



## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

October 7, 2004

### **S. 2605**

### **Snake River Water Rights Act of 2004**

*As ordered reported by the Senate Committee on Indian Affairs on September 22, 2004*

#### **SUMMARY**

S. 2605 would ratify an agreement between the Nez Perce Tribe of Idaho, the United States, and Idaho to resolve water rights claims in the Snake River Basin made by the tribe. The bill would increase the amount of water used for the benefit of wildlife, transfer certain federal lands to the tribe, authorize appropriations to trust funds designed to help the tribe manage aquatic resources, build a domestic water supply system, and protect and restore aquatic habitats. CBO estimates that implementing S. 2605 would cost \$58 million over the 2005-2009 period, assuming appropriation of the necessary amounts. CBO estimates that the bill would authorize the appropriation of \$61 million after 2009 (all of that amount except for estimated interest earnings on a trust fund is specified by the bill).

Enacting S. 2605 could affect direct spending by reducing potential offsetting receipts for leases of federal land that would be transferred to the tribe. CBO estimates that any such effects would be insignificant.

S. 2605 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments. Any costs or duties imposed by this bill on state, local, or tribal governments would be those assumed by them voluntarily as parties to the agreement.

#### **ESTIMATED COST TO THE FEDERAL GOVERNMENT**

The estimated budgetary impact of S. 2605 is shown in the table below. The costs of this legislation fall within budget functions 300 (natural resources and environment) and 450 (community and regional development).

	By Fiscal Year, in Millions of Dollars				
	2005	2006	2007	2008	2009
<b>CHANGES IN SPENDING SUBJECT TO APPROPRIATION</b>					
Mitigation Payment					
Specified Authorization Level	2	0	0	0	0
Estimated Outlays	2	0	0	0	0
Payments to Trust Funds					
Estimated Authorization Level	0	0	21	21	21
Estimated Outlays	<u>0</u>	<u>0</u>	<u>17</u>	<u>19</u>	<u>20</u>
Total Changes					
Estimated Authorization Level	2	0	21	21	21
Estimated Outlays	2	0	17	19	20

## **BASIS OF ESTIMATE**

For this estimate CBO assumes the bill will be enacted early in fiscal year 2005 and that the amounts authorized to be appropriated will be provided for each year.

### **Mitigation Payment**

The bill would authorize the appropriation of \$2 million to certain local governments in Idaho to mitigate the effect of decreased water-flows resulting from the use of over 400,000 acre-feet of water a year in the Snake River Basin to benefit wildlife.

### **Payments to Trust Funds**

This bill would create three Indian trust funds for the Nez Perce Tribe related to activities in the Snake River Basin. The Nez Perce Tribe Water and Fisheries Fund would be authorized to be appropriated about \$20 million over the 2005-2009 period, and it could be used by the tribe to acquire lands and water rights and to restore and improve fish and agricultural resources. Under the bill the tribe would use the Nez Perce Tribe Domestic Water Supply Fund, to develop and to build a domestic water and sewer system. The bill would authorize the appropriation of \$19 million to that fund over the 2005-2009 period. The third fund under the bill would be the Salmon and Clearwater River Basins Habitat Fund. The Habitat Fund would consist of two separate accounts, one for the benefit of the tribe, and the other for the

benefit of Idaho. The bill would authorize the appropriation of \$24 million over the 2005-2009 period for this fund.

Payments to certain trust funds that are held and managed in a fiduciary capacity by the federal government on behalf of Indian tribes are treated as payments to a nonfederal entity. Based on information from the Department of the Interior (DOI), CBO expects that the Fisheries and Water Supply Funds would be treated in this manner. In addition, a specified part of the third trust fund would also receive that budgetary treatment. As a result, CBO expects that the entire amount appropriated to these funds for the benefit of the tribe would be recorded as budget authority and outlays in the year it is appropriated. Because these accounts would be nonbudgetary, the subsequent use of such accounts by the tribe would not affect federal outlays.

Because part of the Salmon and Clearwater River Basins Habitat Fund would not be held in trust for a tribe, it would be treated as a federal fund. Thus, the initial deposits into this account therefore would not affect the budget, however any subsequent use of the funds by Idaho would have a budgetary impact.

### **Additional Provisions**

The bill would allow the Nez Perce tribe to choose certain land to be held in trust for the tribe from among 11,000 federal acres on or near the reservation. Based on information from the DOI, CBO estimates the land likely to be chosen has insignificant mineral value and timber value of about \$6 million. CBO expects the loss of potential federal receipts from transferring this land to the tribe would be insignificant because there are no current or planned timber leases for any of the land. There are currently 43 grazing leases on the affected lands, and the offsetting receipts (a credit against direct spending) from these leases are less than \$1,000.

### **INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT**

S. 2605 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. Any costs or duties imposed by this bill on state, local, or tribal governments would be those assumed by them voluntarily as parties to the agreement.

**ESTIMATE PREPARED BY:**

Federal Costs: Mike Waters

Impact on State, Local, and Tribal Governments: Marjorie Miller

Impact on the Private Sector: Selena Caldera

**ESTIMATE APPROVED BY:**

Peter H. Fontaine

Deputy Assistant Director for Budget Analysis