

Public Law 116–100
116th Congress

An Act

Dec. 20, 2019
[S. 216]

To provide for equitable compensation to the Spokane Tribe of Indians of the Spokane Reservation for the use of tribal land for the production of hydropower by the Grand Coulee Dam, and for other purposes.

Spokane Tribe of
Indians of the
Spokane
Reservation
Equitable
Compensation
Act.
Washington.

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 “Spokane Tribe of Indians of the Spokane Reservation Equitable Compensation Act”.

SEC. 2. FINDINGS.

Congress finds that—

(1) from 1927 to 1931, at the direction of Congress, the Corps of Engineers investigated the Columbia River and its tributaries to determine sites at which power could be produced at low cost;

(2) under section 10(e) of the Federal Power Act (16 U.S.C. 803(e)), when licenses are issued involving tribal land within an Indian reservation, a reasonable annual charge shall be fixed for the use of the land, subject to the approval of the Indian tribe having jurisdiction over the land;

(3) in August 1933, the Columbia Basin Commission, an agency of the State of Washington, received a preliminary permit from the Federal Power Commission for water power development at the Grand Coulee site;

(4) had the Columbia Basin Commission or a private entity developed the site, the Spokane Tribe would have been entitled to a reasonable annual charge for the use of the land of the Spokane Tribe;

(5) in the mid-1930s, the Federal Government, which is not subject to licensing under the Federal Power Act (16 U.S.C. 792 et seq.)—

(A) federalized the Grand Coulee Dam project; and

(B) began construction of the Grand Coulee Dam;

(6) when the Grand Coulee Dam project was federalized, the Federal Government recognized that—

(A) development of the project affected the interests of the Spokane Tribe and the Confederated Tribes of the Colville Reservation; and

(B) it would be appropriate for the Spokane and Colville Tribes to receive a share of revenue from the disposition of power produced at Grand Coulee Dam;

(7) in the Act of June 29, 1940 (16 U.S.C. 835d et seq.), Congress—

(A) granted to the United States—

(i) in aid of the construction, operation, and maintenance of the Columbia Basin Project, all the right, title, and interest of the Spokane Tribe and Colville Tribes in and to the tribal and allotted land within the Spokane and Colville Reservations, as designated by the Secretary of the Interior from time to time; and

(ii) other interests in that land as required and as designated by the Secretary for certain construction activities undertaken in connection with the project; and

(B) provided that compensation for the land and other interests was to be determined by the Secretary in such amounts as the Secretary determined to be just and equitable;

(8) pursuant to that Act, the Secretary paid—

(A) to the Spokane Tribe, \$4,700; and

(B) to the Confederated Tribes of the Colville Reservation, \$63,000;

(9) in 1994, following litigation under the Act of August 13, 1946 (commonly known as the “Indian Claims Commission Act” (60 Stat. 1049, chapter 959; former 25 U.S.C. 70 et seq.)), Congress ratified the Colville Settlement Agreement, which required—

(A) for past use of the land of the Colville Tribes, a payment of \$53,000,000; and

(B) for continued use of the land of the Colville Tribes, annual payments of \$15,250,000, adjusted annually based on revenues from the sale of electric power from the Grand Coulee Dam project and transmission of that power by the Bonneville Power Administration;

(10) the Spokane Tribe, having suffered harm similar to that suffered by the Colville Tribes, did not file a claim within the 5-year statute of limitations under the Indian Claims Commission Act;

(11) neither the Colville Tribes nor the Spokane Tribe filed claims for compensation for use of the land of the respective tribes with the Commission prior to August 13, 1951, but both tribes filed unrelated land claims prior to August 13, 1951;

(12) in 1976, over objections by the United States, the Colville Tribes were successful in amending the 1951 Claims Commission land claims to add the Grand Coulee claim of the Colville Tribes;

(13) the Spokane Tribe had no such claim to amend, having settled the Claims Commission land claims of the Spokane Tribe with the United States in 1967;

(14) the Spokane Tribe has suffered significant harm from the construction and operation of Grand Coulee Dam;

(15) Spokane tribal acreage taken by the United States for the construction of Grand Coulee Dam equaled approximately 39 percent of Colville tribal acreage taken for construction of the dam;

(16) the payments and delegation made pursuant to this Act constitute fair and equitable compensation for the past

and continued use of Spokane tribal land for the production of hydropower at Grand Coulee Dam; and

(17) by vote of the Spokane tribal membership, the Spokane Tribe has resolved that the payments and delegation made pursuant to this Act constitute fair and equitable compensation for the past and continued use of Spokane tribal land for the production of hydropower at Grand Coulee Dam.

SEC. 3. PURPOSE.

The purpose of this Act is to provide fair and equitable compensation to the Spokane Tribe for the use of the land of the Spokane Tribe for the generation of hydropower by the Grand Coulee Dam.

SEC. 4. DEFINITIONS.

In this Act:

(1) **ADMINISTRATOR.**—The term “Administrator” means the Administrator of the Bonneville Power Administration or the head of any successor agency, corporation, or entity that markets power produced at Grand Coulee Dam.

