

Public Law 106-163
106th Congress

An Act

Dec. 9, 1999

[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.

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 "Chippewa Cree Tribe of The Rocky Boy's Reservation Indian Reserved Water Rights Settlement and Water Supply Enhancement Act of 1999".

SEC. 2. FINDINGS.

Congress finds that—

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

(2) the Rocky Boy's Reservation was established as a homeland for the Chippewa Cree Tribe;

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

(4) the sovereignty of the Chippewa Cree Tribe and the economy of the Reservation depend on the development of the water resources of the Reservation;

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

(6) the Rocky Boy's Reservation is located in a water-short area of Montana and it is appropriate that the Act provide funding for the development of additional water supplies, including domestic water, to meet the needs of the Chippewa Cree Tribe;

(7) proceedings to determine the full extent of the water rights of the Chippewa Cree Tribe are currently pending before the Montana Water Court as a part of In the Matter of the Adjudication of All Rights to the Use of Water, Both Surface and Underground, within the State of Montana;

(8) recognizing that final resolution of the general stream adjudication will take many years and entail great expense to all parties, prolong uncertainty as to the availability of water supplies, and seriously impair the long-term economic planning and development of all parties, the Chippewa Cree

Chippewa Cree
Tribe of The
Rocky Boy's
Reservation
Indian Reserved
Water Rights
Settlement and
Water Supply
Enhancement
Act of 1999.

Montana.

Tribe and the State of Montana entered into the Compact on April 14, 1997; and

(9) the allocation of water resources from the Tiber Reservoir to the Chippewa Cree Tribe under this Act is uniquely suited to the geographic, social, and economic characteristics of the area and situation involved.

SEC. 3. PURPOSES.

The purposes of this Act are as follows:

(1) To achieve a fair, equitable, and final settlement of all claims to water rights in the State of Montana for—

(A) the Chippewa Cree Tribe; and

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

(2) To approve, ratify, and confirm, as modified in this Act, the Chippewa Cree-Montana Water Rights Compact entered into by the Chippewa Cree Tribe of the Rocky Boy's Reservation and the State of Montana on April 14, 1997, and to provide funding and other authorization necessary for the implementation of the Compact.

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

(4) To authorize Federal feasibility studies designed to identify and analyze potential mechanisms to enhance, through conservation or otherwise, water supplies in North Central Montana, including mechanisms to import domestic water supplies for the future growth of the Rocky Boy's Indian Reservation.

(5) To authorize certain projects on the Rocky Boy's Indian Reservation, Montana, in order to implement the Compact.

(6) To authorize certain modifications to the purposes and operation of the Bureau of Reclamation's Tiber Dam and Lake Elwell on the Marias River in Montana in order to provide the Tribe with an allocation of water from Tiber Reservoir.

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

SEC. 4. DEFINITIONS.

In this Act:

(1) **ACT.**—The term "Act" means the "Chippewa Cree Tribe of The Rocky Boy's Reservation Indian Reserved Water Rights Settlement and Water Supply Enhancement Act of 1999".

(2) **COMPACT.**—The term "Compact" means the water rights compact between the Chippewa Cree Tribe of the Rocky Boy's Reservation and the State of Montana contained in section 85-20-601 of the Montana Code Annotated (1997).

(3) **FINAL.**—The term "final" with reference to approval of the decree in section 101(b) means completion of any direct appeal to the Montana Supreme Court of a final decree by the Water Court pursuant to section 85-2-235 of the Montana Code Annotated (1997), or to the Federal Court of Appeals, including the expiration of the time in which a petition for certiorari may be filed in the United States Supreme Court, denial of such a petition, or the issuance of the Supreme Court's mandate, whichever occurs last.

(4) **FUND.**—The term “Fund” means the Chippewa Cree Indian Reserved Water Rights Settlement Fund established under section 104.

(5) **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)).

(6) **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 202.

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

(8) **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).

