



HOUSE JOINT RESOLUTION 26-1017

BY REPRESENTATIVE(S) Stewart K. and McCluskie, Bacon, Barron, Boesenecker, Brown, Caldwell, Carter, Clifford, Duran, Espenosa, Froelich, Garcia, Garcia Sander, Gilchrist, Goldstein, Gonzalez R., Hamrick, Hartsook, Jackson, Johnson, Joseph, Keltie, Lieder, Lindsay, Lukens, Mabrey, Martinez, Mauro, McCormick, Nguyen, Paschal, Phillips, Richardson, Ricks, Rutinel, Rydin, Sirota, Slaugh, Smith, Soper, Stewart R., Story, Taggart, Titone, Valdez, Velasco, Willford, Winter T., Woodrow, Zokaie;
also SENATOR(S) Simpson and Roberts, Amabile, Baisley, Ball, Benavidez, Bridges, Bright, Carson, Catlin, Cutter, Danielson, Daugherty, Exum, Frizell, Gonzales J., Hinrichsen, Jodeh, Kipp, Kirkmeyer, Kolker, Lindstedt, Liston, Marchman, Mullica, Pelton B., Pelton R., Rich, Rodriguez, Snyder, Sullivan, Wallace, Weissman, Zamora Wilson, Coleman.

CONCERNING CALLING ON THE FEDERAL GOVERNMENT
TO FULFILL THEIR OBLIGATIONS TO THE SOUTHERN UTE
INDIAN TRIBE AND THE UTE MOUNTAIN UTE TRIBE
REGARDING WATER RIGHTS.

WHEREAS, The Ute People, or Nuuchiu, were the original inhabitants of what is now the state of Colorado; and

WHEREAS, The sovereign nations of the Southern Ute Indian Tribe and the Ute Mountain Ute Tribe are the two federally recognized tribes with Reservations in Colorado; and

WHEREAS, Colorado signed the Colorado Ute Indian Water Rights Final Settlement Agreement (Settlement Agreement) with the Southern Ute, Ute Mountain Ute, United States, and other governmental and private entities on December 10, 1986; and

WHEREAS, The purposes of the Settlement Agreement were to:

- Determine all federally reserved water rights of the two Colorado Ute Tribes to beneficially use water for, on, under, adjacent to, or otherwise appurtenant to the Southern Ute and Ute Mountain Ute Indian Reservations within the state of Colorado;
- Settle existing disputes and remove causes of future controversy concerning the rights to use water in southwestern Colorado;
- Settle all claims by the Southern Ute and Ute Mountain Ute Tribes and by the United States on behalf of the Tribes in the water adjudication proceedings pending in Colorado District Court for Water Division 7;
- Secure for the two Tribes an opportunity to derive an economic benefit or generate revenue from the use of project and nonproject reserved water rights secured in the Settlement Agreement; and
- Authorize the Tribes to sell, exchange, lease, or otherwise temporarily dispose of their water; and

WHEREAS, Colorado supported the congressional enactment of the federal "Colorado Ute Indian Water Rights Settlement Act of 1988" (Settlement Act), which implemented the Settlement Agreement, as well as the amendment of the Settlement Act in the federal "Colorado Ute Settlement Act Amendments of 2000"; and

WHEREAS, Colorado supported the congressional authorization of the Animas-La Plata (ALP) Project, one of the projects memorialized in the Settlement Agreement, which included storage of a portion of the Tribes' water in a reservoir now known as Lake Nighthorse. Pursuant to the Settlement Act, the United States provided funding to construct the ALP Project. However, when the Settlement Act was amended in 2000, the water was limited to municipal and industrial purposes only, which further limited the Tribes' ability to develop ALP Project water. Each Tribe negotiated a water right of 16,525 acre-feet of depletion per year in the ALP Project; and

WHEREAS, Construction of the ALP Project is complete, and the reservoir has been full since 2011; however, there exists no infrastructure to convey the Tribes' water from Lake Nighthorse to the Southern Ute or Ute Mountain Ute Reservations. The Southern Ute can take water directly from the Animas River but must build infrastructure to divert and deliver the water. The Ute Mountain Ute do not have access to the Animas River

and cannot divert directly from the Animas River to its Reservation, which is approximately 50 miles west of Lake Nighthorse. Therefore, both Tribes have settled and quantified water that they cannot use and that flows downstream, where it is used by junior water rights holders; and

WHEREAS, The Ute Mountain Ute have a second water project called the Dolores Project, which was authorized prior to the Settlement Act. The Dolores Project delivers water from McPhee Reservoir to the Ute Mountain Ute community of Towaoc, Colorado, and the Ute Mountain Ute's Farm and Ranch Enterprise. In addition to providing long-term food security for the Tribe, the Farm and Ranch Enterprise employs tribal members and provides funds to the Tribe when the enterprise is profitable. The Tribe is improving the Farm and Ranch Enterprise's farm infrastructure and is introducing water-saving crops. The Tribe is also addressing the enterprise's failing municipal and industrial transmission line from the Cortez Water Treatment Plant with assistance from the United States. However, the federal funds have been frozen by the current administration and the development has stalled; and

