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106TH CONGRESS }
2d Session }

SENATE

{ REPORT
{ 106-478

DUCHESNE CITY WATER RIGHTS CONVEYANCE ACT

OCTOBER 3 (legislative day, SEPTEMBER 22), 2000.—Ordered to be printed

Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 2350]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 2350) to direct the Secretary of the Interior to convey to certain water rights to Duchesne City, Utah, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Duchesne City Water Rights Conveyance Act”.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) In 1861, President Lincoln established the Uintah Valley Reservation by Executive order. The Congress confirmed the Executive order in 1864 (13 Stat. 63), and additional lands were added to form the Uintah Indian Reservation (now known as the Uintah and Ouray Indian Reservation).

(2) Pursuant to subsequent Acts of Congress, lands were allotted to the Indians of the reservation, and unallotted lands were restored to the public domain to be disposed of under homestead and townsite laws.

(3) In July 1905, President Theodore Roosevelt reserved lands for the townsite for Duchesne, Utah, by Presidential proclamation and pursuant to the applicable townsite laws.

(4) In July 1905, the United States, through the Acting United States Indian Agent in Behalf of the Indians of the Uintah Indian Reservation, Utah, filed 2 applications, 43-180 and 43-203, under the laws of State of Utah to appropriate certain waters.

(5) The stated purposes of the water appropriation applications were, respectively, “for irrigation and domestic supply for townsite purposes in the lands herein described”, and “for the purpose of irrigating Indian allotments on the Uintah Indian Reservation, Utah, . . . and for an irrigating and domestic water supply for townsite purposes in the lands herein described”.

(6) The United States subsequently filed change applications which provided that the entire appropriation would be used for municipal and domestic purposes in the town of Duchesne, Utah.

(7) The State Engineer of Utah approved the change applications, and the State of Utah issued water right certificates, identified as Certificate Numbers 1034 and 1056, in the name of the United States Indian Service in 1921, pursuant to the applications filed, for domestic and municipal uses in the town of Duchesne.

(8) Non-Indians settled the town of Duchesne, and the inhabitants have utilized the waters appropriated by the United States for townsite purposes.

(9) Pursuant to title V of Public Law 102-575, Congress ratified the quantification of the reserved waters rights of the Ute Indian Tribe, subject to ratification of the water compact by the State of Utah and the Tribe.

(10) The Ute Indian Tribe does not oppose legislation that will convey the water rights appropriated by the United States in 1905 to the city of Duchesne because the appropriations do not serve the purposes, rights, or interests of the Tribe or its members, because the full amount of the reserved water rights of the Tribe will be quantified in other proceedings, and because the Tribe and its members will receive substantial benefits through such legislation.

(11) The Secretary of the Interior requires additional authority in order to convey title to those appropriations made by the United States in 1905 in order for the city of Duchesne to continue to enjoy the use of those water rights and to provide additional benefits to the Ute Indian Tribe and its members as originally envisioned by the 1905 appropriations.

SEC. 3. CONVEYANCE OF WATER RIGHTS TO DUCHESNE CITY, UTAH.

(a) **CONVEYANCE.**—The Secretary of the Interior, as soon as practicable after the date of the enactment of this Act, and in accordance with all applicable law, shall convey to Duchesne City, Utah, or a water district created by Duchesne City, all right, title, and interest of the United States in and to those water rights appropriated under the laws of the State of Utah by the Department of the Interior's United States Indian Service and identified as Water Rights Nos. 43-180 (Certificate No. 1034) and 43-203 (Certificate No. 1056) in the records of the State Engineer of Utah.

(b) **REQUIRED TERMS.**—

(1) **IN GENERAL.**—As terms of any conveyance under subsection (a), the Secretary shall require that Duchesne City—

(A) shall allow the Ute Indian Tribe of the Uintah and Ouray Reservation, its members, and any person leasing or utilizing land that is held in trust for the Tribe by the United States and is located within the Duchesne City water service area (as such area may be adjusted from time to time), to connect to the Duchesne City municipal water system;

(B) shall not require such tribe, members, or person to pay any water impact, connection, or similar fee for such connection; and

(C) shall not require such tribe, members, or person to deliver or transfer any water or water rights for such connection.

