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2D SESSION

S. 1899

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

APRIL 1, 1998

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

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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Chippewa Cree Tribe
5 of the Rocky Boy's Reservation Indian Reserved Water
6 Rights Settlement Act of 1998”.

7 **SEC. 2. FINDINGS.**

8 Congress hereby finds that—

9 (1) in fulfillment of its trust responsibility to
10 Indian tribes and to promote tribal sovereignty and

1 economic self-sufficiency, it is the policy of the
2 United States to settle the water rights claims of the
3 tribes without lengthy and costly litigation;

4 (2) the Rocky Boy's Reservation was estab-
5 lished as a homeland for the Chippewa Cree Tribe;

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

10 (4) the Chippewa Cree Tribe's sovereignty and
11 Reservation economy depend on the development of
12 the Reservation's water resources;

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

18 (6) the Rocky Boy's Reservation is located in a
19 water short area of the State of Montana and the
20 Compact contemplates the development of additional
21 water supplies, including importation of domestic
22 water, to meet the needs of the Chippewa Cree
23 Tribe;

24 (7) proceedings to determine the full extent of
25 the Chippewa Cree Tribe's water rights are currently

1 pending before the Montana Water Court as a part
2 of In the Matter of the Adjudication of All Rights
3 to the Use of Water, Both Surface and Under-
4 ground, within the State of Montana;

5 (8) recognizing that final resolution of the gen-
6 eral stream adjudication will take many years and
7 entail great expense to all parties, prolong uncer-
8 tainty as to the availability of water supplies, and
9 seriously impair the long-term economic planning
10 and development of all parties, the Chippewa Cree
11 Tribe and the State of Montana entered into a
12 Water Rights Compact on April 14, 1997; and

13 (9) the allocation of water resources from the
14 Tiber Reservoir to the Tribe under this Act is
15 uniquely suited to the geographic, social, and eco-
16 nomic characteristics of the area and situation in-
17 volved.

18 **SEC. 3. PURPOSES OF ACT.**

19 The purposes of this Act are—

20 (1) to achieve a fair, equitable, and final settle-
21 ment of all claims to water rights in the State of
22 Montana for—

23 (A) the Chippewa Cree Tribe; and

24 (B) the United States of America for the
25 benefit of the Chippewa Cree Tribe;

1 (2) to approve, ratify, and confirm, as modified
2 herein, the Water Rights Compact entered into by
3 the Chippewa Cree Tribe of the Rocky Boy's Res-
4 ervation and the State of Montana on April 14,
5 1997, and to provide funding and other authoriza-
6 tion necessary to its implementation;

7 (3) to authorize the Secretary of the Interior to
8 execute and implement the Water Rights Compact
9 and to take such other actions as are necessary to
10 implement the Compact consistent with this Act;

11 (4) to authorize federal feasibility studies de-
12 signed to identify and analyze potential mechanisms
13 to enhance, through conservation or otherwise, water
14 supplies in North Central Montana, including, but
15 not limited to, mechanisms to import domestic water
16 supplies for the future growth of the Rocky Boy's
17 Indian Reservation;

18 (5) to authorize certain projects on the Rocky
19 Boy's Indian Reservation, Montana, in order to im-
20 plement the Compact;

21 (6) to authorize certain modifications to the
22 purposes and operation of the Bureau of Reclama-
23 tion's Tiber Dam and Lake Elwell on the Marias
24 River in Montana in order to implement the Com-
25 pact; and

1 (7) to authorize appropriation of funds nec-
2 essary for the implementation of the Compact.

3 **SEC. 4. DEFINITIONS.**

4 As used in this Act—

5 (1) “Compact” means the water rights compact
6 between the Chippewa Cree Tribe of the Rocky
7 Boy’s Reservation and the State of Montana pub-
8 lished at 85–20–601 MCA (1997).

