

106TH CONGRESS
1ST SESSION

H. R. 795

To provide for the settlement of the water rights claims of the Chippewa Cree Tribe of the Rocky Boy's Reservation, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 23, 1999

Mr. HILL of Montana introduced the following bill; which was referred to the Committee on Resources

A BILL

To provide for the settlement of the water rights claims of the Chippewa Cree Tribe of the Rocky Boy's Reservation, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Chippewa Cree Tribe
5 of the Rocky Boy's Reservation Indian Reserved Water
6 Rights Settlement Act of 1999”.

7 **SEC. 2. FINDINGS.**

8 Congress finds that—

9 (1) in fulfillment of its trust responsibility to
10 Indian tribes and to promote tribal sovereignty and

1 economic self-sufficiency, it is the policy of the
2 United States to settle the water rights claims of the
3 tribes without lengthy and costly litigation;

4 (2) the Rocky Boy's Reservation was estab-
5 lished as a homeland for the Chippewa Cree Tribe;

6 (3) adequate water for the Chippewa Cree
7 Tribe of the Rocky Boy's Reservation is important
8 to a permanent, sustainable, and sovereign homeland
9 for the Tribe and its members;

10 (4) the sovereignty of the Chippewa Cree Tribe
11 and the economy of the Reservation depend on the
12 development of the water resources of the Reserva-
13 tion;

14 (5) the planning, design, and construction of
15 the facilities needed to utilize water supplies effec-
16 tively are necessary to the development of a viable
17 Reservation economy and to implementation of the
18 Chippewa Cree-Montana Water Rights Compact;

19 (6) the Rocky Boy's Reservation is located in a
20 water-short area of Montana and the Compact con-
21 templates the development of additional water sup-
22 plies, including importation of domestic water, to
23 meet the needs of the Chippewa Cree Tribe;

24 (7) proceedings to determine the full extent of
25 the water rights of the Chippewa Cree Tribe are cur-

1 rently pending before the Montana Water Court as
2 a part of *In the Matter of the Adjudication of All*
3 *Rights to the Use of Water, Both Surface and Under-*
4 *ground, within the State of Montana;*

5 (8) recognizing that final resolution of the gen-
6 eral stream adjudication will take many years and
7 entail great expense to all parties, prolong uncer-
8 tainty as to the availability of water supplies, and
9 seriously impair the long-term economic planning
10 and development of all parties, the Chippewa Cree
11 Tribe and the State of Montana entered into the
12 Compact on April 14, 1997; and

13 (9) the allocation of water resources from the
14 Tiber Reservoir to the Chippewa Cree Tribe under
15 this Act is uniquely suited to the geographic, social,
16 and economic characteristics of the area and situa-
17 tion involved.

18 **SEC. 3. PURPOSES.**

19 The purposes of this Act are as follows:

20 (1) To achieve a fair, equitable, and final settle-
21 ment of all claims to water rights in the State of
22 Montana for—

23 (A) the Chippewa Cree Tribe; and

24 (B) the United States for the benefit of
25 the Chippewa Cree Tribe.

1 (2) To approve, ratify, and confirm, as modified
2 in this Act, the Chippewa Cree-Montana Water
3 Rights Compact entered into by the Chippewa Cree
4 Tribe of the Rocky Boy's Reservation and the State
5 of Montana on April 14, 1997, and to provide fund-
6 ing and other authorization necessary for the imple-
7 mentation of the Compact.

8 (3) To authorize the Secretary of the Interior
9 to execute and implement the Compact referred to in
10 paragraph (2) and to take such other actions as are
11 necessary to implement the Compact in a manner
12 consistent with this Act.

13 (4) To authorize Federal feasibility studies de-
14 signed to identify and analyze potential mechanisms
15 to enhance, through conservation or otherwise, water
16 supplies in North Central Montana, including mech-
17 anisms to import domestic water supplies for the fu-
18 ture growth of the Rocky Boy's Indian Reservation.

19 (5) To authorize certain projects on the Rocky
20 Boy's Indian Reservation, Montana, in order to im-
21 plement the Compact.

22 (6) To authorize certain modifications to the
23 purposes and operation of the Bureau of Reclama-
24 tion's Tiber Dam and Lake Elwell on the Marias

1 River in Montana in order to implement the Com-
2 pact.

3 (7) To authorize the appropriation of funds
4 necessary for the implementation of the Compact.

5 **SEC. 4. DEFINITIONS.**

6 In this Act:

7 (1) COMPACT.—The term “Compact” means
8 the water rights compact between the Chippewa
9 Cree Tribe of the Rocky Boy’s Reservation and the
10 State of Montana contained in section 85–20–601 of
11 the Montana Code Annotated (1997).