(2) **LIMITATION.**—Paragraph (1) shall not be construed to prohibit Duchesne City from charging any person that connects to the Duchesne City municipal water system pursuant to paragraph (1) reasonable, customary, and nondiscriminatory fees to recover costs of the operation and maintenance of the water system to treat, transport, and deliver water to the person.

SEC. 4. WATER RIGHTS.

(a) **NO RELINQUISHMENT OR REDUCTION.**—Except as provided in section 3, nothing in this Act may be construed as a relinquishment or reduction of any water rights reserved, appropriated, or otherwise secured by the United States in the State of Utah on or before the date of the enactment of this Act.

(b) **NO PRECEDENT.**—Nothing in this Act may be construed as establishing a precedent for conveying or otherwise transferring water rights held by the United States.

SEC. 5. TRIBAL RIGHTS.

Nothing in this Act may be construed to affect or modify any treaty or other right of the Ute Indian Tribe or any other Indian tribe.

PURPOSE OF THE MEASURE

The purpose of S. 2350 is to direct the Secretary of the Interior to convey, to the city of Duchesne, Utah, or a water district created by the city, water rights, appropriated under the laws of the State

of Utah by the United States Indian Service, and held by the United States. Terms of the conveyance include allowing the Ute Indian Tribe of the Uintah and Ouray Reservation to connect to the Duchesne City municipal water system without water impact or connection fee. The Tribe shall not be required to transfer any water or water rights for such connection. The city is not prohibited from charging reasonable and customary fees to recover operations and maintenance costs for delivery.

BACKGROUND AND NEED

When the city of Duchesne was established in 1905, the Secretary of the Interior directed the Commissioner of Indian Affairs to select certain tracts of land in the Uintah Indian Reservations to be reserved under the Townsite Act provisions.

Short thereafter, the Acting Indian Agent for the Uintah Indian Reservation filed two applications for appropriate water for municipal and domestic uses in the city of Duchesne. The holder of these rights was the U.S. Indian Service. The city has always used the water. However, since the U.S. Indian Service no longer exists, there is no ability to transfer the water rights to the city of Duchesne. This bill would convey those rights.

The Ute Indian Tribe and any affiliates will be subject to reasonable and customary fees to recover costs of the operation and maintenance of the water system in treating, transporting and delivering water to that person.

LEGISLATIVE HISTORY

S. 2350 was introduced by Senator Hatch on April 4, 2000. The Subcommittee on Water and Power held a hearing on the bill on July 11, 2000. At the business meeting on September 20, 2000, the Committee on Energy and Natural Resources ordered S. 2350, as amended, favorably reported.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Committee on Energy and Natural Resources, in open business session on September 20, 2000 by a unanimous voice vote with a quorum present, recommends that the Senate pass S. 2350, if amended as described herein.

COMMITTEE AMENDMENT

During the consideration of S. 2350, the Committee adopted an amendment in the nature of a substitute that strikes the text and replaces it with the text of the House passed bill. The amendment reflects changes made to address the concerns of the Administration. The significant differences between the bill as introduced and the bill as reported are: (1) findings are added that outline the unique circumstances of the water rights certificates at issue; (2) the conveyance section now includes language which acknowledges the Secretary's responsibility to comply with all applicable environmental laws and regulations prior to conveying the water rights certificates to the city of Duchesne; (3) a provision is added that clarifies the legislation does not otherwise affect water rights held by the United States; an (4) language is added that clarifies this

legislation does not affect or modify any treaty or other rights of the Ute Indian Tribe or any other Indian tribe.

SECTION-BY-SECTION ANALYSIS

Section 1 is a short title.

Section 2 is a findings section.

Section 3 details when and how the Secretary shall convey the water rights to the city of Duchesne.

Subsection 3(b)(1) provides that the Secretary shall require the city to allow the Ute Indian Tribe to connect to the Duchesne City municipal water system. The city may not require the Tribe to pay water impact, connection or similar fee for such connection and may not require the Tribe to deliver or transfer any water or water rights for such connection.

Subsection 3(b)(2) provides that the city may charge any person that connects to the municipal water system reasonable, customary, and nondiscriminatory fees to recover costs of operations and maintenance to treat, transport, and delivery water.

Section 4 provides that, except as provided in the Act, water rights reserved, appropriated, or otherwise secured by the United States in Utah on or before date of enactment are not relinquished or reduced. The Act does not have precedential value for conveying or otherwise transferring water rights held by the United States.