(9) **ROCKY BOY’S RESERVATION; RESERVATION.**—The term “Rocky Boy’s Reservation” or “Reservation” means the Rocky Boy’s Reservation of the Chippewa Cree Tribe in Montana.

(10) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior, or his or her duly authorized representative.

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

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

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

(14) **TRIBAL WATER RIGHT.**—

(A) **IN GENERAL.**—The term “Tribal Water Right” means the water right set forth in section 85-20-601 of the Montana Code Annotated (1997) and includes the water allocation set forth in title II of this Act.

(B) **RULE OF CONSTRUCTION.**—The definition of the term “Tribal Water Right” under this paragraph and the treatment of that right under this Act shall not be construed or interpreted as a precedent for the litigation of reserved water rights or the interpretation or administration of future compacts between the United States and the State of Montana or any other State.

(15) **TRIBE.**—The term “Tribe” means the Chippewa Cree Tribe of the Rocky Boy’s Reservation and all officers, agents, and departments thereof.

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

SEC. 5. MISCELLANEOUS PROVISIONS.

(a) **NONEXERCISE OF TRIBE’S RIGHTS.**—Pursuant to Tribal Resolution No. 40-98, and in exchange for benefits under this Act, the Tribe shall not exercise the rights set forth in Article VII.A.3

of the Compact, except that in the event that the approval, ratification, and confirmation of the Compact by the United States becomes null and void under section 101(b), the Tribe shall have the right to exercise the rights set forth in Article VII.A.3 of the Compact.

(b) **WAIVER OF SOVEREIGN IMMUNITY.**—Except to the extent provided in subsections (a), (b), and (c) of section 208 of the Department of Justice Appropriation Act, 1953 (43 U.S.C. 666), nothing in this Act may be construed to waive the sovereign immunity of the United States.

(c) **TRIBAL RELEASE OF CLAIMS AGAINST THE UNITED STATES.**—

(1) **IN GENERAL.**—Pursuant to Tribal Resolution No. 40-98, and in exchange for benefits under this Act, the Tribe shall, on the date of enactment of this Act, execute a waiver and release of the claims described in paragraph (2) against the United States, the validity of which are not recognized by the United States, except that—

Effective date.

(A) the waiver and release of claims shall not become effective until the appropriation of the funds authorized in section 105, the water allocation in section 201, and the appropriation of funds for the MR&I feasibility study authorized in section 204 have been completed and the decree has become final in accordance with the requirements of section 101(b); and

(B) in the event that the approval, ratification, and confirmation of the Compact by the United States becomes null and void under section 101(b), the waiver and release of claims shall become null and void.

(2) **CLAIMS DESCRIBED.**—The claims referred to in paragraph (1) are as follows:

(A) Any and all claims to water rights (including water rights in surface water, ground water, and effluent), claims for injuries to water rights, claims for loss or deprivation of use of water rights, and claims for failure to acquire or develop water rights for lands of the Tribe from time immemorial to the date of ratification of the Compact by Congress.

(B) Any and all claims arising out of the negotiation of the Compact and the settlement authorized by this Act.

(3) **SETOFFS.**—In the event the waiver and release do not become effective as set forth in paragraph (1)—

(A) the United States shall be entitled to setoff against any claim for damages asserted by the Tribe against the United States, any funds transferred to the Tribe pursuant to section 104, and any interest accrued thereon up to the date of setoff; and

(B) the United States shall retain any other claims or defenses not waived in this Act or in the Compact as modified by this Act.

(d) **OTHER TRIBES NOT ADVERSELY AFFECTED.**—Nothing in this Act shall be construed to quantify or otherwise adversely affect the land and water rights, or claims or entitlements to land or water of an Indian tribe other than the Chippewa Cree Tribe.

(e) **ENVIRONMENTAL COMPLIANCE.**—In implementing the Compact, the Secretary shall comply with all aspects of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and all other applicable environmental Acts and regulations.