12 (2) FINAL.—The term “final” with reference to
13 approval of the decree in section 5(b) means comple-
14 tion of any direct appeal to the Montana Supreme
15 Court of a final decree by the Water Court pursuant
16 to section 85–2–235 of the Montana Code Anno-
17 tated (1997), or to the Federal Court of Appeals, in-
18 cluding the expiration of the time in which a petition
19 for certiorari may be filed in the United States Su-
20 preme Court, denial of such a petition, or the
21 issuance of the Supreme Court’s mandate, whichever
22 occurs last.

23 (3) FUND.—The term “Fund” means the Chip-
24 pewa Cree Indian Reserved Water Rights Settlement
25 Fund established under section 10.

1 (4) INDIAN TRIBE.—The term “Indian tribe”
2 has the meaning given that term in section 101(2)
3 of the Federally Recognized Indian Tribe List Act of
4 1994 (25 U.S.C. 479a(2)).

5 (5) MR&I FEASIBILITY STUDY.—The term
6 “MR&I feasibility study” means a municipal, rural,
7 and industrial, domestic, and incidental drought re-
8 lief feasibility study described in section 7.

9 (6) MISSOURI RIVER SYSTEM.—The term “Mis-
10 souri River System” means the mainstem of the
11 Missouri River and its tributaries, including the
12 Marias River.

13 (7) RECLAMATION LAW.—The term “Reclama-
14 tion Law” has the meaning given the term “rec-
15 lamation law” in section 4 of the Act of December
16 5, 1924 (43 Stat. 701, chapter 4; 43 U.S.C. 371).

17 (8) ROCKY BOY’S RESERVATION; RESERVA-
18 TION.—The term “Rocky Boy’s Reservation” or
19 “Reservation” means the Rocky Boy’s Reservation
20 of the Chippewa Cree Tribe in Montana.

21 (9) SECRETARY.—The term “Secretary” means
22 the Secretary of the Interior, or his or her duly au-
23 thorized representative.

1 (10) TOWE PONDS.—The term “Towe Ponds”
2 means the reservoir or reservoirs referred to as
3 “Stoneman Reservoir” in the Compact.

4 (11) TRIBAL COMPACT ADMINISTRATION.—The
5 term “Tribal Compact Administration” means the
6 activities assumed by the Tribe for implementation
7 of the Compact as set forth in Article IV of the
8 Compact.

9 (12) TRIBAL WATER CODE.—The term “tribal
10 water code” means a water code adopted by the
11 Tribe, as provided in the Compact.

12 (13) TRIBAL WATER RIGHT.—

13 (A) IN GENERAL.—The term “Tribal
14 Water Right” means the water right set forth
15 in section 85–20–601 of the Montana Code An-
16 notated (1997).

17 (B) RULE OF CONSTRUCTION.—The defini-
18 tion of the term “Tribal Water Right” under
19 this paragraph and the treatment of that right
20 under this Act shall not be construed or inter-
21 preted as a precedent for the litigation of re-
22 served water rights or the interpretation or ad-
23 ministration of future compacts between the
24 United States and the State of Montana or any
25 other State.

1 (14) **TRIBE.**—The term “Tribe” means the
2 Chippewa Cree Tribe of the Rocky Boy’s Reserva-
3 tion and all officers, agents, and departments there-
4 of.

5 (15) **WATER DEVELOPMENT.**—The term “water
6 development” includes all activities that involve the
7 use of water or modification of water courses or
8 water bodies in any way.

9 **SEC. 5. RATIFICATION OF COMPACT AND ENTRY OF DE-**
10 **CREE.**

11 (a) **WATER RIGHTS COMPACT APPROVED.**—Except
12 as modified by this Act, and to the extent the Compact
13 does not conflict with this Act—

14 (1) the Compact, entered into by the Chippewa
15 Cree Tribe of the Rocky Boy’s Reservation and the
16 State of Montana on April 14, 1997, is hereby ap-
17 proved, ratified, and confirmed; and

18 (2) the Secretary shall—

19 (A) execute and implement the Compact
20 together with any amendments agreed to by the
21 parties or necessary to bring the Compact into
22 conformity with this Act; and

23 (B) take such other actions as are nec-
24 essary to implement the Compact.

25 (b) **APPROVAL OF DECREE.**—

1 (1) IN GENERAL.—Not later than 180 days
2 after the date of enactment of this Act, the United
3 States, the Tribe, or the State of Montana shall pe-
4 tition the Montana Water Court, individually or
5 jointly, to enter and approve the decree agreed to by
6 the United States, the Tribe, and the State of Mon-
7 tana attached as Appendix 1 to the Compact, or any
8 amended version thereof agreed to by the United
9 States, the Tribe, and the State of Montana.

10 (2) RESORT TO THE FEDERAL DISTRICT
11 COURT.—Under the circumstances set forth in Arti-
12 cle VII.B.4 of the Compact, 1 or more parties may
13 file an appropriate motion (as provided in that arti-
14 cle) in the United States district court of appro-
15 priate jurisdiction.