9 (2) “Final” with reference to approval of the
10 decree in section 5(b) means completion of any di-
11 rect appeal to the Montana Supreme Court of a final
12 decree by the Water Court pursuant to 85–2–235,
13 MCA (1997), or to the Federal Court of Appeals, in-
14 cluding the expiration of the time in which a petition
15 for certiorari may be filed in the United States Su-
16 preme Court, denial of such a petition, or the
17 issuance of the Supreme Court’s mandate, whichever
18 occurs last;

19 (3) “Missouri River System” means the
20 mainstem of the Missouri River and its tributaries,
21 including but not limited to the Marias River;

22 (4) “Secretary” means the Secretary of the
23 United States Department of the Interior, or his or
24 her duly authorized representative;

1 (5) “Towe Ponds” means the reservoir or res-
 2 ervoirs referred to as “Stoneman Reservoir” in the
 3 Compact;

4 (6) “Tribal Compact Administration” means
 5 the activities assumed by the Tribe for implementa-
 6 tion of the Compact as set forth in article IV of the
 7 Compact;

8 (7) “Tribal Water Right” means the right of
 9 the Chippewa Cree Tribe of the Rocky Boy’s Res-
 10 ervation to divert, use, or store water as described
 11 by article III of the Compact;

12 (8) “Tribe” means the Chippewa Cree Tribe of
 13 the Rocky Boy’s Reservation and all officers, agents,
 14 and departments thereof;

15 (9) “Water development” includes all activities
 16 that involve the use of water or modification of
 17 water courses or water bodies in any way.

18 **SEC. 5. RATIFICATION OF COMPACT AND ENTRY OF DE-**
 19 **CREE.**

20 (a) WATER RIGHTS COMPACT APPROVED.—Except
 21 as modified by this Act, and to the extent the Compact
 22 does not conflict with this Act, the Water Rights Compact
 23 entered into by the Chippewa Cree Tribe of the Rocky
 24 Boy’s Reservation and the State of Montana on April 14,
 25 1997, is hereby approved, ratified and confirmed and the

1 Secretary shall execute and implement the Compact to-
2 gether with any amendments agreed to by the parties or
3 necessary to bring the Compact into conformity with this
4 Act, and to take such other actions as are necessary to
5 implement the Compact.

6 (b) APPROVAL OF “PROPOSED DECREE”.—No later
7 than 180 days after the date of the enactment of this Act,
8 the United States, the Tribe, or the State of Montana
9 shall petition the Montana Water Court, individually or
10 jointly, to enter and approve the “Proposed Decree”
11 agreed to by the United States, the Tribe, and the State
12 of Montana attached as appendix 1 to the Compact, or
13 any amended version thereof agreed to by the United
14 States, the Tribe and the State of Montana. Resort may
15 be had to the Federal District Court in the circumstances
16 set forth in article VII.B.4 of the Compact. In the event
17 the approval by the appropriate court, including any direct
18 appeal, does not become final within three (3) years fol-
19 lowing the filing of the decree, or the decree is approved
20 but is subsequently set aside by the appropriate court, the
21 Compact shall be void. The Secretary may act for the
22 United States to extend this three (3) year deadline twice
23 in one (1) year increments on agreement with the State
24 and the Tribe.

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

2 (a) ADMINISTRATION AND ENFORCEMENT.—As pro-
3 vided in the Compact, until the adoption and approval of
4 a tribal water code, the Secretary shall administer and en-
5 force the Tribal Water Right.

6 (b) TRIBAL MEMBER ENTITLEMENT.—Any entitle-
7 ment to Federal Indian reserved water of any tribal mem-
8 ber shall be satisfied solely from the water secured to the
9 Tribe by the Compact and shall be governed by the terms
10 and conditions thereof. Such entitlement shall be adminis-
11 tered by the Tribe pursuant to a tribal water code devel-
12 oped and adopted pursuant to article IV.A.2. of the Com-
13 pact, or by the Secretary pending the adoption and ap-
14 proval of the tribal water code.

15 (c) TEMPORARY TRANSFER OF TRIBAL WATER
16 RIGHT.—Notwithstanding any other provision of statutory
17 or common law, the Tribe may, with the approval of the
18 Secretary and subject to the limitations and conditions set
19 forth in the Compact, including limitation on transfer of
20 any portion of the Tribal Water Right to within the Mis-
21 souri River Basin, enter into a service contract, lease, ex-
22 change, or other agreement providing for the temporary
23 delivery, use, or transfer of the water rights confirmed to
24 the Tribe in the Compact; provided, however, that no serv-
25 ice contract, lease, exchange, or other agreement entered

1 into under this subsection may permanently alienate any
2 portion of the Tribal Water Right.

