

103^D CONGRESS
2^D SESSION

S. 2259

To provide for the settlement of the claims of the Confederated Tribes of the Colville Reservation concerning their contribution to the production of hydropower by the Grand Coulee Dam, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 30 (legislative day, JUNE 7), 1994

Mrs. MURRAY (for herself, Mr. HATFIELD, Mr. GORTON, Mr. INOUE, and Mr. BRADLEY) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

JULY 26 (legislative day, JULY 20), 1994

Ordered, that when the Committee on Indian Affairs reports the bill, it then be referred to the Committee on Energy and Natural Resources for a period not to exceed 10 days

A BILL

To provide for the settlement of the claims of the Confederated Tribes of the Colville Reservation concerning their contribution to the production of hydropower by the Grand Coulee Dam, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Confederated Tribes
3 of the Colville Reservation Grand Coulee Dam Settlement
4 Act”.

5 **SEC. 2. DEFINITIONS.**

6 As used in this Act:

7 (1) ADMINISTRATOR.—The term “Adminis-
8 trator” means the Administrator of the Bonneville
9 Power Administration.

10 (2) BONNEVILLE POWER ADMINISTRATION.—
11 The term “Bonneville Power Administration” means
12 the Bonneville Power Administration of the Depart-
13 ment of Energy or any successor agency, corpora-
14 tion, or entity that markets power produced at the
15 Dam.

16 (3) DAM.—The term “Dam” means the Grand
17 Coulee Dam—

18 (A) operated by the Bureau of Reclama-
19 tion of the Department of the Interior, and

20 (B) with respect to which power is mar-
21 keted by the Bonneville Power Administration
22 of the Department of Energy.

23 (4) CONFEDERATED TRIBES V. UNITED
24 STATES.—The term “Confederated Tribes v. United
25 States” means the case pending before the United
26 States Court of Claims arising from the claim filed

1 with the Indian Claims Commission with the docket
2 number 181–D that—

3 (A) was transferred to the United States
4 Court of Claims pursuant to the Federal Courts
5 Improvement Act of 1982 (96 Stat. 25) as Con-
6 federated Tribes v. United States (20 Cl. Ct.
7 31);

8 (B) with respect to which an appeal was
9 filed in the United States Court of Appeals,
10 Federal Circuit (964 F.2d 1102) (Fed. Cir.
11 1992); and

12 (C) on the basis of the appeal, was re-
13 manded in part by the United States Court of
14 Appeals to the United States Court of Claims.

15 (5) MINOR.—The term “minor” means a child
16 who has not attained the age of 18.

17 (6) SECRETARY.—The term “Secretary” means
18 the Secretary of the Interior.

19 (7) SETTLEMENT AGREEMENT.—The term
20 “Settlement Agreement” means the Settlement
21 Agreement entered into between the United States
22 and the Confederated Tribes of the Colville Reserva-
23 tion, signed by the United States on April 21, 1994,
24 and by the Tribe on April 16, 1994, to settle the

1 claims of the Tribe under Confederated Tribes v.
2 United States.

3 (8) TRIBE.—“Tribe” means the Confederated
4 Tribes of the Colville Reservation, a federally recog-
5 nized Indian tribe.

6 **SEC. 3. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—Congress finds the following:

8 (1) An action by the Confederated Tribes of the
9 Colville Reservation against the United States is
10 pending before the United States Court of Federal
11 Claims.

12 (2) In such action, the Tribe seeks to recover
13 damages under section 2(5)) of the Indian Claims
14 Commission Act (60 Stat. 1050 (formerly 25 U.S.C.
15 70a(5)) relating to fair and honorable dealings.

16 (3) Although the matter that is the subject of
17 such action is in dispute, the potential liability of the
18 United States is substantial.

