Public Law 88-533

August 31, 1964
[H. R. 1794]

AN ACT

To authorize payment for certain interests in lands within the Allegany Indian Reservation in New York, required by the United States for the Allegheny River (Kinzua Dam) project, to provide for the relocation, rehabilitation, social and economic development of the members of the Seneca Nation, and for other purposes.

Allegheny Indian Reservation, N.Y.
Seneca Nation, payments.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in furtherance of the Allegheny Reservoir project authorized by the Flood Control Acts of June 28, 1938 (52 Stat. 1215), August 18, 1941 (55 Stat. 638), and December 22, 1944 (58 Stat. 889), payment shall be made as hereinafter set forth in this Act to the Seneca Nation and to the individual Seneca Indians for such easements, interests in land and other property within the Allegany Indian Reservation, more particularly described in section 14 of this Act, as have been taken for the construction, operation, and maintenance of said project.

SEC. 2. In consideration for the interests in land acquired as set forth in section 1 of this Act, the United States will pay, out of funds available for the Allegheny Reservoir project, and in accordance with the provisions of section 3 hereof—

(a) to the Seneca Nation, the amount of $666,285, as full compensation for the direct damages (including surface severance damages, but excluding damages caused by the increased expense of developing or otherwise exploiting the subsurface resources retained by the nation under section 6) to lands within the Allegany Indian Reservation caused by the acquisition of interests therein by the United States;

(b) to the Seneca Nation, the sum of $100,000, as full compensation for the damages caused by the increased expense of developing or otherwise exploiting the oil and gas subsurface resources retained by the nation under section 6 of this Act: *Provided, however*, That the Seneca Nation shall have the right, in the condemnation proceedings instituted by the United States in the United States District Court for the Western District of New York, to seek an additional sum as just compensation due the nation for damages to the sand and gravel resources within the Allegany Indian Reservation caused by the acquisition of interests in land therein by the United States: *Provided further*, That in the event the Seneca Nation seeks such additional compensation, the district court under section 1358, title 28, United States Code, shall have jurisdiction to determine the just compensation due to the nation for said damages.

62 Stat. 935.

(c) to individual Seneca Indians, a sum aggregating $522,775, to be disbursed in accordance with the provisions of a schedule prepared pursuant to section 3(c) of this Act, as full compensation for the taking of houses, barns, fences, wells, and other structures and improvements on lands within the Allegany Indian Reservation; and

(d) to the Seneca Nation, the amount of $945,573, in full settlement of all other claims, rights, and demands of the nation and its members, including indirect damages and loss of access to the bed of the Allegheny River, arising out of the taking of property as set forth in section 1 of this Act, exclusive of the interest, if any, of the Seneca Nation in houses, structures, or other improvements within the Allegany Indian Reservation claimed by nonmembers of the nation.

(e) In making payments under this section, the United States shall be entitled to a credit for all funds heretofore deposited in

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condemnation proceedings before the United States District Court for the Western District of New York as the estimated just compensation for the acquisition of interests in lands and other property belonging to the Seneca Nation or individual Seneca Indians in connection with the Allegheny Reservoir project.

(f) The sums payable under (a) and (c) of this section shall be subject to deduction in accordance with stipulations entered into, or to be entered into, between the United States, the Seneca Nation, and individual Seneca Indians if it is judicially determined that title to any lands or improvements to which such compensation relates was not vested at the time of the taking, in whole or in part, in the Seneca Nation or individual Seneca Indians.

Method of payment.

SEC. 3. (a) The payment authorized by section 2(a) of this Act shall be made directly to the Seneca Nation: *Provided*, That out of the funds so distributed to the nation a sum not exceeding $611,675 shall be paid to individual Seneca Indians in accordance with a schedule prepared by the Secretary of the Army, after certification by the nation. Said schedule shall reflect the amount agreed upon by the Secretary of the Army and the Seneca Nation, with the approval of the Secretary of the Interior, as compensation for the interests in lands within the taking area of said individual Seneca Indians.

(b) The payment authorized by section 2(b) of this Act shall be made directly to the Seneca Nation: *Provided*, That if the nation through litigation recovers additional compensation for damages to its sand and gravel resources, the United States shall be entitled to a credit against that supplemental award in the amount paid to the nation under section 2(a) for damages to the surface of the lands on which such sand and gravel are located.

