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TECHNICAL CORRECTION TO THE SHOSHONE-PAIUTE TRIBES OF THE DUCK VALLEY RESERVATION WATER RIGHTS SETTLEMENT 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. 546]

[Including cost estimate of the Congressional Budget Office]

The Committee on Indian Affairs, to which was referred the bill (S. 546) to amend the Omnibus Public Land Management Act of 2009 to make a technical correction to the water rights settlement for the Shoshone-Paiute Tribes of the Duck Valley Reservation, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of S. 546 is to amend the Omnibus Public Land Management Act of 2009 to authorize payment to the Shoshone-Paiute Tribes of the Duck Valley Reservation (Tribes) in an amount equivalent to the unpaid interest that would have accrued if interest accrual were permitted on the Tribes' water settlement trust funds deposited between October 1, 2009 and January 25, 2016.

BACKGROUND AND NEED

The Duck Valley Reservation encompasses 290,000 acres of land on the border between Nevada and Idaho, along the East Fork of the Owyhee River, a tributary to the Snake River. The Reservation was established by executive order in 1877 and expanded by executive orders in 1886 and 1910.

The Tribes have consistently used the water sources on the Reservation for agriculture, livestock, and domestic purposes. The Res-

ervation, however, lacks sufficient reliable infrastructure to provide dependable water for irrigation and drinking, and this lack of water infrastructure has been a chronic problem since the Reservation was first established in 1877.

Inconsistent natural flows and non-Indian settlement north and south of the Reservation in Nevada have led to chronic water stress and conflict with other water users over generations. Additionally, federal attempts to alleviate these concerns—including the Bureau of Reclamation’s nearby Owyhee Project and the Bureau of Indian Affairs’ Duck Valley Indian Irrigation Project—further complicated water storage and economic development on the Reservation.

For example, in the 1930s, the federal government authorized and built the Bureau of Indian Affairs’ Duck Valley Indian Irrigation Project (Project) to provide water storage along the East Fork of the Owyhee River for irrigation and stock water purposes on the Reservation. The Project failed to provide the Tribes complete relief because the Project’s primary water storage facility, the Wild Horse Reservoir, was located approximately 15 miles from the Reservation, which increased potential conflict with off-reservation water users and reduced the number of acres available to the Tribes for cultivation and other development opportunities. Moreover, the Project did not receive sufficient funding for the Tribes to perform adequate operation and maintenance activities pursuant to their self-governance compact. As a result, the Project facilities fell into disrepair, which led to fallow lands and sub-optimal production.

In 2009, Congress enacted the Shoshone-Paiute Tribes of the Duck Valley Reservation Water Rights Settlement (“Settlement Act”) as part of the Omnibus Lands Act of 2009.¹ The Settlement Act quantified the Tribes’ disputed water rights, including federal reserved water rights. The Settlement Act also (1) resolved the Tribes’ claims against the United States for its failure to protect the Tribes’ water rights and natural resources; (2) assisted the Tribes in their efforts to rehabilitate the Duck Valley Indian Irrigation Project; and (3) provided municipal water supplies and other critical water related projects.²

Specifically, the Settlement Act authorized a total of \$60 million to two Trust Funds for the Tribes to rehabilitate the Project and for other activities over a five-year period. Between Fiscal Years 2010–2014, \$45 million was deposited into a Development Fund³ and \$15 million was deposited into a Maintenance Fund.⁴ Pursuant to the Settlement Act, the settlement funds began to be appropriated on October 1, 2009, and the Department of the Interior (Department) immediately began investing the funds, earning interest.

On January 25, 2016, and pursuant to the Settlement Act, the Secretary of the Interior published a notice of findings in the Federal Register making the settlement enforceable.⁵ In February 2016, the Department opined that this “enforceability date” was the earliest date upon which the settlement funds could be invested per the terms of the settlement.⁶ Accordingly, the Department

¹ Pub. L. 111–11 §§ 10801–10809 (2009).

² 81 Fed. Reg. 4063–4064 (Jan. 25, 2016).

³ *Supra*, note 1 at § 10807(b)(3).

⁴ *Supra*, note 1 at § 10807(c)(3).

⁵ 81 Fed. Reg. 4063–4064 (Jan. 25, 2016); Pub. L. No. 111–11 § 10808(d).

⁶ See Senate Committee on Indian Affairs Legislative Hearing, October 6, 2021 (Statement of Brian Thomas, Chairman, Shoshone-Paiute Tribes of the Duck Valley Reservation).

withdrew all the interest accrued before the enforceability date and deposited it in the Federal Treasury.

