

S 313

White Mountain Apache Tribe Water Rights Quantification Act of 2009

Congress: 111 (2009–2011, Ended)

Chamber: Senate

Policy Area: Native Americans

Introduced: Jan 26, 2009

Current Status: Placed on Senate Legislative Calendar under General Orders. Calendar No. 260.

Latest Action: Placed on Senate Legislative Calendar under General Orders. Calendar No. 260. (Jan 21, 2010)

Official Text: <https://www.congress.gov/bill/111th-congress/senate-bill/313>

Sponsor

Name: Sen. Kyl, Jon [R-AZ]

Party: Republican • **State:** AZ • **Chamber:** Senate

Cosponsors (1 total)

Cosponsor	Party / State	Role	Date Joined
Sen. McCain, John [R-AZ]	R · AZ		Jan 28, 2009

Committee Activity

Committee	Chamber	Activity	Date
Indian Affairs Committee	Senate	Reported By	Jan 21, 2010

Subjects & Policy Tags

Policy Area:

Native Americans

Related Bills

Bill	Relationship	Last Action
111 HR 4783	Related bill	Dec 8, 2010: Became Public Law No: 111-291.
111 HR 1065	Identical bill	Mar 26, 2010: Read twice. Placed on Senate Legislative Calendar under General Orders. Calendar No. 340.

White Mountain Apache Tribe Water Rights Quantification Act of 2009 - (Sec. 4) Authorizes, ratifies, and confirms the White Mountain Apache Tribe Water Rights Quantification Agreement and amendments made to such Agreement by this Act. Requires the Secretary of the Interior, in implementing the Agreement, to comply with all requirements of the National Environmental Policy Act of 1969, the Endangered Species Act of 1973, and all other applicable environmental laws.

(Sec. 5) Requires the water rights of the Tribe to be held in trust by the United States and to not be subject to forfeiture or abandonment. Provides for reallocations of certain water rights to the Tribe. Exempts the Tribe from any water service capital charge for tribal CAP water (water from specified aqueducts and pumping plants). Requires the Tribe to enact a water code, as specified.

(Sec. 6) Requires the Secretary to enter into a specified contract with the Tribe to provide, among other things, that the Tribe, on approval of the Secretary, may enter into contracts or options to lease, contracts to exchange, or options to exchange tribal CAP water in Maricopa, Pinal, Pima, and Yavapai Counties in Arizona providing for the temporary delivery to any individual or entity of any portion of the tribal CAP water, subject to the conditions that the term of the contract or option to lease shall not be longer than 100 years (with renegotiation permitted at any time), the contracts or options to exchange shall be for the term provided in the contract or option, and a lease or option to lease providing for the temporary delivery of tribal CAP water shall require the lessee to pay to charges associated with the leased water. Authorizes, ratifies, and confirms such a contract or lease, except to the extent that any provision of the contract or lease conflicts with a provision of this Act.

Prohibits: (1) use of tribal CAP water outside of Arizona; (2) tribal water rights from being sold, leased, transferred, or used outside the boundaries of the reservation or off-reservation trust land other than pursuant to an exchange, except as specified; and (3) limiting the right of the Tribe to enter into an agreement with the Arizona Water Banking Authority.

(Sec. 7) Directs the Secretary, subject to the availability of appropriations, and acting through the Bureau of Reclamation, to plan, design, construct, operate, maintain, replace, and rehabilitate the WMAT rural water system (a specified municipal, rural, and industrial water diversion, storage, and delivery system) as generally described in a project extension report dated February 2007. Specifies components of the WMAT rural water system, as well as the service area, and construction requirements. Requires title to the WMAT rural water system to be in trust by the United States in its capacity as trustee for the Tribe, but permits conveyance of title to the Tribe to the WMAT rural water system after publication by the Secretary of a specified statement of findings.

(Sec. 8) Sets forth provisions relating to the satisfaction, waiver, or release of claims by the Tribe, a limited waiver of U.S. or tribal sovereign immunity for the purpose of resolving issues arising under this Act, and after-acquired trust land.

(Sec. 10) Establishes in the Lower Colorado River Basin Development Fund a subaccount to be known as the White Mountain Apache Tribe Water Rights Settlement Subaccount (Subaccount), consisting of specified amounts and including up to \$100 million from the Fund. Requires the Tribe: (1) to use amounts in the Subaccount only for the planning, design, and construction of the rural water system; and (2) to report annually to the Secretary on each expenditure from the Subaccount.

(Sec. 12) Establishes the WMAT Settlement Fund to be used by the Tribe for: (1) fish production, including hatcheries; (2) rehabilitation of recreational lakes and existing irrigation systems; (3) water-related economic development projects;

(4) protection, restoration, and economic development of forest and watershed health; and (5) cost overruns for the completion of the WMAT rural water system.

Establishes the WMAT Maintenance Fund for the operation, maintenance, and replacement costs associated with the delivery of water through the rural water system.

Requires annual reports to the Secretary describing all expenditures from the Settlement and Maintenance funds.

Transfers up to \$100 million from the Emergency Fund for Indian Safety and Health to the Subaccount.

Authorizes appropriations.

(Sec. 13) Exempts the United States from any liability for failure to carry out any obligation or activity authorized to be carried out, subject to appropriations, under this Act if adequate appropriations for that purpose are not provided by Congress.

(Sec. 14) Repeals this Act, and reverts any appropriated funds, if the Secretary does not make specified findings by October 31, 2015.

Actions Timeline

- **Jan 21, 2010:** Committee on Indian Affairs. Reported by Senator Dorgan with an amendment in the nature of a substitute. With written report No. 111-119. Additional views filed.
- **Jan 21, 2010:** Placed on Senate Legislative Calendar under General Orders. Calendar No. 260.
- **Sep 10, 2009:** Committee on Indian Affairs. Ordered to be reported with an amendment in the nature of a substitute favorably.
- **Apr 2, 2009:** Committee on Indian Affairs. Hearings held. Hearings printed: S.Hrg. 111-66.
- **Jan 26, 2009:** Introduced in Senate
- **Jan 26, 2009:** Sponsor introductory remarks on measure. (CR S827)
- **Jan 26, 2009:** Read twice and referred to the Committee on Indian Affairs. (text of measure as introduced: CR S827-833)

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