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SENATE

{ REPORT
113-220

TO RATIFY A WATER SETTLEMENT AGREEMENT AFFECT- ING THE PYRAMID LAKE PAIUTE TRIBE, AND FOR OTHER PURPOSES

JULY 28, 2014.—Ordered to be printed

Mr. TESTER, from the Committee on Indian Affairs,
submitted the following

R E P O R T

[To accompany S. 1818]

The Committee on Indian Affairs, to which was referred the bill (S. 1818) to ratify a water settlement agreement affecting the Pyramid Lake Paiute Tribe, and for other purposes, having considered the same, reports favorably thereon, without amendment, and recommends that the bill do pass.

PURPOSE

The purpose of S. 1818 is to ratify a water settlement agreement affecting the Pyramid Lake Paiute Tribe.

BACKGROUND

The United States has distinct legal obligations to provide for the general welfare of and protect the trust assets of American Indian tribes, including water resources.

The Pyramid Lake Paiute Tribe (Tribe) resides on the Pyramid Lake Indian Reservation, which is located 35 miles northeast of Reno, Nevada, in a remote desert area in Washoe, Lyon, and Storey Counties. The reservation contains 475,000 acres, or 742.2 square miles. The Pyramid Lake, a terminal desert lake, covers approximately 112,000 acres of this reservation. Pyramid Lake is one of the most valuable assets of the Tribe and is entirely enclosed within the boundaries of the reservation. This lake is approximately 15 miles long and 11 miles wide and measures 350 feet at its deepest point. Much of the history, tradition and economy of the

Tribe is centered around fishing and recreational activities on the Pyramid Lake.

Near the Nevada and California border, a dispute arose between the Tribe and Fish Springs Ranch (Fish Springs) over water rights and alleged injuries to tribal water rights in connection with the pumping and transport by Fish Springs of groundwater from the Honey Lake Valley Basin to the suburban Stead/Lemmon Valley area north of Reno, Nevada.

In 2005, the Bureau of Land Management (BLM) issued a Final Environmental Impact Statement analyzing the impacts of water pipeline projects crossing public lands to provide groundwater from the Honey Lake Valley of Nevada to the Reno-Stead area. A Record of Decision and a water pipeline right-of-way across public lands for Fish Springs was issued in 2006. The Tribe opposed the BLM action by appealing the decision of the BLM to the Interior Board of Land Appeals and by suing in federal court. Fish Springs and the Tribe reached a settlement in 2007 that, among other things, resulted in dismissal of the appeal and resolution of the suit pending approval of Congressional legislation to approve the settlement.

S. 1818 authorizes, ratifies and confirms this 2007 settlement agreement and the supplement to the agreement between the Tribe and Fish Springs. The part of the settlement still pending and requiring federal legislation provides that the Tribe would subordinate its water rights and any groundwater rights it could establish in the future to Fish Springs' pumping of up to 14,108 acre-feet of groundwater. The Tribe would waive potential claims against Fish Springs for damages related to impacts or injuries to existing as well as claimed tribal water rights. In return, the Tribe would receive \$3.6 million, plus interest, from January 8, 2007, from Fish Springs.

Through enactment of the proposed legislation, the United States would extinguish any claims it may have against Fish Springs on behalf of the Tribe to the same extent that the Tribe waives its claims against Fish Springs. In addition to the Tribe's waiver of claims against Fish Springs, the Tribe is also waiving claims against the United States relating to trust responsibilities for the claims waived by the Tribe and the BLM's 2006 decision. The Tribe would also dismiss pending litigation against the BLM for violations of NEPA and trust responsibilities related to the Fish Springs groundwater project. No authorization of appropriations of federal funds is sought under the Agreement or S. 1818.

The Committee on Indian Affairs held a hearing on the bill on May 7, 2014, where the Tribe testified in support of the bill. The Department of the Interior did not participate in the negotiation of the settlement, but testified that it did not object to the bill.

NEED FOR LEGISLATION

The settlement agreement between the Tribe and Fish Springs contains waivers and release of claims by the Tribe against Fish Springs and the United States that must be ratified by Congress, as they involve trust assets held by the United States for the benefit of the Tribe. The legislation also contains waivers and releases of claims by the United States on behalf of the Tribe.

SECTION-BY-SECTION ANALYSIS

Section 1. Short Title; Table of Contents

The Act may be cited as the “Pyramid Lake Paiute Tribe—Fish Springs Ranch Settlement Act.”

Section 2. Definitions

Section 2 defines the key terms used throughout this act.

