

## Calendar No. 179

109TH CONGRESS  
1ST SESSION**H. R. 1797**

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IN THE SENATE OF THE UNITED STATES

JULY 26, 2005

Received and read the first time

JULY 27, 2005

Read the second time and placed on the calendar

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**AN ACT**

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.

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 “Spokane Tribe of Indians of the Spokane Reservation Grand Coulee Dam Equitable Compensation Settlement Act”.

7 **SEC. 2. FINDINGS.**

8       Congress finds that—

1 (1) from 1927 to 1931, at the direction of Con-  
2 gress, the Corps of Engineers investigated the Co-  
3 lumbia River and its tributaries to determine sites at  
4 which power could be produced at low cost;

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

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

23 (A) federalized the Grand Coulee Dam  
24 project; and

1 (B) began construction of the Grand Cou-  
2 lee Dam;

6 (A) development of the project affected the  
7 interests of the Spokane Tribe and the Confed-  
8 erated Tribes of the Colville Reservation; and

9 (B) it would be appropriate for the Spo-  
10 kane and Colville Tribes to receive a share of  
11 revenue from the disposition of power produced  
12 at Grand Coulee Dam;

15 (A) granted to the United States—

24 (ii) other interests in such land as re-  
25 quired and as designated by the Secretary

1 for certain construction activities under-  
2 taken in connection with the project; and

3 (B) provided that compensation for the  
4 land and other interests was to be determined  
5 by the Secretary in such amounts as the Sec-  
6 retary determined to be just and equitable;

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

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

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

11 (9) in 1994, following litigation under the Act  
12 of August 13, 1946 (commonly known as the “In-  
13 dian Claims Commission Act” (60 Stat. 1049, chap-  
14 ter 959; former 25 U.S.C. 70 et seq.)), Congress  
15 ratified the Colville Settlement Agreement, which re-  
16 quired—

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

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

1 (10) the Spokane Tribe, having suffered harm  
2 similar to that suffered by the Colville Tribes, did  
3 not file a claim within the Indian Claims Commis-  
4 sion Act's 5-year statute of limitations;

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

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

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

24 (16) the payments and land transfers made  
25 pursuant to this Act constitute fair and equitable

1 compensation for the past and continued use of Spokane  
2 tribal land for the production of hydropower at  
3 Grand Coulee Dam; and

4 (17) by vote of the Spokane tribal membership,  
5 the Spokane Tribe has resolved that the payments  
6 and land transfers made pursuant to this Act con-  
7 stitute fair and equitable compensation for the past  
8 and continued use of Spokane Tribal land for the  
9 production of hydropower at Grand Coulee Dam.

10 **SEC. 3. PURPOSE.**

11 The purpose of this Act is to provide fair and equi-  
12 table compensation to the Spokane Tribe for the use of  
13 its land for the generation of hydropower by the Grand  
14 Coulee Dam.

15 **SEC. 4. DEFINITIONS.**

16 In this Act:

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

22 (2) **COLVILLE SETTLEMENT AGREEMENT.**—The  
23 term “Colville Settlement Agreement” means the  
24 Settlement Agreement entered into between the  
25 United States and the Colville Tribes, signed by the

1       United States on April 21, 1994, and by the Colville  
2       Tribes on April 16, 1994, to settle the claims of the  
3       Colville Tribes in Docket 181-D of the Indian  
4       Claims Commission, which docket was transferred to  
5       the United States Court of Federal Claims.

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

9               (4) COMPUTED ANNUAL PAYMENT.—The term  
10       “Computed Annual Payment” means the payment  
11       calculated under paragraph 2.b. of the Colville Set-  
12       tlement Agreement, without regard to any increase  
13       or decrease in the payment under section 2.d. of the  
14       agreement.

15               (5) CONFEDERATED TRIBES ACT.—The term  
16       “Confederated Tribes Act” means the Confederated  
17       Tribes of the Colville Reservation Grand Coulee  
18       Dam Settlement Act (108 Stat. 4577).

19               (6) FUND.—The term “Fund” means the Spo-  
20       kane Tribe of Indians Settlement Fund established  
21       by section 5.

22               (7) SECRETARY.—The term “Secretary” means  
23       the Secretary of the Interior.

24               (8) SPOKANE BUSINESS COUNCIL.—The term  
25       “Spokane Business Council” means the governing

1 body of the Spokane Tribe under the constitution of  
2 the Spokane Tribe.

3 (9) SPOKANE TRIBE.—The term “Spokane  
4 Tribe” means the Spokane Tribe of Indians of the  
5 Spokane Reservation, Washington.

6 **SEC. 5. SETTLEMENT FUND.**

7 (a) ESTABLISHMENT OF FUND.—There is estab-  
8 lished in the Treasury of the United States an interest-  
9 bearing trust fund to be known as the “Spokane Tribe  
10 of Indians Settlement Fund”, consisting of—

11 (1) amounts deposited in the Fund under sub-  
12 section (b); and

13 (2) any interest earned on investment of  
14 amounts in the Fund.

