

# Calendar No. 522

112<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 134

[Report No. 112-218]

To authorize the Mescalero Apache Tribe to lease adjudicated water rights.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 25 (legislative day, JANUARY 5), 2011

Mr. BINGAMAN (for himself and Mr. UDALL of New Mexico) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

SEPTEMBER 19, 2012

Reported by Mr. AKAKA, without amendment

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## A BILL

To authorize the Mescalero Apache Tribe to lease adjudicated water rights.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Mescalero Apache  
5 Tribe Leasing Authorization Act”.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) **ADJUDICATED WATER RIGHTS.**—The term  
4 “adjudicated water rights” means water rights that  
5 were adjudicated to the Tribe in *State v. Lewis*, 116  
6 N.M. 194, 861 P. 2d 235 (1993).

7 (2) **SECRETARY.**—The term “Secretary” means  
8 the Secretary of the Interior.

9 (3) **STATE.**—The term “State” means the State  
10 of New Mexico.

11 (4) **TRIBE.**—The term “Tribe” means the Mes-  
12 calero Apache Tribe.

13 **SEC. 3. AUTHORIZATION TO LEASE ADJUDICATED WATER**  
14 **RIGHTS.**

15 (a) **IN GENERAL.**—Notwithstanding any other provi-  
16 sion of law, subject to subsections (b) and (c), the Tribe  
17 may lease, enter into a contract with respect to, or other-  
18 wise transfer to another party, for another purpose, or to  
19 another place of use in the State, all or any portion of  
20 the adjudicated water rights.

21 (b) **STATE LAW.**—In carrying out any action under  
22 subsection (a), the Tribe shall comply with all laws (in-  
23 cluding regulations) of the State with respect to the leas-  
24 ing or transfer of water rights.

25 (c) **ALIENATION; MAXIMUM TERM.**—

1           (1) ALIENATION.—The Tribe shall not perma-  
2           nently alienate any adjudicated water rights.

3           (2) MAXIMUM TERM.—The term of any water  
4           use lease, contract, or other agreement under this  
5           section (including a renewal of such an agreement)  
6           shall be not more than 99 years.

7           (d) LIABILITY.—The Secretary shall not be liable to  
8           the Tribe or any other person for any loss or other det-  
9           riment resulting from a lease, contract, or other arrange-  
10          ment entered into pursuant to this section.

11          (e) PURCHASES OR GRANTS OF LAND FROM INDI-  
12          ANS.—The authorization provided by this Act for the leas-  
13          ing, contracting, and transfer of the adjudicated water  
14          rights shall be considered to satisfy any requirement for  
15          authorization of the action by treaty or convention im-  
16          posed by section 2116 of the Revised Statutes (25 U.S.C.  
17          177).

18          (f) PROHIBITION ON FORFEITURE.—The nonuse of  
19          all or any portion of the adjudicated water rights by a  
20          lessee or contractor shall not result in the forfeiture, aban-  
21          donment, relinquishment, or other loss of all or any por-  
22          tion of the adjudicated water rights.

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