

113TH CONGRESS
1ST SESSION

S. 1818

To ratify a water settlement agreement affecting the Pyramid Lake Paiute Tribe, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 12 (legislative day, DECEMBER 11), 2013

Mr. REID (for himself and Mr. HELLER) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

A BILL

To ratify a water settlement agreement affecting the Pyramid Lake Paiute Tribe, and for other purposes.

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; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Pyramid Lake Paiute Tribe - Fish Springs Ranch Settle-
6 ment Act”.

7 (b) **TABLE OF CONTENTS.**—The table of contents for
8 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.
- Sec. 3. Ratification of agreement.
- Sec. 4. Waiver and releases of claims.
- Sec. 5. Satisfaction of claims.

Sec. 6. Beneficiaries to agreement.
Sec. 7. Jurisdiction.
Sec. 8. Environmental compliance.
Sec. 9. Miscellaneous provisions.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) ORIGINAL AGREEMENT.—The term “Original
4 Agreement” means the “Pyramid Lake Paiute
5 Tribe Fish Springs Ranch Settlement Agreement”
6 dated May 30, 2007, entered into by the Tribe and
7 Fish Springs (including all exhibits to that agree-
8 ment).

9 (2) AGREEMENT.—The term “Agreement”
10 means the Pyramid Lake Paiute Tribe-Fish Springs
11 Ranch 2013 Supplement to the 2007 Settlement
12 Agreement dated November 20, 2013, entered into
13 by the Tribe and Fish Springs, and all exhibits to
14 that Agreement.

15 (3) ENVIRONMENTAL IMPACT STATEMENT.—
16 The term “environmental impact statement” means
17 the final environmental impact statement for the
18 North Valleys Rights-of-Way Projects prepared by
19 the Bureau of Land Management (70 Fed. Reg.
20 68473).

21 (4) FINAL PAYMENT DATE.—The term “final
22 payment date” means 30 days after the date on
23 which the Tribe executes the waivers, as authorized

1 in section 4, on or before which Fish Springs shall
2 pay to the Tribe the \$3,600,000 and accumulated
3 interest pursuant to subparagraph 4.2 of the Agree-
4 ment.

5 (5) FISH SPRINGS.—The term “Fish Springs”
6 means the Fish Springs Ranch, LLC, a Nevada lim-
7 ited liability company (or a successor in interest).

8 (6) FISH SPRINGS WATER RIGHTS.—The term
9 “Fish Springs water rights” means the 14,108 acre
10 feet of water available to Fish Springs pursuant to
11 certificates of water rights issued to Fish Springs or
12 its predecessors in interest by the State Engineer for
13 the State of Nevada, copies of which are attached as
14 Exhibit “G” to the Original Agreement.

15 (7) ADDITIONAL FISH SPRINGS WATER
16 RIGHTS.—The term “additional Fish Springs water
17 rights” means the rights to pump and transfer up
18 to 5,000 acre feet per year of Fish Springs water
19 rights in excess of 8,000 acre feet per year, up to
20 a total of 13,000 acre feet per year, pursuant to
21 Ruling No. 3787 signed by the State Engineer for
22 the State of Nevada on March 1, 1991, and Supple-
23 mental Ruling on Remand No. 3787A signed by the
24 State Engineer for the State of Nevada on October
25 9, 1992.

1 (8) HONEY LAKE VALLEY BASIN.—The term
2 “Honey Lake Valley Basin” means the Honey Lake
3 Valley Hydrographic Basin described as Nevada Hy-
4 drographic Water Basin 97.

5 (9) PROJECT.—The term “Project” means the
6 project for pumping within Honey Lake Valley
7 Basin and transfer outside of the basin by Fish
8 Springs of not more than 13,000 acre feet per year
9 of Fish Springs water rights, including—

10 (A) not more than 8,000 acre feet as de-
11 scribed in the environmental impact statement
12 (but not the Intermountain Water Supply, Ltd.,
13 Project described in the environmental impact
14 statement) and the record of decision;

15 (B) up to the 5,000 acre feet of additional
16 Fish Springs water rights; and

17 (C) the rights and approvals for Fish
18 Springs to pump and transfer up to said
19 13,000 acre feet of groundwater per year.

20 (10) RECORD OF DECISION.—The term “record
21 of decision” means the public record of the decision
22 of the District Manager of the United States Bureau
23 of Land Management’s Carson City District in the
24 State of Nevada issued on May 31, 2006, regarding
25 the environmental impact statement and the Project.

1 (11) SECRETARY.—The term “Secretary”
2 means the Secretary of the Interior (or a designee
3 of the Secretary).

