

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

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,*

3 **SECTION 1. SHORT TITLE.**

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

7 **SEC. 2. DEFINITIONS.**

8 As used in this Act:

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

4 (2) BONNEVILLE POWER ADMINISTRATION.—
5 The term “Bonneville Power Administration” means
6 the Bonneville Power Administration of the Depart-
7 ment of Energy or any successor agency, corpora-
8 tion, or entity that markets power produced at the
9 Dam.

10 (3) DAM.—The term “Dam” means the Grand
11 Coulee Dam—

12 (A) operated by the Bureau of Reclama-
13 tion of the Department of the Interior, and

14 (B) with respect to which power is mar-
15 keted by the Bonneville Power Administration
16 of the Department of Energy.

17 (4) CONFEDERATED TRIBES V. UNITED
18 STATES.—The term “Confederated Tribes v. United
19 States” means the case pending before the United
20 States Court of Claims arising from the claim filed
21 with the Indian Claims Commission with the docket
22 number 181–D that—

23 (A) was transferred to the United States
24 Court of Claims pursuant to the Federal Courts
25 Improvement Act of 1982 (96 Stat. 25) as Con-

1 federated Tribes v. United States (20 Cl. Ct.
2 31);

3 (B) with respect to which an appeal was
4 filed in the United States Court of Appeals,
5 Federal Circuit (964 F.2d 1102) (Fed. Cir.
6 1992); and

7 (C) on the basis of the appeal, was re-
8 manded in part by the United States Court of
9 Appeals to the United States Court of Claims.

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

12 (6) SECRETARY.—The term “Secretary” means
13 the Secretary of the Interior.

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

22 (8) TRIBE.—“Tribe” means the Confederated
23 Tribes of the Colville Reservation, a federally
24 recognized Indian tribe.

1 **SEC. 3. FINDINGS AND PURPOSE.**

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

3 (1) An action by the Confederated Tribes of the
4 Colville Reservation against the United States is
5 pending before the United States Court of Federal
6 Claims.

7 (2) In such action, the Tribe seeks to recover
8 damages under section 2(5)) of the Indian Claims
9 Commission Act (60 Stat. 1050 (formerly 25 U.S.C.
10 70a(5)) relating to fair and honorable dealings.

11 (3) Although the matter that is the subject of
12 such action is in dispute, the potential liability of the
13 United States is substantial.

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

16 (A) after the construction of the Grand
17 Coulee Dam, the United States has used land
18 located in the Colville Reservation in connection
19 with the generation of electric power;

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

23 (C) the United States has promised to pay
24 the Tribe for the use referred to in subpara-
25 graph (A), but has failed to make such pay-
26 ment.

1 (5) After years of litigation, the United States
2 has negotiated a Settlement Agreement with the
3 Tribe that was signed by the appropriate officials of
4 the Department of Justice, the Bonneville Power
5 Administration, and the Department of the Interior.

6 (6) The Settlement Agreement is contingent on
7 the enactment of enabling legislation to approve and
8 ratify the Settlement Agreement.

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

11 (A) provide mutually agreeable compensa-
12 tion for the past use (as determined under such
13 Agreement) of land of the Colville Reservation
14 in connection with the generation of electric
15 power at Grand Coulee Dam;

16 (B) establish a method to ensure that the
17 Tribe will be compensated for future use (as de-
18 termined under such Agreement) of land of the
19 Colville Reservation in the generation of electric
20 power at Grand Coulee Dam; and approved;
21 and

22 (C) settle the claims of the Tribe against
23 the United States brought under the Indian
24 Claims Commission Act.

1 (b) PURPOSES.—The purposes of this Act are as
2 follows:

3 (1) To approve and ratify the Settlement
4 Agreement entered into by the United States and
5 the Tribe.

6 (2) To direct the Bonneville Power Administra-
7 tion to carry out the obligations of the Bonneville
8 Power Administration under the Settlement Agree-
9 ment.

10 **SEC. 4. APPROVAL, RATIFICATION AND IMPLEMENTATION**
11 **OF SETTLEMENT AGREEMENT.**

12 (a) IN GENERAL.—The Settlement Agreement is
13 hereby approved and ratified.

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

16 (1) on an annual basis, make payments to the
17 Tribe in a manner consistent with the Settlement
18 Agreement; and

19 (2) carry out any other obligation of the Bonne-
20 ville Power Administration under the Settlement
21 Agreement.

22 (c) IMPLEMENTATION OF SETTLEMENT AGREE-
23 MENT.—

24 (1) IN GENERAL.—In a manner consistent with
25 the negotiated terms of the Settlement Agreement,

1 the United States shall join in the motion that the
2 Tribe has agreed to file in Confederated Tribes of
3 Colville Reservation v. United States, for the entry
4 of a compromise final judgment in the amount of
5 \$53,000,000.00.