16 (3) EFFECT OF FAILURE OF APPROVAL TO BE-
17 COME FINAL.—In the event the approval by the ap-
18 propriate court, including any direct appeal, does
19 not become final within 3 years after the filing of
20 the decree, or the decree is approved but is subse-
21 quently set aside by the appropriate court—

22 (A) the approval, ratification, and con-
23 firmation of the Compact by the United States
24 shall be null and void; and

1 (B) except as provided in sections 11(g)(1)
2 and 13(a) and (c)(3), this Act shall be of no
3 further force and effect.

4 **SEC. 6. USE AND TRANSFER OF THE TRIBAL WATER RIGHT.**

5 (a) ADMINISTRATION AND ENFORCEMENT.—As pro-
6 vided in the Compact, until the adoption and approval of
7 a tribal water code by the Tribe, the Secretary shall ad-
8 minister and enforce the Tribal Water Right.

9 (b) TRIBAL MEMBER ENTITLEMENT.—

10 (1) IN GENERAL.—Any entitlement to Federal
11 Indian reserved water of any tribal member shall be
12 satisfied solely from the water secured to the Tribe
13 by the Compact and shall be governed by the terms
14 and conditions of the Compact.

15 (2) ADMINISTRATION.—An entitlement de-
16 scribed in paragraph (1) shall be administered by
17 the Tribe pursuant to a tribal water code developed
18 and adopted pursuant to Article IV.A.2 of the Com-
19 pact, or by the Secretary pending the adoption and
20 approval of the tribal water code.

21 (c) TEMPORARY TRANSFER OF TRIBAL WATER
22 RIGHT.—Notwithstanding any other provision of statutory
23 or common law, the Tribe may, with the approval of the
24 Secretary and subject to the limitations and conditions set
25 forth in the Compact, including limitation on transfer of

1 any portion of the Tribal Water Right to within the Mis-
2 souri River Basin, enter into a service contract, lease, ex-
3 change, or other agreement providing for the temporary
4 delivery, use, or transfer of the water rights confirmed to
5 the Tribe in the Compact, except that no service contract,
6 lease, exchange, or other agreement entered into under
7 this subsection may permanently alienate any portion of
8 the Tribal Water Right.

9 **SEC. 7. FEASIBILITY STUDIES AUTHORIZATION.**

10 (a) MUNICIPAL, RURAL, AND INDUSTRIAL FEASIBIL-
11 ITY STUDY.—

12 (1) IN GENERAL.—

13 (A) STUDY.—The Secretary, through the
14 Bureau of Reclamation, shall perform an MR&I
15 feasibility study of water and related resources
16 in North Central Montana to evaluate alter-
17 natives for a municipal, rural, and industrial
18 supply for the Rocky Boy's Reservation.

19 (B) USE OF FUNDS MADE AVAILABLE FOR
20 FISCAL YEAR 1999.—The authority under sub-
21 paragraph (A) shall be deemed to apply to
22 MR&I feasibility study activities for which
23 funds were made available by appropriations for
24 fiscal year 1999.

1 (2) CONTENTS OF STUDY.—The MR&I feasibil-
2 ity study shall include the feasibility of releasing the
3 Tribe’s Tiber allocation as provided in section 8 into
4 the Missouri River System for later diversion to a
5 treatment and delivery system for the Rocky Boy’s
6 Reservation.

7 (3) UTILIZATION OF EXISTING STUDIES.—The
8 MR&I feasibility study shall include utilization of ex-
9 isting Federal and non-Federal studies and shall be
10 planned and conducted in consultation with other
11 Federal agencies, the State of Montana, and the
12 Chippewa Cree Tribe.

13 (b) ACCEPTANCE OR PARTICIPATION IN IDENTIFIED
14 OFF-RESERVATION SYSTEM.—The United States, the
15 Chippewa Cree Tribe of the Rocky Boy’s Reservation, and
16 the State of Montana shall not be obligated to accept or
17 participate in any potential off-Reservation water supply
18 system identified in the MR&I feasibility study authorized
19 in subsection (a).

20 (c) REGIONAL FEASIBILITY STUDY.—

21 (1) IN GENERAL.—

22 (A) STUDY.—The Secretary, through the
23 Bureau of Reclamation, shall conduct, pursuant
24 to Reclamation Law, a regional feasibility study
25 (referred to in this subsection as the “regional

1 feasibility study”) to evaluate water and related
2 resources in North-Central Montana in order to
3 determine the limitations of those resources and
4 how those resources can best be managed and
5 developed to serve the needs of the citizens of
6 Montana.

7 (B) USE OF FUNDS MADE AVAILABLE FOR
8 FISCAL YEAR 1999.—The authority under sub-
9 paragraph (A) shall be deemed to apply to re-
10 gional feasibility study activities for which
11 funds were made available by appropriations for
12 fiscal year 1999.

