

**RIO GRANDE PUEBLOS, NEW MEXICO
IRRIGATION INFRASTRUCTURE IMPROVEMENT PROJECT**

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I. Introduction

On March 30, 2009, Congress authorized a total of \$64 million for the Irrigation Infrastructure Improvement Project (Project)¹, which is aimed at “rehabilitating and repairing irrigation infrastructure of the Rio Grande Pueblos²”. Congress enacted the law in response to a 2000 report developed by the Bureau of Reclamation (Reclamation) and the Bureau of Indian Affairs (BIA) that identified a serious need for the rehabilitation and repair of the Rio Grande Pueblos’ (Pueblos) irrigation infrastructure. The 2000 report showed that many of the Pueblos’ key facilities, such as diversion structures and main conveyance ditches, were unsafe and were barely, if at all, operable.

As justification for the Project, Congress cited to intensifying water supply issues across the American West, including the Rio Grande Basin, brought on by drought, population increases, and environmental needs. Also, Congress stated that because some Pueblos receive water from facilities operated or owned by Reclamation, rehabilitation and repair of their irrigation infrastructure would improve Reclamation’s overall water management, and would help address potential water supply conflicts in the Rio Grande Basin³.

a. Project Funding

¹ Omnibus Public Land Management Act of 2009, Pub. L. No. 111-11, § 9106, 123 Stat. 1304 (2009).

² Rio Grande Pueblos refers to the following 18 Pueblos: Acoma, Cochiti, Isleta, Jemez, Laguna, Nambe, Ohkay Owingeh, Picuris, Pojoaque, San Felipe, San Ildefonso, Sandia, Santa Ana, Santa Clara, Santo Domingo, Tesuque, Taos, and Zia.

³ The Project legislation defines the Rio Grande Basin as the headwaters of the Rio Chama and the Rio Grande Rivers from the state line between Colorado and New Mexico downstream to the elevation corresponding with the spillway crest of Elephant Butte Dam at 4,457.3 feet.

Congress authorized \$4 million to conduct the study described below, and authorized \$6 million annually from 2010 through 2019 to plan, design, construct, and complete recommended projects. However, Congressional authorization does not guarantee that funding will be provided by Congress to either conduct the study or implement recommended projects. No funds were provided by Congress in FY 2010, and the President's budget request to Congress for FY 2011 does not include funding for the study.

b. Project Benefits

The intended benefits of the Project are as follows:

- i. Water conservation;
- ii. Extending available water supplies;
- iii. Increased agricultural productivity;
- iv. Economic benefits;
- v. Safer facilities; and
- vi. Preservation of the culture of Indian Pueblos in New Mexico.

c. Project Purposes

The purposes of the Project are threefold:

- i. Complete a study assessing the condition of Pueblo irrigation infrastructure in need of improvement;
- ii. Develop a list prioritizing the repair, rehabilitation and reconstruction projects to be implemented over a 10-year period; and
- iii. Provide grants necessary to plan, design and construct the priority projects.

II. Pueblo Irrigation Infrastructure Improvement Study

The first step of the Project calls for the Secretary of the Interior (Secretary) to conduct a Pueblo irrigation infrastructure⁴ study. A list of projects recommended for implementation over a 10-year period will be developed based on the results of the study.

a. Pueblo Consultation and Consent

The Secretary will conduct the study and develop a list of recommended projects in consultation with the Pueblos. For funding consideration, each Pueblo must provide written consent to participate in the study and agree to develop a list of projects to repair, rehabilitate, or reconstruct irrigation infrastructure for the Pueblo.

⁴ The Project legislation defines "Pueblo Irrigation Infrastructure" as any diversion structure (such as a dam or headworks) or conveyance facility (such as canals and ditches) that delivers water to irrigate agricultural land, or any drainage facility that carries irrigation return flows and excess water from the land that is irrigated, that existed on March 30, 2009, and is located on land of a Rio Grande Pueblo.

b. Evaluation Factors

The Project legislation establishes the following factors to determine which projects are eligible for consideration and recommendation by the Secretary:

- i. (I) The extent of disrepair of the Pueblo irrigation infrastructure; and (II) the effect of the disrepair on the ability of the applicable Rio Grande Pueblo to irrigate agricultural land using Pueblo irrigation infrastructure;
- ii. Whether, and the extent that, the repair, rehabilitation, or reconstruction of the Pueblo irrigation infrastructure would provide an opportunity to conserve water;
- iii. (I) The economic and cultural impacts that the Pueblo irrigation infrastructure that is in disrepair has on the applicable Rio Grande Pueblo; and (II) The economic and cultural benefits that the repair, rehabilitation, or reconstruction of the Pueblo irrigation infrastructure would have on the applicable Rio Grande Pueblo;
- iv. The opportunity to address water supply or environmental conflicts in the applicable river basin if the Pueblo irrigation infrastructure is repaired, rehabilitated, or reconstructed; and
- v. The overall benefits of the project to efficient water operations on the land of the applicable Rio Grande Pueblo.