Section 3. Ratification of Agreement

Section 3 provides that except to the extent that a provision of the Agreement conflicts with this Act, the Agreement is authorized and ratified.

Section 4. Waiver and release of claims

Section 4 provides a waiver and release of certain claims by the Tribe against Fish Springs; a reservation of rights and retention of certain claims by the Tribe against Fish Springs; a waiver and release of certain claims by the Tribe against the United States; and a reservation of rights and retention of certain claims by the Tribe against the United States.

Section 5. Satisfaction of claims

Section 5 provides that the benefits provided to the Tribe under the Agreement, the Original Agreement, and this Act shall be considered to be full satisfaction of all claims of the Tribe waived and released pursuant to section 4 and pursuant to the Original Agreement and any claims the United States might make on behalf of the Tribe that are extinguished pursuant to section 4. It also provides that if the Tribe fails to execute the waivers and releases as authorized by this Act within 60 days after the date of the enactment of this Act, this Act and the Agreement shall be null and void.

Section 6. Beneficiaries to agreement

Section 6 states the parties to the Agreement shall be limited to: (1) the parties to the Agreement; (2) any municipal water purveyor that provides Project water for wholesale or retail water service to the area serviced by the Project; (3) any water purveyor that obtains the right to use Project water for purposes other than serving retail or wholesale customers; and (4) any assignee of Water Rights Credits for Project water pursuant to the terms of the February 28, 2006, Water Banking Trust Agreement between Washoe County and Fish Springs.

Section 7. Jurisdiction

Section 7 provides that jurisdiction over any civil action relating to the enforcement of the Agreement, the Original Agreement, or this Act shall be vested in the United States District Court for the District of Nevada.

Section 8. Environmental compliance

Section 8 provides that nothing in this Act precludes the United States or the Tribe, when delegated regulatory authority, from enforcing Federal environmental laws, including: (1) the Comprehen-

sive Environmental Response, Compensation, and Liability Act of 1980 including claims for damages for harm to natural resources; (2) the Safe Drinking Water Act; (3) the Federal Water Pollution Control Act; (4) the Solid Waste Disposal Act; and (5) any regulation implementing one or more of the Acts listed in paragraphs (1) through (4).

Section 9. Miscellaneous provisions

Section 9 provides that nothing in this Act establishes a standard for the quantification of a Federal reserved water right or any other claim of an Indian tribe other than the Tribe in any other judicial or administrative proceeding. Nothing in the Agreement, the Original Agreement, or this Act quantifies or otherwise adversely affects any water right, claim, or entitlement to water, or any other right of any Indian tribe, band, or community other than the Tribe.

LEGISLATIVE HISTORY

S. 1818 was introduced on December 12, 2013, by Senators Harry Reid (D–NV) and Dean Heller (R–NV). The bill was referred to the Committee on Indian Affairs. On May 7, 2014, the Committee held a hearing on the bill. On May 21, 2014, the Committee met to consider the bill. No amendments were offered, and the bill was ordered to be reported favorably to the full Senate.

COST AND BUDGETARY CONSIDERATIONS

The following cost estimate, as provided by the Congressional Budget Office, dated July 9, 2014, was prepared for S. 1818:

Enclosure.

S. 1818—Pyramid Lake Paiute Tribe—Fish Springs Ranch Settlement Act

S. 1818 would ratify a settlement agreement between the Fish Springs Ranch LLC and the Pyramid Lake Paiute Tribe in the state of Nevada. The bill would authorize the tribe to grant waivers to Fish Springs pursuant to the settlement agreement. S. 1818 also would waive any claims against the federal government related to the settlement agreement.

CBO estimates that implementing the legislation would have no effect on the federal budget. The federal government is not a party to the settlement agreement between Fish Springs and the tribe, and implementing the legislation would not increase operating costs for the Department of the Interior. Enacting S. 1818 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

S. 1818 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Martin von Gnechten. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

REGULATORY AND PAPERWORK IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires each report accompanying a bill to evaluate the regu-

latory and paperwork impact that would be incurred in carrying out the bill. The Committee believes that S. 1818 will have a minimal impact on regulatory or paperwork requirements.

EXECUTIVE COMMUNICATIONS

The Committee has received no communications from the Executive Branch regarding S. 1818.

CHANGES IN EXISTING LAW

In accordance with subsection 12 of rule XXVI of the Standing Rules of the Senate, the Committee finds that the enactment of S. 1818 will not make any changes in existing law.