(f) **EXECUTION OF COMPACT.**—The execution of the Compact by the Secretary as provided for in this Act shall not constitute a major Federal action under the National Environmental Policy Act (42 U.S.C. 4321 et seq.). The Secretary is directed to carry out all necessary environmental compliance required by Federal law in implementing the Compact.

(g) **CONGRESSIONAL INTENT.**—Nothing in this Act shall be construed to prohibit the Tribe from seeking additional authorization or appropriation of funds for tribal programs or purposes.

(h) **ACT NOT PRECEDENTIAL.**—Nothing in this Act shall be construed or interpreted as a precedent for the litigation of reserved water rights or the interpretation or administration of future water settlement Acts.

TITLE I—CHIPPEWA CREE TRIBE OF THE ROCKY BOY'S RESERVATION IN- DIAN RESERVED WATER RIGHTS SET- TLEMENT

SEC. 101. RATIFICATION OF COMPACT AND ENTRY OF DECREE.

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

(1) the Compact, entered into by the Chippewa Cree Tribe of the Rocky Boy's Reservation and the State of Montana on April 14, 1997, is hereby approved, ratified, and confirmed; and

(2) the Secretary shall—

(A) execute and implement the Compact together with any amendments agreed to by the parties or necessary to bring the Compact into conformity with this Act; and

(B) take such other actions as are necessary to implement the Compact.

(b) **APPROVAL OF DECREE.**—

(1) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, the United States, the Tribe, or the State of Montana shall petition the Montana Water Court, individually or jointly, to enter and approve the decree agreed to by the United States, the Tribe, and the State of Montana attached as Appendix 1 to the Compact, or any amended version thereof agreed to by the United States, the Tribe, and the State of Montana.

(2) **RESORT TO THE FEDERAL DISTRICT COURT.**—Under the circumstances set forth in Article VII.B.4 of the Compact, 1 or more parties may file an appropriate motion (as provided in that article) in the United States district court of appropriate jurisdiction.

(3) **EFFECT OF FAILURE OF APPROVAL TO BECOME FINAL.**—In the event the approval by the appropriate court, including any direct appeal, does not become final within 3 years after the filing of the decree, or the decree is approved but is subsequently set aside by the appropriate court—

Deadline.

(A) the approval, ratification, and confirmation of the Compact by the United States shall be null and void; and

(B) except as provided in subsections (a) and (c)(3) of section 5 and section 105(e)(1), this Act shall be of no further force and effect.

SEC. 102. USE AND TRANSFER OF THE TRIBAL WATER RIGHT.

(a) **ADMINISTRATION AND ENFORCEMENT.**—As provided in the Compact, until the adoption and approval of a tribal water code by the Tribe, the Secretary shall administer and enforce the Tribal Water Right.

(b) **TRIBAL MEMBER ENTITLEMENT.**—

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

(2) **ADMINISTRATION.**—An entitlement described in paragraph (1) shall be administered by the Tribe pursuant to a tribal water code developed and adopted pursuant to Article IV.A.2 of the Compact, or by the Secretary pending the adoption and approval of the tribal water code.

(c) **TEMPORARY TRANSFER OF TRIBAL WATER RIGHT.**—The Tribe may, with the approval of the Secretary and the approval of the State of Montana pursuant to Article IV.A.4 of the Compact, transfer any portion of the Tribal Water Right for use off the Reservation by service contract, lease, exchange, or other agreement. No service contract, lease, exchange, or other agreement entered into under this subsection may permanently alienate any portion of the Tribal Water Right. The enactment of this subsection shall constitute a plenary exercise of the powers set forth in Article I, section 8(3) of the United States Constitution and is statutory law of the United States within the meaning of Article IV.A.4.b.(3) of the Compact.

SEC. 103. ON-RESERVATION WATER RESOURCES DEVELOPMENT.