(c) The payments authorized by section 2(c) of this Act shall be made directly to individual Seneca Indians in accordance with a schedule of property owners within the taking area prepared by the Secretary of the Army, after certification by the Seneca Nation. Said schedule shall reflect the amount agreed upon by the Secretary of the Army and the nation, with the approval of the Secretary of the Interior, as compensation for the homes, barns, fences, wells, and other structures and improvements within the taking area of said individual Seneca Indians.

(d) The payment authorized by section 2(d) of this Act shall be made directly to the Seneca Nation: *Provided*, That the nation, with the approval of the Secretary of the Interior, shall make available from the funds so distributed not to exceed $127,050, to pay the expenses, costs, losses, and damages incurred by individual Seneca Indians as a result of moving themselves and their possessions, including dwellings and other buildings owned by the members of the nation, on account of the acquisition by the United States of interests in land within the Allegany Reservation as set forth in section 1 of this Act.

(e) No part of the compensation provided for in section 2 of this Act shall be subject to any prior lien, debt, or claim of any nature whatsoever against the Seneca Nation or the individual Seneca Indians entitled to such compensation, except for the repayment of development loans made to the Seneca Nation, or of housing or resettlement loans made to individual Seneca Indians, by a bank or other recognized lending institution, and also except for delinquent debts owed to the United States by the nation or delinquent debts owed to the United States or the Seneca Nation by the individual Seneca Indian entitled to the compensation: *Provided*, That such compensation shall not be applied to the payment of individual delinquent debts to the United States unless the Secretary of the

Interior first determines and certifies that no hardship will result from the payment of such delinquent debts.

Appropriation.

SEC. 4. There is authorized to be appropriated the additional sum of $12,128,917, which shall be deposited in the Treasury of the United States to the credit of the Seneca Nation and which shall draw interest on the principal at the rate of 4 per centum per annum until expended for assistance designed to improve the economic, social, and educational conditions of enrolled members of the Seneca Nation, including but not limited to the following purposes:

(a) developing and carrying out individual and family plans, including relocation and resettlement and the construction of roads, utilities, sanitation facilities, houses, and related structures;

(b) the construction and maintenance of community buildings and other community facilities; and

(c) industrial and recreational development on the Allegany, Cattaraugus, and Oil Springs Reservations.

The funds authorized by this section shall be expended in accordance with plans and programs approved by the Seneca Nation and the Secretary of the Interior: *Provided*, That no part of such funds shall be used for per capita payments.

Cemeteries, shrines, etc., relocation.

SEC. 5. The Secretary of the Army, out of funds appropriated for the Allegheny Reservoir project other than funds provided by this Act, is authorized and directed to relocate and reestablish within the Allegany Reservation such Indian cemeteries, tribal monuments, graves, and shrines inside the taking area as the Seneca Nation or the next of kin shall select and designate: *Provided*, That reinterment of individual remains, though not entire cemeteries, outside the boundaries of the Allegany Reservation also is authorized if so desired by the next of kin, but in such event reinterment to a site which exceeds the equivalent distance from the disinterment site to the farthest point at which reinterment could be made within the reservation boundaries will be made only if the next of kin agrees to pay the added cost: *And provided further*, That the Secretary of the Army is authorized and directed to provide a trust fund in an amount computed on the basis of $14.40 for each reinterment for the perpetual care and maintenance of the graves for the reinterments at the two cemetery relocation sites selected by the Seneca Nation.

Minerals, reservation.

SEC. 6. All minerals of any kind whatsoever, including oil and gas and sand and gravel, within the areas subjected to the interests in land acquired by the United States as set forth in section 1 of this Act, are hereby reserved to the Seneca Nation: *Provided*, That the exploration and development of such minerals, including oil and gas and sand and gravel, within the taking areas shall be consistent with said interests in land and subject to all reasonable regulations of the Secretary of the Army necessary for the protection of the Allegheny Reservoir project.

SEC. 7. Members of the Seneca Nation shall have the right without charge to remain on and use the lands subject to the interests in land acquired by the United States as set forth in section 1 of this Act until required to vacate at such times as may be fixed by the Secretary of the Army with the approval of the Secretary of the Interior and after consultation with the Seneca Nation: *Provided*, That the time for vacating in any event will not extend beyond January 1, 1965, unless the Secretary of the Army otherwise permits.

Harvest of crops, etc.

