

110TH CONGRESS
1ST SESSION

H. R. 487

IN THE SENATE OF THE UNITED STATES

MAY 8, 2007

Received; read twice and referred to the Committee on Indian Affairs

AN ACT

To amend the Cheyenne River Sioux Tribe Equitable Compensation Act to provide compensation to members of the Cheyenne River Sioux Tribe for damage resulting from the Oahe Dam and Reservoir Project, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Cheyenne River Sioux
3 Tribe Equitable Compensation Amendments Act of 2007”.

4 **SEC. 2. FINDINGS.**

5 (a) FINDINGS.—Congress finds that—

6 (1) the Pick-Sloan Missouri River Basin pro-
7 gram, authorized by section 9 of the Act of Decem-
8 ber 22, 1944 (commonly known as the “Flood Con-
9 trol Act of 1944”) (58 Stat. 891), was intended to
10 promote the general economic development of the
11 United States;

12 (2) the Oahe Dam and Reservoir Project—

13 (A) is a major component of the Pick-
14 Sloan Missouri River Basin program; and

15 (B) contributes to the national economy;

16 (3) the Oahe Dam and Reservoir Project flood-
17 ed the fertile bottom land of the Cheyenne River
18 Sioux Reservation, which greatly damaged the econ-
19 omy and cultural resources of the Cheyenne River
20 Sioux Tribe and caused the loss of many homes and
21 communities of members of the Tribe;

22 (4) Congress has provided compensation to sev-
23 eral Indian tribes, including the Cheyenne River
24 Sioux Tribe, that border the Missouri River and suf-
25 fered injury as a result of 1 or more of the Pick-
26 Sloan projects;

11 (b) PURPOSES.—The purposes of this Act are—

19 SEC. 3. CHEYENNE RIVER SIOUX TRIBE EQUITABLE COM-
20 PENSATION.

21 (a) FINDINGS AND PURPOSES.—Section 102 of the
22 Cheyenne River Sioux Tribe Equitable Compensation Act
23 (Public Law 106-511; 114 Stat. 2365) is amended—

24 (1) in subsection (a)(3), by striking subparagraph
25 graphs (A) and (B) and inserting the following:

1 “(A) the United States did not justly or
2 fairly compensate the Tribe and member land-
3 owners for the Oahe Dam and Reservation
4 project, under which the United States acquired
5 104,492 acres of land of the Tribe and member
6 landowners; and

7 “(B) the Tribe and member landowners
8 should be adequately compensated for that
9 land;”; and

10 (2) in subsection (b)(1), by inserting “and
11 member landowners” after “Tribe” each place it ap-
12 pears.

13 (b) DEFINITIONS.—Section 103 of the Cheyenne
14 River Sioux Tribe Equitable Compensation Act (Public
15 Law 106–511; 114 Stat. 2365) is amended—

16 (1) by redesignating paragraph (1) as para-
17 graph (3) and moving the paragraph so as to appear
18 after paragraph (2); and

19 (2) by inserting before paragraph (2) the fol-
20 lowing:

21 “(1) MEMBER LANDOWNER.—The term ‘mem-
22 ber landowner’ means a member of the Tribe (or an
23 heir of such a member) that owned land (including
24 land allotted under the Act of February 8, 1887 (24
25 Stat. 388, chapter 119)) located on the Cheyenne

1 River Sioux Reservation that was acquired by the
2 United States for the Oahe Dam and Reservoir
3 Project.”.

4 (c) CHEYENNE RIVER SIOUX TRIBAL RECOVERY
5 TRUST FUND.—Section 104 of the Cheyenne River Sioux
6 Tribe Equitable Compensation Act (Public Law 106–511;
7 114 Stat. 2365) is amended—

8 (1) by striking subsection (b) and inserting the
9 following:

10 “(b) FUNDING.—On the first day of the fiscal year
11 beginning after the date of enactment of the Cheyenne
12 River Sioux Tribe Equitable Compensation Amendments
13 Act of 2007 and on the first day of each of the following
14 4 fiscal years (referred to in this section as the ‘capitaliza-
15 tion dates’), the Secretary of the Treasury shall deposit
16 into the Fund, from amounts in the general fund of the
17 Treasury—

18 “(1) \$58,144,591.60; and

19 “(2) an additional amount equal to the amount
20 of interest that would have accrued if—

21 “(A) the amount described in paragraph
22 (1) had been—

23 “(i) credited to the principal account
24 as described in subsection (c)(2)(B)(i)(I)

9 “(B) the interest that would have accrued
10 under subparagraph (A) during the period de-
11 scribed in subparagraph (A)(ii) had been—

16 (2) by striking subsection (c) and inserting the
17 following:

18 "(c) INVESTMENTS.—

19 “(1) ELIGIBLE OBLIGATIONS.—Notwith-
20 standing any other provision of law, the Secretary of
21 the Treasury shall invest the Fund only in interest-
22 bearing obligations of the United States issued di-
23 rectly to the Fund.