A project is eligible to be considered and prioritized by the Secretary, as discussed below, if the project addresses at least one factor described above. Examples of eligible projects include lining of canals and ditches, rehabilitating turn-outs, installing water measurement features, installing pressure pipe systems, installing water control structures (check structures, bifurcation structures, etc.), setting canal control structures at correct elevations for proper operation, installing high flow turnouts, installing flumes or siphons, replacing rock-and-brush diversion structures with engineered diversion structures, and re-routing canals for more efficient and economical operation.

III. Recommended and Prioritized Projects

a. Developing the List of Priority Projects

Based on the results of the study and in consultation with the Pueblos, the Secretary will develop a list of projects, including a cost estimate for each project, that are recommended to be implemented over a 10-year period. The Secretary will prioritize the recommended projects considering of each of the above evaluation factors and the projected benefits of each project. In developing the list, the Secretary will consult with the BIA⁵, Natural Resources Conservation Service (NRCS), and the U.S. Army Corps of Engineers (USACE) to determine if the programs of the respective agencies may be used to assist in 1)

⁵ With respect to each proposed project that affects the Six Middle Rio Grande Pueblos (Cochiti, Santa Domingo, San Felipe, Santa Ana, Sandia and Isleta) consultation with BIA will include consultation with the designated engineer who represents the United States in any action involving the maintenance, rehabilitation, or preservation of the condition of any irrigation structure or facility on land located within the Six Middle Rio Grande Pueblos.

evaluating the projects; 2) implementing the projects; and 3) other related projects (including on-farm improvements).

b. Report to Congress

The study and the prioritized lists of recommended projects will be included in a report to Congress. The report will include descriptions of the projects recommended for implementation and the findings of the Commissioner of Reclamation. Each Rio Grande Pueblo participating in the study, Reclamation, BIA, NRCS, and USACE will receive a copy of the report. Every 4 years, Reclamation and BIA, in consultation with the Rio Grande Pueblos, will review the report, and update the list of projects, in accordance with each evaluation factor listed above.

IV. Pueblo Irrigation Infrastructure Grants

When funding becomes available, the Secretary may provide grants to the Pueblos to plan, design, construct or complete projects that are recommended and that perform the following:

- i. Increase water use efficiency and agricultural productivity for the benefit of a Pueblo;
- ii. Conserve water; or
- iii. Otherwise enhance water management or help avert water supply conflicts in the Rio Grande Basin.

Before implementing a particular Pueblo infrastructure project, the Secretary shall consult with, and obtain the approval of the applicable Pueblo, and consult and coordinate with the BIA.

b. Cost Sharing Requirements

In general, the Federal share of the project costs will not exceed 75%. The Secretary may waive or reduce the cost share requirement based on a demonstrated financial hardship by a Pueblo, and determination by the Secretary that the Pueblo is unable to contribute the required non-Federal share. Additionally, the non-federal cost share may be in the form of in-kind contributions, including any valuable asset or service that would substantially contribute to the project. Examples of in-kind contributions include labor and equipment.

The State of New Mexico (State) may contribute to the non-Federal cost share of a Pueblo irrigation infrastructure improvement project. The Middle Rio Grande Conservancy District (District) may contribute to the non-Federal cost share for a project on lands of the Six Middle Rio Grande Pueblos if the Secretary determines that the project is a “special project” as defined in the 2004 agreement⁶. Neither the State nor the District is not required to cost share.

⁶ Agreement by and Between the United States of America and the Middle Rio Grande Conservancy District, Providing for the Payment of Operation and Maintenance Charges on Newly Reclaimed Pueblo Indian Lands in the Middle Rio Grande Valley, New Mexico, executed September 2004.

c. Limitations

Under this Project, no funding may be provided for the following:

- i. The repair, rehabilitation or reconstruction of any major impoundment structure (such as Cochiti dam); or
- ii. On-farm improvements; or
- iii. Operation and maintenance of projects after they have been completed.

V. Disclaimer

Nothing in the Project legislation affects or preempts the following:

- a. The right of any Pueblo to receive, divert, store, or claim a right to water, including the priority of the water right or the quantity of water associated with the water right under Federal or State law;
- b. State water law or any interstate compact governing water such as the Rio Grande Compact; or
- c. Any existing project-specific authority; or
- d. The responsibility of the United States to any Pueblo (including trust responsibility, Federal law, regulations, Executive order, or agreement between the Federal Government and any Pueblo)