Section 5 provides that any treaty or other right of the Ute Tribe is not affected by this Act.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 28, 2000.

Hon. FRANK H. MURKOWSKI,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 2350, the Duchesne City Water Rights Conveyance Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Rachel Applebaum.

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

S. 2350—Duchesne City Water Rights Conveyance Act

S. 2350 would direct the Secretary of the Interior to convey certain water rights to Duchesne City, Utah. In 1905, the federal government obtained certificates for these water rights under Utah state laws. In practice, Duchesne City has always used the water rights for its water supply. As a result, CBO estimates that imple-

menting S. 2350 would have no significant impact on the federal budget.

S. 2350 would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. S. 2350 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act. As a condition of receiving these water rights, the bill would require Duchesne city to allow the Ute Tribe or members of that tribe to access the municipal water system without paying water impact or connection fees.

On June 8, 2000, CBO transmitted a cost estimate for H.R. 3468, the Duchesne City Water Rights Conveyance Act, as ordered reported by the House Committee on Resources on May 24, 2000. The two bills are nearly identical, and our estimate of their costs is the same.

The CBO staff contacts for this estimate are Rachel Applebaum (for federal costs) and Marjorie Miller (for the state, local, and tribal impact). This estimate was approved by Robert A. Sunshine, Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 2350. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 2350, as ordered reported.

EXECUTIVE COMMUNICATIONS

The pertinent legislative report received by the Committee from the Department of the Interior setting forth Executive agency recommendation relating to S. 2350 is set forth below:

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, September 19, 2000.

Hon. FRANK H. MURKOWSKI,
Chairman, Energy and Natural Resources Committee,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This letter provides the views of the Department on H.R. 3468, as passed by the House, the companion to S. 2350, which seeks to transfer to the City of Duchesne, Utah, (City), two water rights certificates which the United States obtained under the State of Utah's water laws at the turn of the 20th Century. This letter supports testimony delivered to your Committee by Sharon Blackwell, Deputy Commissioner of Indian Affairs, on S. 2350, July 11, 2000.

The Administration supports H.R. 3468 as passed by the House. We have one concern noted below; however, this does not cause us to oppose the bill.

As noted in our testimony, copy attached, the Administration supports the purposes of S. 2350 that was before this Committee.

The Administration recommended the inclusion of a few provisions and modifications to S. 2350 in order to protect the interests of the United States and other interested parties and to describe the history and unique nature of the water rights involved in order to clarify the intent of this legislation. These recommended revisions, attached to our testimony, in no way change the purposes of S. 2350.

Since hearings before the House Resources Committee on April 4, 2000 and the Senate Indian Affairs Committee on May 2, on identical legislation, members of the Department and the City's representative have worked hard to refine the proposed revisions of the City and the Administration in order to satisfy the concerns of all interested parties. I am pleased to announce that the Department and the City have reached agreement on these proposed revisions and the concerns of the Department were accommodated.

The House of Representatives has recently passed H.R. 3468. H.R. 3468 as passed, with one significant exception, adopts the provisions agreed to by the Department and the City. The exception is that the preamble to the bill states "to direct the Secretary of the Interior to convey . . ." rather than "to authorize the Secretary of the Interior to convey . . .", as agreed by the City and the Department. We strongly prefer the latter wording, to emphasize that transfers should be authorized, not directed, to ensure that they comply with environmental and other laws. However, the conveyance language of section 3(a) is as agreed and we do not believe that the preamble language compromises the effect of section 3 to transfer as soon as practicable and in accord with all applicable law, which assures our ability to comply with all environmental requirements and other applicable laws.

The City of Duchesne and the Ute Indian Tribe of the Uintah and Ouray Reservation (Ute Indian Tribe) have worked closely on the concepts addressed in this legislation and the Ute Indian Tribe does not oppose the city's efforts in this matter. The Tribe has no objection to the bill with the Administration's recommended changes.

We look forward to working with the Committee, the Utah delegation and the City of Duchesne to move this legislation forward.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

DAVID J. HAYES, *Deputy Secretary.*

Attachment.