SEC. 8. Up to sixty days before the date for vacating in accordance with section 7, the Seneca Nation on its common lands within the taking area for the Allegheny Reservoir project, and individual Seneca Indians on lands in which they have an interest as shown on the sched-

ules described in section 3 (a) and (c) of this Act, shall have the right, without charge, to harvest crops, to cut and remove all timber, to mine and remove sand and gravel, and to salvage improvements: *Provided*, That if such rights are not exercised or are waived by said individual Seneca Indians within the time prescribed, the nation shall have an additional thirty days within which to exercise their rights on its own behalf: *Provided further*, That the crops harvested, the timber cut, the sand and gravel removed, and the salvage permitted by this section shall not be construed to be compensation.

SEC. 9. The Seneca Nation shall have the right to use and occupy the taking area of the Allegheny Reservoir project within the Allegany Reservation for all purposes not inconsistent with the interests in land acquired by the United States as set forth in section 1 of this Act, including, but not limited to, the right to lease such lands for farming and grazing purposes to members or nonmembers of the nation, the power to dispose of all minerals reserved under section 6 of this Act, the right to hunt and fish on such lands, and to license hunting and fishing by nonmembers of the nation and the right to regulate access to the shoreline of the reservoir: *Provided*, That public access to the shoreline shall be provided and no charge shall be made to the public therefor: *And provided further*, That the use by the public of the water areas of the Allegheny Reservoir project shall be pursuant to such rules and regulations as the Secretary of the Army may prescribe.

SEC. 10. The Secretary of the Treasury, upon certification by the Secretary of the Interior, shall reimburse the Seneca Nation for all fees and expenses incurred in relation to the Allegheny Reservoir project, including the cost of engineering and appraising services: *Provided*, That not more than $250,000 is authorized to be appropriated for such reimbursable fees and expenses: *And provided further*, That attorney fees shall be paid under the terms of a contract approved by the Secretary of the Interior.

Acceptance of payment.
Waiver of claims.

SEC. 11. (a) Any individual Seneca Indian who accepts the payment tendered to him pursuant to section 3(a) shall be deemed to waive and release any further claims, rights, or demands in his own name arising out of the taking of interests in land as set forth in section 1 of this Act. Any individual Seneca Indian who accepts the payment tendered to him pursuant to section 3(c) shall be deemed to waive and release any further claims, rights, or demands in his own name arising out of the taking of houses, barns, fences, wells, and other structures and improvements under this Act.

(b) Any individual Seneca Indian who has been duly tendered payment in accordance with the schedules prepared pursuant to section 3 (a) and (c) of this Act shall have the right to reject either or both of the sums so tendered by filing a notice of rejection with the Seneca Nation, Salamanca, New York, the district engineer, United States Army Engineer District, Pittsburgh, Pennsylvania, and the United States attorney for the western district of New York, Buffalo, New York, within ninety days after the tender is made.

(c) For the purposes of this section, the Secretary of the Interior is authorized to represent any individual Seneca Indian entitled to payment who is a minor, or under any other legal disability, or who cannot be located after a reasonable and diligent search.

Compensation determined by court.

SEC. 12. (a) Any individual Seneca Indian who, pursuant to section 11(b) of this Act, rejects a sum tendered in payment under section 3 (a) or (c), or both, shall have the right to litigate the issue of just compensation in the United States District Court for the Western District of New York. The court shall, except as otherwise expressly provided herein, determine just compensation in accordance with the

laws and procedures applicable to the determination of just compensation in condemnation proceedings in the Federal courts. No court or statutory costs, but all other costs and expenses, including attorney's fees, shall be at the contesting individual's expense.

(b) Where the sum rejected by an individual Seneca Indian has been tendered under section 3(a) of this Act, and the United States has instituted condemnation proceedings, the Seneca Nation within sixty days shall deposit in court the total amount paid to it pursuant to section 2(a), less any credit given the United States under section 2(e), for the interests in land acquired by the United States which are the subject of the contesting individual's claims. Any excess of the sum so deposited over the amount finally determined as just compensation for the interests in land, if any, of the contesting individual shall be paid back to the Seneca Nation. If the amount finally determined as just compensation for all interests in land acquired by the United States which are the subject of the contesting individual's claim exceeds the sum deposited by the Seneca Nation, the difference shall be paid into court by the United States, and the total amount so paid and deposited shall be distributed as directed by the court.

(c) Where the sum rejected by an individual Seneca Indian has been tendered under section 3(c) of this Act, and the issue of just compensation is litigated, the United States shall not assert as a defense that any interest in the property is owned by the Seneca Nation.

