171 could impose a private-sector mandate, as defined in UMRA, if the Secretary of the Interior acquires land using eminent domain for the Navajo-Gallup Water Supply Project. The cost of the mandate would be the fair market value of the land and any expenses incurred by the owners in transferring that land to the federal government. Based on information from the Department of the Interior, CBO estimates that the cost of the mandate would fall below the annual threshold established in UMRA for private-sector mandates (\$136 million in 2008, adjusted annually for inflation).

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