STATEMENT OF SHARON BLACKWELL, DEPUTY COMMISSIONER OF INDIAN AFFAIRS, BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

Good afternoon, Mr. Chairman and members of the Committee. I am Sharon Blackwell, Deputy Commissioner, Bureau of Indian Affairs, Department of the Interior. I am pleased to provide the Administration's views on S. 2350, which seeks to transfer to the City of Duchesne, Utah, two water rights certificates which the United States obtained

under the State of Utah's water laws at the turn of the 20th Century.

Mr. Chairman, along with the City, the Administration supports the purposes of S. 2350 that is before this Committee. As described in this statement, the Administration recommends the inclusion of a few provisions and modifications to S. 2350 in order to protect the interests of the United States and other interested parties and to describe the history and unique nature of the water rights involved in order to clarify the intent of this legislation. These recommended revisions, attached to this testimony, in no way change the purposes of S. 2350. With these recommended changes, the Department would support the bill.

I understand that the City of Duchesne (City) and the Ute Indian Tribe of the Uintah and Ouray Reservation (Ute Indian Tribe) have worked closely on the concepts addressed in this legislation and that the Ute Indian Tribe does not oppose the City's efforts in this matter. The Tribe has no objection to the bill with the Administration's recommended changes.

Since earlier hearings before the House Resources Committee on April 4, 2000 and the Senate Indian Affairs Committee on May 2, on identical legislation, members of the Department and the City's representative have worked hard to refine the proposed revisions of the City and the Administration in order to satisfy the concerns of all interested parties. I am pleased to announce that the Department and the City have recently reached agreement on these proposed revisions. In addition to the Department's proposed revisions, I also attach to this testimony a revised draft bill presented to the Department by the City last month which embodies the changes agreed to by the City and the Department; the revised bill adopts our recommended changes (with a couple of minor wording differences) and is acceptable to the Administration. With the inclusion of these revisions, the Administration supports S. 2350, and we look forward to working with the Committee, the Utah delegation and the City of Duchesne to move this legislation forward.

As introduced, S. 2350 would direct the Secretary of the Interior to convey specified water rights appropriated by the United States under the laws of the State of Utah, and which the State of Utah issued certificates in the name of the United States Indian Service for those water rights, to the City of Duchesne. S. 2350 also requires certain terms to be part of the conveyance, such as requiring the City to allow the Ute Indian Tribe, its members, and those using lands held in trust for the Tribe by the United States located within the City's water service area to connect to the City's municipal water system without any connection fees or transfer of water rights for the connection. S. 2350 further specifies that the conveyance would not prohibit the city from charging anyone connected to the City's water system reasonable and customary operation and maintenance fees.

The circumstances surrounding the water rights identified for transfer under S. 2350 are unique. Various Executive and Congressional actions in the mid- to late 1800s established the present-day Uintah and Ouray Indian Reservation for the bands now known collectively as the Ute Indian Tribe. Subsequent acts of Congress provided for the allotment of Reservation lands to individual Tribal members and for the restoration of unallotted lands to the public domain to be disposed of under the homestead and townsite laws. In July 1905, President Theodore Roosevelt reserved lands for the townsite of Duchesne by Presidential proclamation under the applicable townsite laws. In the same month, prior to the articulation of the reserved water rights doctrine in *Winters v. United States* in 1908, the United States—through the Acting U.S. Indian Agent—filed two applications under the laws of the State of Utah to appropriate waters for the benefit of the Indians of the Reservation. The applications filed by the United States identified the purposes of the appropriations to be for domestic and irrigation supplies for the townsite of Duchesne and for irrigation supplies for Indian allotments on the Reservation. The State of Utah then issued water rights certificates in the name of the United States Indian Service for domestic and municipal purposes in the town of Duchesne. Non-Indians settled the town of Duchesne, and its inhabitants have used the waters appropriated by the United States since then for townsite purposes. Since the appropriation of the water rights and the settlement of the town, confusion over the ownership of the water rights has clouded the use of those rights. In addition, over the past few decades the State of Utah and the Ute Indian Tribe have worked to quantify, under the *Winters* doctrine, the Tribe's reserved water rights. Congress ratified the quantification of the Tribe's reserved water right in 1992, subject to re-ratification by the State and the Tribe, under Title V of Public Law 102-575.