13 (2) CONTENTS OF STUDY.—The regional fea-
14 sibility study shall—

15 (A) evaluate existing and potential water
16 supplies, uses, and management;

17 (B) identify major water-related issues, in-
18 cluding environmental, water supply, and eco-
19 nomic issues;

20 (C) evaluate opportunities to resolve the
21 issues referred to in subparagraph (B); and

22 (D) evaluate options for implementation of
23 resolutions to the issues.

24 (3) REQUIREMENTS.—Because of the regional
25 and international impact of the regional feasibility

1 study, the study may not be segmented. The re-
2 gional study shall—

3 (A) utilize, to the maximum extent pos-
4 sible, existing information; and

5 (B) be planned and conducted in consulta-
6 tion with all affected interests, including inter-
7 ests in Canada.

8 **SEC. 8. TIBER RESERVOIR ALLOCATION.**

9 (a) ALLOCATION OF WATER TO THE TRIBE.—

10 (1) IN GENERAL.—The Secretary shall perma-
11 nently allocate to the Tribe, without cost to the
12 Tribe, 10,000 acre-feet per year of stored water
13 from the water right of the Bureau of Reclamation
14 in Lake Elwell, Lower Marias Unit, Upper Missouri
15 Division, Pick-Sloan Missouri Basin Program, Mon-
16 tana, measured at the outlet works of the dam or at
17 the diversion point from the reservoir. The allocation
18 shall become effective when the decree referred to in
19 section 5(b) has become final in accordance with
20 that section.

21 (2) AGREEMENT.—The Secretary shall enter
22 into an agreement with the Tribe setting forth the
23 terms of the allocation and providing for the Tribe's
24 use or temporary transfer of water stored in Lake

1 Elwell, subject to the terms and conditions of the
2 Compact and this Act.

3 (3) PRIOR RESERVED WATER RIGHTS.—The al-
4 location provided in this section shall be subject to
5 the prior reserved water rights, if any, of any Indian
6 tribe, or person claiming water through any Indian
7 tribe.

8 (b) USE AND TEMPORARY TRANSFER OF ALLOCA-
9 TION.—

10 (1) IN GENERAL.—Subject to the limitations
11 and conditions set forth in the Compact and this
12 Act, the Tribe shall have the right to devote the
13 water allocated by this section to any use, including
14 agricultural, municipal, commercial, industrial, min-
15 ing, or recreational uses, within or outside the Rocky
16 Boy's Reservation.

17 (2) CONTRACTS AND AGREEMENTS.—Notwith-
18 standing any other provision of statutory or common
19 law, the Tribe may, with the approval of the Sec-
20 retary and subject to the limitations and conditions
21 set forth in the Compact, enter into a service con-
22 tract, lease, exchange, or other agreement providing
23 for the temporary delivery, use, or transfer of the
24 water allocated by this section, except that no such
25 service contract, lease, exchange, or other agreement

1 pursuant to subsection (b), for the planning, design, and
2 construction of the following water development projects
3 on the Rocky Boy's Reservation:

4 (1) Bonneau Dam and Reservoir Enlargement.

5 (2) East Fork of Beaver Creek Dam Repair
6 and Enlargement.

7 (3) Brown's Dam Enlargement.

8 (4) Towe Ponds' Enlargement.

9 (5) Such other water development projects as
10 the Tribe shall from time to time consider appro-
11 priate.

12 (b) IMPLEMENTATION AGREEMENT.—The Secretary,
13 at the request of the Tribe, shall enter into an agreement,
14 or, if appropriate, renegotiate an existing agreement, with
15 the Tribe to implement the provisions of this Act through
16 the Tribe's annual funding agreement entered into under
17 the self-governance program under title IV of the Indian
18 Self-Determination and Education Assistance Act (25
19 U.S.C. 458aa et seq.) by which the Tribe shall plan, de-
20 sign, and construct any or all of the projects authorized
21 by this section.

22 (c) BUREAU OF RECLAMATION PROJECT ADMINIS-
23 TRATION.—

24 (1) IN GENERAL.—Congress finds that the Sec-
25 retary, through the Bureau of Reclamation, has en-

1 tered into an agreement with the Tribe, pursuant to
2 title IV of the Indian Self-Determination and Edu-
3 cation Assistance Act (25 U.S.C. 458aa et seq.)—

4 (A) defining and limiting the role of the
5 Bureau of Reclamation in its administration of
6 the projects authorized in subsection (a);

7 (B) establishing the standards upon which
8 the projects will be constructed; and

9 (C) for other purposes necessary to imple-
10 ment this section.

11 (2) AGREEMENT.—The agreement referred to
12 in paragraph (1) shall become effective when the
13 Tribe exercises its right under subsection (b).

14 **SEC. 10. CHIPPEWA CREE INDIAN RESERVED WATER**
15 **RIGHTS SETTLEMENT TRUST FUND.**

16 (a) ESTABLISHMENT OF TRUST FUND.—

17 (1) IN GENERAL.—

18 (A) ESTABLISHMENT.—There is hereby es-
19 tablished in the Treasury of the United States
20 a trust fund for the Chippewa Cree Tribe of the
21 Rocky Boy's Reservation to be known as the
22 "Chippewa Cree Indian Reserved Water Rights
23 Settlement Trust Fund".

