

106TH CONGRESS
1ST SESSION

S. 438

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 SENATE OF THE UNITED STATES

FEBRUARY 22, 1999

Mr. BURNS (for himself and Mr. BAUCUS) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

MAY 27, 1999

Committee discharged; referred to the Committee on Indian Affairs with instructions that at such time as the Committee on Indian Affairs reports the measure, it be referred to the Committee on Energy and Natural Resources for a period not to exceed 60 calendar days and that if the Committee on Energy and Natural Resources has not reported the measure prior to the expiration of the 60 calendar day period, the Energy Committee be discharged from further consideration of the measure and that the measure be then placed on the calendar

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,*

1 **SECTION 1. SHORT TITLE.**

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

5 **SEC. 2. FINDINGS.**

6 Congress finds that—

7 (1) in fulfillment of its trust responsibility to
8 Indian tribes and to promote tribal sovereignty and
9 economic self-sufficiency, it is the policy of the
10 United States to settle the water rights claims of the
11 tribes without lengthy and costly litigation;

12 (2) the Rocky Boy’s Reservation was estab-
13 lished as a homeland for the Chippewa Cree Tribe;

14 (3) adequate water for the Chippewa Cree
15 Tribe of the Rocky Boy’s Reservation is important
16 to a permanent, sustainable, and sovereign homeland
17 for the Tribe and its members;

18 (4) the sovereignty of the Chippewa Cree Tribe
19 and the economy of the Reservation depend on the
20 development of the water resources of the Reserva-
21 tion;

22 (5) the planning, design, and construction of
23 the facilities needed to utilize water supplies effec-
24 tively are necessary to the development of a viable
25 Reservation economy and to implementation of the
26 Chippewa Cree-Montana Water Rights Compact;

1 (6) the Rocky Boy's Reservation is located in a
2 water-short area of Montana and the Compact con-
3 templates the development of additional water sup-
4 plies, including importation of domestic water, to
5 meet the needs of the Chippewa Cree Tribe;

6 (7) proceedings to determine the full extent of
7 the water rights of the Chippewa Cree Tribe are cur-
8 rently pending before the Montana Water Court as
9 a part of In the Matter of the Adjudication of All
10 Rights to the Use of Water, Both Surface and Un-
11 derground, within the State of Montana;

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

20 (9) the allocation of water resources from the
21 Tiber Reservoir to the Chippewa Cree Tribe under
22 this Act is uniquely suited to the geographic, social,
23 and economic characteristics of the area and situa-
24 tion involved.

1 **SEC. 3. PURPOSES.**

2 The purposes of this Act are as follows:

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

6 (A) the Chippewa Cree Tribe; and

7 (B) the United States for the benefit of
8 the Chippewa Cree Tribe.

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

16 (3) To authorize the Secretary of the Interior
17 to execute and implement the Compact referred to in
18 paragraph (2) and to take such other actions as are
19 necessary to implement the Compact in a manner
20 consistent with this Act.

21 (4) To authorize Federal feasibility studies de-
22 signed to identify and analyze potential mechanisms
23 to enhance, through conservation or otherwise, water
24 supplies in North Central Montana, including mech-
25 anisms to import domestic water supplies for the fu-
26 ture growth of the Rocky Boy's Indian Reservation.

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

4 (6) To authorize certain modifications to the
5 purposes and operation of the Bureau of Reclama-
6 tion's Tiber Dam and Lake Elwell on the Marias
7 River in Montana in order to implement the Com-
8 pact.

9 (7) To authorize the appropriation of funds
10 necessary for the implementation of the Compact.

11 **SEC. 4. DEFINITIONS.**

12 In this Act:

13 (1) COMPACT.—The term “Compact” means
14 the water rights compact between the Chippewa
15 Cree Tribe of the Rocky Boy's Reservation and the
16 State of Montana contained in section 85–20–601 of
17 the Montana Code Annotated (1997).

18 (2) FINAL.—The term “final” with reference to
19 approval of the decree in section 5(b) means comple-
20 tion of any direct appeal to the Montana Supreme
21 Court of a final decree by the Water Court pursuant
22 to section 85–2–235 of the Montana Code Anno-
23 tated (1997), or to the Federal Court of Appeals, in-
24 cluding the expiration of the time in which a petition
25 for certiorari may be filed in the United States Su-

preme Court, denial of such a petition, or the issuance of the Supreme Court's mandate, whichever occurs last.

(3) FUND.—The term “Fund” means the Chippewa Cree Indian Reserved Water Rights Settlement Fund established under section 10.