Thus, even though the Acting U.S. Indian Agent filed the appropriations on behalf of the Ute Indians to protect their interests, history shows that the appropriations really did not serve the purposes of the United States in this regard. Furthermore, the full amount of the Tribe's reserved water right has been ratified by Congress, subject to re-ratification by the State and the Tribe, and that right did not include the State certificated rights appropriated in 1905. Finally, the proposed transfer of the water rights certificates held by the United States also includes benefits for the Ute Indian Tribe and its members.

Given this unique history, the Administration supports conveying title to the water rights certificates to the City of Duchesne as proposed in S. 2350. The Administration recommends the following additions or modifications to S. 2350 to protect the interests of the United States and other interested parties and to describe the unique circumstances surrounding these water rights in order to clarify the intent of the legislation.

First, the Administration recommends the inclusion of a Congressional Findings section which outlines the unique circumstances of the water rights certificates at issue. The history described above provides the fundamental factual circumstances which the Administration views important to clarify the intent and purposes of this legislation. Proposed findings are attached. The Duchesne draft bill, section 2, adopts our findings with a slight wording difference discussed below.

As noted previously, members of the Department and the City's representative have worked to refine the proposed findings since the hearings before this Committee and the Senate Indian Affairs Committee. One point of discussion has centered on the finding regarding the filing of the water rights applications by the Acting U.S. Indian Agent. We must emphasize that, as expressly stated in the applications, the Acting U.S. Indian Agent could only file the water rights applications on "behalf of the Indians of the Uintah Indian Reservation, Utah." Thus, any suggestion that the Acting U.S. Indian Agent would file for anyone other than the Ute Indians is incorrect, and the finding addressing the filing of the water rights must necessarily confirm that the Agent filed "on behalf of the Indians of the Reservation." This recognition in no way changes the purposes or goals of this legislation.

Our proposed finding 2(d) addresses this issue. The draft bill of the City alters this wording slightly. We still prefer our wording; however, we believe that the Duchesne wording does not change the effect to confirm that the Agent filed on behalf of the Indians of the Uintah reservation.

Second, the Administration recommends the inclusion of language in section 3 on conveyance of water rights which acknowledges the Secretary's responsibility to comply with all applicable environmental laws and regulations prior to conveying the water rights certificates to the City of Duchesne. In light of the history and use of the water rights involved here, such compliance will likely require little time and effort. Nonetheless, the Administration has insisted that legislation involving natural resources, including title transfers, shall require compliance with all applicable environmental laws prior to making irreversible commitments.

Therefore, we recommend inserting the language below which is identical to language agreed to between the Administration and the House Resources Committee in H.R. 992, concerning the Sly Park Unit in California and which has now passed the House, in addressing a similar transfer issue.

We recommend that proposed new section 3(a) (now 2(a)) begin as follows: "The Secretary of the Interior shall, as soon as practicable after the date of enactment of this Act and in accordance with all applicable law, convey to Duchesne City, Utah . . ."

The City bill does this.

We note that some earlier discussion drafts of the bill included a specific date by which the transfer must take place. We have objected to the inclusion of any specific date by which the Department must complete the transfer. This opposition results both from the uncertainties involving the timing of the enactment of this legislation and, more importantly, from the possibility that a date certain could foreclose the Department's ability to complete necessary environmental reviews. We are opposed to an arbitrary transfer date as a matter of policy and precedent. We think the agreed Sly Park language noted above is the most satisfactory approach to the timing issue.

Third, the Administration recommends the inclusion of a provision which clarifies that this legislation does not otherwise affect water rights held by the United States. Fourth, the Administration recommends the inclusion of a provision which clarifies that this legislation does not affect or modify any treaty or other right of the Ute Indian Tribe or any other Indian tribe. Similar provisions have been incorporated into various pieces of legislation in the past. These provisions will ensure that no one misconstrues this legislation to affect any other interest of the United States, the Ute Indian Tribe, or any other Indian tribe and thus will ensure continued support for the legislation. The City bill adopts these provisions.

Finally, the Administration also recommends a few other modifications to the language of S. 2350. Particularly, in the introductory text, the Administration recommends modifying the text to state that the legislation authorizes, rather than directs, the Secretary to convey title to the water rights. The City bill does this.

In addition, the operation and maintenance fee provision should also specify that the imposition of such fees shall be done in a non-discriminatory way. A few other technical modifications are also recommended to clarify the legislation. These have been incorporated in the City draft.