24 (B) AVAILABILITY OF AMOUNTS IN
25 FUND.—

1 (i) IN GENERAL.—Amounts in the
2 Fund shall be available to the Secretary
3 for management and investment on behalf
4 of the Tribe and distribution to the Tribe
5 in accordance with this Act.

6 (ii) AVAILABILITY.—Funds made
7 available from the Fund under this section
8 shall be available without fiscal year limita-
9 tion.

10 (2) MANAGEMENT OF FUND.—The Secretary
11 shall deposit and manage the principal and interest
12 in the Fund in a manner consistent with subsection
13 (b) and other applicable provisions of this Act.

14 (3) CONTENTS OF FUND.—The Fund shall con-
15 sist of the amounts authorized to be appropriated to
16 the Fund under section 11(c) and such other
17 amounts as may be transferred or credited to the
18 Fund.

19 (4) WITHDRAWAL.—The Tribe, with the ap-
20 proval of the Secretary, may withdraw the Fund and
21 deposit it in a mutually agreed upon private finan-
22 cial institution. That withdrawal shall be made pur-
23 suant to the American Indian Trust Fund Manage-
24 ment Reform Act of 1994 (25 U.S.C. 4001 et seq.).

1 (5) ACCOUNTS.—The Secretary of the Interior
2 shall establish the following accounts in the Fund
3 and shall allocate appropriations to the various ac-
4 counts as required in this Act:

5 (A) The Tribal Compact Administration
6 Account.

7 (B) The Economic Development Account.

8 (C) The Future Water Supply Facilities
9 Account.

10 (b) FUND MANAGEMENT.—

11 (1) IN GENERAL.—

12 (A) AMOUNTS IN FUND.—The Fund shall
13 consist of such amounts as are appropriated to
14 the Fund and allocated to the accounts of the
15 Fund by the Secretary as provided in this Act
16 and in accordance with the authorizations for
17 appropriations in paragraphs (1), (2), and (3)
18 of section 11(c), together with all interest that
19 accrues in the Fund.

20 (B) MANAGEMENT BY SECRETARY.—The
21 Secretary shall manage the Fund, make invest-
22 ments from the Fund, and make available funds
23 from the Fund for distribution to the Tribe in
24 a manner consistent with the American Indian

1 Trust Fund Management Reform Act of 1994
2 (25 U.S.C. 4001 et seq.).

3 (2) TRIBAL MANAGEMENT.—

4 (A) IN GENERAL.—If the Tribe exercises
5 its right pursuant to subsection (a)(4) to with-
6 draw the Fund and deposit it in a private fi-
7 nancial institution, except as provided in the
8 withdrawal plan, neither the Secretary nor the
9 Secretary of the Treasury shall retain any over-
10 sight over the accounting, disbursement, or in-
11 vestment of the funds.

12 (B) WITHDRAWAL PLAN.—The withdrawal
13 plan shall provide for—

14 (i) the creation of accounts and allo-
15 cation to accounts in a fund established
16 under the plan in a manner consistent with
17 subsection (a); and

18 (ii) the appropriate terms and condi-
19 tions, if any, on expenditures from the
20 fund (in addition to the requirements of
21 the plans set forth in paragraphs (2) and
22 (3) of subsection (c)).

23 (c) USE OF FUND.—The Tribe shall use the Fund
24 to fulfill the purposes of this Act, subject to the following
25 restrictions on expenditures:

1 (1) Except for \$400,000 necessary for capital
2 expenditures in connection with Tribal Compact Ad-
3 ministration, only interest accrued on the Tribal
4 Compact Administration Account referred to in sub-
5 section (a)(5)(A) shall be available to satisfy the
6 Tribe's obligations for Tribal Compact Administra-
7 tion under the provisions of the Compact.

8 (2) Both principal and accrued interest on the
9 Economic Development Account referred to in sub-
10 section (a)(5)(B) shall be available to the Tribe for
11 expenditure pursuant to an economic development
12 plan approved by the Secretary.

13 (3) Both principal and accrued interest on the
14 Future Water Supply Facilities Account referred to
15 in subsection (a)(5)(C) shall be available to the
16 Tribe for expenditure pursuant to a water supply
17 plan approved by the Secretary.

18 (d) INVESTMENT OF FUND.—

19 (1) IN GENERAL.—

20 (A) APPLICABLE LAWS.—The Secretary
21 shall invest amounts in the Fund in accordance
22 with—

23 (i) the Act of April 1, 1880 (21 Stat.
24 70, chapter 41; 25 U.S.C. 161);

1 (ii) the first section of the Act entitled
2 “An Act to authorize the payment of inter-
3 est of certain funds held in trust by the
4 United States for Indian tribes”, approved
5 February 12, 1929 (25 U.S.C. 161a); and

6 (iii) the first section of the Act enti-
7 tled “An Act to authorize the deposit and
8 investment of Indian funds”, approved
9 June 24, 1938 (25 U.S.C. 162a).