24 “(2) INVESTMENT REQUIREMENTS.—

1 “(A) IN GENERAL.—The Secretary of the
2 Treasury shall invest the Fund in accordance
3 with this paragraph.

4 “(B) SEPARATE INVESTMENTS OF PRIN-
5 CIPAL AND INTEREST.—

6 “(i) PRINCIPAL ACCOUNT.—The
7 amounts deposited into the Fund under
8 subsection (b)(1) shall be—

9 “(I) credited to a principal ac-
10 count within the Fund (referred to in
11 this paragraph as the ‘principal ac-
12 count’); and

13 “(II) invested in accordance with
14 subparagraph (C).

15 “(ii) INTEREST ACCOUNT.—

16 “(I) IN GENERAL.—The interest
17 earned from investing amounts in the
18 principal account shall be—

19 “(aa) transferred to a sepa-
20 rate interest account within the
21 Fund (referred to in this para-
22 graph as the ‘interest account’);
23 and

24 “(bb) invested in accordance
25 with subparagraph (D).

1 “(II) CREDITING.—The interest
2 earned from investing amounts in the
3 interest account, and the amounts de-
4 posited into the Fund under sub-
5 section (b)(2), shall be credited to the
6 interest account.

7 “(C) INVESTMENT OF PRINCIPAL AC-
8 COUNT.—

9 “(i) INITIAL INVESTMENT.—Amounts
10 in the principal account shall be initially
11 invested in eligible obligations with the
12 shortest available maturity.

13 “(ii) SUBSEQUENT INVESTMENTS.—

14 “(I) IN GENERAL.—On the date
15 on which the amount in the principal
16 account is divisible into 3 substan-
17 tially equal portions, each portion
18 shall be invested in eligible obligations
19 that are identical (except for transfer-
20 ability) to the next-issued publicly-
21 issued Treasury obligations having a
22 2-year maturity, a 5-year maturity,
23 and a 10-year maturity, respectively.

24 “(II) MATURITY OF OBLIGA-
25 TIONS.—As each 2-year, 5-year, and

1 10-year eligible obligation under sub-
2 clause (I) matures, the principal of
3 the maturing eligible obligation shall
4 be initially invested in accordance with
5 clause (i) until the date on which the
6 principal is reinvested substantially
7 equally in the eligible obligations that
8 are identical (except for transfer-
9 ability) to the next-issued publicly-
10 issued Treasury obligations having 2-
11 year, 5-year, and 10-year maturities.

23 “(D) INVESTMENT OF INTEREST AC-
24 COUNT.—

1 “(i) BEFORE EACH CAPITALIZATION
2 DATE.—For purposes of subsection
3 (b)(2)(B), amounts considered as if they
4 were in the interest account of the Fund
5 shall be invested in eligible obligations that
6 are identical (except for transferability) to
7 publicly-issued Treasury obligations that
8 have maturities that coincide, to the greatest
9 extent practicable, with the applicable
10 capitalization date for the Fund.

11 “(ii) ON AND AFTER EACH CAPITAL-
12 IZATION DATE.—On and after each capital-
13 ization date, amounts in the interest ac-
14 count shall be invested and reinvested in
15 eligible obligations that are identical (ex-
16 cept for transferability) to publicly-issued
17 Treasury obligations that have maturities
18 that coincide, to the greatest extent prac-
19 ticable, with the date on which the
20 amounts will be withdrawn by the Sec-
21 retary of the Treasury and transferred to
22 the Secretary of the Interior for use in ac-
23 cordance with subsection (d).

24 “(E) PAR PURCHASE PRICE.—

1 “(i) IN GENERAL.—To preserve in
2 perpetuity the amount in the principal ac-
3 count, the purchase price of an eligible ob-
4 ligation purchased as an investment of the
5 principal account shall not exceed the par
6 value of the obligation.

7 “(ii) TREATMENT.—At the maturity
8 of an eligible obligation described in clause
9 (i), any discount from par in the purchase
10 price of the eligible obligation shall be
11 treated as interest paid at maturity.

12 “(F) HOLDING TO MATURITY.—Eligible
13 obligations purchased pursuant to this para-
14 graph shall be held to their maturities.

