

Public Law 103-436
103d Congress

An Act

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.

Nov. 2, 1994
[H.R. 4757]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

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

Confederated
Tribes of the
Colville
Reservation
Grand Coulee
Dam Settlement
Act.

SEC. 2. DEFINITIONS.

For purposes of this Act:

(1) The term “Administrator” means the Administrator of the Bonneville Power Administration.

(2) The term “Bonneville Power Administration” means the Bonneville Power Administration of the Department of Energy or any successor Agency, Corporation, or entity that markets power produced at the Dam.

(3) The term “Dam” means the Grand Coulee Dam operated by the Bureau of Reclamation of the Department of the Interior, the power from which is marketed by the Bonneville Power Administration of the Department of Energy.

(4) The term “Settlement Agreement” means the Settlement Agreement entered into between the United States and the Tribe, signed by the United States on April 21, 1994, and by the Tribe on April 16, 1994, to settle the claims of the Tribe in Docket 181-D of the Indian Claims Commission, which docket has been transferred to the United States Court of Federal Claims.

(5) The term “Tribe” means the Confederated Tribes of the Colville Reservation, a federally recognized Indian tribe.

SEC. 3. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) there is pending before the United States Court of Federal Claims, a suit by the Confederated Tribes of the Colville Reservation against the United States, in which the Tribe seeks to recover damages under the “Fair and Honorable Dealings” clause of the Indian Claims Commission Act (Act of August 13, 1946, 60 Stat. 1049), and in which, although the matter is in dispute, the potential liability of the United States is substantial;

(2) the claim alleges that the United States has since the construction of Grand Coulee Dam used Colville Reservation

land in the generation of electric power, and will continue to use such reservation land for as long as Grand Coulee Dam produces power; and that the United States has promised and undertaken to pay the Tribe for such use and has not done so;

(3) the United States, after years of litigation, has negotiated a Settlement Agreement with the Tribe, signed by the Department of Justice, the Bonneville Power Administration and the Department of the Interior. The Settlement Agreement is contingent on the enactment of the enabling legislation; and

(4) the Settlement Agreement, approved in this Act, will provide mutually agreeable compensation for the past use of reservation land in connection with the generation of electric power at Grand Coulee Dam, and will establish a method to ensure that the Tribe will be compensated for the future use of reservation land in the generation of electric power at Grand Coulee Dam, and will settle the claims of the Tribe against the United States brought under the Indian Claims Commission Act.

(b) PURPOSES.—It is the purpose of this Act—

(1) to approve and ratify the Settlement Agreement entered into by the United States and the Tribe; and

(2) to direct the Bonneville Power Administration to carry out its obligations under the Settlement Agreement.

SEC. 4. APPROVAL, RATIFICATION, AND IMPLEMENTATION OF SETTLEMENT AGREEMENT.

(a) APPROVAL AND RATIFICATION.—The Settlement Agreement is approved and ratified.

(b) ANNUAL PAYMENTS.—The Bonneville Power Administration shall make annual payments to the Tribe as set forth in the Settlement Agreement and shall carry out its other obligations under the Settlement Agreement.

(c) SETTLEMENT.—Consistent with the negotiated terms of the Settlement Agreement, the United States shall join in the motion that the Tribe has agreed to file in *Confederated Tribes v. United States*, Indian Claims Commission Docket 181-D, for the entry of a compromise final judgment in the amount of \$53,000,000. The judgment shall be paid from funds appropriated pursuant to section 1304 of title 31, United States Code, and is not reimbursable by the Bonneville Power Administration.

SEC. 5. DISTRIBUTION OF THE SETTLEMENT FUNDS.

(a) LUMP-SUM PAYMENT.—The judgment of \$53,000,000, when paid, shall be deposited in the Treasury of the United States and the principal amount and interest on the judgment, shall be credited to the account of the Tribe. These funds may be advanced or expended for any purpose by the tribal governing body of the Confederated Tribes of the Colville Reservation, pursuant to a distribution plan developed by the Tribe and approved by the Secretary of the Interior pursuant to section 3 of Public Law 93-134 (25 U.S.C. 1403): *Provided*, That any payment to a minor under the distribution plan shall be held in trust by the United States for the minor until the minor reaches the age of 18, or until the minor's class is scheduled to graduate from high school, whichever is later: *Provided further*, That emergency use of trust funds may

be authorized for the benefit of the minor pursuant to regulations of the Bureau of Indian Affairs.

(b) ANNUAL PAYMENTS.—In addition to the lump-sum payment, annual payments shall be made directly to the Tribe in accordance with the Settlement Agreement, and may be used in the same manner as any other income received by the tribe from the lease or sale of natural resources.

SEC. 6. REPAYMENT CREDIT.

Beginning with fiscal year 2000 and continuing for so long as annual payments are made under this Act, the Administrator shall deduct from the interest payable to the Secretary of the Treasury from net proceeds as defined in section 13 of the Federal Columbia River Transmission System Act, an amount equal to 26 percent of the payment made to the Tribe for the prior fiscal year. Each deduction made under this section shall be a credit to the interest payments otherwise payable by the Administrator to the Secretary of the Treasury during the fiscal year in which the deduction is made, and shall be allocated pro rata to all interest payments on debt associated with the generation function of the Federal Columbia River Power System that are due during that fiscal year; except that, if the deduction in any fiscal year is greater than the interest due on debt associated with the generation function for that fiscal year, then the amount of the deduction that exceeds the interest due on debt associated with the generation function shall be allocated pro rata to all other interest payments due during that fiscal year. To the extent that the deduction exceeds the total amount of any such interest, the deduction shall be applied as a credit against any other payments that the Administrator makes to the Secretary.

SEC. 7. MISCELLANEOUS PROVISIONS.

(a) LIENS AND FORFEITURES, ETC.—Funds paid or deposited to the credit of the Tribe pursuant to the Settlement Agreement or this Act, the interest or investment income earned or received on those funds, and any payment authorized by the Tribe or the Secretary of the Interior to be made from those funds to tribal members, and the interest or investment income on those payments earned or received while the payments are held in trust for the member, are not subject to levy, execution, forfeiture, garnishment, lien, encumbrance, seizure, or State or local taxation.

(b) ELIGIBILITY FOR FEDERAL AND FEDERALLY FUNDED PROGRAMS.—Funds paid or deposited to the credit of the Tribe pursuant to the Settlement Agreement or this Act, the interest or investment income earned or received on such funds, and any payment authorized by the Tribe or the Secretary of the Interior to be made from those funds to tribal members, and the interest or investment income on those payments earned or received while the payments are held in trust for the member, may not be treated as income or resources nor otherwise utilized as the basis for denying or reducing the financial assistance or other benefit to which the Tribe, a tribal member, or household would otherwise be entitled under the Social Security Act or any Federal or federally assisted program.

(c) **TRUST RESPONSIBILITY.**—This Act and the Settlement Agreement do not affect the trust responsibility of the United States and its agencies to the Tribe and the members of the Tribe.

Approved November 2, 1994.

LEGISLATIVE HISTORY—H.R. 4757 (S. 2259):

HOUSE REPORTS: No. 103-685 (Comm. on Natural Resources).

SENATE REPORTS: No. 103-356 accompanying S. 2259 (Comm. on Indian Affairs).

CONGRESSIONAL RECORD, Vol. 140 (1994):

Oct. 3, considered and passed House.

Oct. 7, considered and passed Senate.