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CROW TRIBE WATER RIGHTS SETTLEMENT AMENDMENTS ACT OF 2025

NOVEMBER 4, 2025.—Ordered to be printed

Ms. MURKOWSKI, from the Committee on Indian Affairs,
submitted the following

R E P O R T

[To accompany S. 240]

The Committee on Indian Affairs, to which was referred the bill (S. 240) to amend the Crow Tribe Water Rights Settlement Act of 2010 to make improvements to that Act, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

S. 240 amends the *Crow Tribe Water Rights Settlement Act of 2010* to update the infrastructure, funding, and administrative mechanisms of the settlement so the Tribe can more efficiently build and maintain water and related systems on its reservation as part of its ratified Crow Tribe-Montana Water Rights Compact entered into by the Crow Tribe and the State of Montana on June 22, 1999 to settle all existing water rights claims of the Crow Tribe in the State of Montana.

BACKGROUND AND NEED

The Crow Tribe is a federally recognized Tribe with a reservation that spans approximately 2.3 million acres in south-central Montana. The *Crow Tribe Water Rights Settlement Act of 2010* (CTWRSA), enacted as part of the *Claims Resolution Act of 2010* (CRA),¹ settled the Crow Tribe's and its allottees' water rights and authorized \$460 million for the Crow Tribe to design and construct a Municipal, Rural and Industrial water system (MR&I System);

¹ Claims Resolution Act of 2010, Pub. L. No. 111-291, § 401 et seq., 124 Stat. 3064, 3097 (2010) (codified at 31 U.S.C. 1101 note).

rehabilitate and improve the Crow Irrigation Project (CIP); and develop energy projects, including hydropower at the Yellowtail Afterbay Dam, clean coal conversion, and renewable energy efforts.² The CTWRSA provides hundreds of millions of dollars in federal appropriations to improve water service and irrigation on the Crow Tribe’s reservation, and in so doing, extinguishes future claims for water rights “within the Reservation” that the Crow Tribe, allottees, or the federal government acting as trustee has asserted or could assert in the state of Montana. However, the complexity of the project design, increased construction costs, and current assessments of the future burden of operational costs to Crow Tribal members has made the CTWRSA’s water system, as designed, infeasible. By amending the CTWRSA from a project-based to a fund-based settlement, the goal of the bill is to ensure that the Crow Tribe has necessary flexibility and time to deliver clean water to communities on the reservation through a revised water system design and additional time to complete critical energy development projects authorized by the CTWRSA.³ The bill does not reopen the CTWRSA or the Crow Tribe-Montana Water Rights Compact entered into by the Tribe and the State of Montana or alter existing water rights.

SUMMARY

S. 240 amends the *Crow Tribe Water Rights Settlement Act of 2010* to change the scope of the water infrastructure system authorized under that Act; provide the Crow Tribe more flexibility in developing regional irrigation and municipal and industrial water projects; and allow the Tribe additional time to develop a hydro-power project to deliver clean energy and water to the reservation.

LEGISLATIVE HISTORY

S. 240 was introduced by Senators Daines and Sheehy on January 24, 2025. On March 5, 2025, the Committee held a business meeting and ordered the bill to be reported favorably without amendment.

An identical companion bill, H.R. 726, was introduced by Representatives Downing (R–MT–2) and Zinke (R–MT–1) in the House of Representatives on January 24, 2025. The bill was referred to the House Committee on Natural Resources.

In the 118th Congress, a similar bill, S. 4442, was introduced by Senators Tester and Daines on June 3, 2024. The Committee held a hearing on S. 4442 on June 12, 2024 (S. Hrg. 118–418). The Committee held a business meeting to consider S. 4442 on September 18, 2024, and ordered the bill reported favorably with an amendment in the nature of a substitute (S. Rept. 118–260).

A companion bill, H.R. 8953, was introduced by Representative Zinke (R–MT–1) in the House of Representatives on July 8, 2024. The House Natural Resources Subcommittee on Water, Wildlife, and Fisheries held a hearing on H.R. 8953 on July 23, 2024.

²Press Release, U.S. Dep’t of the Interior, Crow Tribe, United States and State of Montana Sign Historic Water Compact (Sept. 5, 2019), (on file with committee).

³Letter from Frank White Clay, Chairman, Apsaalooke Nation, to Sen. Jon Tester (May 22, 2024) (on file with the S. Comm on Indian Affs.).

COMMITTEE RECOMMENDATION

The Senate Committee on Indian Affairs in an open business meeting on March 5, 2025, by a majority voice vote of a quorum present, recommends that the Senate pass S. 240, without amendment.