3 **SEC. 7. FEASIBILITY STUDIES AUTHORIZATION.**

4 (a) MUNICIPAL, RURAL AND INDUSTRIAL FEASIBIL-
5 ITY STUDY.—The Secretary of the Interior, through the
6 Bureau of Reclamation shall perform a municipal, rural,
7 and industrial (MR&I) feasibility study of water and relat-
8 ed resources in North Central Montana to evaluate alter-
9 natives for an MR&I supply for the Rocky Boy’s Reserva-
10 tion. The study shall include but not be limited to the fea-
11 sibility of releasing the Tribe’s Tiber allocation as provided
12 in section 8 of this Act into the Missouri River System
13 for later diversion to a treatment and delivery system for
14 the Rocky Boy’s Reservation. The MR&I Study shall in-
15 clude utilization of existing Federal and non-Federal stud-
16 ies and shall be planned and conducted in consultation
17 with other Federal agencies, the State of Montana, and
18 the Chippewa Cree Tribe.

19 (b) ACCEPTANCE OR PARTICIPATION IN IDENTIFIED
20 OFF-RESERVATION SYSTEM.—The United States, the
21 Chippewa Cree Tribe of the Rocky Boy’s Reservation, and
22 the State of Montana shall not be obligated to accept or
23 participate in any potential off-reservation water supply
24 system identified in the MR&I Feasibility Study author-
25 ized in subsection 7(a) of this Act.

1 (c) REGIONAL FEASIBILITY STUDY.—The Secretary,
 2 through the Bureau of Reclamation, shall conduct, pursu-
 3 ant to Reclamation Law, a Regional Feasibility Study to
 4 evaluate water and related resources in North Central
 5 Montana in order to determine the limitations of such re-
 6 sources and how they can best be managed and developed
 7 to serve the needs of the citizens of Montana. The Re-
 8 gional Study shall evaluate existing and potential water
 9 supplies, uses, and management; identify major water re-
 10 lated issues, including environmental, water supply and
 11 economic issues; evaluate opportunities to resolve such
 12 issues; and evaluate options for implementation of resolu-
 13 tions to issues. Because of the regional and international
 14 impact of the Regional Study, it may not be segmented.
 15 The Regional Study shall utilize, to the maximum extent
 16 possible, existing information and shall be planned and
 17 conducted in consultation with all affected interests, in-
 18 cluding interests in Canada.

19 **SEC. 8. TIBER RESERVOIR ALLOCATION.**

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

21 (1) The Secretary shall permanently allocate to
 22 the Tribe, without cost to the Tribe, 10,000 acre-
 23 feet per year of stored water from the water right
 24 of the Bureau of Reclamation in Lake Elwell, Lower
 25 Marias Unit, Upper Missouri Division, Pick-Sloan

1 Missouri Basin Program, Montana, measured at the
2 outlet works of the dam or at the diversion point
3 from the reservoir. The allocation shall be effective
4 when the requirements of section 5(b) of this Act
5 are met.

6 (2) The Secretary shall enter into an agreement
7 with the Tribe setting forth the terms of the alloca-
8 tion and providing for the Tribe's use or temporary
9 transfer of water stored in Lake Elwell, subject to
10 the terms and conditions of the Compact and this
11 Act.

12 (3) The allocation provided in this section shall
13 be subject to the prior reserved water rights, if any,
14 of any Indian tribe, or persons claiming water
15 through any Indian Tribe.

16 (b) USE AND TEMPORARY TRANSFER OF ALLOCA-
17 TION.—

18 (1) Subject to the limitations and conditions set
19 forth in the Compact and this Act, the Tribe shall
20 have the right to devote the water allocated by this
21 section to any use, including, but not limited to, ag-
22 ricultural, municipal, commercial, industrial, mining,
23 or recreational uses, within or outside the Rocky
24 Boy's Reservation.

1 (2) Notwithstanding any other provision of stat-
2 utory or common law, the Tribe may, with the ap-
3 proval of the Secretary and subject to the limitations
4 and conditions set forth in the Compact, enter into
5 a service contract, lease, exchange, or other agree-
6 ment providing for the temporary delivery, use, or
7 transfer of the water allocated by this section; pro-
8 vided, however, that no service contract, lease, ex-
9 change, or other agreement may permanently alien-
10 ate any portion of the tribal allocation.

11 (c) REMAINING STORAGE.—The United States shall
12 retain the right to use for any authorize purpose, any and
13 all storage remaining in Lake Elwell after the allocation
14 made to the Tribe in subsection (a)(1) of this section.