19 (4) The claim filed by Tribe with respect to
20 such action alleges that—

21 (A) after the construction of the Grand
22 Coulee Dam, the United States has used land
23 located in the Colville Reservation in connection
24 with the generation of electric power;

1 (B) the United States will continue to use
2 such land during such time as the Grand Cou-
3 lee Dam produces power; and

4 (C) the United States has promised to pay
5 the Tribe for the use referred to in subpara-
6 graph (A), but has failed to make such pay-
7 ment.

8 (5) After years of litigation, the United States
9 has negotiated a Settlement Agreement with the
10 Tribe that was signed by the appropriate officials of
11 the Department of Justice, the Bonneville Power
12 Administration, and the Department of the Interior.

13 (6) The Settlement Agreement is contingent on
14 the enactment of enabling legislation to approve and
15 ratify the Settlement Agreement.

16 (7) Upon the enactment of this Act, the Settle-
17 ment Agreement will—

18 (A) provide mutually agreeable compensa-
19 tion for the past use (as determined under such
20 Agreement) of land of the Colville Reservation
21 in connection with the generation of electric
22 power at Grand Coulee Dam;

23 (B) establish a method to ensure that the
24 Tribe will be compensated for future use (as de-
25 termined under such Agreement) of land of the

1 Colville Reservation in the generation of electric
2 power at Grand Coulee Dam; and approved;
3 and

4 (C) settle the claims of the Tribe against
5 the United States brought under the Indian
6 Claims Commission Act.

7 (b) PURPOSES.—The purposes of this Act are as
8 follows:

9 (1) To approve and ratify the Settlement
10 Agreement entered into by the United States and
11 the Tribe.

12 (2) To direct the Bonneville Power Administra-
13 tion to carry out the obligations of the Bonneville
14 Power Administration under the Settlement Agree-
15 ment.

16 **SEC. 4. APPROVAL, RATIFICATION AND IMPLEMENTATION**
17 **OF SETTLEMENT AGREEMENT.**

18 (a) IN GENERAL.—The Settlement Agreement is
19 hereby approved and ratified.

20 (b) DUTIES OF THE BONNEVILLE POWER ADMINIS-
21 TRATION.—The Bonneville Power Administration shall—

22 (1) on an annual basis, make payments to the
23 Tribe in a manner consistent with the Settlement
24 Agreement; and

1 (2) carry out any other obligation of the Bonne-
2 ville Power Administration under the Settlement
3 Agreement.

4 (c) IMPLEMENTATION OF SETTLEMENT AGREE-
5 MENT.—

6 (1) IN GENERAL.—In a manner consistent with
7 the negotiated terms of the Settlement Agreement,
8 the United States shall join in the motion that the
9 Tribe has agreed to file in Confederated Tribes of
10 Colville Reservation v. United States, for the entry
11 of a compromise final judgment in the amount of
12 \$53,000,000.00.

13 (2) REQUIREMENTS FOR PAYMENT.—The
14 United States shall pay the amount specified in
15 paragraph (1) from funds appropriated pursuant to
16 section 1304 of title 31, United States Code. The
17 amount paid as a judgment may not be not reim-
18 bursed by the Bonneville Power Administration.

19 **SEC. 5. DISTRIBUTION OF THE SETTLEMENT FUNDS.**

20 (a) LUMP SUM PAYMENT.—The payment made
21 under section 4(c)(1) (including any interest that accrues
22 on the payment) shall be deposited by the Secretary of
23 the Treasury in a trust fund established for the Tribe pur-
24 suant to Public Law 93–134 (25 U.S.C. 1401 et seq.) for
25 use by the tribal governing body of the Confederated

1 Tribes of the Colville Reservation, pursuant to a distribu-
2 tion plan developed by the Tribe and approved by the Sec-
3 retary of the Interior pursuant to section 3 of Public Law
4 93-134 (25 U.S.C. 1403), except that—

5 (1) under the distribution plan developed pursu-
6 ant to this subsection any payment to be made to a
7 minor shall be held by the United States in trust for
8 the minor until the later of—

9 (A) the date the minor attains the age of
10 18; or

11 (B) the date of graduation of the second-
12 ary school class with respect to which the minor
13 is scheduled to be a member; and

14 (2) the Secretary may, pursuant to regulations
15 prescribed by the Secretary relating to the adminis-
16 tration of the Bureau of Indian Affairs, authorize
17 the emergency use of trust funds for the benefit of
18 a minor.