(a) **WATER DEVELOPMENT PROJECTS.**—The Secretary, acting through the Bureau of Reclamation, is authorized and directed to plan, design, and construct, or to provide, pursuant to subsection (b), for the planning, design, and construction of the following water development projects on the Rocky Boy's Reservation:

(1) **Bonneau Dam and Reservoir Enlargement.**

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

(3) **Brown's Dam Enlargement.**

(4) **Towe Ponds Enlargement.**

(5) **Such other water development projects as the Tribe shall from time to time consider appropriate.**

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

(c) **BUREAU OF RECLAMATION PROJECT ADMINISTRATION.**—

(1) IN GENERAL.—Congress finds that the Secretary, through the Bureau of Reclamation, has entered into an agreement with the Tribe, pursuant to title IV of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458aa et seq.)—

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

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

(C) for other purposes necessary to implement this section.

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

SEC. 104. CHIPPEWA CREE INDIAN RESERVED WATER RIGHTS SETTLEMENT TRUST FUND.

(a) ESTABLISHMENT OF TRUST FUND.—

(1) IN GENERAL.—

(A) ESTABLISHMENT.—There is hereby established in the Treasury of the United States a trust fund for the Chippewa Cree Tribe of the Rocky Boy's Reservation to be known as the "Chippewa Cree Indian Reserved Water Rights Settlement Trust Fund".

(B) AVAILABILITY OF AMOUNTS IN FUND.—

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

(ii) AVAILABILITY.—Funds made available from the Fund under this section shall be available without fiscal year limitation.

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

(3) CONTENTS OF FUND.—The Fund shall consist of the amounts authorized to be appropriated to the Fund under section 105(a) and such other amounts as may be transferred or credited to the Fund.

(4) WITHDRAWAL.—The Tribe, with the approval of the Secretary, may withdraw the Fund and deposit it in a mutually agreed upon private financial institution. That withdrawal shall be made pursuant to the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.).

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

(A) The Tribal Compact Administration Account.

(B) The Economic Development Account.

(C) The Future Water Supply Facilities Account.

(b) FUND MANAGEMENT.—

(1) IN GENERAL.—

(A) AMOUNTS IN FUND.—The Fund shall consist of such amounts as are appropriated to the Fund and allocated to the accounts of the Fund by the Secretary as provided

for in this Act and in accordance with the authorizations for appropriations in paragraphs (1), (2), and (3) of section 105(a), together with all interest that accrues in the Fund.

(B) **MANAGEMENT BY SECRETARY.**—The Secretary shall manage the Fund, make investments from the Fund, and make available funds from the Fund for distribution to the Tribe in a manner consistent with the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.).

(2) **TRIBAL MANAGEMENT.**—

(A) **IN GENERAL.**—If the Tribe exercises its right pursuant to subsection (a)(4) to withdraw the Fund and deposit it in a private financial institution, except as provided in the withdrawal plan, neither the Secretary nor the Secretary of the Treasury shall retain any oversight over or liability for the accounting, disbursement, or investment of the funds.

(B) **WITHDRAWAL PLAN.**—The withdrawal plan referred to in subparagraph (A) shall provide for—

(i) the creation of accounts and allocation to accounts in a fund established under the plan in a manner consistent with subsection (a); and

(ii) the appropriate terms and conditions, if any, on expenditures from the fund (in addition to the requirements of the plans set forth in paragraphs (2) and (3) of subsection (c)).

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

(1) Except for \$400,000 necessary for capital expenditures in connection with Tribal Compact Administration, only interest accrued on the Tribal Compact Administration Account referred to in subsection (a)(5)(A) shall be available to satisfy the Tribe's obligations for Tribal Compact Administration under the provisions of the Compact.

(2) Both principal and accrued interest on the Economic Development Account referred to in subsection (a)(5)(B) shall be available to the Tribe for expenditure pursuant to an economic development plan approved by the Secretary.