Thus, with the revisions recommended above and as set out in the attached documents, and as adopted by the City draft, the Administration supports S. 2350. Again, we look forward to working with the Committee, the Utah delegation and the City of Duchesne to move this legislation forward. I would be happy to answer any questions.

PROPOSED AMENDMENTS TO S. 2350—DUCHESNE CITY
WATER RIGHTS CONVEYANCE ACT

In the introductory text, delete "direct" and insert "authorize".

In the introductory text, delete "to" before "certain".

In the introductory text, insert ", and for other purposes" after "Utah".

On page 1, line 6, insert new Section 2 as follows:

SEC. 2. FINDINGS.

The Congress finds that—

(a) in 1861, President Lincoln established the Uintah Valley Reservation by Executive Order, Congress confirmed the Executive Order in 1864, 13 Stat. 63, and additional lands were added to form the Uintah Indian Reservation (now known as the Uintah and Ouray Indian Reservation);

(b) pursuant to subsequent acts of Congress, lands were allotted to the Indians of the reservation, and unallotted lands were restored to the public domain to be disposed of under homestead and townsite laws;

(c) in July 1905, President Theodore Roosevelt reserved lands for the townsite of Duchesne by Presidential proclamation and pursuant to the applicable townsite laws;

(d) in July 1905, the United States, through the Acting United States Indian Agent, filed two applications, 43-180 and 43-203, under the laws of the State of Utah to appropriate certain waters on behalf of the Indians of the Reservation;

(e) the stated purposes of the water appropriation applications were, respectively, "for irrigation and domestic supply for townsite purposes in the lands herein described" and "for the purpose of irrigating Indian allotments on the Uintah Indian Reservation, Utah, . . . and for an irrigating and domestic water supply for townsite purposes in the lands herein described";

(f) the United States subsequently filed change applications which provided that the entire appropriation for each water right sought would be used for "municipal and domestic purposes" in the town of Duchesne;

(g) the State Engineer approved the change applications, and the State of Utah issued water rights certificates, identified as Certificate Numbers 1034 and 1056, in the name of the United States Indian Service in 1921, pursuant to the applications filed, for domestic and municipal uses in the town of Duchesne;

(h) non-Indians settled the town of Duchesne, and the inhabitants have utilized the waters appropriated by the United States for townsite purposes;

(i) pursuant to Title V of Public Law 102-575, Congress ratified the quantification of the reserved water rights of the Ute Indian Tribe, subject to re-ratification of the water compact by the State of Utah and the Tribe;

(j) the Ute Indian Tribe does not oppose legislation which will convey the water rights appropriated by the United States in 1905 to the City of Duchesne because the appropriations do not serve the purposes, rights or interests of the Tribe or its members, because the full amount of the reserved water rights of the Tribe will be quantified in other proceedings, and because the Tribe and its members will receive substantial benefits through such legislation; and

(k) the Secretary of the Interior requires additional authority in order to convey title to those appropria-

tions made by the United States in 1905 in order for the City of Duchesne to continue to enjoy the use of those water rights and to provide additional benefits to the Ute Indian Tribe and its members as originally envisioned by the 1905 appropriations.”

On page 1, line 6, renumber prior “**SEC. 2**” as “**SEC. 3**”.

On page 1, line 8, insert “the” before “Interior”.

On page 1, line 8, delete “subject to subsection (b), shall”, and insert “The Secretary of the Interior shall, as soon as practicable after the date of enactment of this Act and in accordance with all applicable law, . . .”

On page 2, line 3, insert “Department of the Interior’s” before “United”.

On page 2, lines 20–21, delete “or connection”, insert “, connection, or similar”.

On page 3, line 5, delete “and customary”, insert “, customary, and non-discriminatory”.

On page 3, insert new sections 4 and 5 as follows:

SEC. 4. WATER RIGHTS.

(a) Except as provided in Section 3, nothing in this Act may be construed as a relinquishment or reduction of any water rights reserved, appropriated, or otherwise secured by the United States in the State of Utah on or before the date of enactment of this Act.

(b) Nothing in this Act may be construed as establishing a precedent for conveying or otherwise transferring water rights held by the United States.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill S. 2350, as ordered reported.