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

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

(6) MISSOURI RIVER SYSTEM.—The term “Missouri River System” means the mainstem of the Missouri River and its tributaries, including the Marias River.

(7) RECLAMATION LAW.—The term “Reclamation Law” has the meaning given the term “reclamation law” in section 4 of the Act of December 5, 1924 (43 Stat. 701, chapter 4; 43 U.S.C. 371).

(8) ROCKY BOY'S RESERVATION; RESERVATION.—The term “Rocky Boy's Reservation” or

1 “Reservation” means the Rocky Boy’s Reservation
2 of the Chippewa Cree Tribe in Montana.

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

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

9 (11) TRIBAL COMPACT ADMINISTRATION.—The
10 term “Tribal Compact Administration” means the
11 activities assumed by the Tribe for implementation
12 of the Compact as set forth in Article IV of the
13 Compact.

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

17 (13) TRIBAL WATER RIGHT.—

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

22 (B) RULE OF CONSTRUCTION.—The defini-
23 tion of the term “Tribal Water Right” under
24 this paragraph and the treatment of that right
25 under this Act shall not be construed or inter-

1 preted as a precedent for the litigation of re-
 2 served water rights or the interpretation or ad-
 3 ministration of future compacts between the
 4 United States and the State of Montana or any
 5 other State.

6 (14) **TRIBE.**—The term “Tribe” means the
 7 Chippewa Cree Tribe of the Rocky Boy’s Reserva-
 8 tion and all officers, agents, and departments there-
 9 of.

10 (15) **WATER DEVELOPMENT.**—The term “water
 11 development” includes all activities that involve the
 12 use of water or modification of water courses or
 13 water bodies in any way.

14 **SEC. 5. RATIFICATION OF COMPACT AND ENTRY OF DE-**
 15 **CREE.**

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

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

23 (2) the Secretary shall—

24 (A) execute and implement the Compact
 25 together with any amendments agreed to by the

1 parties or necessary to bring the Compact into
2 conformity with this Act; and

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

5 (b) APPROVAL OF DECREE.—

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

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

21 (3) EFFECT OF FAILURE OF APPROVAL TO BE-
22 COME FINAL.—In the event the approval by the ap-
23 propriate court, including any direct appeal, does
24 not become final within 3 years after the filing of

1 the decree, or the decree is approved but is subse-
 2 quently set aside by the appropriate court—

3 (A) the approval, ratification, and con-
 4 firmation of the Compact by the United States
 5 shall be null and void; and

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

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

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

14 (b) TRIBAL MEMBER ENTITLEMENT.—

15 (1) IN GENERAL.—Any entitlement to Federal
 16 Indian reserved water of any tribal member shall be
 17 satisfied solely from the water secured to the Tribe
 18 by the Compact and shall be governed by the terms
 19 and conditions of the Compact.

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

1 (c) TEMPORARY TRANSFER OF TRIBAL WATER
 2 RIGHT.—Notwithstanding any other provision of statutory
 3 or common law, the Tribe may, with the approval of the
 4 Secretary and subject to the limitations and conditions set
 5 forth in the Compact, including limitation on transfer of
 6 any portion of the Tribal Water Right to within the Mis-
 7 souri River Basin, enter into a service contract, lease, ex-
 8 change, or other agreement providing for the temporary
 9 delivery, use, or transfer of the water rights confirmed to
 10 the Tribe in the Compact, except that no service contract,
 11 lease, exchange, or other agreement entered into under
 12 this subsection may permanently alienate any portion of
 13 the Tribal Water Right.

14 **SEC. 7. FEASIBILITY STUDIES AUTHORIZATION.**

15 (a) MUNICIPAL, RURAL, AND INDUSTRIAL FEASI-
 16 BILITY STUDY.—

17 (1) IN GENERAL.—

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

24 (B) USE OF FUNDS MADE AVAILABLE FOR
 25 FISCAL YEAR 1999.—The authority under sub-

1 paragraph (A) shall be deemed to apply to
2 MR&I feasibility study activities for which
3 funds were made available by appropriations for
4 fiscal year 1999.

5 (2) CONTENTS OF STUDY.—The MR&I feasi-
6 bility study shall include the feasibility of releasing
7 the Tribe's Tiber allocation as provided in section 8
8 into the Missouri River System for later diversion to
9 a treatment and delivery system for the Rocky Boy's
10 Reservation.

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

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

24 (c) REGIONAL FEASIBILITY STUDY.—

25 (1) IN GENERAL.—

1 (A) STUDY.—The Secretary, through the
2 Bureau of Reclamation, shall conduct, pursuant
3 to Reclamation Law, a regional feasibility study
4 (referred to in this subsection as the “regional
5 feasibility study”) to evaluate water and related
6 resources in North-Central Montana in order to
7 determine the limitations of those resources and
8 how those resources can best be managed and
9 developed to serve the needs of the citizens of
10 Montana.