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

(d) **INVESTMENT OF FUND.**—

(1) **IN GENERAL.**—

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

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

(ii) the first section of the Act entitled "An Act to authorize the payment of interest of certain funds held in trust by the United States for Indian tribes", approved February 12, 1929 (25 U.S.C. 161a); and

(iii) the first section of the Act entitled "An Act to authorize the deposit and investment of Indian funds", approved June 24, 1938 (25 U.S.C. 162a).

(B) CREDITING OF AMOUNTS TO THE FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations of the United States held in the Fund shall be credited to and form part of the Fund. The Secretary of the Treasury shall credit to each of the accounts contained in the Fund a proportionate amount of that interest and proceeds.

(2) CERTAIN WITHDRAWN FUNDS.—

(A) IN GENERAL.—Amounts withdrawn from the Fund and deposited in a private financial institution pursuant to a withdrawal plan approved by the Secretary under the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.) shall be invested by an appropriate official under that plan.

(B) DEPOSIT OF INTEREST AND PROCEEDS.—The interest on, and the proceeds from the sale or redemption of, any obligations held under this paragraph shall be deposited in the private financial institution referred to in subparagraph (A) in the fund established pursuant to the withdrawal plan referred to in that subparagraph. The appropriate official shall credit to each of the accounts contained in that fund a proportionate amount of that interest and proceeds.

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

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

SEC. 105. AUTHORIZATION OF APPROPRIATIONS.

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

(1) TRIBAL COMPACT ADMINISTRATION ACCOUNT.—For Tribal Compact Administration assumed 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.

(b) 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 103—

(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 Reservoir 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 enlargement;

(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 completion of the 4 projects enumerated in subparagraphs (A) and (B) of paragraph (1).

(2) UNEXPENDED BALANCES.—Any unexpended balance in the funds authorized to be appropriated under subparagraph (A) or (B) of paragraph (1), after substantial completion of all of the projects enumerated in paragraphs (1) through (4) of section 103(a)—

(A) shall be available to the Tribe first for completion of the enumerated projects; and

(B) then for other water resource development projects on the Reservation.

(c) ADMINISTRATION COSTS.—There is authorized to be appropriated to the Department of the Interior, for the Bureau of Reclamation, \$1,000,000 for fiscal year 2000, for the costs of administration of the Bureau of Reclamation under this Act, except that—

(1) if those costs exceed \$1,000,000, the Bureau of Reclamation may use funds authorized for appropriation under subsection (b) for costs; and

(2) the Bureau of Reclamation shall exercise its best efforts to minimize those costs to avoid expenditures for the costs of administration under this Act that exceed a total of \$1,000,000.

(d) AVAILABILITY OF FUNDS.—

(1) IN GENERAL.—The amounts authorized to be appropriated to the Fund and allocated to its accounts pursuant to subsection (a) shall be deposited into the Fund and allocated immediately on appropriation.

(2) INVESTMENTS.—Investments may be made from the Fund pursuant to section 104(d).

(3) **AVAILABILITY OF CERTAIN MONEYS.**—The amounts authorized to be appropriated in subsection (a)(1) shall be available for use immediately upon appropriation in accordance with subsection 104(c)(1).

(4) **LIMITATION.**—Those moneys allocated by the Secretary to accounts in the Fund or in a fund established under section 104(a)(4) shall draw interest consistent with section 104(d), but the moneys authorized to be appropriated under subsection (b) and paragraphs (2) and (3) of subsection (a) shall not be available for expenditure until the requirements of section 101(b) have been met so that the decree has become final and the Tribe has executed the waiver and release required under section 5(c).

(e) **RETURN OF FUNDS TO THE TREASURY.**—

(1) **IN GENERAL.**—In the event that the approval, ratification, and confirmation of the Compact by the United States becomes null and void under section 101(b), all unexpended funds appropriated under the authority of this Act together with all interest earned on such funds, notwithstanding whether the funds are held by the Tribe, a private institution, or the Secretary, shall revert to the general fund of the Treasury 12 months after the expiration of the deadline established in section 101(b).