10 (B) CREDITING OF AMOUNTS TO THE
11 FUND.—The interest on, and the proceeds from
12 the sale or redemption of, any obligations of the
13 United States held in the Fund shall be cred-
14 ited to and form part of the Fund. The Sec-
15 retary of the Treasury shall credit to each of
16 the accounts contained in the Fund a propor-
17 tionate amount of that interest and proceeds.

18 (2) CERTAIN WITHDRAWN FUNDS.—

19 (A) IN GENERAL.—Amounts withdrawn
20 from the Fund and deposited in a private finan-
21 cial institution pursuant to a withdrawal plan
22 approved by the Secretary under the American
23 Indian Trust Fund Management Reform Act of
24 1994 (25 U.S.C. 4001 et seq.) shall be invested
25 by an appropriate official under that plan.

1 (B) DEPOSIT OF INTEREST AND PRO-
2 CEEDS.—The interest on, and the proceeds
3 from the sale or redemption of, any obligations
4 held under this paragraph shall be deposited in
5 the private financial institution referred to in
6 subparagraph (A) in the fund established pur-
7 suant to the withdrawal plan referred to in that
8 subparagraph. The appropriate official shall
9 credit to each of the accounts contained in that
10 fund a proportionate amount of that interest
11 and proceeds.

12 (e) AGREEMENT REGARDING FUND EXPENDI-
13 TURES.—If the Tribe does not exercise its right under
14 subsection (a)(4) to withdraw the funds in the Fund and
15 transfer those funds to a private financial institution, the
16 Secretary shall enter into an agreement with the Tribe
17 providing for appropriate terms and conditions, if any, on
18 expenditures from the Fund in addition to the plans set
19 forth in paragraphs (2) and (3) of subsection (c).

20 (f) PER CAPITA DISTRIBUTIONS PROHIBITED.—No
21 part of the Fund shall be distributed on a per capita basis
22 to members of the Tribe.

23 **SEC. 11. AUTHORIZATION OF APPROPRIATIONS.**

24 (a) FISCAL YEAR 1999 APPROPRIATIONS.—Of the
25 amounts made available by appropriations for fiscal year

1 1999 for the Bureau of Reclamation, \$1,000,000 shall be
2 used for the purpose of commencing the MR&I feasibility
3 study under section 7(a) and the regional study under sec-
4 tion 7(c), of which—

5 (1) \$500,000 shall be used for the MR&I study
6 under section 7(a); and

7 (2) \$500,000 shall be used for the regional
8 study under section 7(c).

9 (b) FEASIBILITY STUDIES.—There is authorized to
10 be appropriated to the Department of the Interior, for the
11 Bureau of Reclamation, for the purpose of conducting the
12 MR&I feasibility study under section 7(a) and the regional
13 study under section 7(c), \$3,000,000 for fiscal year 2000,
14 of which—

15 (1) \$500,000 shall be used for the MR&I fea-
16 sibility study under section 7(a); and

17 (2) \$2,500,000 shall be used for the regional
18 study under section 7(c).

19 (c) CHIPPEWA CREE FUND.—There is authorized to
20 be appropriated for the Fund, \$21,000,000 to be allocated
21 by the Secretary as follows:

22 (1) TRIBAL COMPACT ADMINISTRATION AC-
23 COUNT.—For Tribal Compact Administration as-
24 sumed by the Tribe under the Compact and this Act,

1 \$3,000,000 is authorized to be appropriated for fis-
2 cal year 2000.

3 (2) ECONOMIC DEVELOPMENT ACCOUNT.—For
4 tribal economic development, \$3,000,000 is author-
5 ized to be appropriated for fiscal year 2000.

6 (3) FUTURE WATER SUPPLY FACILITIES AC-
7 COUNT.—For the total Federal contribution to the
8 planning, design, construction, operation, mainte-
9 nance, and rehabilitation of a future water supply
10 system for the Reservation, there are authorized to
11 be appropriated—

12 (A) \$2,000,000 for fiscal year 2000;

13 (B) \$8,000,000 for fiscal year 2001; and

14 (C) \$5,000,000 for fiscal year 2002.