15 “(3) ANNUAL REVIEW OF INVESTMENT ACTIVI-
16 TIES.—Not less frequently than once each calendar
17 year, the Secretary of the Treasury shall review with
18 the Tribe the results of the investment activities and
19 financial status of the Fund during the preceding
20 calendar year.

21 “(4) MODIFICATIONS.—

22 “(A) IN GENERAL.—If the Secretary of the
23 Treasury determines that investing the Fund in
24 accordance with paragraph (2) is not prac-
25 ticable or would result in adverse consequences

1 to the Fund, the Secretary of the Treasury
2 shall modify the requirements to the least ex-
3 tent necessary, as determined by the Secretary
4 of the Treasury.

5 “(B) CONSULTATION.—Before making a
6 modification under subparagraph (A), the Sec-
7 retary of the Treasury shall consult with the
8 Tribe with respect to the modification.”;

9 (3) in subsection (d), by striking paragraph (1)
10 and inserting the following:

11 “(1) WITHDRAWAL OF INTEREST.—Beginning
12 on the first day of the fiscal year beginning after the
13 date of enactment of the Cheyenne River Sioux
14 Tribe Equitable Compensation Amendments Act of
15 2007, and on the first day of each fiscal year there-
16 after, the Secretary of the Treasury shall withdraw
17 and transfer all funds in the interest account of the
18 Fund to the Secretary of the Interior for use in ac-
19 cordance with paragraph (2), to be available without
20 fiscal year limitation.”; and

21 (4) in subsection (f)—

22 (A) by redesignating paragraphs (3) and
23 (4) as paragraphs (4) and (5), respectively; and

24 (B) by inserting after paragraph (2) the
25 following:

1 “(3) MEMBER LANDOWNERS.—

2 “(A) ADDITIONAL COMPENSATION.—

3 “(i) IN GENERAL.—Except as pro-
4 vided in clause (iii), the plan may provide
5 for the payment of additional compensa-
6 tion to member landowners for acquisition
7 of land by the United States for use in the
8 Oahe Dam and Reservoir Project.

9 “(ii) DETERMINATION OF HEIRS.—An
10 heir of a member land owner shall be de-
11 termined pursuant to the applicable pro-
12 bate code of the Tribe.

13 “(iii) EXCEPTION.—During any fiscal
14 year, payments of additional compensation
15 to a member landowner under clause (i)
16 shall not—

17 “(I) be deposited or transferred
18 into—

19 “(aa) the Individual Indian
20 Money account of the member
21 landowner; or

22 “(bb) any other fund held by
23 the United States on behalf of
24 the member landowner; or

5 “(B) PROVISION OF RECORDS.—To assist
6 the Tribe in processing claims of heirs of mem-
7 ber landowners for land acquired by the United
8 States for use in the Oahe Dam and Reservoir
9 Project, the Secretary of the Interior shall pro-
10 vide to the Tribe, in accordance with applicable
11 laws (including regulations), any record re-
12 quested by the Tribe to identify the heirs of
13 member landowners by the date that is 90 days
14 after the date of receipt of a request from the
15 Tribe.”.

16 (d) ELIGIBILITY OF TRIBE FOR CERTAIN PROGRAMS
17 AND SERVICES.—Section 105 of the Cheyenne River Sioux
18 Tribe Equitable Compensation Act (Public Law 106-511;
19 114 Stat. 2365) is amended in the matter preceding para-
20 graph (1) by inserting “or any member landowner” after
21 “Tribe”.

22 (e) EXTINGUISHMENT OF CLAIMS.—Section 107 of
23 the Cheyenne River Sioux Tribe Equitable Compensation
24 Act (Public Law 106-511; 114 Stat. 2368) is amended
25 to read as follows:

1 **“SEC. 107. EXTINGUISHMENT OF CLAIMS.**

2 “(a) IN GENERAL.—On the date on which the final
3 payment is deposited into the Fund under section 104(b),
4 all monetary claims that the Tribe has or may have
5 against the United States for the taking by the United
6 States of land and property of the Tribe for the Oahe Dam
7 and Reservoir Project of the Pick-Sloan Missouri River
8 Basin program shall be extinguished.

9 “(b) EFFECT OF ACCEPTANCE OF PAYMENT.—On
10 acceptance by a member landowner or an heir of a member
11 landowner of any payment by the Tribe for damages re-
12 sulting from the taking by the United States of land or
13 property of the Tribe for the Oahe Dam and Reservoir
14 Project of the Pick-Sloan Missouri River Basin program,
15 all monetary claims that the member landowner or heir
16 has or may have against the United States for the taking
17 shall be extinguished.”.

Passed the House of Representatives May 7, 2007.

Attest:

LORRAINE C. MILLER,

Clerk.