SECTION-BY-SECTION ANALYSIS

Section 1—Short title

This section sets forth the short title as the “Crow Water Rights Settlement Amendment Act of 2025.”

Section 2—Crow Tribe Water Rights Settlement

Section 2(a) replaces the definition of “MR&I System” with “MR&I Project.”

Section 2(b) repeals Section 406 of the Crow Tribe Water Rights Settlement Act of 2010, which provided for the design and construction of the MR&I System on the reservation, in accordance with agreements between the Bureau of Reclamation and the Tribe, and allowed for the acquisition of land in connection with the construction of the MR&I System.

Section 2(c) creates a new interest-bearing MR&I Projects trust account within the existing trust Crow Settlement Fund, prioritizes how these funds may be used, clarifies that title to infrastructure constructed with this funding shall remain with the Crow Tribe, and, upon transfer to the Tribe, the federal government has no obligation to pay for operation, maintenance, or replacement of MR&I Project infrastructure, and prioritizes water infrastructure development over land acquisition in the MR&I Projects account; and

Section 2(d) creates a new non-trust interest-bearing account for Crow Irrigation Project (CIP) Implementation and authorizes how these funds may be used, including earned interest income, by:

- Extending, from 15 to 20 years, the Tribe’s exclusive right to develop and market power generation on the Yellowtail Afterbay Dam;
- Authorizing the Secretary of the Interior to withdraw funds held and maintained for the Tribe in joint signature accounts at a private banking institution and to deposit these funds into accounts created by this legislation: (1) the Crow Settlement Fund MR&I Projects account, and (2) the Crow CIP Implementation account;
- Permitting cost indexing of amounts deposited in the Crow Settlement Fund MR&I Projects account to align with the Bureau of Reclamation Construction Cost Index-Composite Trend for costs occurring after May 1, 2008;
- Striking the authorization for transfer of funds between MR&I System and the CIP; and
- Making other necessary technical and conforming changes to the *Crow Tribe Water Rights Settlement Act of 2010*.

COST AND BUDGETARY CONSIDERATIONS

The cost estimate from the Congressional Budget Office requested on S. 240 has not yet been received. Due to time constraints, the CBO letter will be printed in the Congressional Record when it is received.

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 regulatory and paperwork impact that would be incurred in carrying out the bill. The Committee believes that S. 240, as reported, will have minimal impact on regulatory or paperwork requirements.

EXECUTIVE TESTIMONY AND COMMUNICATIONS

The testimony provided by the U.S. Department of the Interior from the June 12, 2024, hearing on S. 4442 follows:

STATEMENT OF BRYAN NEWLAND, ASSISTANT SECRETARY FOR
INDIAN AFFAIRS, U.S. DEPARTMENT OF THE INTERIOR

S. 4442, TO AMEND THE CROW TRIBE WATER RIGHTS SETTLEMENT ACT OF 2010 TO MAKE IMPROVEMENTS TO THAT ACT, AND FOR OTHER PURPOSES

Good afternoon, Chairman Schatz, Vice Chairman Murkowski, and members of the Committee. My name is Bryan Newland, and I am the Assistant Secretary for Indian Affairs at the Department of the Interior (Department). Thank you for the opportunity to present testimony on . . . S. 4442, “To amend the Crow Tribe Water Rights Settlement Act of 2010 to make improvements to that Act, and for other purposes.”

S. 4442, Crow Tribe Water Rights Settlement Amendments Act of 2024

S. 4442 would amend the Crow Tribe Water Rights Settlement Act of 2010 (Pub. L. 111–291; 124 Stat. 3097) (“Settlement Act”). The Department supports S. 4442 and recommends an amendment to the bill, which we have discussed with the Crow Tribe, that would ensure that trust fund expenditures prioritize providing clean drinking water over land acquisitions.

Introduction

The Biden Administration recognizes that water is a sacred and valuable resource for Tribal Nations and that long-standing water crises continue to undermine public health and economic development in Indian Country. This Administration strongly supports the resolution of Indian water rights claims through negotiated settlements. Indian water settlements help to ensure that Tribal Nations have safe, reliable water supplies; improve environmental and health concerns on reservations; enable economic growth; promote Tribal sovereignty and self-sufficiency; and help advance the United States’ trust relationship with Tribes. At the same time, water rights settlements have the potential to end decades of controversy and contention among Tribal Nations and neighboring communities and promote cooperation in the management of water resources.

Congress plays an important role in approving Indian water rights settlements and we stand ready to work with

this Committee and Members of Congress to advance Indian water rights settlements and ensure their successful implementation.