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

1 (e) ACT NOT PRECEDENTIAL.—The provisions of
 2 this Act regarding the allocation of water resources from
 3 the Tiber Reservoir to the Tribe shall not be precedent
 4 for any other Indian water right claims.

5 **SEC. 9. ON-RESERVATION WATER RESOURCES DEVELOP-**
 6 **MENT.**

7 (a) WATER DEVELOPMENT PROJECTS.—The Sec-
 8 retary of the Interior, through the Bureau of Reclamation,
 9 is authorized and directed to plan, design, and construct,
 10 or to provide, pursuant to subsection (b) of this section,
 11 for the planning, design, and construction of the following
 12 water development projects on the Rocky Boy's Reserva-
 13 tion:

14 (1) Bonneau Dam and Reservoir Enlargement.

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

17 (3) Brown's Dam Enlargement.

18 (4) Towe Ponds' Enlargement.

19 (5) Such other water development projects as
 20 the Tribe shall from time to time deem appropriate.

21 (b) IMPLEMENTATION AGREEMENT.—The Secretary,
 22 at the request of the Tribe, shall enter into an agreement
 23 with the Tribe to implement the provisions of this Act
 24 through the Tribe's Self-Government Compact and Annual
 25 Funding Agreement by which the Tribe shall plan, design,

1 and construct any or all of the projects authorized by this
2 Section.

3 (c) BUREAU OF RECLAMATION PROJECT ADMINIS-
4 TRATION.—The Secretary, through the Bureau of Rec-
5 lamation, has entered into an agreement with the Tribe,
6 pursuant to Public Law 93–638, as amended by the Self
7 Governance Act, defining and limiting the role of the Bu-
8 reau of Reclamation in its administration of the projects
9 authorized in subsection (a) of this section; establishing
10 the standards upon which the projects will be constructed;
11 and for other purposes necessary to implement this sec-
12 tion. This agreement shall be effective on the Tribe exer-
13 cising its right under subsection (b) of this section.

14 **SEC. 10. CHIPPEWA CREE INDIAN RESERVED WATER**
15 **RIGHTS SETTLEMENT FUND.**

16 (a) ESTABLISHMENT OF TRUST FUND.—There is
17 hereby established in the Treasury of the United States
18 a trust fund for the Chippewa Cree Tribe of the Rocky
19 Boy’s Reservation to be known as the “Chippewa Cree In-
20 dian Reserved Water Rights Settlement Trust Fund”.
21 Pursuant to the provisions of the Trust Fund Manage-
22 ment Act of 1994, 25 U.S.C. §§ 4001, et seq., the Tribe,
23 with the approval of the Secretary, may transfer the Fund
24 to a mutually agreed upon private financial institution.
25 The Fund shall consist of the following accounts:

1 (1) Tribal Compact Administration Account.

2 (2) Economic Development Account.

3 (3) Future Water Supply Facilities Account.

4 (b) FUND COMPOSITION.—The Fund shall consist of
 5 such amounts as are appropriated to its accounts in ac-
 6 cordance with the authorizations for appropriations in
 7 subsections (b) (1), (2), and (3) of section 11 of this Act
 8 together with all interest which accrues on the Fund: *Pro-*
 9 *vided*, That if the Tribe exercises its right pursuant to
 10 subsection (a) of this section to transfer the funds to a
 11 private financial institution, except as provided in the
 12 transfer agreement, the Secretary shall retain no oversight
 13 over the investment of the funds. In addition, the transfer
 14 agreement shall provide for the appropriate terms and
 15 conditions, if any, on expenditures from the Fund in addi-
 16 tion to the plans set forth in subsections (c)(2) and (c)(3)
 17 of this section.

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

21 (1) Except for \$400,000 necessary for capital
 22 expenditures in connection with tribal compact ad-
 23 ministration, only interest accrued on the Tribal
 24 Compact Administration Account shall be available

1 to satisfy the Tribe's obligations for tribal compact
2 administration under the provisions of the Compact.

3 (2) Both principal and accrued interest on the
4 Economic Development Account shall be available to
5 the Tribe for expenditure pursuant to an Economic
6 Development Plan approved by the Secretary.