4 (12) TRIBE.—The term “Tribe” means the
5 Pyramid Lake Paiute Tribe of Indians organized
6 under section 16 of the Act of June 18, 1934 (com-
7 monly known as the “Indian Reorganization Act”;
8 25 U.S.C. 476).

9 (13) TRUCKEE RIVER OPERATING AGREE-
10 MENT.—The term “Truckee River Operating Agree-
11 ment” means—

12 (A) the September 6, 2008, Truckee River
13 Operating Agreement negotiated for the pur-
14 pose of carrying out the terms of the Truckee-
15 Carson-Pyramid Lake Water Rights Settlement
16 Act (Public Law 101–618); and

17 (B) any final, signed version of the Truck-
18 ee River Operating Agreement that becomes ef-
19 fective under the terms of the Truckee-Carson-
20 Pyramid Lake Water Rights Settlement Act.

21 **SEC. 3. RATIFICATION OF AGREEMENT.**

22 (a) IN GENERAL.—Except to the extent that a provi-
23 sion of the Agreement conflicts with this Act, the Agree-
24 ment is authorized and ratified.

1 (b) WAIVER AND RETENTION OF CLAIMS.—Notwith-
2 standing any provision of the Agreement, any waiver or
3 retention of a claim by the Tribe relating to the Agreement
4 shall be carried out in accordance with section 4.

5 (c) COMPLIANCE WITH APPLICABLE LAW.—This sec-
6 tion, the Original Agreement, and the Agreement satisfy
7 all applicable requirements of section 2116 of the Revised
8 Statutes (25 U.S.C. 177).

9 **SEC. 4. WAIVER AND RELEASES OF CLAIMS.**

10 (a) WAIVER AND RELEASE OF CLAIMS BY TRIBE
11 AGAINST FISH SPRINGS.—In return for benefits to the
12 Tribe as set forth in the Original Agreement, the Agree-
13 ment, and this Act, the Tribe, on behalf of itself and the
14 members of the Tribe, is authorized to execute a waiver
15 and release against Fish Springs of the following:

16 (1) All rights under Federal, State, and other
17 law to challenge the validity, characteristics, or exer-
18 cise of the Project or use of Fish Springs water
19 rights (including additional Fish Springs water
20 rights), including the right to assert a senior priority
21 against or to place a call for water on the Project
22 or Fish Springs water rights (including additional
23 Fish Springs water rights) regardless of the extent
24 to which the Tribe has a water right or in the future
25 establishes a water right that is senior to the Project

1 or Fish Springs water rights (including additional
2 Fish Springs water rights).

3 (2) All claims for damages, losses, or injuries to
4 the Tribe's water rights or claims of interference
5 with, diversion of, or taking of the Tribe's water
6 rights, including—

7 (A) claims for injury to lands or resources
8 resulting from such damages, losses, injuries, or
9 interference with, diversion of, or taking of trib-
10 al water rights under the Agreement or Original
11 Agreement; and

12 (B) claims relating to the quality of water
13 underlying the Pyramid Lake Indian Reserva-
14 tion that are related to use of Fish Springs
15 water rights (including additional Fish Springs
16 water rights) by the Project or the implementa-
17 tion or operation of the Project in accordance
18 with the Agreement or Original Agreement.

19 (3) All claims that would impair, prevent, or
20 interfere with one or more of the following:

21 (A) Implementation of the Project pursu-
22 ant to the terms of the Agreement or Original
23 Agreement.

24 (B) Deliveries of water by the Project pur-
25 suant to the terms of—

- 1 (i) the Agreement;
- 2 (ii) the Original Agreement; or
- 3 (iii) the February 28, 2006, Water
4 Banking Trust Agreement between Washoe
5 County and Fish Springs.

6 (C) Assignments of water rights credits
7 pursuant to the terms of the February 28,
8 2006, Water Banking Trust Agreement be-
9 tween Washoe County and Fish Springs.

10 (4) All claims against Fish Springs relating in
11 any manner to the negotiation or adoption of the
12 Agreement or the Original Agreement.

13 (b) RESERVATION OF RIGHTS AND RETENTION OF
14 CLAIMS BY TRIBE AGAINST FISH SPRINGS.—The Tribe,
15 on its own behalf and on behalf of the members of the
16 Tribe, shall retain against Fish Springs the following:

17 (1) All claims for enforcement of the Agree-
18 ment, the Original Agreement or this Act through
19 such remedies as are available in the U.S. District
20 Court for the District of Nevada.

