

Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. R26-0728.01 Faith Marcovecchio x4331

HJR26-1017

HOUSE SPONSORSHIP

Stewart K. and McCluskie,

SENATE SPONSORSHIP

Simpson and Roberts,

House Committees

Senate Committees

HOUSE JOINT RESOLUTION 26-1017

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

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

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

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

*Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.*

1 WHEREAS, The purposes of the Settlement Agreement were to:
2 ● Determine all federally reserved water rights of the two
3 Colorado Ute Tribes to beneficially use water for, on,
4 under, adjacent to, or otherwise appurtenant to the Southern
5 Ute and Ute Mountain Ute Indian Reservations within the
6 state of Colorado;
7 ● Settle existing disputes and remove causes of future
8 controversy concerning the rights to use water in
9 southwestern Colorado;
10 ● Settle all claims by the Southern Ute and Ute Mountain Ute
11 Tribes and by the United States on behalf of the Tribes in
12 the water adjudication proceedings pending in Colorado
13 District Court for Water Division 7;
14 ● Secure for the two Tribes an opportunity to derive an
15 economic benefit or generate revenue from the use of
16 project and nonproject reserved water rights secured in the
17 Settlement Agreement; and
18 ● Authorize the Tribes to sell, exchange, lease, or otherwise
19 temporarily dispose of their water; and

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

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

35 WHEREAS, Construction of the ALP Project is complete, and the
36 reservoir has been full since 2011; however, there exists no infrastructure
37 to convey the Tribes' water from Lake Nighthorse to the Southern Ute or
38 Ute Mountain Ute Reservations. The Southern Ute can take water directly

1 from the Animas River but must build infrastructure to divert and deliver
2 the water. The Ute Mountain Ute do not have access to the Animas River
3 and cannot divert directly from the Animas River to its Reservation,
4 which is approximately 50 miles west of Lake Nighthorse. Therefore,
5 both Tribes have settled and quantified water that they cannot use and that
6 flows downstream, where it is used by junior water rights holders; and

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

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

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

1 Tribe and the local community; and

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

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

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

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

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

29 WHEREAS, The Bureau of Reclamation's Draft Environmental
30 Impact Statement regarding the post-2026 operations of the Colorado
31 River System contains alternatives that include a Lake Powell
32 conservation pool, which is a concept that could benefit the two Colorado
33 Ute Tribes; and

34 WHEREAS, The two Colorado Ute Tribes would significantly
35 benefit if the parameters of a Lake Powell conservation pool program

1 were tailored to address the Tribes' needs; and

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

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

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

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

17 That we, the members of the Colorado General Assembly:

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

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

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

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

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

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