15 (d) ON-RESERVATION WATER DEVELOPMENT.—

16 (1) IN GENERAL.—There are authorized to be
17 appropriated to the Department of the Interior, for
18 the Bureau of Reclamation, for the construction of
19 the on-Reservation water development projects au-
20 thorized by section 9—

21 (A) \$13,000,000 for fiscal year 2000, for
22 the planning, design, and construction of the
23 Bonneau Dam Enlargement, for the develop-
24 ment of additional capacity in Bonneau Res-

1 ervoir for storage of water secured to the Tribe
2 under the Compact;

3 (B) \$8,000,000 for fiscal year 2001, for
4 the planning, design, and construction of the
5 East Fork Dam and Reservoir enlargement, of
6 the Brown's Dam and Reservoir enlargement,
7 and of the Towe Ponds enlargement of which—

8 (i) \$4,000,000 shall be used for the
9 East Fork Dam and Reservoir enlarge-
10 ment;

11 (ii) \$2,000,000 shall be used for the
12 Brown's Dam and Reservoir enlargement;
13 and

14 (iii) \$2,000,000 shall be used for the
15 Towe Ponds enlargement; and

16 (C) \$3,000,000 for fiscal year 2002, for
17 the planning, design, and construction of such
18 other water resource developments as the Tribe,
19 with the approval of the Secretary, from time to
20 time may consider appropriate or for the com-
21 pletion of the 4 projects enumerated in sub-
22 paragraphs (A) and (B) of paragraph (1).

23 (2) UNEXPENDED BALANCES.—Any unex-
24 pended balance in the funds authorized to be appro-
25 priated under subparagraph (A) or (B) of paragraph

1 (1), after substantial completion of all of the
2 projects enumerated in paragraphs (1) through (4)
3 of section 9(a)—

4 (A) shall be available to the Tribe first for
5 completion of the enumerated projects; and

6 (B) then for other water resource develop-
7 ment projects on the Reservation.

8 (e) ADMINISTRATION COSTS.—There is authorized to
9 be appropriated to the Department of the Interior, for the
10 Bureau of Reclamation, \$1,000,000 for fiscal year 2000,
11 for the costs of administration of the Bureau of Reclama-
12 tion under this Act, except that—

13 (1) if those costs exceed \$1,000,000, the Bu-
14 reau of Reclamation may use funds authorized for
15 appropriation under subsection (d) for costs; and

16 (2) the Bureau of Reclamation shall exercise its
17 best efforts to minimize those costs to avoid expendi-
18 tures for the costs of administration under this Act
19 that exceed a total of \$1,000,000.

20 (f) AVAILABILITY OF FUNDS.—

21 (1) IN GENERAL.—The amounts authorized to
22 be appropriated to the Fund and allocated to its ac-
23 counts pursuant to subsection (c) shall be deposited
24 into the Fund and allocated immediately on appro-
25 priation.

1 (2) INVESTMENTS.—Investments may be made
2 from the Fund pursuant to section 10(d).

3 (3) AVAILABILITY OF CERTAIN MONEYS.—The
4 amounts made available for use under subsection (a)
5 shall be deemed to have been available for use as of
6 the date on which those funds were appropriated.
7 The amounts authorized to be appropriated in sub-
8 sections (b) and (c)(1) shall be available for use im-
9 mediately upon appropriation.

10 (4) LIMITATION.—Those moneys allocated by
11 the Secretary to accounts in the Fund or in a fund
12 established under section 10(a)(4) shall draw inter-
13 est consistent with section 10(d), but the moneys au-
14 thorized to be appropriated under subsection (d) and
15 paragraphs (2) and (3) of subsection (c) shall not be
16 available for expenditure until the requirements of
17 section 5(b) have been met so that the decree has
18 become final and the Tribe has executed the waiver
19 and release required under section 13(c).

20 (g) RETURN OF FUNDS TO THE TREASURY.—

21 (1) IN GENERAL.—In the event that the ap-
22 proval, ratification, and confirmation of the Compact
23 by the United States becomes null and void under
24 section 5(b), all unexpended funds appropriated
25 under the authority of this Act together with all in-

1 terest earned on such funds, notwithstanding wheth-
2 er the funds are held by the Tribe, a private institu-
3 tion, or the Secretary, shall revert to the general
4 fund of the Treasury 12 months after the expiration
5 of the deadline established in section 5(b).

6 (2) INCLUSION IN AGREEMENTS AND PLAN.—
7 The requirements in paragraph (1) shall be included
8 in all annual funding agreements entered into under
9 the self-governance program under title IV of the In-
10 dian Self-Determination and Education Assistance
11 Act (25 U.S.C. 458aa et seq.), withdrawal plans,
12 withdrawal agreements, or any other agreements for
13 withdrawal or transfer of the funds to the Tribe or
14 a private financial institution under this Act.

15 (h) WITHOUT FISCAL YEAR LIMITATION.—All money
16 appropriated pursuant to authorizations under this Act
17 shall be available without fiscal year limitation.

18 **SEC. 12. STATE CONTRIBUTIONS TO SETTLEMENT.**

19 Consistent with Articles VI.C.2 and C.3 of the Com-
20 pact, the State contribution to settlement shall be as fol-
21 lows:

22 (1) The contribution of \$150,000 appropriated
23 by Montana House Bill 6 of the 55th Legislative
24 Session (1997) shall be used for the following pur-
25 poses:

1 (A) Water quality discharge monitoring
2 wells and monitoring program.