(2) **INCLUSION IN AGREEMENTS AND PLAN.**—The requirements in paragraph (1) shall be included in all annual funding agreements entered into under the self-governance program under title IV of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458aa et seq.), withdrawal plans, withdrawal agreements, or any other agreements for withdrawal or transfer of the funds to the Tribe or a private financial institution under this Act.

(f) **WITHOUT FISCAL YEAR LIMITATION.**—All money appropriated pursuant to authorizations under this title shall be available without fiscal year limitation.

SEC. 106. STATE CONTRIBUTIONS TO SETTLEMENT.

Consistent with Articles VI.C.2 and C.3 of the Compact, the State contribution to settlement shall be as follows:

(1) The contribution of \$150,000 appropriated by Montana House Bill 6 of the 55th Legislative Session (1997) shall be used for the following purposes:

(A) Water quality discharge monitoring wells and monitoring program.

(B) A diversion structure on Big Sandy Creek.

(C) A conveyance structure on Box Elder Creek.

(D) The purchase of contract water from Lower Beaver Creek Reservoir.

(2) Subject to the availability of funds, the State shall provide services valued at \$400,000 for administration required by the Compact and for water quality sampling required by the Compact.

TITLE II—TIBER RESERVOIR ALLOCATION AND FEASIBILITY STUDIES AUTHORIZATION.

SEC. 201. TIBER RESERVOIR.

(a) ALLOCATION OF WATER TO THE TRIBE.—

(1) **IN GENERAL.**—The Secretary shall permanently allocate to the Tribe, without cost to the Tribe, 10,000 acre-feet per year of stored water from the water right of the Bureau of Reclamation in Lake Elwell, Lower Marias Unit, Upper Missouri Division, Pick-Sloan Missouri Basin Program, Montana, measured at the outlet works of the dam or at the diversion point from the reservoir. The allocation shall become effective when the decree referred to in section 101(b) has become final in accordance with that section. The allocation shall be part of the Tribal Water Right and subject to the terms of this Act.

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

(3) **PRIOR RESERVED WATER RIGHTS.**—The allocation provided in this section shall be subject to the prior reserved water rights, if any, of any Indian tribe, or person claiming water through any Indian tribe.

(b) USE AND TEMPORARY TRANSFER OF ALLOCATION.—

(1) **IN GENERAL.**—Subject to the limitations and conditions set forth in the Compact and this Act, the Tribe shall have the right to devote the water allocated by this section to any use, including agricultural, municipal, commercial, industrial, mining, or recreational uses, within or outside the Rocky Boy's Reservation.

(2) **CONTRACTS AND AGREEMENTS.**—Notwithstanding any other provision of statutory or common law, the Tribe may, with the approval of the Secretary and subject to the limitations and conditions set forth in the Compact, enter into a service contract, lease, exchange, or other agreement providing for the temporary delivery, use, or transfer of the water allocated by this section, except that no such service contract, lease, exchange, or other agreement may permanently alienate any portion of the tribal allocation.

(c) **REMAINING STORAGE.**—The United States shall retain the right to use for any authorized purpose, any and all storage remaining in Lake Elwell after the allocation made to the Tribe in subsection (a).

(d) **WATER TRANSPORT OBLIGATION; DEVELOPMENT AND DELIVERY COSTS.**—The United States shall have no responsibility or obligation to provide any facility for the transport of the water allocated by this section to the Rocky Boy's Reservation or to any other location. Except for the contribution set forth in section 105(a)(3), the cost of developing and delivering the water allocated by this title or any other supplemental water to the Rocky Boy's Reservation shall not be borne by the United States.

(e) SECTION NOT PRECEDENTIAL.—The provisions of this section regarding the allocation of water resources from the Tiber Reservoir to the Tribe shall not be construed as precedent in the litigation or settlement of any other Indian water right claims.