The Department agrees that prohibiting investment of a Tribe's settlement funds prior to the enforceability date is uncommon in Indian water settlements.⁷ In fact, only five Tribes are subject to this unusual restriction, and the Department supports reimbursement in all five of these cases.⁸ S. 546 will provide parity with other Indian Water Settlements by authorizing the appropriation of the unpaid interest that would have accrued before the enforceability date.

SUMMARY

S. 546 authorizes the appropriation of \$5,124,902.12 for deposit into the Settlement Act's Development Fund. This represents the amount of unpaid interest that would have accrued if interest accrual were permitted on the Tribes' water settlement trust funds deposited between October 1, 2009 (when the funds were initially appropriated) and January 25, 2016 (the enforceability date).

LEGISLATIVE HISTORY

S. 546 was introduced by Senator Cortez Masto on February 12, 2025, with Senators Crapo, Risch and Rosen as cosponsors. On March 5, 2025, the Committee met at a duly convened business meeting and ordered S. 546 reported favorably, without amendment, by voice vote.

In the 118th Congress, an identical bill, S. 950, was introduced by Senator Cortez Masto on March 22, 2023, with Senators Crapo, Risch and Rosen as cosponsors. On March 29, 2023, the Committee held a business meeting to consider S. 950 and ordered the bill to be reported favorably, with an amendment, by voice vote (S. Rept. 118–80). S. 950 passed the Senate on December 18, 2023, by unanimous consent.

H.R. 1738, identical companion legislation to S. 950 was introduced by Representative Amodei in the House of Representatives on March 23, 2023. H.R. 1738 was referred to the House Committee on Natural Resources.

In the 117th Congress, a similar bill, S. 648, was introduced by Senator Cortez Masto on March 9, 2021, with Senators Crapo, Risch and Rosen as cosponsors. The Committee held a hearing on S. 648 on October 6, 2021 (S. Hrg. 117–138). The Committee held a business meeting to consider S. 648 on November 17, 2021, and ordered the bill reported favorably, with an amendment in the nature of a substitute. (S. Rept. 117–93).

On March 12, 2021, Representative Amodei (R–NV) introduced H.R. 1869, identical companion legislation to S. 648. A hearing was

⁷ See Senate Committee on Indian Affairs Legislative Hearing, October 6, 2021 (Statement of Bryan Newland Assistant Secretary for Indian Affairs, United States Department of the Interior) (stating “[t]he provision in the Duck Valley Settlement Act prohibiting investment until an enforceability date is reached is not common in Indian water rights settlements. It appears in the Duck Valley settlement and other settlements enacted in 2009–2010, including the Crow Tribe Water Rights Settlement Act of 2010, Pub. L. No. 111–291; the Taos Pueblo Indian Water Rights Settlement Act, Pub. L. No. 111–291; the Aamodt Litigation Settlement Act, Pub. L. No. 111–291; and the Navajo-Gallup Water Supply Project and Navajo Nation Water Rights, Pub. L. No. 111–11.”).

⁸ See, *id.* (stating “[t]he Department supports S. 648 and, as a matter of equity, would support similar legislation to resolve this same issue in the four other Indian water rights settlements approved by Congress in 2009 and 2010”).

held on H.R. 1869 in the House Natural Resources Subcommittee on Water, Oceans and Wildlife on June 29, 2021.

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. 546, without amendment.

SECTION-BY-SECTION ANALYSIS

Section 1—Short title

This section sets forth the short title as the “Technical Correction to the Shoshone-Paiute Tribes of the Duck Valley Reservation Water Rights Settlement Act of 2025.”

Section 2—Authorization of payment of interest on trust funds established under settlement

This section amends section 10807(b)(3) of the Omnibus Public Lands Management Act of 2009 (P.L. 111–11) to add a new subparagraph that authorizes an appropriation of \$5,124,902.12 for deposit into the Development Fund.

COST AND BUDGETARY CONSIDERATIONS

S. 546, Technical Correction to the Shoshone-Paiute Tribes of the Duck Valley Reservation Water Rights Settlement Act of 2025			
As ordered reported by the Senate Committee on Indian Affairs on March 5, 2025.			
By Fiscal Year, Millions of Dollars	2025	2025-2030	2025-2035
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	0	5	5
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Statutory pay-as-you-go procedures apply?	No
Mandate Effects			
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

S. 546 would authorize the appropriation of \$5.125 million to be deposited into the Shoshone-Paiute Tribes Water Rights Development Fund. The fund was established pursuant to the Shoshone-Paiute Tribes of the Duck Valley Reservation Water Rights Settlement Act of 2009 to rehabilitate water infrastructure projects located on the reservation in Idaho and Nevada.