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

17 (2) CONTENTS OF STUDY.—The regional feasi-
18 bility study shall—

19 (A) evaluate existing and potential water
20 supplies, uses, and management;

21 (B) identify major water-related issues, in-
22 cluding environmental, water supply, and eco-
23 nomic issues;

24 (C) evaluate opportunities to resolve the
25 issues referred to in subparagraph (B); and

1 (D) evaluate options for implementation of
2 resolutions to the issues.

3 (3) REQUIREMENTS.—Because of the regional
4 and international impact of the regional feasibility
5 study, the study may not be segmented. The re-
6 gional study shall—

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

9 (B) be planned and conducted in consulta-
10 tion with all affected interests, including inter-
11 ests in Canada.

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

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

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

1 (2) AGREEMENT.—The Secretary shall enter
2 into an agreement with the Tribe setting forth the
3 terms of the allocation and providing for the Tribe’s
4 use or temporary transfer of water stored in Lake
5 Elwell, subject to the terms and conditions of the
6 Compact and this Act.

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

12 (b) USE AND TEMPORARY TRANSFER OF ALLOCA-
13 TION.—

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

21 (2) CONTRACTS AND AGREEMENTS.—Notwith-
22 standing any other provision of statutory or common
23 law, the Tribe may, with the approval of the Sec-
24 retary and subject to the limitations and conditions
25 set forth in the Compact, enter into a service con-

1 tract, lease, exchange, or other agreement providing
2 for the temporary delivery, use, or transfer of the
3 water allocated by this section, except that no such
4 service contract, lease, exchange, or other agreement
5 may permanently alienate any portion of the tribal
6 allocation.

7 (c) REMAINING STORAGE.—The United States shall
8 retain the right to use for any authorized purpose, any
9 and all storage remaining in Lake Elwell after the alloca-
10 tion made to the Tribe in subsection (a)(1).

11 (d) WATER TRANSPORT OBLIGATION; DEVELOP-
12 MENT AND DELIVERY COSTS.—The United States shall
13 have no responsibility or obligation to provide any facility
14 for the transport of the water allocated by this section to
15 the Rocky Boy's Reservation or to any other location. Ex-
16 cept for the contribution set forth in section 11(c)(3), the
17 cost of developing and delivering the water allocated by
18 this section or any other supplemental water to the Rocky
19 Boy's Reservation shall not be borne by the United States.

20 (e) ACT NOT PRECEDENTIAL.—The provisions of
21 this section regarding the allocation of water resources
22 from the Tiber Reservoir to the Tribe shall not be con-
23 strued as precedent in the litigation or settlement of any
24 other Indian water right claims.

1 **SEC. 9. ON-RESERVATION WATER RESOURCES DEVELOP-**
2 **MENT.**

3 (a) WATER DEVELOPMENT PROJECTS.—The Sec-
4 retary, through the Bureau of Reclamation, is authorized
5 and directed to plan, design, and construct, or to provide,
6 pursuant to subsection (b), for the planning, design, and
7 construction of the following water development projects
8 on the Rocky Boy's Reservation:

9 (1) Bonneau Dam and Reservoir Enlargement.

10 (2) East Fork of Beaver Creek Dam Repair
11 and Enlargement.

12 (3) Brown's Dam Enlargement.

13 (4) Towe Ponds' Enlargement.

14 (5) Such other water development projects as
15 the Tribe shall from time to time consider appro-
16 priate.

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

1 (c) BUREAU OF RECLAMATION PROJECT ADMINIS-
2 TRATION.—

3 (1) IN GENERAL.—Congress finds that the Sec-
4 retary, through the Bureau of Reclamation, has en-
5 tered into an agreement with the Tribe, pursuant to
6 title IV of the Indian Self-Determination and Edu-
7 cation Assistance Act (25 U.S.C. 458aa et seq.)—

8 (A) defining and limiting the role of the
9 Bureau of Reclamation in its administration of
10 the projects authorized in subsection (a);

11 (B) establishing the standards upon which
12 the projects will be constructed; and

13 (C) for other purposes necessary to imple-
14 ment this section.

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

18 **SEC. 10. CHIPPEWA CREE INDIAN RESERVED WATER**
19 **RIGHTS SETTLEMENT TRUST FUND.**

20 (a) ESTABLISHMENT OF TRUST FUND.—

21 (1) IN GENERAL.—

22 (A) ESTABLISHMENT.—There is hereby es-
23 tablished in the Treasury of the United States
24 a trust fund for the Chippewa Cree Tribe of the
25 Rocky Boy's Reservation to be known as the

1 “Chippewa Cree Indian Reserved Water Rights
2 Settlement Trust Fund”.