7 (3) Both principal and accrued interest on the
8 Future Water Supply Facilities Account shall be
9 available to the Tribe for expenditure pursuant to a
10 Water Supply Plan approved by the Secretary.

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

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

22 (f) CONGRESSIONAL INTENT.—Nothing in this Act is
23 intended—

24 (1) to alter the trust responsibility of the
25 United States to the Tribe; or

1 (2) to prohibit the Tribe from seeking addi-
2 tional authorization or appropriation of funds for
3 tribal programs or purposes.

4 **SEC. 11. AUTHORIZATION OF APPROPRIATIONS.**

5 (a) FEASIBILITY STUDIES.—There is authorized to
6 be appropriated to the Department of Interior, Bureau of
7 Reclamation, not to exceed \$4,000,000 for the purpose of
8 conducting the Feasibility Studies authorized in section 7
9 (a) and (c) of this Act as follows:

10 (1) \$1,000,000 in fiscal year 1999 to be divided
11 equally between the two studies.

12 (2) \$3,000,000 in fiscal year 2000; \$500,000
13 for the study authorized in section 7(a) and the bal-
14 ance for the study authorized in section 7(c).

15 (b) CHIPPEWA CREE FUND.—There is authorized to
16 be appropriated to the Department of the Interior, Bureau
17 of Indian Affairs, for the Chippewa Cree Fund, estab-
18 lished in section 10 of this Act, \$21,000,000 as follows:

19 (1) TRIBAL COMPACT ADMINISTRATION AC-
20 COUNT.—For tribal compact administration assumed
21 by the Tribe under the Compact and this Act
22 \$3,000,000 in fiscal year 1999.

23 (2) ECONOMIC DEVELOPMENT ACCOUNT.—For
24 tribal economic development, \$3,000,000, in fiscal
25 year 2000.

1 (3) FUTURE WATER SUPPLY FACILITIES AC-
 2 COUNT.—For the total Federal contribution to the
 3 planning, design, construction, operation, mainte-
 4 nance and rehabilitation of a future Reservation
 5 water supply system, \$15,000,000 as follows:

6 (A) \$2,000,000 in fiscal year 1999.

7 (B) \$5,000,000 in fiscal year 2000.

8 (C) \$8,000,000 in fiscal year 2001.

9 (c) ON-RESERVATION WATER DEVELOPMENT.—
 10 There is authorized to be appropriated to the Department
 11 of the Interior, Bureau of Reclamation, \$24,000,000 for
 12 the construction of the on-Reservation water development
 13 projects authorized by section 9 of this Act as follows:

14 (1) \$13,000,000 in fiscal year 2000 for the
 15 planning, design and construction of the Bonneau
 16 Dam Enlargement. The Federal contribution is pro-
 17 vided for the development of additional capacity in
 18 Bonneau Reservoir for storage of water secured to
 19 the Tribe under the Compact.

20 (2) \$8,000,000 in fiscal year 2001 for: the
 21 planning, design and construction of the East Fork
 22 Dam and Reservoir enlargement (\$4,000,000), of
 23 the Brown's Dam and Reservoir enlargement
 24 (\$2,000,000), and of the Towe Ponds enlargement
 25 (\$2,000,000).

1 (3) \$3,000,000 in fiscal year 2002 for the plan-
2 ning, design, and construction of such other water
3 resource developments as the Tribe, with the ap-
4 proval of the Secretary, from time to time may deem
5 appropriate or for the completion of the four
6 projects enumerated in subsections 11(c) (1) and (2)
7 of this Act.

8 (4) Any unexpended balance in the funds ap-
9 propriated under paragraphs (c)(1) and (c)(2) of
10 this section, after substantial completion of all of the
11 projects enumerated in sections 9(a) (1), (2), (3),
12 and (4) shall be available to the Tribe first for com-
13 pletion of the enumerated projects and then for
14 other water resource development projects under sec-
15 tion 9(a)(5).

16 (d) ADMINISTRATION COSTS.—There is authorized to
17 be appropriated to the Department of the Interior, Bureau
18 of Reclamation, in fiscal year 2000, \$1,000,000 for its
19 costs of administration: *Provided*, That, if such costs ex-
20 ceed \$1,000,000, the Bureau of Reclamation may use
21 funds authorized for appropriation under subsection (c)
22 of this section for such costs: *Provided further*, That the
23 Bureau of Reclamation shall exercise its best efforts to
24 minimize such costs to avoid exceeding \$1,000,000.