(d) For the purposes of this section, any individual Seneca Indian eligible to file suit, who is a minor or under any other legal disability, shall be represented by his legal guardian or, if no guardian has been appointed, by an attorney appointed by the Court.

Land acquisition for relocation purposes.

SEC. 13. The Secretary of the Interior is hereby authorized, with the funds provided under section 4 of this Act, to purchase or to acquire through condemnation proceedings lands, and interests in lands, within the Allegany Reservation, for the relocation of houses and community facilities or for recreational, commercial, or industrial development. Any lands or interests in lands so acquired shall have the same legal status as other lands within the reservation.

Land descriptions, recording.

SEC. 14. The interests in land required for the Allegheny Reservoir project within the Allegany Indian Reservation are generally identified and delineated on a map entitled "Allegheny River Basin, Allegheny Reservoir, New York, General Map". Detailed legal descriptions of the lands shown thereon, together with tract maps, are or shall be filed in condemnation proceedings which have been instituted by the United States in the United States District Court for the Western District of New York for the acquisition of easements, interests in land, and other property within the Allegany Indian Reservation. The estates taken shall be as specifically set forth in the complaints filed in said proceedings, except insofar as the court may determine that the condemnation by the United States of any easement, interest in land, or other property identified therein for the construction of a limited access highway to be made a part of the New York State Southern Tier Expressway has not been authorized, in which event said estate shall not be taken. Copies of the final decree and other appropriate papers in said condemnation proceedings setting forth legal descriptions of the lands and the estates taken, together with identifying tract maps, shall be filed among the land records of the Bureau of Indian Affairs in Washington, District of Columbia, and recorded in the office of the county clerk of Cattaraugus County, New York. A true and correct copy of said papers shall be furnished by the Secretary of the Army without cost to the Seneca Nation.

SEC. 15. Upon a determination by the Secretary of the Army that all or part of the interests in land acquired as set forth in section 1 of this Act no longer are necessary for purposes of the Allegheny Reservoir project, all right, title, and interests in such lands shall thereupon vest in the Seneca Nation.

SEC. 16. No part of any expenditures made by the United States under any of the provisions of this Act shall be charged by the United States as an offset or counterclaim against any claim of the Seneca Nation against the United States other than claims arising out of the acquisition of interests in land for the Allegheny Reservoir project.

Tax exemption.

SEC. 17. All funds authorized by this Act paid to the Seneca Nation and individual Seneca Indians shall be exempt from all forms of State and Federal income taxes.

Federal supervision, withdrawal.

SEC. 18. Except as specifically required to carry out the provisions of this Act, the Department of the Interior shall not enlarge the services which it is now in fact rendering to, or the supervision which it is now in fact exercising over the property and affairs of, the Seneca Nation and its members pursuant to the laws of the United States relating to Indians and Indian tribes. The Secretary of the Interior shall, after consultation with the Seneca Nation, submit to the Congress a plan for complete withdrawal of Federal supervision over the property and affairs of the Nation and its members. Said plan shall be submitted within three years from the effective date of this Act.

Report to Congress.

Approved August 31, 1964.

Public Law 88-534

AN ACT

August 31, 1964
[H. R. 9178]

To amend section 8(b) of the Soil Conservation and Domestic Allotment Act, and for other purposes.

Agriculture.
County committee systems.
52 Stat. 31.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the seventh and eighth sentences of section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended (16 U.S.C. 590h(b)), are deleted and the following inserted in lieu thereof: "Farmers within any such local administrative area, and participating or cooperating in programs administered within such area, shall elect annually from among their number a local committee of not more than three members for such area. The members of the local committees shall, in a county convention, nominate and elect a county committee which shall consist of three members who are farmers in the county. At the first county convention held on or after the effective date of this sentence, one member of the county committee shall be elected for one year; one member shall be elected for two years; and one member shall be elected for three years. Thereafter, each member of a county committee shall be elected for a term of three years. No member of the county committee shall be elected for more than three consecutive terms (exclusive of any term which began prior to the effective date of this sentence)."

Repeal.

SEC. 2. Section 503 of the Act of August 26, 1954 (68 Stat. 908; 16 U.S.C. 590h-3), is repealed.

Effective date.

SEC. 3. Section 1 of this Act shall become effective for elections of committeemen held on or after January 1, 1965.

Approved August 31, 1964.

31-667 O-65—50