The settlement agreement was made effective in 2016, and ownership of the fund was transferred to the tribes to be held in trust by the federal government. Assuming appropriation of the authorized amount, CBO estimates that implementing the bill would cost \$5 million over the 2025–2030 period.

The CBO staff contact for this estimate is Alaina Rhee. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

PHILLIP L. SWAGEL,
Director, Congressional Budget Office.

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. 546 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 October 6, 2021, hearing on S. 648 follows:

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

S. 648, TECHNICAL CORRECTION TO THE SHOSHONE-PAIUTE
TRIBES OF THE DUCK VALLEY RESERVATION WATER RIGHTS
SETTLEMENT ACT OF 2021

Aanii (Hello)! Good afternoon Chairman Schatz, Vice Chairman Murkowski, and Members of the Committee. My name is Bryan Newland. I am the Assistant Secretary for Indian Affairs at the Department of the Interior (Department). Thank you for the opportunity to present testimony regarding S. 648, the Technical Correction to the Shoshone-Paiute Tribes of the Duck Valley Reservation Water Rights Settlement Act of 2021.

S. 648 would amend the Shoshone-Paiute Tribes of the Duck Valley Reservation Water Rights Settlement Act to authorize funding equivalent to interest payments that would have been earned between October 1, 2009 and January 25, 2016 if the Department had then had the authority to invest the funds. The Department supports S. 648.

a. Background

The Duck Valley Reservation, home to the Shoshone-Paiute Tribes (Tribes), straddles the Idaho-Nevada border along the Owyhee River, a tributary to the Snake River. The Reservation was established by Executive Order on April 16, 1877 and expanded by Executive Orders on May 4, 1886 and July 1, 1910. The State of Idaho initiated the Snake River Basin Adjudication (SRBA) in 1987. Soon thereafter, the State of Nevada reopened its adjudication of the Owyhee River, a tributary to the Snake River, an adjudication originally initiated in 1924. Both of these adjudications involve the water rights of the Tribes. The United States filed claims in Idaho's SRBA and Nevada's Owyhee River adjudication on behalf of the Tribes.

At the request of the Parties, a Federal Negotiation Team was formed, and a settlement was reached. In 2009, Congress enacted the Shoshone-Paiute Tribes of the Duck

Valley Reservation Water Rights Settlement as part of the Omnibus Lands Act of 2009 (Duck Valley Settlement Act). The legislation authorized \$60 million across two Trust Funds to rehabilitate the Duck Valley Indian Irrigation Project, which is owned by the Bureau of Indian Affairs and operated by the Tribes under a Self-Governance compact, and for other activities. Under the legislation, the Trust Funds could only be invested and earn interest on the “enforceability” date which is the date that the Secretary published a statement in the Federal Register finding that all conditions for full effectiveness and enforceability of the settlement had occurred. The deadline to publish the statement of findings was March 31, 2016, and the Secretary published it on January 25, 2016.

Under the Duck Valley Settlement Act, the Secretary had no authority to invest the Trust Funds until January 25, 2016. However, the Department began investing funds as they were appropriated and transferred to the Department. The Department’s Solicitor’s Office determined that the amounts earned prior to January 25, 2016 were contrary to the Anti-Deficiency Act and, in accordance with 31 U.S.C. § 3302, must be returned to the Federal Treasury. Accordingly, the Department returned to the Treasury all interest accrued before January 25, 2016.

S. 648 would authorize the appropriation of the interest that would have accrued on balances in the Trust Funds during the period beginning on October 1, 2009 (when the funds were initially appropriated), and ending on January 25, 2016 (the enforceability date), for deposit into the Trust Funds.

b. Department’s Views

The provision in the Duck Valley Settlement Act prohibiting investment until an enforceability date is reached is not common in Indian water rights settlements. It appears in the Duck Valley settlement and other settlements enacted in 2009–2010, including the Crow Tribe Water Rights Settlement Act of 2010, Pub. L. No. 111–291; the Taos Pueblo Indian Water Rights Settlement Act, Pub. L. No. 111–291; the Aamodt Litigation Settlement Act, Pub. L. No. 111–291; and the Navajo-Gallup Water Supply Project and Navajo Nation Water Rights, Pub. L. No. 111–11. In each of these settlements, funds were inadvertently invested and were returned to Treasury. In total for the five settlements, over \$11 million was returned to the Federal Treasury. The Department supports S. 648 and, as a matter of equity, would support similar legislation to resolve this same issue in the four other Indian water rights settlements approved by Congress in 2009 and 2010.

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.