6 (2) REQUIREMENTS FOR PAYMENT.—The
7 United States shall pay the amount specified in
8 paragraph (1) from funds appropriated pursuant to
9 section 1304 of title 31, United States Code. The
10 amount paid as a judgment may not be not reim-
11 bursed by the Bonneville Power Administration.

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

13 (a) LUMP SUM PAYMENT.—The payment made
14 under section 4(c)(1) (including any interest that accrues
15 on the payment) shall be deposited by the Secretary of
16 the Treasury in a trust fund established for the Tribe pur-
17 suant to of Public Law 93–134 (25 U.S.C. 1401 et seq.)
18 for use by the tribal governing body of the Confederated
19 Tribes of the Colville Reservation, pursuant to a distribu-
20 tion plan developed by the Tribe and approved by the Sec-
21 retary of the Interior pursuant to section 3 of Public Law
22 93–134 (25 U.S.C. 1403), except that—

23 (1) under the distribution plan developed pursu-
24 ant to this subsection any payment to be made to a

1 minor shall be held by the United States in trust for
2 the minor until the later of—

3 (A) the date the minor attains the age of
4 18; or

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

8 (2) the Secretary may, pursuant to regulations
9 prescribed by the Secretary relating to the adminis-
10 tration of the Bureau of Indian Affairs, authorize
11 the emergency use of trust funds for the benefit of
12 a minor.

13 (b) ANNUAL PAYMENTS.—In addition to the lump
14 sum payment described in subsection (a), the appropriate
15 official of the Federal Government shall make annual pay-
16 ments directly to the Tribe in accordance with the Settle-
17 ment Agreement. The Tribe may use any amount received
18 as an annual payment under this subsection in the same
19 manner as the Tribe may use any other income received
20 by the Tribe from the lease or sale of natural resources.

21 **SEC. 6. REPAYMENT CREDIT.**

22 (a) IN GENERAL.—Beginning with fiscal year 2000,
23 and ending at the end of the last fiscal year during which
24 the Tribe receives an annual payment pursuant to the Set-
25 tlement Agreement, the Administrator shall deduct from

1 the interest payable to the Secretary of the Treasury from
2 net proceeds (as defined in section 13(b) of the Federal
3 Columbia River Transmission System Act (16 U.S.C.
4 838(b)) an amount equal to 26 percent of the payment
5 made to the Tribe for the immediately preceding fiscal
6 year.

7 (b) CREDIT OF INTEREST.—

8 (1) IN GENERAL.—Each deduction made under
9 this section shall—

10 (A) be credited to the amount of interest
11 payments that would otherwise be payable by
12 the Administrator to the Secretary of the
13 Treasury during the fiscal year in which the de-
14 duction is made; and

15 (B) be allocated on a pro rata basis to all
16 interest payments on debt associated with the
17 generation function of the Federal Columbia
18 River Power System that are payable during
19 the fiscal year specified in subparagraph (A).

20 (2) SPECIAL ALLOCATION RULE.—If, for any
21 fiscal year a deduction calculated pursuant to para-
22 graph (1) would be greater than the amount of in-
23 terest due on debt associated with the generation
24 function described in paragraph (1)(B) for such fis-
25 cal year, the amount by which the deduction exceeds

1 the interest due on debt associated with the genera-
2 tion function shall be allocated on a pro rata basis
3 as a credit for the payment of any other interest
4 that is payable by the Administrator by the Sec-
5 retary for such fiscal year.

6 **SEC. 7. MISCELLANEOUS PROVISIONS.**

7 (a) LIENS AND FORFEITURES.—Funds paid or de-
8 posited to the credit of the Tribe pursuant to the Settle-
9 ment Agreement or this Act, any interest or investment
10 income earned or received on such funds, any payment au-
11 thorized by the Tribe or the Secretary of the Interior to
12 be made from such funds to members of the Tribe, and
13 any interest or investment income earned on any such pay-
14 ment earned or received and deposited in a trust pursuant
15 to this section for a member of the Tribe, may not be sub-
16 ject to any levy, execution, forfeiture, garnishment, lien,
17 encumbrance, seizure, or taxation by the Federal Govern-
18 ment or a State or political subdivision of a State.

19 (b) ELIGIBILITY FOR FEDERAL AND FEDERALLY
20 FUNDED PROGRAMS.—None of the funds described in
21 subsection (a) may be treated as income or resources or
22 otherwise used as the basis for denying or reducing the
23 financial assistance or other benefits to which the Tribe,
24 a member of the Tribe, or a household of the Tribe would
25 otherwise be entitled under the Social Security Act (42

1 U.S.C. 301 et seq.) or any program of the Federal Govern-
2 ment or program that receives assistance from the Federal
3 Government.

4 (c) TRUST RESPONSIBILITY.—This Act and the Set-
5 tlement Agreement may not be construed to affect the
6 trust responsibility of the United States to the Tribe or
7 to any of the members of the Tribe.

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