

Union Calendar No. 398

113TH CONGRESS
2^D SESSION

H. R. 3716

[Report No. 113-532]

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

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 12, 2013

Mr. AMODEI introduced the following bill; which was referred to the
Committee on Natural Resources

JULY 17, 2014

Additional sponsor: Mr. HORSFORD

JULY 17, 2014

Committed to the Committee of the Whole House on the State of the Union
and ordered to be printed

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.

9 **SEC. 2. DEFINITIONS.**

10 In this Act:

11 (1) ORIGINAL AGREEMENT.—The term “Original
 12 Agreement” means the “Pyramid Lake Paiute
 13 Tribe Fish Springs Ranch Settlement Agreement”
 14 dated May 30, 2007, entered into by the Tribe and
 15 Fish Springs (including all exhibits to that agree-
 16 ment).

17 (2) AGREEMENT.—The term “Agreement”
 18 means the Pyramid Lake Paiute Tribe-Fish Springs
 19 Ranch 2013 Supplement to the 2007 Settlement
 20 Agreement dated November 20, 2013, entered into

1 by the Tribe and Fish Springs, and all exhibits to
2 that Agreement.

3 (3) ENVIRONMENTAL IMPACT STATEMENT.—

4 The term “environmental impact statement” means
5 the final environmental impact statement for the
6 North Valleys Rights-of-Way Projects prepared by
7 the Bureau of Land Management (70 Fed. Reg.
8 68473).

9 (4) FINAL PAYMENT DATE.—The term “final
10 payment date” means 30 days after the date on
11 which the Tribe executes the waivers, as authorized
12 in section 4, on or before which Fish Springs shall
13 pay to the Tribe the \$3,600,000 and accumulated
14 interest pursuant to subparagraph 4.2 of the Agree-
15 ment.

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

19 (6) FISH SPRINGS WATER RIGHTS.—The term
20 “Fish Springs water rights” means the 14,108 acre
21 feet of water available to Fish Springs pursuant to
22 certificates of water rights issued to Fish Springs or
23 its predecessors in interest by the State Engineer for
24 the State of Nevada, copies of which are attached as
25 Exhibit “G” to the Original Agreement.

1 (7) ADDITIONAL FISH SPRINGS WATER
2 RIGHTS.—The term “additional Fish Springs water
3 rights” means the rights to pump and transfer up
4 to 5,000 acre feet per year of Fish Springs water
5 rights in excess of 8,000 acre feet per year, up to
6 a total of 13,000 acre feet per year, pursuant to
7 Ruling No. 3787 signed by the State Engineer for
8 the State of Nevada on March 1, 1991, and Supple-
9 mental Ruling on Remand No. 3787A signed by the
10 State Engineer for the State of Nevada on October
11 9, 1992.

12 (8) HONEY LAKE VALLEY BASIN.—The term
13 “Honey Lake Valley Basin” means the Honey Lake
14 Valley Hydrographic Basin described as Nevada Hy-
15 drographic Water Basin 97.

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

21 (A) not more than 8,000 acre feet as de-
22 scribed in the environmental impact statement
23 (but not the Intermountain Water Supply, Ltd.,
24 Project described in the environmental impact
25 statement) and the record of decision;

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

3 (C) the rights and approvals for Fish
4 Springs to pump and transfer up to said
5 13,000 acre feet of groundwater per year.

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

12 (11) SECRETARY.—The term “Secretary”
13 means the Secretary of the Interior (or a designee
14 of the Secretary).

15 (12) TRIBE.—The term “Tribe” means the
16 Pyramid Lake Paiute Tribe of Indians organized
17 under section 16 of the Act of June 18, 1934 (com-
18 monly known as the “Indian Reorganization Act”;
19 25 U.S.C. 476).

20 (13) TRUCKEE RIVER OPERATING AGREE-
21 MENT.—The term “Truckee River Operating Agree-
22 ment” means—

23 (A) the September 6, 2008, Truckee River
24 Operating Agreement negotiated for the pur-
25 pose of carrying out the terms of the Truckee-

1 Carson-Pyramid Lake Water Rights Settlement
2 Act (Public Law 101–618); and

3 (B) any final, signed version of the Truck-
4 ee River Operating Agreement that becomes ef-
5 fective under the terms of the Truckee-Carson-
6 Pyramid Lake Water Rights Settlement Act.

7 **SEC. 3. RATIFICATION OF AGREEMENT.**

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

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

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

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

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

1 (1) All rights under Federal, State, and other
2 law to challenge the validity, characteristics, or exer-
3 cise of the Project or use of Fish Springs water
4 rights (including additional Fish Springs water
5 rights), including the right to assert a senior priority
6 against or to place a call for water on the Project
7 or Fish Springs water rights (including additional
8 Fish Springs water rights) regardless of the extent
9 to which the Tribe has a water right or in the future
10 establishes a water right that is senior to the Project
11 or Fish Springs water rights (including additional
12 Fish Springs water rights).