3 (B) A diversion structure on Big Sandy
4 Creek.

5 (C) A conveyance structure on Box Elder
6 Creek.

7 (D) The purchase of contract water from
8 Lower Beaver Creek Reservoir.

9 (2) Subject to the availability of funds, the
10 State shall provide services valued at \$400,000 for
11 administration required by the Compact and for
12 water quality sampling required by the Compact.

13 **SEC. 13. MISCELLANEOUS PROVISIONS.**

14 (a) NONEXERCISE OF TRIBE'S RIGHTS.—Pursuant
15 to Tribal Resolution No. 40–98, and in exchange for bene-
16 fits under this Act, the Tribe shall not exercise the rights
17 set forth in Article VII.A.3 of the Compact, except that
18 in the event that the approval, ratification, and confirma-
19 tion of the Compact by the United States becomes null
20 and void under section 5(b), the Tribe shall have the right
21 to exercise the rights set forth in Article VII.A.3 of the
22 Compact.

23 (b) WAIVER OF SOVEREIGN IMMUNITY.—Except to
24 the extent provided in subsections (a), (b), and (c) of sec-
25 tion 208 of the Department of Justice Appropriation Act,

1 1953 (43 U.S.C. 666), nothing in this Act may be con-
2 strued to waive the sovereign immunity of the United
3 States.

4 (c) TRIBAL RELEASE OF CLAIMS AGAINST THE
5 UNITED STATES.—

6 (1) IN GENERAL.—Pursuant to Tribal Resolu-
7 tion No. 40–98, and in exchange for benefits under
8 this Act, the Tribe shall, on the date of enactment
9 of this Act, execute a waiver and release of the
10 claims described in paragraph (2) against the United
11 States, the validity of which are not recognized by
12 the United States, except that—

13 (A) the waiver and release of claims shall
14 not become effective until the appropriation of
15 the funds authorized in section 11 has been
16 completed and the decree has become final in
17 accordance with the requirements of section
18 5(b); and

19 (B) in the event that the approval, ratifica-
20 tion, and confirmation of the Compact by the
21 United States becomes null and void under sec-
22 tion 5(b), the waiver and release of claims shall
23 become null and void.

24 (2) CLAIMS DESCRIBED.—The claims referred
25 to in paragraph (1) are as follows:

1 (A) Any and all claims to water rights (in-
2 cluding water rights in surface water, ground
3 water, and effluent), claims for injuries to
4 water rights, claims for loss or deprivation of
5 use of water rights, and claims for failure to ac-
6 quire or develop water rights for lands of the
7 Tribe from time immemorial to the date of rati-
8 fication of the Compact by Congress.

9 (B) Any and all claims arising out of the
10 negotiation of the Compact and the settlement
11 authorized by this Act.

12 (3) SETOFFS.—In the event the waiver and re-
13 lease do not become effective as set forth in para-
14 graph (1)—

15 (A) the United States shall be entitled to
16 setoff against any claim for damages asserted
17 by the Tribe against the United States, any
18 funds transferred to the Tribe pursuant to sec-
19 tion 11, and any interest accrued thereon up to
20 the date of setoff; and

21 (B) the United States shall retain any
22 other claims or defenses not waived in this Act
23 or in the Compact as modified by this Act.

24 (d) OTHER TRIBES NOT ADVERSELY AFFECTED.—
25 Nothing in this Act is intended to quantify or otherwise

1 adversely affect the land and water rights, or claims or
2 entitlements to land or water of an Indian tribe other than
3 the Chippewa Cree Tribe.

4 (e) ENVIRONMENTAL COMPLIANCE.—In implement-
5 ing the Compact, the Secretary shall comply with all as-
6 pects of the National Environmental Policy Act of 1969
7 (42 U.S.C. 4321 et seq.), the Endangered Species Act of
8 1973 (16 U.S.C. 1531 et seq.), and all other applicable
9 environmental Acts and regulations.

10 (f) EXECUTION OF COMPACT.—The execution of the
11 Compact by the Secretary as provided for in this Act shall
12 not constitute a major Federal action under the National
13 Environmental Policy Act (42 U.S.C. 4321 et seq.). The
14 Secretary is directed to carry out all necessary environ-
15 mental compliance required by Federal law in implement-
16 ing the Compact.

17 (g) CONGRESSIONAL INTENT.—Nothing in this Act
18 is intended to—

19 (1) alter the trust responsibility of the United
20 States to the Tribe; or

21 (2) prohibit the Tribe from seeking additional
22 authorization or appropriation of funds for tribal
23 programs or purposes.

24 (h) ACT NOT PRECEDENTIAL.—Nothing in this Act
25 shall be construed or interpreted as a precedent for the

- 1 litigation of reserved water rights or the interpretation or
- 2 administration of future water settlement Acts.

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