Indian water rights settlements play a pivotal role in this Administration's commitment to putting equity at the center of everything we do to improve the lives of everyday people—including Tribal Nations. We have a clear charge from President Biden and Secretary Haaland to improve water access and water quality on Tribal lands. Access to water is fundamental to human existence, economic development, and the future of communities—especially Tribal communities.

Background

The Settlement Act authorized \$460 million, indexed to inflation, for the Bureau of Reclamation to plan, design and construct two major projects on the Crow Reservation: (1) the rehabilitation and improvement of the Crow Irrigation Project (CIP), and (2) the design and construction of a Municipal, Rural, and Industrial (MR&I) water system. Both projects were to be designed and constructed as generally described in detailed engineering reports prepared by consultants to the Tribe and cited in the Settlement Act. In addition, the Settlement Act gave the Tribe a 15-year exclusive right to construct hydropower facilities at the Yellowtail Afterbay Dam, a Bureau of Reclamation facility. That exclusive right expires in 2025.

Proposed Amendment

S. 4442 would amend the Settlement Act by establishing a non-trust fund account to allow the Bureau of Reclamation to continue work on rehabilitation of the CIP and a new MR&I projects trust fund to be used by the Tribe for (i) planning, permitting, designing, engineering, constructing, reconstructing, replacing, rehabilitating, operating, or repairing water production, treatment, or delivery infrastructure, including for domestic and municipal use or wastewater infrastructure; (ii) purchasing on-Reservation land with water rights; and (iii) complying with applicable environmental laws. The amendments do not increase the funding for the Settlement Act but merely change the way some funds are held and expended. If enacted as written, it is our interpretation that while the Amendment would repeal Section 406 in its entirety, funding for the MR&I projects trust fund would not exceed \$246,381,000, as indexed, as provided in section 414(b) of the Settlement Act (which would be redesignated as 415(b) pursuant to S. 4442).

When the Settlement Act was enacted, it did not provide for the creation of a non-trust interest bearing account for funds appropriated for project construction. Subsequent Indian water rights settlements have provided for such accounts to allow funds to accrue interest while projects are being planned, designed, and constructed. Because the Settlement Act did not provide this authorization, the Depart-

ment and the Tribe instead opened a joint-signature account with a private bank for the investment of settlement funds. While this has allowed the funding to earn interest, it has come with costs associated with maintaining a private bank account. The Tribe now seeks to establish a non-trust interest-bearing account in Treasury so it can enjoy the benefits of earning interest without having to pay management fees to a private banking institution. S. 4442 would authorize the establishment of a non-trust interest-bearing account in Treasury to receive the funds already appropriated and yet to be appropriated for CIP rehabilitation. Reclamation would continue to be the lead agency responsible for the planning, design, and construction of CIP rehabilitation features.

With respect to the MR&I system, S. 4442 would convert this portion of the Settlement Act from an infrastructure-based settlement to a trust fund-based settlement. S. 4442 would direct the Secretary to establish in the existing Crow Tribe Water Rights Settlement Trust Fund a new "MR&I Projects" account. The Tribe could then use funds from this account for several authorized purposes: plan, design, and construct MR&I systems; plan, design, and construct wastewater treatment facilities; and purchase on-Reservation land with water rights. S. 4442 would provide the Tribe with flexibility and discretion to plan, design, and construct the MR&I and wastewater systems that it believes will best serve communities on its Reservation.

Finally, S. 4442 would extend by five years the period during which the Tribe has the exclusive right to develop hydropower at the Yellowtail Afterbay Dam, to 2030.

The Department supports S. 4442. Allowing the Tribe to use the funding authorized for a large, centralized MR&I system to instead build smaller MR&I projects will allow it to make decisions regarding how, when, and where to develop water infrastructure on the Reservation. This approach is consistent with Tribal sovereignty and self-determination. We would like to work with the Tribe and the Committee, however, to include language in S. 4442 to ensure that trust fund expenditures prioritize providing clean drinking water over land acquisitions. The expansion of the authorized uses from a single use (MR&I) to multiple uses, including wastewater projects and purchases of land with water rights, will necessarily reduce the amount of funding available for badly needed drinking water systems on the Reservation. Provisions prioritizing funding for MR&I would ensure safe, reliable drinking water for the Tribe.

Conclusion

Chairman Schatz, Vice Chairman Murkowski, and members of the Committee, thank you for the opportunity to provide the Department's views.

CHANGES IN EXISTING LAW

In compliance with subsection 12 of rule XXVI of the Standing Rules of the Senate, the Committee waives the requirement to detail changes in existing law to expedite the business of the Senate.

