

## BLACKFOOT RIVER LAND EXCHANGE ACT OF 2014

DECEMBER 1, 2014.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HASTINGS of Washington, from the Committee on Natural Resources, submitted the following

### R E P O R T

[To accompany H.R. 5049]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 5049) to exchange trust and fee land to resolve land disputes created by the realignment of the Blackfoot River along the boundary of the Fort Hall Indian Reservation, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

#### PURPOSE OF THE BILL

The purpose of H.R. 5049 is to exchange trust and fee land to resolve land disputes created by the realignment of the Blackfoot River along the boundary of the Fort Hall Indian Reservation.

#### BACKGROUND AND NEED FOR LEGISLATION

The Fort Hall Indian Reservation, located in southeast Idaho near Pocatello and Blackfoot, was originally established in 1867 by Executive Order for the benefit of various Bands of the Shoshone and Bannock Indians. Pursuant to the Executive Order, the Blackfoot River, as it existed in its natural state, formed the northern boundary of the Reservation. Today, the Reservation encompasses 544,000 acres of land, 97 percent of which is held by the United States in trust for the tribe or individual Indians.

In 1964, the Army Corps of Engineers undertook a flood control project to realign and straighten a looping, meandered channel of the Blackfoot River. As a result of the project, Indians and non-Indian land owners along the realigned channel found their properties with new boundaries: the Indian parcels (approximately 37.04 acres) are bounded by non-Indian lands on the north side of

the river, and the non-Indian parcels (approximately 31.01 acres) are bounded by Indian trust land on the south side of the river. The project did not, however, change the legal boundaries of the reservation. These parcels have remained idle due to rights-of-way access and trespass problems for the landowners, tribe, and individual Indian allottees.

The access problems appear to be exacerbated by a dispute concerning water right claims by several non-Indian landowners, whose lands were affected by the 1964 flood control project. In the 1980s, under Idaho state law, the Snake River Basin Adjudication began to decree water rights on all streams and rivers in the Snake River Basin in Idaho, which includes the Blackfoot River Basin. During the Snake River Adjudication, several non-Indian landowners, whose lands were affected by the realignment of the Blackfoot River, claimed as their water rights' place of use lands on the Fort Hall Indian Reservation.

In 2006, the tribes filed objections to these claimed water rights. After extensive meetings and multiple status conferences among the court, tribe, and non-Indian landowners, it was determined that federal legislation was needed to resolve land disputes created by the realignment of the Blackfoot River. H.R. 5049 will enable the general stream adjudication of the Snake River to be concluded without interfering with water rights claims.

H.R. 5049 would authorize the United States to take certain non-Indian lands into trust on behalf of the Shoshone-Bannock Tribes in Idaho; authorize the United States to convey certain Indian lands as fee lands; and extinguish certain claims that could be asserted by the Tribes against the United States. These three main features in the bill would resolve the land ownership problems for both Indian and non-Indian landowners along Blackfoot River. Lands owned by non-Indians along the realigned channel would be placed in trust for the tribes (made part of the Fort Hall Reservation); title held by the United States in trust for allottees and the tribes would be transferred to the Blackfoot River Flood Control District No. 7, which represents the North Bank non-Indian landowners. Lands transferred to the parties are described in a Bureau of Land Management survey located at the Fort Hall Indian Agency office of the Bureau of Indian Affairs and at the Blackfoot River Flood Control District No. 7.

The Department of the Interior and tribes support this bill.

#### COMMITTEE ACTION

H.R. 5049 was introduced on July 9, 2014, by Congressman Michael Simpson (R-ID). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Indian and Alaska Native Affairs. On July 29, 2014, the Subcommittee held a hearing on the bill. On September 18, 2014, the Full Natural Resources Committee met to consider the bill. The Subcommittee on Indian and Alaska Native Affairs was discharged by unanimous consent. No amendments were offered, and the bill was adopted and ordered favorably reported to the House of Representatives by unanimous consent.

## COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

## COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

*H.R. 5049—Blackfoot River Land Exchange Act of 2014*

H.R. 5049 would require an exchange of tribal and private lands to settle a dispute between the Shoshone-Bannock Tribes and certain non-Indian landowners in southeastern Idaho. Under the bill, the Department of the Interior (DOI) would exchange 37 acres of Indian trust land for 31 acres of private land that would be held in trust for the Shoshone-Bannock Tribes. Based on information provided by DOI, CBO estimates that implementing the legislation would have no significant effect on the federal budget. Enacting H.R. 5049 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

By requiring the exchange of lands through federal statute, H.R. 5049 would impose both intergovernmental and private-sector mandates, as defined in the Unfunded Mandates Reform Act (UMRA), on tribal and nontribal land owners. The bill would terminate rights to certain parcels of land surrounding the Blackfoot River, and extinguish any past, present, or future claims on that land. The cost of the mandates would be the forgone compensation for damages that could have been collected through legal actions related to clarifying title to the property, and the net value of the land being exchanged by the federal government. Any forgone damages are unlikely to be significant. In a market study used by DOI, the value of the land is estimated to be less than \$500,000. Therefore, CBO estimates that the aggregate cost of the mandates would fall well below the annual thresholds established in UMRA for both intergovernmental and private-sector mandates (\$76 million and \$152 million, respectively, in 2014, adjusted annually for inflation).

On June 17, 2014, CBO transmitted a cost estimate for S. 2040, the Blackfoot River Land Exchange Act of 2014, as ordered reported by the Senate Committee on Indian Affairs on May 21, 2014. The two pieces of legislation are similar, and the CBO cost estimates are the same.

The CBO staff contacts for this estimate are Martin von Gnechten (for federal costs), Melissa Merrell (for the state and local

impact), and Tristan Hanon (for the private-sector impact). The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

2. Section 308(a) of Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures. CBO estimates that implementing the legislation would have no significant effect on the federal budget.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to exchange trust and fee land to resolve land disputes created by the realignment of the Blackfoot River along the boundary of the Fort Hall Indian Reservation.

#### EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

#### COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

#### COMPLIANCE WITH H. RES. 5

Directed Rule Making. The Chairman does not believe that this bill directs any executive branch official to conduct any specific rule-making proceedings.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95-220, as amended by Public Law 98-169) as relating to other programs.

#### PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

#### CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.