13 (2) All claims for damages, losses, or injuries to
14 the Tribe's water rights or claims of interference
15 with, diversion of, or taking of the Tribe's water
16 rights, including—

17 (A) claims for injury to lands or resources
18 resulting from such damages, losses, injuries, or
19 interference with, diversion of, or taking of trib-
20 al water rights under the Agreement or Original
21 Agreement; and

22 (B) claims relating to the quality of water
23 underlying the Pyramid Lake Indian Reserva-
24 tion that are related to use of Fish Springs
25 water rights (including additional Fish Springs

1 water rights) by the Project or the implementa-
2 tion or operation of the Project in accordance
3 with the Agreement or Original Agreement.

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

6 (A) Implementation of the Project pursu-
7 ant to the terms of the Agreement or Original
8 Agreement.

9 (B) Deliveries of water by the Project pur-
10 suant to the terms of—

11 (i) the Agreement;

12 (ii) the Original Agreement; or

13 (iii) the February 28, 2006, Water
14 Banking Trust Agreement between Washoe
15 County and Fish Springs.

16 (C) Assignments of water rights credits
17 pursuant to the terms of the February 28,
18 2006, Water Banking Trust Agreement be-
19 tween Washoe County and Fish Springs.

20 (4) All claims against Fish Springs relating in
21 any manner to the negotiation or adoption of the
22 Agreement or the Original Agreement.

23 (b) RESERVATION OF RIGHTS AND RETENTION OF
24 CLAIMS BY TRIBE AGAINST FISH SPRINGS.—The Tribe,

1 on its own behalf and on behalf of the members of the
2 Tribe, shall retain against Fish Springs the following:

3 (1) All claims for enforcement of the Agree-
4 ment, the Original Agreement or this Act through
5 such remedies as are available in the U.S. District
6 Court for the District of Nevada.

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

10 (A) the right to assert and protect any
11 right of the Tribe to surface or groundwater
12 and any other trust resource, including the
13 right to assert a senior priority against or to
14 place a call for water on any water right other
15 than against the Project or Fish Springs water
16 rights;

17 (B) all rights to establish, claim or acquire
18 a water right in accordance with applicable law
19 and to use and protect any water right acquired
20 after the date of the enactment of this Act that
21 is not in conflict with the Agreement, the Original
22 Agreement or this Act; and

23 (C) all other rights, remedies, privileges,
24 immunities, powers, and claims not specifically

1 waived and released pursuant to this Act and
2 the Agreement.

3 (3) The right to enforce—

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

6 (B) the Tribe's rights against any party to
7 the Truckee River Water Quality Settlement
8 Agreement; and

9 (C) whatever rights exist to seek compli-
10 ance with any permit issued to any wastewater
11 treatment or reclamation facility treating waste-
12 water generated by users of Project water.

13 (4) 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 (c) WAIVER AND RELEASE OF CLAIMS BY THE TRIBE
18 AGAINST THE UNITED STATES.—In return for the bene-
19 fits to the Tribe as set forth in the Agreement, the Origi-
20 nal Agreement, and this Act, the Tribe, on behalf of itself
21 and the members of the Tribe, is authorized to execute
22 a waiver and release of all claims against the United
23 States, including the agencies and employees of the United
24 States, related to the Project and Fish Springs water
25 rights (including additional Fish Springs water rights)

1 that accrued at any time before and on the date that Fish
2 Springs makes the payment to the Tribe as provided in
3 Paragraph 4 of the Agreement for damages, losses or inju-
4 ries that are related to—

5 (1) the Project, Fish Springs water rights (in-
6 cluding additional Fish Springs water rights), and
7 the implementation, operation, or approval of the
8 Project, including claims related to—

9 (A) loss of water, water rights, land, or
10 natural resources due to loss of water or water
11 rights (including damages, losses, or injuries to
12 hunting, fishing, and gathering rights due to
13 loss of water, water rights or subordination of
14 water rights) resulting from the Project or Fish
15 Springs water rights (including additional Fish
16 Springs water rights);

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

19 (C) failure to protect, acquire, replace, or
20 develop water, water rights, or water infrastruc-
21 ture as a result of the Project or Fish Springs
22 water rights (including additional Fish Springs
23 water rights);

1 (2) the record of decision, the environmental
2 impact statement, the Agreement or the Original
3 Agreement;

4 (3) claims the United States, acting as trustee
5 for the Tribe or otherwise, asserted, or could have
6 asserted in any past proceeding related to the
7 Project;

8 (4) the negotiation, execution, or adoption of
9 the Agreement, the Original Agreement, or this Act;

10 (5) the Tribe's use and expenditure of funds
11 paid to the Tribe under the Agreement or the Original
12 Agreement;

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

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

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

23 (1) All claims for enforcement of this Act
24 through such legal and equitable remedies as are

1 available in the U.S. District Court for the District
2 of Nevada.

