

108TH CONGRESS
2D SESSION

S. 3017

To provide for the settlement of the claims of Swain County, North Carolina, against the United States under the agreement dated July 30, 1943.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 19, 2004

Mr. EDWARDS introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To provide for the settlement of the claims of Swain County, North Carolina, against the United States under the agreement dated July 30, 1943.

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 “Swain County Settle-
5 ment Act of 2004”.

6 **SEC. 2. FINDINGS; PURPOSE.**

7 (a) FINDINGS.—Congress finds that—

8 (1) an agreement dated July 30, 1943, between
9 the Secretary of the Interior, the State of North
10 Carolina, the Tennessee Valley Authority, and Swain

1 County, North Carolina, provided that the Depart-
2 ment of the Interior would construct a road along
3 the north shore of the Fontana Reservoir to replace
4 a road flooded by the construction of Fontana Dam
5 and the filling of the Reservoir;

6 (2) as of the date of enactment of this Act, the
7 road has not been completed;

8 (3) a 1962 National Park Service study of the
9 proposed road found that the construction of the
10 road would result in severe “damage to the land-
11 scape and natural park values”;

12 (4) there are additional environmental concerns
13 relating to the road construction, including concerns
14 relating to the exposure of Anakeesta rock that pro-
15 duces acids and metals that leach into streams and
16 kill aquatic life;

17 (5) the proposed road would cut through the
18 Great Smoky Mountains National Park, the most
19 visited park in the National Park system;

20 (6) in 2000, the National Park Service esti-
21 mated that the cost of building the proposed road
22 would be \$150,000,000, excluding planning, design,
23 and environmental compliance costs;

24 (7) as of June 2004, the public review process
25 conducted by the National Park Service found that

1 88 percent of respondents favored a cash settlement
2 over constructing the road; and

3 (8) on February 11, 2003, the Swain County
4 Board of Commissioners passed a resolution sup-
5 porting a settlement as a substitute for the construc-
6 tion of the road.

7 (b) PURPOSE.—The purpose of this Act is to settle
8 and quiet all claims arising out of the agreement referred
9 to in subsection (a)(1).

10 **SEC. 3. DEFINITIONS.**

11 In this Act:

12 (1) AGREEMENT.—The term “agreement”
13 means the agreement of July 30, 1943, between the
14 Secretary, the State, the Tennessee Valley Author-
15 ity, and the County relating to the replacement of a
16 road in the County flooded by the construction of
17 Fontana Dam and the filling of Fontana Reservoir.

18 (2) COUNTY.—The term “County” means
19 Swain County, North Carolina.

20 (3) SECRETARY.—The term “Secretary” means
21 the Secretary of the Treasury.

22 (4) STATE.—The term “State” means the State
23 of North Carolina.

1 **SEC. 4. SETTLEMENT OF CLAIMS.**

2 (a) IN GENERAL.—Not later than 60 days after the
3 date of enactment of this Act, the Secretary shall offer
4 to compensate the County for the road not being built in
5 an amount determined by the parties to the agreement,
6 taking into consideration the estimated cost of the pro-
7 posed road.

8 (b) PAYMENT.—Not later than 60 days after the date
9 on which the County accepts the offer under subsection
10 (a), the Secretary shall, using amounts made available
11 under section 5, pay to the County the amount of com-
12 pensation determined under subsection (a).

13 (c) DEPOSIT.—Amounts paid to the County under
14 subsection (b) shall be deposited in an account in accord-
15 ance with any rules and regulations established by the
16 North Carolina Local Government Commission.

17 (d) USE.—

18 (1) PRINCIPAL.—The principal of amounts de-
19 posited under subsection (c) shall be expended by
20 the County only as authorized under a resolution ap-
21 proved by $\frac{2}{3}$ of the registered voters of the County.

22 (2) INTEREST.—Any interest accrued on
23 amounts deposited under subsection (c) shall be ex-
24 pended only for purposes approved by a majority
25 vote of the governing body of the County.

1 (3) LIMITATION.—No amounts made available
2 under this Act shall be used to make payments to
3 an agent or attorney for services rendered with re-
4 spect to the claims settled by this Act.

5 (e) SATISFACTION OF CLAIMS.—Acceptance by the
6 County of the payment by the Secretary under subsection
7 (b) constitutes full settlement of the claims of the County
8 (including any person or entity making a claim by,
9 through, or under the County) against the United States,
10 the Department of the Interior, and the Tennessee Valley
11 Authority under the agreement.

12 **SEC. 5. FUNDING.**

13 (a) AUTHORIZATION OF APPROPRIATIONS.—There
14 are authorized to be appropriated such sums as are nec-
15 essary to carry out this Act.

16 (b) TRANSFER OF FUNDS.—There is transferred to
17 the Secretary to carry out this Act any unobligated bal-
18 ance of the \$16,000,000 originally made available for the
19 construction of and improvements to North Shore Road
20 in the County under section 378 of the Department of
21 Transportation and Related Agencies Appropriation Act,
22 2001 (114 Stat. 1356A–40).

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