21 (2) Subject to the right of Fish Springs to
22 carry out the Project, and subject to the waiver and
23 release by the Tribe in subsection (a)—

24 (A) the right to assert and protect any
25 right of the Tribe to surface or groundwater

1 and any other trust resource, including the
2 right to assert a senior priority against or to
3 place a call for water on any water right other
4 than against the Project or Fish Springs water
5 rights;

6 (B) all rights to establish, claim or acquire
7 a water right in accordance with applicable law
8 and to use and protect any water right acquired
9 after the date of the enactment of this Act that
10 is not in conflict with the Agreement, the Original
11 Agreement or this Act; and

12 (C) all other rights, remedies, privileges,
13 immunities, powers, and claims not specifically
14 waived and released pursuant to this Act and
15 the Agreement.

16 (3) The right to enforce—

17 (A) the Tribe's rights against any party to
18 the Truckee River Operating Agreement;

19 (B) the Tribe's rights against any party to
20 the Truckee River Water Quality Settlement
21 Agreement; and

22 (C) whatever rights exist to seek compli-
23 ance with any permit issued to any wastewater
24 treatment or reclamation facility treating waste-
25 water generated by users of Project water.

1 (4) The right to seek to have enforced the
2 terms of any permit or right-of-way across Federal
3 lands issued to Fish Springs for the Project and
4 Project water.

5 (c) WAIVER AND RELEASE OF CLAIMS BY THE TRIBE
6 AGAINST THE UNITED STATES.—In return for the bene-
7 fits to the Tribe as set forth in the Agreement, the Origi-
8 nal Agreement, and this Act, the Tribe, on behalf of itself
9 and the members of the Tribe, is authorized to execute
10 a waiver and release of all claims against the United
11 States, including the agencies and employees of the United
12 States, related to the Project and Fish Springs water
13 rights (including additional Fish Springs water rights)
14 that accrued at any time before and on the date that Fish
15 Springs makes the payment to the Tribe as provided in
16 paragraph 4 of the Agreement for damages, losses or inju-
17 ries that are related to—

18 (1) the Project, Fish Springs water rights (in-
19 cluding additional Fish Springs water rights), and
20 the implementation, operation, or approval of the
21 Project, including claims related to—

22 (A) loss of water, water rights, land, or
23 natural resources due to loss of water or water
24 rights (including damages, losses, or injuries to
25 hunting, fishing, and gathering rights due to

1 loss of water, water rights or subordination of
2 water rights) resulting from the Project or Fish
3 Springs water rights (including additional Fish
4 Springs water rights);

5 (B) interference with, diversion, or taking
6 of water resulting from the Project; or

7 (C) failure to protect, acquire, replace, or
8 develop water, water rights, or water infrastruc-
9 ture as a result of the Project or Fish Springs
10 water rights (including additional Fish Springs
11 water rights);

12 (2) the record of decision, the environmental
13 impact statement, the Agreement or the Original
14 Agreement;

15 (3) claims the United States, acting as trustee
16 for the Tribe or otherwise, asserted, or could have
17 asserted in any past proceeding related to the
18 Project;

19 (4) the negotiation, execution, or adoption of
20 the Agreement, the Original Agreement, or this Act;

21 (5) the Tribe's use and expenditure of funds
22 paid to the Tribe under the Agreement or the Original
23 Agreement;

24 (6) the Tribe's acquisition and use of land
25 under the Original Agreement; and

1 (7) the extinguishment of claims, if any, and
2 satisfaction of the obligations of the United States
3 on behalf of the Tribe as set forth in subsection (e).

4 (d) RESERVATION OF RIGHTS AND RETENTION OF
5 CLAIMS BY TRIBE AGAINST THE UNITED STATES.—Not-
6 withstanding the waivers and releases authorized in this
7 Act, the Tribe, on behalf of itself and the members of the
8 Tribe, shall retain against the United States the following:

9 (1) All claims for enforcement of this Act
10 through such legal and equitable remedies as are
11 available in the U.S. District Court for the District
12 of Nevada.

13 (2) The right to seek to have enforced the
14 terms of any permit or right-of-way across Federal
15 lands issued to Fish Springs for the Project and
16 Project water.

17 (3) Subject to the right of Fish Springs to
18 carry out the Project, all other rights, remedies,
19 privileges, immunities, powers, and claims not spe-
20 cifically waived and released pursuant to this Act
21 and the Agreement.

22 (e) EXTINGUISHMENT OF WAIVED AND RELEASED
23 CLAIMS.—Upon execution of the waiver and releases by
24 the Tribe pursuant to subsections (a) and (c) and upon
25 final payment by Fish Springs pursuant to the terms of

1 the Agreement, the United States acting on behalf of the
2 Tribe shall have no right or obligation to bring or assert
3 any claims waived and released by the Tribe as set forth
4 in subsection (a). Upon the effective date of the waivers
5 and releases of claims authorized, the waived and released
6 claims as set forth in subsection (a) are extinguished.