1 (e) AVAILABILITY OF FUNDS.—The monies author-
 2 ized in section 11 (a) and (b)(1) shall be available for use
 3 immediately upon appropriation. Those monies deposited
 4 in the Chippewa Cree Fund accounts shall draw interest
 5 consistent with section 10(a), but the monies appropriated
 6 under section 11(b) (2) and (3), and 11(c) are not avail-
 7 able for expenditure until completion of the requirements
 8 of section 5(b) of this Act and execution of the waiver and
 9 release required of section 13(c).

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

13 **SEC. 12. STATE CONTRIBUTIONS TO SETTLEMENT.**

14 Consistent with article VI.C.2. and C.3. of the Com-
 15 pact, the State contribution to settlement shall be as fol-
 16 lows:

17 (1) \$150,000 for the following purposes: water
 18 quality discharge monitoring wells and monitoring
 19 program; diversion structure on Big Sandy Creek;
 20 conveyance structure on Box Elder Creek; and pur-
 21 chase of contract water from Lower Beaver Creek
 22 Reservoir.

23 (2) Subject to the availability of funds, the
 24 State shall provide services valued at \$400,000 for

1 administration required by the Compact and for
2 water quality sampling required by the Compact.

3 **SEC. 13. MISCELLANEOUS PROVISIONS.**

4 (a) NON-EXERCISE OF TRIBE'S RIGHTS.—The Tribe
5 shall not exercise the rights set forth in article VII(A)(3)
6 of the Compact.

7 (b) WAIVER OF SOVEREIGN IMMUNITY.—The United
8 States shall not be deemed to have waived its sovereign
9 immunity except to the extent provided in subsections (a),
10 (b), and (c) of section 208 of the Act of July 10, 1952
11 (43 U.S.C. 666).

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

14 (1) Upon passage of this Act, the Tribe shall
15 execute a waiver and release of the following claims
16 against the United States, the validity of which are
17 not recognized by the United States: *Provided*, That
18 the waiver and release of claims shall not be effec-
19 tive until completion of the appropriation of the
20 funds set forth in section 11 of this Act and comple-
21 tion of the requirements of section 5(b) of this Act.

22 (2) Any and all claims to water rights (includ-
23 ing water rights in surface water, groundwater, and
24 effluent), claims for injuries to water rights, claims
25 for loss or deprivation of use of water rights, and

1 claims for failure to acquire or develop water rights
2 for lands of the Tribe from time immemorial to the
3 date of ratification of the Compact by Congress.

4 (3) Any and all claims arising out of the nego-
5 tiation of the Compact and the settlement author-
6 ized by this Act.

7 (4) In the event the waiver and release does not
8 become effective as set forth in subsection (c)(1), the
9 United States shall be entitled to set-off against any
10 claim for damages asserted by the Tribe against the
11 United States any funds transferred to the Tribe
12 pursuant to section 11 and any interest accrued
13 thereon up to the date of set-off, and the United
14 States shall retain any other claims or defenses not
15 waived in this Act or in the Compact as modified by
16 this Act.

17 (d) OTHER TRIBES NOT ADVERSELY AFFECTED.—
18 Nothing in this Act is intended to quantify or otherwise
19 adversely affect the land and water rights, or claims or
20 entitlements to land or water of an Indian Tribe other
21 than the Chippewa Cree Tribe.

22 (e) ENVIRONMENTAL COMPLIANCE.—In implement-
23 ing the Compact, the Secretary shall comply with all as-
24 pects of the National Environmental Policy Act of 1969
25 (42 U.S.C. 4321 et seq.), and the Endangered Species Act

1 (16 U.S.C. 1531 et seq.), and all other applicable environ-
2 mental acts and regulations.

3 (f) EXECUTION OF COMPACT.—Execution of the
4 Compact by the Secretary as provided for in this Act shall
5 not constitute a major Federal Action under the National
6 Environmental Policy Act (42 U.S.C. 4321 et seq.). The
7 Secretary is directed to carry out all necessary environ-
8 mental compliance required by Federal law in implement-
9 ing this agreement.

10 (g) ACT NOT PRECEDENTIAL.—Nothing in this Act
11 shall be construed or interpreted as a precedent for the
12 litigation of reserved water rights or the interpretation or
13 administration of future water settlement acts.

○