(2) **COLVILLE SETTLEMENT AGREEMENT.**—The term “Colville Settlement Agreement” means the Settlement Agreement entered into between the United States and the Colville Tribes, signed by the United States on April 21, 1994, and by the Colville Tribes on April 16, 1994, to settle the claims of the Colville Tribes in Docket 181–D of the Indian Claims Commission, which docket was transferred to the United States Court of Federal Claims.

(3) **COLVILLE TRIBES.**—The term “Colville Tribes” means the Confederated Tribes of the Colville Reservation.

(4) **COMPUTED ANNUAL PAYMENT.**—The term “Computed Annual Payment” means the payment calculated under paragraph 2.b. of the Colville Settlement Agreement, without regard to any increase or decrease in the payment under section 2.d. of the agreement.

(5) **CONFEDERATED TRIBES ACT.**—The term “Confederated Tribes Act” means the Confederated Tribes of the Colville Reservation Grand Coulee Dam Settlement Act (Public Law 103–436; 108 Stat. 4577).

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

(7) **SPOKANE BUSINESS COUNCIL.**—The term “Spokane Business Council” means the governing body of the Spokane Tribe under the constitution of the Spokane Tribe.

(8) **SPOKANE TRIBE.**—The term “Spokane Tribe” means the Spokane Tribe of Indians of the Spokane Reservation, Washington.

SEC. 5. PAYMENTS BY ADMINISTRATOR.

Effective date.

(a) **INITIAL PAYMENT.**—On March 1, 2022, the Administrator shall pay to the Spokane Tribe an amount equal to 25 percent of the Computed Annual Payment for fiscal year 2021.

Deadlines.

(b) **SUBSEQUENT PAYMENTS.**—

(1) **IN GENERAL.**—Not later than March 1, 2023, and March 1 of each year thereafter through March 1, 2029, the Administrator shall pay the Spokane Tribe an amount equal to 25 percent of the Computed Annual Payment for the preceding fiscal year.

(2) MARCH 1, 2030, AND SUBSEQUENT YEARS.—Not later than March 1, 2030, and March 1 of each year thereafter, the Administrator shall pay the Spokane Tribe an amount equal to 32 percent of the Computed Annual Payment for the preceding fiscal year.

SEC. 6. TREATMENT AFTER AMOUNTS ARE PAID.

(a) USE OF PAYMENTS.—Payments made to the Spokane Business Council or Spokane Tribe under section 5 may be used or invested by the Spokane Business Council in the same manner and for the same purposes as other Spokane Tribe governmental amounts.

(b) NO TRUST RESPONSIBILITY OF THE SECRETARY.—Neither the Secretary nor the Administrator shall have any trust responsibility for the investment, supervision, administration, or expenditure of any amounts after the date on which the funds are paid to the Spokane Business Council or Spokane Tribe under section 5.

(c) TREATMENT OF FUNDS FOR CERTAIN PURPOSES.—The payments of all amounts to the Spokane Business Council and Spokane Tribe under section 5, and the interest and income generated by those amounts, shall be treated in the same manner as payments under section 6 of the Saginaw Chippewa Indian Tribe of Michigan Distribution of Judgment Funds Act (100 Stat. 677).

(d) TRIBAL AUDIT.—After the date on which amounts are paid to the Spokane Business Council or Spokane Tribe under section 5, the amounts shall—

- (1) constitute Spokane Tribe governmental amounts; and
- (2) be subject to an annual tribal government audit.

SEC. 7. REPAYMENT CREDIT.

(a) IN GENERAL.—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 (16 U.S.C. 838k))—

(1) in fiscal year 2030, \$2,700,000; and

(2) in each subsequent fiscal year in which the Administrator makes a payment under section 5, \$2,700,000.

(b) CREDITING.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), each deduction made under this section for the fiscal year shall be—

(A) 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

(B) 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 the fiscal year.

(2) DEDUCTION GREATER THAN AMOUNT OF INTEREST.—If, in an applicable fiscal year under paragraph (1), the deduction is greater than the amount of interest due on debt associated with the generation function for the fiscal year, 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 the fiscal year.

Applicability.

(3) CREDIT.—To the extent that a deduction exceeds the total amount of interest described in paragraphs (1) and (2), the deduction shall be applied as a credit against any other payments that the Administrator makes to the Secretary of the Treasury.

SEC. 8. EXTINGUISHMENT OF CLAIMS.

On the date that payment under section 5(a) is made to the Spokane Tribe, all monetary claims that the Spokane Tribe has or may have against the United States to a fair share of the annual hydropower revenues generated by the Grand Coulee Dam project for the past and continued use of land of the Spokane Tribe for the production of hydropower at Grand Coulee Dam shall be extinguished.

SEC. 9. ADMINISTRATION.

Nothing in this Act establishes any precedent or is binding on the Southwestern Power Administration, Western Area Power Administration, or Southeastern Power Administration.

Approved December 20, 2019.

LEGISLATIVE HISTORY—S. 216:

SENATE REPORTS: No. 116–4 (Comm. on Indian Affairs).

CONGRESSIONAL RECORD, Vol. 165 (2019):

June 27, considered and passed Senate.

Dec. 16, considered and passed House.