7 (f) NO UNITED STATES LIABILITY FOR WAIVED
8 CLAIMS.—The United States shall bear no liability for
9 claims waived and released by the Tribe pursuant to this
10 Act.

11 (g) UNITED STATES RESERVATION OF RIGHTS.—
12 Nothing in this Act shall affect any rights, remedies, privi-
13 leges, immunities, or powers of the United States, includ-
14 ing the right to enforce the terms of the right-of-way
15 across Federal lands for the Project granted by the Sec-
16 retary to Fish Springs pursuant to the Federal Lands Pol-
17 icy and Management Act of 1976 (43 U.S.C. 1701 et
18 seq.), with the exception that the United States may not
19 assert any claim on the Tribe’s behalf that is extinguished
20 pursuant to subsection (e).

21 (h) EFFECTIVE DATE OF WAIVERS AND RELEASES
22 OF CLAIMS.—The waivers and releases authorized under
23 subsections (a) and (c) shall take effect on the day Fish
24 Springs makes the payment to the Tribe as provided in
25 subparagraph 4.2 of the Agreement.

1 **SEC. 5. SATISFACTION OF CLAIMS.**

2 (a) IN GENERAL.—The benefits provided to the Tribe
3 under the Agreement, the Original Agreement, and this
4 Act shall be considered to be full satisfaction of all claims
5 of the Tribe waived and released pursuant to section 4
6 and pursuant to the Original Agreement and any claims
7 the United States might make on behalf of the Tribe that
8 are extinguished pursuant to section 4.

9 (b) EFFECT OF FAILURE TO EXECUTE WAIVERS
10 AND RELEASES.—If the Tribe fails to execute the waivers
11 and releases as authorized by this Act within 60 days after
12 the date of the enactment of this Act, this Act and the
13 Agreement shall be null and void.

14 **SEC. 6. BENEFICIARIES TO AGREEMENT.**

15 (a) REQUIREMENT.—The beneficiaries to the Agree-
16 ment shall be limited to—

17 (1) the parties to the Agreement;

18 (2) any municipal water purveyor that provides
19 Project water for wholesale or retail water service to
20 the area serviced by the Project;

21 (3) any water purveyor that obtains the right to
22 use Project water for purposes other than serving
23 retail or wholesale customers; and

24 (4) any assignee of Water Rights Credits for
25 Project water pursuant to the terms of the February

1 28, 2006, Water Banking Trust Agreement between
2 Washoe County and Fish Springs.

3 (b) PROHIBITION.—Except as provided in subsection
4 (a), nothing in the Agreement or this Act provides to any
5 individual or entity third-party beneficiary status relating
6 to the Agreement.

7 **SEC. 7. JURISDICTION.**

8 Jurisdiction over any civil action relating to the en-
9 forcement of the Agreement, the Original Agreement, or
10 this Act shall be vested in the United States District Court
11 for the District of Nevada.

12 **SEC. 8. ENVIRONMENTAL COMPLIANCE.**

13 Nothing in this Act precludes the United States or
14 the Tribe, when delegated regulatory authority, from en-
15 forcing Federal environmental laws, including—

16 (1) the Comprehensive Environmental Re-
17 sponse, Compensation, and Liability Act of 1980 (42
18 U.S.C. 9601 et seq.) including claims for damages
19 for harm to natural resources;

20 (2) the Safe Drinking Water Act (42 U.S.C.
21 300f et seq.);

22 (3) the Federal Water Pollution Control Act
23 (33 U.S.C. 1251 et seq.);

24 (4) the Solid Waste Disposal Act (42 U.S.C.
25 6901 et seq.); and

1 (5) any regulation implementing one or more of
2 the Acts listed in paragraphs (1) through (4).

3 **SEC. 9. MISCELLANEOUS PROVISIONS.**

4 (a) NO ESTABLISHMENT OF STANDARD.—Nothing in
5 this Act establishes a standard for the quantification of
6 a Federal reserved water right or any other claim of an
7 Indian tribe other than the Tribe in any other judicial or
8 administrative proceeding.

9 (b) OTHER CLAIMS.—Nothing in the Agreement, the
10 Original Agreement, or this Act quantifies or otherwise
11 adversely affects any water right, claim, or entitlement to
12 water, or any other right of any Indian tribe, band, or
13 community other than the Tribe.

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