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

7 (3) Subject to the right of Fish Springs to
8 carry out the Project, all other rights, remedies,
9 privileges, immunities, powers, and claims not spe-
10 cifically waived and released pursuant to this Act
11 and the Agreement.

12 (e) EXTINGUISHMENT OF WAIVED AND RELEASED
13 CLAIMS.—Upon execution of the waiver and releases by
14 the Tribe pursuant to subsections (a) and (c) and upon
15 final payment by Fish Springs pursuant to the terms of
16 the Agreement, the United States acting on behalf of the
17 Tribe shall have no right or obligation to bring or assert
18 any claims waived and released by the Tribe as set forth
19 in subsection (a). Upon the effective date of the waivers
20 and releases of claims authorized, the waived and released
21 claims as set forth in subsection (a) are extinguished.

22 (f) NO UNITED STATES LIABILITY FOR WAIVED
23 CLAIMS.—The United States shall bear no liability for
24 claims waived and released by the Tribe pursuant to this
25 Act.

1 (g) UNITED STATES RESERVATION OF RIGHTS.—
2 Nothing in this Act shall affect any rights, remedies, privi-
3 leges, immunities, or powers of the United States, includ-
4 ing the right to enforce the terms of the right-of-way
5 across Federal lands for the Project granted by the Sec-
6 retary to Fish Springs pursuant to the Federal Lands Pol-
7 icy and Management Act of 1976 (43 U.S.C. 1701 et
8 seq.), with the exception that the United States may not
9 assert any claim on the Tribe’s behalf that is extinguished
10 pursuant to subsection (e).

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

16 **SEC. 5. SATISFACTION OF CLAIMS.**

17 (a) IN GENERAL.—The benefits provided to the Tribe
18 under the Agreement, the Original Agreement, and this
19 Act shall be considered to be full satisfaction of all claims
20 of the Tribe waived and released pursuant to section 4
21 and pursuant to the Original Agreement and any claims
22 the United States might make on behalf of the Tribe that
23 are extinguished pursuant to section 4.

24 (b) EFFECT OF FAILURE TO EXECUTE WAIVERS
25 AND RELEASES.—If the Tribe fails to execute the waivers

1 and releases as authorized by this Act within 60 days after
2 the date of the enactment of this Act, this Act and the
3 Agreement shall be null and void.

4 **SEC. 6. BENEFICIARIES TO AGREEMENT.**

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

7 (1) the parties to the Agreement;

8 (2) any municipal water purveyor that provides
9 Project water for wholesale or retail water service to
10 the area serviced by the Project;

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

14 (4) any assignee of Water Rights Credits for
15 Project water pursuant to the terms of the February
16 28, 2006, Water Banking Trust Agreement between
17 Washoe County and Fish Springs.

18 (b) PROHIBITION.—Except as provided in subsection
19 (a), nothing in the Agreement or this Act provides to any
20 individual or entity third-party beneficiary status relating
21 to the Agreement.

22 **SEC. 7. JURISDICTION.**

23 Jurisdiction over any civil action relating to the en-
24 forcement of the Agreement, the Original Agreement, or

1 this Act shall be vested in the United States District Court
2 for the District of Nevada.

3 **SEC. 8. ENVIRONMENTAL COMPLIANCE.**

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

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

11 (2) the Safe Drinking Water Act (42 U.S.C.
12 300f et seq.);

13 (3) the Federal Water Pollution Control Act
14 (33 U.S.C. 1251 et seq.);

15 (4) the Solid Waste Disposal Act (42 U.S.C.
16 6901 et seq.); and

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

19 **SEC. 9. MISCELLANEOUS PROVISIONS.**

20 (a) **NO ESTABLISHMENT OF STANDARD.**—Nothing in
21 this Act establishes a standard for the quantification of
22 a Federal reserved water right or any other claim of an
23 Indian tribe other than the Tribe in any other judicial or
24 administrative proceeding.

1 (b) OTHER CLAIMS.—Nothing in the Agreement, the
2 Original Agreement, or this Act quantifies or otherwise
3 adversely affects any water right, claim, or entitlement to
4 water, or any other right of any Indian tribe, band, or
5 community other than the Tribe.

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