WHEREAS, The Southern Ute have a second water project called the Pine River Indian Irrigation Project (PRIIP), which is a series of canals and ditches that bring water to Reservation lands for agriculture. Portions of the system were constructed in the late 1800s and early 1900s. A portion of the water rights that the Tribe settled and quantified are used in the PRIIP, which has been owned by the Bureau of Indian Affairs (BIA) since the PRIIP became an Indian irrigation project in the 1960s; and

WHEREAS, The PRIIP's infrastructure has been in an extremely deteriorated condition for decades. While it is intended to provide water to approximately 12,000 acres of land and nearly 400 individual users, including approximately 100 non-Indians and the town of Ignacio, Colorado, it falls far short of that goal. Only 15 percent of the 175 miles of canals can be classified as being in good condition. While PRIIP users are charged fees by the federal government for operation and maintenance, the federal government is operating and managing the irrigation system poorly. The ongoing deficiencies in operations and management of the PRIIP impact both tribal Reservation residents and nontribal irrigators who are also served by the PRIIP and present a significant barrier to agricultural and economic development for both the

Tribe and the local community; and

WHEREAS, The BIA 2000 Office of Trust Responsibilities Deferred Maintenance Report stated that there is more than \$67 million in necessary deferred maintenance on the PRIIP (adjusted for inflation, this number is closer to \$126 million today). In 2025, the Southern Ute Tribe was awarded approximately \$20 million in grants from the Bureau of Reclamation for repairs to the PRIIP, funds that have not been paid. To ensure that the PRIIP continues to provide water to tribal and nontribal members, the Southern Ute have spent approximately \$5 million of tribal funds to repair and rehabilitate sections of the PRIIP to benefit tribal and nontribal members. The Tribe has never been reimbursed by the BIA; and

WHEREAS, A portion of the Southern Ute Tribe's water is also held in the Vallecito Reservoir, which is used to provide water to the Reservation for both agricultural and municipal uses, including for the town of Ignacio, Colorado; and

WHEREAS, There currently are structural deficiencies with the spillway at the Vallecito Reservoir that impact the operations of the reservoir so that the emergency spillway cannot be used. This creates a flood risk for downstream communities and the Reservation. The Bureau of Reclamation is working on a design for the repair of the spillway; and

WHEREAS, The federal government is obligated to pay the operation and maintenance charges for the Tribe's water in Vallecito Reservoir but has neglected to do so for three years despite demand, thereby jeopardizing the Tribe's water rights; and

WHEREAS, As the drought in the Colorado River Basin persists, it will intensify the needs of the two Colorado Ute Tribes for additional infrastructure and flexibility to support the use of their settled and quantified water; and

WHEREAS, A Lake Powell savings pool would benefit Upper Basin water users, including the two Colorado Ute Tribes; and

WHEREAS, The two Colorado Ute Tribes would significantly benefit if the parameters of a Lake Powell savings pool program were tailored to include tribal water; and

WHEREAS, Lack of infrastructure, poor stewardship by the federal government, and systemic constraints create barriers to the Tribes' ability to develop their quantified and settled water rights and, relatedly, their economies and communities; and

WHEREAS, Federal Indian reserved water rights are vested property rights and resources for which the United States has a trust responsibility, meaning there is a legal obligation for the federal government to protect and manage the assets in the Tribes' best interest; and

WHEREAS, The Tribes have demonstrated the need for additional flexibility and federal funding, including the release of federal grant funds, to fully utilize their settled and quantified water rights; now, therefore,

Be It Resolved by the House of Representatives of the Seventy-fifth General Assembly of the State of Colorado, the Senate concurring herein:

That we, the members of the Colorado General Assembly:

(1) Consider these matters to be urgent and request that the United States fulfill its federal trust obligations to the Southern Ute Indian Tribe and the Ute Mountain Ute Tribe regarding their federal Indian reserved water rights;

(2) Urge the United States to ensure that the Bureau of Indian Affairs protects the Southern Ute Indian Tribe's water rights by rehabilitating the PRIIP into a fully functioning system, as well as properly operating and maintaining the system;

(3) Urge the United States to timely meet its legal obligations to remit payment for the maintenance of each Tribe's water resources;

(4) Urge the United States to provide funds to the Ute Mountain Ute Tribe for the infrastructure projects at the Tribe's Farm and Ranch Enterprise and the municipal and industrial water transmission line to Towaoc, Colorado, and to provide funding and resources to assist the Ute Mountain Ute Tribe in delivering water from the Animas River and Lake Nighthorse to the Tribe's Reservation; and

(5) Urge the United States to work with the Southern Ute Indian Tribe and Ute Mountain Ute Tribe to facilitate both Tribes' participation in a voluntary, temporary program that compensates both Tribes to place their tribal water in a Lake Powell savings pool.

Be It Further Resolved, That copies of this Joint Resolution be sent to Scott Cameron, Acting Commissioner, Bureau of Reclamation; Bryan Mercier, Director, Bureau of Indian Affairs, U.S. Department of the Interior; Lauren Ris, Director, Colorado Water Conservation Board; Becky Mitchell, Commissioner, Upper Colorado River Commission; Senator Michael Bennet; Senator John Hickenlooper; Representative Diana DeGette; Representative Joe Neguse; Representative Jason Crow; Representative Brittany Pettersen; Representative Jeff Hurd; Representative Lauren Boebert; Representative Jeff Crank; and Representative Gabe Evans.

Julie McCluskie
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