



CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

October 16, 2009

H.R. 3254 **Taos Pueblo Indian Water Rights Settlement Act**

*As ordered reported by the House Committee on Natural Resources
on September 30, 2009*

SUMMARY

H.R. 3254 would approve and ratify a settlement agreement between the Taos Pueblo and the state of New Mexico. The agreement would settle the Pueblo's claims to water rights in the state. As part of that agreement, the bill would authorize the appropriation of funds to construct and rehabilitate water infrastructure and preserve environmentally sensitive lands in the Taos Valley. The bill also would establish a trust fund for the Pueblo to acquire water rights and maintain the water infrastructure. Finally, the bill would authorize appropriations to mitigate any adverse impacts on Pueblo lands caused by diverting water to execute the settlement agreement.

Based on information from the Department of the Interior (DOI), CBO estimates that implementing H.R. 3254 would cost \$25 million over the 2010-2014 period and an additional \$114 million to be spent beginning in fiscal year 2017 (as specified by the proposed settlement agreement), assuming appropriation of the necessary amounts. Enacting H.R. 3254 would not affect direct spending or revenues.

H.R. 3254 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.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 3254 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					2010-2014
	2010	2011	2012	2013	2014	2014
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Pueblo Water Infrastructure						
Estimated Authorization Level	1	3	3	3	0	10
Estimated Outlays	1	3	3	3	0	10
Water Development Fund						
Estimated Authorization Level	3	3	3	3	3	15
Estimated Outlays	3	3	3	3	3	15
Total Spending Under H.R. 3254						
Estimated Authorization Level	4	6	6	6	3	25
Estimated Outlays	4	6	6	6	3	25

BASIS OF ESTIMATE

For this estimate, CBO assumes that H.R. 3254 will be enacted early in fiscal year 2010 and that the necessary amounts will be appropriated each year. The enforcement of the settlement agreement depends on the completion of a number of actions by federal, state, local, and tribal entities. CBO expects that those actions will be completed early in fiscal year 2017. Cost estimates for the authorized water projects are based on information from DOI and on historical spending patterns for similar activities.

In 2006, the Taos Pueblo in New Mexico and several other parties signed a settlement agreement resolving a water-rights dispute in the Taos Valley. The United States would become a party to that agreement upon enactment of H.R. 3254, provided that certain other conditions are met. Among those conditions, the Secretary would have to publish a statement of findings in the Federal Register indicating that all parties have executed the agreement; the U.S. district court would have to issue a partial decree concerning the agreement; the Congress would have to appropriate sufficient funds to carry out certain provisions of the bill, which CBO estimates would cost \$139 million; and New Mexico would have to appropriate amounts it would owe the Pueblo under the agreement.

Based on information from DOI and assuming appropriation of the necessary amounts, CBO estimates that implementing the legislation would cost \$25 million over the 2010-2014 period and \$114 million after 2016. Should the Secretary of the Interior not publish the required statement of findings by December 31, 2016, verifying that all conditions necessary to execute the agreement have been met, the agreement would not take effect, and any appropriated funds that remain unspent and title to any property

acquired or constructed with federal funds would be returned to the federal government (unless otherwise specified by the bill).

Pueblo Water Infrastructure

Section 5 would authorize the Secretary of the Interior to provide grants to the Taos Pueblo to construct and maintain water infrastructure and to restore and protect environmentally sensitive lands and watersheds. The bill would authorize the appropriation of \$30 million (plus additional amounts needed because of increases in construction costs) over the 2010-2016 period. Of that amount, \$10 million could be expended upon appropriation. The remaining \$20 million would not be available to the Secretary until the enforcement date of the settlement—near the beginning of fiscal year 2017. CBO estimates that implementing this grant program would cost \$10 million over the 2010-2014 period and an additional \$24 million beginning in 2017.

Water Development Fund

Section 6 would authorize the appropriation of \$58 million (plus additional amounts needed because of increases in construction costs) over the 2010-2016 period for the Taos Pueblo Water Development Fund. The Secretary of the Interior would be directed to hold those funds in trust for the Pueblo until the enforcement date of the settlement—the beginning of fiscal year 2017. After that date, the Secretary would be required to invest amounts in the fund in U.S. Treasury obligations, and those amounts would be available to the Pueblo to construct, operate, and maintain certain water system facilities owned or operated by the Pueblo.

Of the total amount authorized to be appropriated to the fund, \$15 million would be available immediately for the Pueblo to acquire certain water rights. Control over those amounts would be transferred to the Pueblo when appropriated. The remaining amounts could be spent by the Pueblo only after the settlement agreement is executed. Assuming appropriation of the authorized amounts, CBO estimates that outlays from the fund would total \$15 million over the 2010-2014 period and \$52 million after 2016.

Payments to certain tribal trust funds that are held and managed in a fiduciary capacity by the federal government on behalf of Indian tribes are treated as payments to a nonfederal entity. As a result, CBO expects that the entire amount deposited into the Taos Pueblo Water Development Fund (excluding amounts made available to acquire water rights) would be recorded as an outlay in 2017 when the funds could be spent by the Pueblo. Subsequently, any use of such funds would have no effect on the federal budget. Because H.R. 3254 directs the Secretary to invest amounts in the fund only after those amounts are available to the Pueblo, CBO expects that no interest would accrue on the amounts in the fund until after the payments are made in 2017.

Mutual-Benefit Projects

Section 8 would authorize the Secretary of the Interior to provide grants to local governments (other than the Taos Pueblo) for projects intended to mitigate the impact of diverting water from present uses to execute the settlement. The bill would authorize the appropriation of \$33 million (plus additional amounts needed because of increases in constructions costs) over the 2010-2016 period. The funds would be available on the settlement's enforcement date—the beginning of fiscal year 2017. Assuming appropriation of the authorized amounts, CBO estimates that implementing this grant program would have no cost over the 2010-2014 period and would cost \$38 million after 2016.

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

H.R. 3254 contains no intergovernmental or private-sector mandates as defined in UMRA. The bill would authorize water projects and provide other assistance that would benefit state, local, and tribal governments. Any costs to those governments would be incurred voluntarily as a condition of federal assistance.

PREVIOUS CBO ESTIMATE

On October 13, 2009, CBO transmitted a cost estimate for S. 965, the Taos Pueblo Indian Water Rights Settlement Act, as ordered reported by the Senate Committee on Indian Affairs on September 10, 2009. The House and Senate versions of the legislation are similar, and our cost estimates are the same.

ESTIMATE PREPARED BY:

Federal Costs: Jeff LaFave

Impact on State, Local, and Tribal Governments: Melissa Merrell

Impact on the Private Sector: Marin Randall

ESTIMATE APPROVED BY:

Theresa Gullo

Deputy Assistant Director for Budget Analysis