19 (b) ANNUAL PAYMENTS.—In addition to the lump
20 sum payment described in subsection (a), the appropriate
21 official of the Federal Government shall make annual pay-
22 ments directly to the Tribe in accordance with the Settle-
23 ment Agreement. The Tribe may use any amount received
24 as an annual payment under this subsection in the same

1 manner as the Tribe may use any other income received
2 by the Tribe from the lease or sale of natural resources.

3 **SEC. 6. REPAYMENT CREDIT.**

4 (a) IN GENERAL.—Beginning with fiscal year 2000,
5 and ending at the end of the last fiscal year during which
6 the Tribe receives an annual payment pursuant to the Set-
7 tlement Agreement, the Administrator shall deduct from
8 the interest payable to the Secretary of the Treasury from
9 net proceeds (as defined in section 13(b) of the Federal
10 Columbia River Transmission System Act (16 U.S.C.
11 838(b)) an amount equal to 26 percent of the payment
12 made to the Tribe for the immediately preceding fiscal
13 year.

14 (b) CREDIT OF INTEREST.—

15 (1) IN GENERAL.—Each deduction made under
16 this section shall—

17 (A) be credited to the amount of interest
18 payments that would otherwise be payable by
19 the Administrator to the Secretary of the
20 Treasury during the fiscal year in which the de-
21 duction is made; and

22 (B) be allocated on a pro rata basis to all
23 interest payments on debt associated with the
24 generation function of the Federal Columbia

1 River Power System that are payable during
2 the fiscal year specified in subparagraph (A).

3 (2) SPECIAL ALLOCATION RULE.—If, for any
4 fiscal year a deduction calculated pursuant to para-
5 graph (1) would be greater than the amount of in-
6 terest due on debt associated with the generation
7 function described in paragraph (1)(B) for such fis-
8 cal year, the amount by which the deduction exceeds
9 the interest due on debt associated with the genera-
10 tion function shall be allocated on a pro rata basis
11 as a credit for the payment of any other interest
12 that is payable by the Administrator by the Sec-
13 retary for such fiscal year.

14 **SEC. 7. MISCELLANEOUS PROVISIONS.**

15 (a) LIENS AND FORFEITURES.—Funds paid or de-
16 posited to the credit of the Tribe pursuant to the Settle-
17 ment Agreement or this Act, any interest or investment
18 income earned or received on such funds, any payment au-
19 thorized by the Tribe or the Secretary of the Interior to
20 be made from such funds to members of the Tribe, and
21 any interest or investment income earned on any such pay-
22 ment earned or received and deposited in a trust pursuant
23 to this section for a member of the Tribe, may not be sub-
24 ject to any levy, execution, forfeiture, garnishment, lien,

1 encumbrance, seizure, or taxation by the Federal Govern-
2 ment or a State or political subdivision of a State.

3 (b) ELIGIBILITY FOR FEDERAL AND FEDERALLY
4 FUNDED PROGRAMS.—None of the funds described in
5 subsection (a) may be treated as income or resources or
6 otherwise used as the basis for denying or reducing the
7 financial assistance or other benefits to which the Tribe,
8 a member of the Tribe, or a household of the Tribe would
9 otherwise be entitled under the Social Security Act (42
10 U.S.C. 301 et seq.) or any program of the Federal Govern-
11 ment or program that receives assistance from the Federal
12 Government.

13 (c) TRUST RESPONSIBILITY.—This Act and the Set-
14 tlement Agreement may not be construed to affect the
15 trust responsibility of the United States to the Tribe or
16 to any of the members of the Tribe.

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