3 (B) AVAILABILITY OF AMOUNTS IN
4 FUND.—

5 (i) IN GENERAL.—Amounts in the
6 Fund shall be available to the Secretary
7 for management and investment on behalf
8 of the Tribe and distribution to the Tribe
9 in accordance with this Act.

10 (ii) AVAILABILITY.—Funds made
11 available from the Fund under this section
12 shall be available without fiscal year limita-
13 tion.

14 (2) MANAGEMENT OF FUND.—The Secretary
15 shall deposit and manage the principal and interest
16 in the Fund in a manner consistent with subsection
17 (b) and other applicable provisions of this Act.

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

23 (4) WITHDRAWAL.—The Tribe, with the ap-
24 proval of the Secretary, may withdraw the Fund and
25 deposit it in a mutually agreed upon private finan-

1 cial institution. That withdrawal shall be made pur-
 2 suant to the American Indian Trust Fund Manage-
 3 ment Reform Act of 1994 (25 U.S.C. 4001 et seq.).

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

8 (A) The Tribal Compact Administration
 9 Account.

10 (B) The Economic Development Account.

11 (C) The Future Water Supply Facilities
 12 Account.

13 (b) FUND MANAGEMENT.—

14 (1) IN GENERAL.—

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

23 (B) MANAGEMENT BY SECRETARY.—The
 24 Secretary shall manage the Fund, make invest-
 25 ments from the Fund, and make available funds

1 from the Fund for distribution to the Tribe in
2 a manner consistent with the American Indian
3 Trust Fund Management Reform Act of 1994
4 (25 U.S.C. 4001 et seq.).

5 (2) TRIBAL MANAGEMENT.—

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

14 (B) WITHDRAWAL PLAN.—The withdrawal
15 plan shall provide for—

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

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

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

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

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

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

21 (d) INVESTMENT OF FUND.—

22 (1) IN GENERAL.—

23 (A) APPLICABLE LAWS.—The Secretary
24 shall invest amounts in the Fund in accordance
25 with—

1 (i) the Act of April 1, 1880 (21 Stat.
2 70, chapter 41; 25 U.S.C. 161);

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

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

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

20 (2) CERTAIN WITHDRAWN FUNDS.—

21 (A) IN GENERAL.—Amounts withdrawn
22 from the Fund and deposited in a private finan-
23 cial institution pursuant to a withdrawal plan
24 approved by the Secretary under the American
25 Indian Trust Fund Management Reform Act of

1 1994 (25 U.S.C. 4001 et seq.) shall be invested
2 by an appropriate official under that plan.

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

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

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

1 **SEC. 11. AUTHORIZATION OF APPROPRIATIONS.**

2 (a) FISCAL YEAR 1999 APPROPRIATIONS.—Of the
3 amounts made available by appropriations for fiscal year
4 1999 for the Bureau of Reclamation, \$1,000,000 shall be
5 used for the purpose of commencing the MR&I feasibility
6 study under section 7(a) and the regional study under sec-
7 tion 7(c), of which—

8 (1) \$500,000 shall be used for the MR&I study
9 under section 7(a); and

10 (2) \$500,000 shall be used for the regional
11 study under section 7(c).

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

18 (1) \$500,000 shall be used for the MR&I feasi-
19 bility study under section 7(a); and

20 (2) \$2,500,000 shall be used for the regional
21 study under section 7(c).

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

25 (1) TRIBAL COMPACT ADMINISTRATION AC-
26 COUNT.—For Tribal Compact Administration as-

sumed by the Tribe under the Compact and this Act,
\$3,000,000 is authorized to be appropriated for fiscal year 2000.

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

(3) FUTURE WATER SUPPLY FACILITIES ACCOUNT.—For the total Federal contribution to the planning, design, construction, operation, maintenance, and rehabilitation of a future water supply system for the Reservation, there are authorized to be appropriated—

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

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

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

(d) ON-RESERVATION WATER DEVELOPMENT.—

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

(A) \$13,000,000 for fiscal year 2000, for the planning, design, and construction of the Bonneau Dam Enlargement, for the development of additional capacity in Bonneau Res-

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

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

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

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

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

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

(2) UNEXPENDED BALANCES.—Any unex-
pended balance in the funds authorized to be appro-
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 imple-
5 menting the Compact, the Secretary shall comply with all
6 aspects 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 imple-
16 menting 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.

