



**CONGRESSIONAL BUDGET OFFICE  
COST ESTIMATE**

July 25, 2008

**H.R. 5293  
Shoshone-Paiute Tribes of the Duck Valley Reservation  
Water Rights Settlement Act**

*As ordered reported by the House Committee on Natural Resources on July 16, 2008*

**SUMMARY**

H.R. 5293 would ratify a water rights agreement among the Shoshone-Paiute Tribes of the Duck Valley Reservation, individual water users, and Nevada concerning the East Fork of the Owyhee River. The bill also would create two trust funds to settle the tribes' claims against the United States for compromising tribal water rights and failing to maintain the Duck Valley Irrigation Project. Under the bill, amounts in the funds could not be spent until certain requirements have been met.

Assuming appropriation of the authorized amounts to the funds, CBO estimates that implementing H.R. 5293 could cost \$48 million in 2012. Enacting H.R. 5293 also would increase direct spending by \$6 million in 2012 for interest payments to the tribe. Enacting the bill would not affect revenues.

The bill would require the Shoshone-Paiute Tribes of the Duck Valley Indian Reservation to adopt policies governing tribal water rights. That requirement would be an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA). CBO estimates that the cost of the mandate would be small and well below the threshold established in UMRA (\$68 million in 2008, adjusted annually for inflation). Furthermore, appropriations resulting from authorizations contained in the bill could be used to pay for any such costs.

H.R. 5293 contains no private-sector mandates as defined in UMRA.

## ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 5293 is shown in the following table. The costs of this legislation fall within budget function 450 (community and regional development).

	By Fiscal Year, in Millions of Dollars					2009-2013
	2009	2010	2011	2012	2013	
<b>CHANGES IN SPENDING SUBJECT TO APPROPRIATION</b>						
Authorization Level	12	12	12	12	0	48
Estimated Outlays	0	0	0	48	0	48
<b>CHANGES IN DIRECT SPENDING</b>						
Estimated Budget Authority	*	1	2	2	0	6
Estimated Outlays	0	0	0	6	0	6

Note: \* = Less than \$500,000; amounts may not sum to totals due to rounding.

## BASIS OF ESTIMATE

For this estimate, CBO assumes that H.R. 5293 will be enacted near the beginning of fiscal year 2009 and that the entire amounts authorized will be appropriated for each fiscal year. In the fall of 2006, the Shoshone-Paiute Tribes of the Duck Valley Indian Reservation, the state of Nevada, and several individual water users signed an agreement to settle a water rights dispute concerning the East Fork of the Owyhee River. Currently, the United States is not a party to this agreement. However, enactment of H.R. 5293 would approve and ratify the agreement and authorize the Secretary of the Interior to execute the settlement and other responsibilities under the bill. CBO assumes that, by fiscal year 2012, all parties will have executed the components of the agreement as specified under the bill.

### Changes in Spending Subject to Appropriation

H.R. 5293 would authorize the appropriation of \$12 million a year over the 2009-2012 period for two trust funds for the Shoshone-Paiute Tribes as part of the water rights settlement. Of that amount, \$9 million a year would be authorized to be appropriated for the Shoshone-Paiute Tribes Water Rights Development Fund for costs to rehabilitate the Duck Valley

Irrigation Project; acquire land and water rights; restore fish and wildlife habitat; develop water laws; and build sewer systems and other water-related projects. Another \$3 million a year over the same time period would be authorized to be appropriated for the Shoshone-Paiute Tribes Water Rights Operation and Maintenance Fund for similar activities.

Several conditions would have to be met to transfer control of the new trust funds to the tribes. The Secretary of the Interior would have to publish a statement of findings in the Federal Register indicating that all parties have executed the agreement, the Fourth Judicial District in Nevada would have to issue a judgment and final decree concerning the settlement, and the amounts authorized under the bill for fiscal years 2009 through 2012 would have to be appropriated. Because those conditions would not be met until the appropriations are made for 2012, deposits in the funds during the first three years would be considered intragovernmental and would have no net effect on the federal budget.

When the conditions for final settlement have been met in 2012, control over the use of the trust funds would be transferred to the tribe and the budget would record an expenditure of \$48 million in that year. Subsequent use of the funds would have no effect on the federal budget. Should the Secretary not publish a statement of findings by December 31, 2015, the agreement would not take effect and any funds appropriated would be returned to the general fund of the Treasury.

### **Changes in Direct Spending**

The Secretary of the Interior would be required to invest the amounts appropriated to the trust funds until those funds are expended. CBO estimates that interest earnings over the 2009-2012 period would total \$6 million and would be recorded as a federal outlay in 2012. Such outlays would be direct spending. Subsequently, the funds would be considered nonbudgetary, and any future interest payments would not be considered part of the federal budget. Should the Secretary not publish a statement of findings by December 31, 2015, the agreement would not take effect, and any interest payments would not be made.

### **ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS**

H.R. 5293 would require the tribes to adopt water policies that would govern tribal water rights as detailed in the agreement. That requirement would be an intergovernmental mandate as defined in UMRA because it would place a statutory requirement on the tribe that is separate from provisions of the agreement. CBO estimates that the cost of the mandate would be small and well below the threshold established in UMRA (\$68 million in 2008,

adjusted annually for inflation). Furthermore, appropriations resulting from authorizations for the development fund could be used to pay for any such costs.

## **ESTIMATED IMPACT ON THE PRIVATE SECTOR**

H.R. 5293 contains no private-sector mandates as defined in UMRA.

## **PREVIOUS CBO ESTIMATE**

On August 8, 2007, CBO transmitted a cost estimate for S. 462, the Shoshone-Paiute Tribes of the Duck Valley Reservation Water Rights Settlement Act, as ordered reported by the Senate Committee on Indian Affairs on July 19, 2007. Although the bills are very similar, our estimates of costs are different. Our estimate of discretionary spending under H.R. 5293 is lower because we now assume a later enactment date for the legislation. Also, CBO now considers that tribal interest payments under both pieces of legislation would increase direct spending rather than discretionary spending (as we estimated under S. 462). Those interest payments under H.R. 5293 would increase direct spending by \$6 million. That estimate applies to S. 462 as well.

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