15 (b) DEPOSITS.—From amounts made available under  
16 section 11—

17 (1) for fiscal year 2006, the Secretary shall de-  
18 posit in the Fund \$17,800,000; and

19 (2) for each of the 4 fiscal years thereafter, the  
20 Secretary shall deposit in the Fund \$12,800,000.

21 (c) MAINTENANCE AND INVESTMENT OF FUND.—  
22 The Fund shall be maintained and invested by the Sec-  
23 retary in accordance with the Act of June 24, 1938 (25  
24 U.S.C. 162a).

1       (d) PAYMENT OF FUNDS TO SPOKANE BUSINESS  
2 COUNCIL.—

3           (1) REQUEST.—At any time after funds are de-  
4 posited in the Fund, the Spokane Business Council  
5 may submit to the Secretary written notice of the  
6 adoption by the Spokane Business Council of a reso-  
7 lution requesting that the Secretary pay all or a por-  
8 tion of the amounts in the Fund to the Spokane  
9 Business Council.

10          (2) PAYMENT.—Not later than 60 days after  
11 receipt of a notice under paragraph (1), the Sec-  
12 retary shall pay the amount requested to the Spok-  
13 ne Business Council.

14       (e) USE OF FUNDS.—

15           (1) CULTURAL RESOURCE REPOSITORY AND IN-  
16 TERPRETIVE CENTER.—

17           (A) IN GENERAL.—Of the initial deposit  
18 under subsection (b)(1), \$5,000,000 shall be  
19 used by the Spokane Business Council for the  
20 planning, design, construction, equipping, and  
21 continuing operation and maintenance of a Cul-  
22 tural Resource Repository and Interpretive Cen-  
23 ter to—

24                   (i) house, preserve, and protect the  
25 burial remains, funerary objects, and other

1                   cultural resources affected by the operation  
2                   of the Grand Coulee Dam; and

3                   (ii) provide an interpretive and edu-  
4                   cational facility regarding the culture and  
5                   history of the Spokane Tribe.

6                   (B) EFFECT.—The funding under sub-  
7                   paragraph (A) does not alter or affect any au-  
8                   thority, obligation, or responsibility of the  
9                   United States under—

10                   (i) the Native American Graves Pro-  
11                   tection and Repatriation Act (25 U.S.C.  
12                   3001 et seq.);

13                   (ii) the Archaeological Resources Pro-  
14                   tection Act (16 U.S.C. 470aa et seq.);

15                   (iii) the National Historic Preserva-  
16                   tion Act (16 U.S.C. 470 et seq.); or

17                   (iv) the National Environmental Pol-  
18                   icy Act of 1969 (42 U.S.C. 4321 et seq.).

19                   (2) OTHER USES.—Of all other amounts depos-  
20                   ited in the Fund (including interest generated on  
21                   those amounts)—

22                   (A) 25 percent shall be—

23                   (i) reserved by the Spokane Business  
24                   Council; and

## 11 SEC. 6. PAYMENTS BY THE ADMINISTRATOR.

12 (a) INITIAL PAYMENT.—On March 1, 2007, the Ad-  
13 ministrator shall pay the Spokane Tribe—  
14 (1) the amount that is equal to 29 percent of  
15 the Computed Annual Payment for fiscal year 2005,  
16 adjusted to reflect the change in the Consumer Price  
17 Index for all urban consumers published by the De-  
18 partment of Labor, from the date on which the pay-  
19 ment for fiscal year 2005 was made to the Colville  
20 Tribes to the date on which payment is made to the  
21 Spokane Tribe under this subparagraph; and  
22 (2) the amount that is equal to 29 percent of  
23 the Computed Annual Payment for fiscal year 2006.  
24 (b) SUBSEQUENT PAYMENTS.—On or before March  
25 1, 2008, and March 1 of each year thereafter through

1 2033, the Administrator shall pay the Spokane Tribe the  
2 amount that is equal to 29 percent of the Computed An-  
3 nual Payment for the previous fiscal year.

4 (c) PAYMENT RECOVERY.—Pursuant to the payment  
5 schedule in subsection (b), the Administrator shall make  
6 commensurate cost reductions in expenditures on an an-  
7 nual basis to recover each payment to the Tribe. The Ad-  
8 ministrator shall include this specific cost reduction plan  
9 in the annual budget submitted to Congress.

10 (d) SUNSET.—This section shall have no force or ef-  
11 fect on and after the date that is 25 years after the date  
12 of the enactment of this Act.

13 **SEC. 7. TREATMENT AFTER FUNDS ARE PAID.**

14 (a) USE OF PAYMENTS.—Payments made to the Spo-  
15 kane Business Council or Spokane Tribe under section 5  
16 or 6 may be used or invested by the Business Council in  
17 the same manner and for the same purposes as other Spo-  
18 kane Tribe governmental funds.

19 (b) NO TRUST RESPONSIBILITY OF THE SEC-  
20 RETARY.—Neither the Secretary nor the Administrator  
21 shall have any trust responsibility for the investment, su-  
22 pervision, administration, or expenditure of any funds  
23 after the date on which the funds are paid to the Spokane  
24 Business Council or Spokane Tribe under section 5 or 6.