SEC. 202. MUNICIPAL, RURAL, AND INDUSTRIAL FEASIBILITY STUDY.

(a) AUTHORIZATION.—

(1) IN GENERAL.—

(A) STUDY.—The Secretary, acting through the Bureau of Reclamation, shall perform an MR&I feasibility study of water and related resources in North Central Montana to evaluate alternatives for a municipal, rural, and industrial supply for the Rocky Boy's Reservation.

(B) USE OF FUNDS MADE AVAILABLE FOR FISCAL YEAR 1999.—The authority under subparagraph (A) shall be deemed to apply to MR&I feasibility study activities for which funds were made available by appropriations for fiscal year 1999.

(2) CONTENTS OF STUDY.—The MR&I feasibility study shall include the feasibility of releasing the Tribe's Tiber allocation as provided for in section 201 into the Missouri River System for later diversion to a treatment and delivery system for the Rocky Boy's Reservation.

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

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

SEC. 203. REGIONAL FEASIBILITY STUDY.

(a) IN GENERAL.—

(1) STUDY.—The Secretary, acting through the Bureau of Reclamation, shall conduct, pursuant to Reclamation Law, a regional feasibility study (referred to in this subsection as the "regional feasibility study") to evaluate water and related resources in North-Central Montana in order to determine the limitations of those resources and how those resources can best be managed and developed to serve the needs of the citizens of Montana.

(2) USE OF FUNDS MADE AVAILABLE FOR FISCAL YEAR 1999.—The authority under paragraph (1) shall be deemed to apply to regional feasibility study activities for which funds were made available by appropriations for fiscal year 1999.

(b) CONTENTS OF STUDY.—The regional feasibility study shall—

(1) evaluate existing and potential water supplies, uses, and management;

(2) identify major water-related issues, including environmental, water supply, and economic issues;

(3) evaluate opportunities to resolve the issues referred to in paragraph (2); and

(4) evaluate options for implementation of resolutions to the issues.

(c) **REQUIREMENTS.**—Because of the regional and international impact of the regional feasibility study, the study may not be segmented. The regional study shall—

- (1) utilize, to the maximum extent possible, existing information; and
- (2) be planned and conducted in consultation with all affected interests, including interests in Canada.

SEC. 204. AUTHORIZATION OF APPROPRIATIONS FOR FEASIBILITY STUDIES.

(a) **FISCAL YEAR 1999 APPROPRIATIONS.**—Of the amounts made available by appropriations for fiscal year 1999 for the Bureau of Reclamation, \$1,000,000 shall be used for the purpose of commencing the MR&I feasibility study under section 202 and the regional study under section 203, of which—

- (1) \$500,000 shall be used for the MR&I study under section 202; and
- (2) \$500,000 shall be used for the regional study under section 203.

(b) **FEASIBILITY STUDIES.**—There is authorized to be appropriated to the Department of the Interior, for the Bureau of Reclamation, for the purpose of conducting the MR&I feasibility study under section 202 and the regional study under section 203, \$3,000,000 for fiscal year 2000, of which—

- (1) \$500,000 shall be used for the MR&I feasibility study under section 202; and
- (2) \$2,500,000 shall be used for the regional study under section 203.

(c) **WITHOUT FISCAL YEAR LIMITATION.**—All money appropriated pursuant to authorizations under this title shall be available without fiscal year limitation.

(d) **AVAILABILITY OF CERTAIN MONEYS.**—The amounts made available for use under subsection (a) shall be deemed to have been available for use as of the date on which those funds were appropriated. The amounts authorized to be appropriated in subsection (b) shall be available for use immediately upon appropriation.

Approved December 9, 1999.

LEGISLATIVE HISTORY—S. 438:

SENATE REPORTS: No. 106-200 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 145 (1999):
Nov. 4, considered and passed Senate.
Nov. 18, considered and passed House.