1       (c) TREATMENT OF FUNDS FOR CERTAIN PUR-  
2 POSES.—The payments of all funds to the Spokane Busi-  
3 ness Council and Spokane Tribe under sections 5 and 6,  
4 and the interest and income generated by the funds, shall  
5 be treated in the same manner as payments under section  
6 6 of the Saginaw Chippewa Indian Tribe of Michigan Dis-  
7 tribution of Judgment Funds Act (100 Stat. 677).

8       (d) TRIBAL AUDIT.—After the date on which funds  
9 are paid to the Spokane Business Council or Spokane  
10 Tribe under section 5 or 6, the funds shall—  
11           (1) constitute Spokane Tribe governmental  
12 funds; and  
13           (2) be subject to an annual tribal government  
14 audit.

15 **SEC. 8. REPAYMENT CREDIT.**

16       (a) IN GENERAL.—The Administrator shall deduct  
17 from the interest payable to the Secretary of the Treasury  
18 from net proceeds (as defined in section 13 of the Federal  
19 Columbia River Transmission System Act (16 U.S.C.  
20 838k))—  
21           (1) in fiscal year 2007, \$2,600,000; and  
22           (2) in each subsequent fiscal year in which the  
23 Administrator makes a payment under section 6,  
24 \$1,300,000.  
25       (b) CREDITING.—



1 **SEC. 9. TRANSFER OF ADMINISTRATIVE JURISDICTION**2 **AND RESTORATION OF OWNERSHIP OF LAND.**

3 (a) **TRANSFER OF JURISDICTION.**—The Secretary  
4 shall transfer administrative jurisdiction from the Bureau  
5 of Reclamation to the Bureau of Indian Affairs over—

6 (1) all land acquired by the United States  
7 under the Act of June 29, 1940 (16 U.S.C. 835d),  
8 that is located within the exterior boundaries of the  
9 Spokane Indian Reservation established pursuant to  
10 the Executive Order of January 18, 1881; and

11 (2) all land on the south bank of the Spokane  
12 River that—

13 (A) extends westerly from Little Falls  
14 Dam to the confluence of the Spokane River  
15 and Columbia River; and

16 (B) is located at or below contour elevation  
17 1290 feet above sea level.

18 (b) **RESTORATION OF OWNERSHIP IN TRUST.**—All  
19 land transferred under this section—

20 (1) shall be held in trust for the benefit and use  
21 of the Spokane Tribe; and

22 (2) shall become part of the Spokane Indian  
23 Reservation.

24 (c) **RESERVATION OF RIGHTS.**—

25 (1) **IN GENERAL.**—The United States reserves  
26 a perpetual right, power, privilege, and easement

1 over the land transferred under this section to carry  
2 out the Columbia Basin Project under the Columbia  
3 Basin Project Act (16 U.S.C. 835 et seq.).

4 (2) RIGHTS INCLUDED.—The rights reserved  
5 under paragraph (1) further include the right to op-  
6 erate, maintain, repair, and replace boat ramps,  
7 docks, and other recreational facilities owned or per-  
8 mitted by the United States and existing on the date  
9 of enactment of this Act.

10 (3) RETENTION OF NATIONAL PARK SYSTEM  
11 STATUS.—

12 (A) IN GENERAL.—Land transferred under  
13 this section that, before the date of enactment  
14 of this Act, was included in the Lake Roosevelt  
15 National Recreation Area shall remain part of  
16 the Recreation Area.

17 (B) ADMINISTRATION.—Nothing in this  
18 section affect the authority or responsibility of  
19 the National Park Service to administer the  
20 Lake Roosevelt National Recreation Area under  
21 the Act of August 25, 1916 (39 Stat. 535,  
22 chapter 408; 16 U.S.C. 1 et seq.).

23 (4) MEMORANDUM OF UNDERSTANDING.—The  
24 cognizant agencies of the Department of the Interior  
25 shall enter into a memorandum of understanding

1       with the Spokane Tribe to provide for coordination  
2       in applying this subsection.

3 **SEC. 10. SATISFACTION OF CLAIMS.**

4       Payment by the Secretary under section 5 and the  
5 Administrator under section 6 and restoration of owner-  
6 ship of land in trust under section 9 constitute full satis-  
7 faction of the claim of the Spokane Tribe to a fair share  
8 of the annual hydropower revenues generated by the  
9 Grand Coulee Dam project for the past and continued use  
10 of land of the Spokane Tribe for the production of hydro-  
11 power at Grand Coulee Dam.

12 **SEC. 11. AUTHORIZATION OF APPROPRIATIONS.**

13       There are authorized to be appropriated such sums  
14 as are necessary to carry out this Act.

15 **SEC. 12. PRECEDENT.**

16       Nothing in this Act establishes any precedent or is  
17 binding on the Southwestern Power Administration,

- 1 Western Area Power Administration, or Southeastern
- 2 Power Administration.

Passed the House of Representatives July 25, 2005.

Attest:

JEFF TRANDAHL,

*Clerk.*



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