

114TH CONGRESS
2D SESSION

H. R. 5633

To authorize and implement the water rights compact among the Blackfeet Tribe of the Blackfeet Indian Reservation, the State of Montana, and the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 6, 2016

Mr. ZINKE introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To authorize and implement the water rights compact among the Blackfeet Tribe of the Blackfeet Indian Reservation, the State of Montana, and the United States, 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 “Blackfeet Water
5 Rights Settlement Act”.

6 **SEC. 2. PURPOSES.**

7 The purposes of this Act are—

1 (1) to achieve a fair, equitable, and final settle-
2 ment of claims to water rights in the State of Mon-
3 tana for—

4 (A) the Blackfeet Tribe of the Blackfeet
5 Indian Reservation; and

6 (B) the United States, for the benefit of
7 the Tribe and allottees;

8 (2) to authorize, ratify, and confirm the water
9 rights compact entered into by the Tribe and the
10 State, to the extent that the Compact is consistent
11 with this Act;

12 (3) to authorize and direct the Secretary of the
13 Interior—

14 (A) to execute the Compact; and

15 (B) to take any other action necessary to
16 carry out the Compact in accordance with this
17 Act; and

18 (4) to authorize funds necessary for the imple-
19 mentation of the Compact and this Act.

20 **SEC. 3. DEFINITIONS.**

21 In this Act:

22 (1) **ALLOTTEE.**—The term “allottee” means
23 any individual who holds a beneficial real property
24 interest in an allotment of Indian land that is—

25 (A) located within the Reservation; and

1 (B) held in trust by the United States.

2 (2) BIRCH CREEK AGREEMENT.—The term
3 “Birch Creek Agreement” means—

4 (A) the agreement between the Tribe and
5 the State regarding Birch Creek water use
6 dated January 31, 2008 (as amended on Feb-
7 ruary 13, 2009); and

8 (B) any amendment or exhibit (including
9 exhibit amendments) to that agreement that is
10 executed in accordance with this Act.

11 (3) BLACKFEET IRRIGATION PROJECT.—The
12 term “Blackfeet Irrigation Project” means the irri-
13 gation project authorized by the matter under the
14 heading “Montana” of title II of the Act of March
15 1, 1907 (34 Stat. 1035, chapter 2285), and admin-
16 istered by the Bureau of Indian Affairs.

17 (4) COMPACT.—The term “Compact” means—

18 (A) the Blackfeet-Montana water rights
19 compact dated April 15, 2009, as contained in
20 section 85–20–1501 of the Montana Code An-
21 notated (2015); and

22 (B) any amendment or exhibit (including
23 exhibit amendments) to the Compact that is ex-
24 ecuted to make the Compact consistent with
25 this Act.

1 (5) ENFORCEABILITY DATE.—The term “en-
2 forceability date” means the date described in sec-
3 tion 20(f).

4 (6) LAKE ELWELL.—The term “Lake Elwell”
5 means the water impounded on the Marias River in
6 the State by Tiber Dam, a feature of the Lower
7 Marias Unit of the Pick-Sloan Missouri River Basin
8 Program authorized by section 9 of the Act of De-
9 cember 22, 1944 (commonly known as the “Flood
10 Control Act of 1944”) (58 Stat. 891, chapter 665).

11 (7) MILK RIVER BASIN.—The term “Milk River
12 Basin” means the North Fork, Middle Fork, South
13 Fork, and main stem of the Milk River and tribu-
14 taries, from the headwaters to the confluence with
15 the Missouri River.

16 (8) MILK RIVER PROJECT.—

17 (A) IN GENERAL.—The term “Milk River
18 Project” means the Bureau of Reclamation
19 project conditionally approved by the Secretary
20 on March 14, 1903, pursuant to the Act of
21 June 17, 1902 (32 Stat. 388, chapter 1093),
22 commencing at Lake Sherburne Reservoir and
23 providing water to a point approximately 6
24 miles east of Nashua, Montana.

1 (B) INCLUSIONS.—The term “Milk River
2 Project” includes—

3 (i) the St. Mary Unit;

4 (ii) the Fresno Dam and Reservoir;

5 and

6 (iii) the Dodson pumping unit.

7 (9) MILK RIVER PROJECT WATER RIGHTS.—

8 The term “Milk River Project water rights” means
9 the water rights held by the Bureau of Reclamation
10 on behalf of the Milk River Project, as finally adju-
11 dicated by the Montana Water Court.

12 (10) MILK RIVER WATER RIGHT.—The term

13 “Milk River water right” means the portion of the
14 Tribal water rights described in article III.F of the
15 Compact and this Act.

16 (11) MISSOURI RIVER BASIN.—The term “Mis-

17 souri River Basin” means the hydrologic basin of
18 the Missouri River (including tributaries).

19 (12) MR&I SYSTEM.—The term “MR&I Sys-

20 tem” means the intake, treatment, pumping, stor-
21 age, pipelines, appurtenant items, and any other fea-
22 ture of the system, as generally described in the doc-
23 ument entitled “Blackfeet Regional Water System”,
24 prepared by DOWL HKM, and dated June 2010,

1 and modified by DOWL HKM, as set out in the ad-
2 dendum to the report dated March 2013.

3 (13) OM&R.—The term “OM&R” means—

4 (A) any recurring or ongoing activity asso-
5 ciated with the day-to-day operation of a
6 project;

7 (B) any activity relating to scheduled or
8 unscheduled maintenance of a project; and

9 (C) any activity relating to replacing a fea-
10 ture of a project.

11 (14) RESERVATION.—The term “Reservation”
12 means the Blackfeet Indian Reservation of Montana,
13 as—

14 (A) established by the Treaty of October
15 17, 1855 (11 Stat. 657); and

16 (B) modified by—

17 (i) the Executive order of July 5,
18 1873 (relating to the Blackfeet Reserve);

19 (ii) the Act of April 15, 1874 (18
20 Stat. 28, chapter 96);

21 (iii) the Executive order of August 19,
22 1874 (relating to the Blackfeet Reserve);

23 (iv) the Executive order of April 13,
24 1875 (relating to the Blackfeet Reserve);

1 (v) the Executive order of July 13,
2 1880 (relating to the Blackfeet Reserve);

3 (vi) the Agreement with the Blackfeet,
4 ratified by the Act of May 1, 1888 (25
5 Stat. 113, chapter 213); and

6 (vii) the Agreement with the Black-
7 feet, ratified by the Act of June 10, 1896
8 (29 Stat. 353, chapter 398).

9 (15) ST. MARY RIVER WATER RIGHT.—The
10 term “St. Mary River water right” means that por-
11 tion of the Tribal water rights described in article
12 III.G.1.a.i. of the Compact and this Act.

13 (16) ST. MARY UNIT.—

14 (A) IN GENERAL.—The term “St. Mary
15 Unit” means the St. Mary Storage Unit of the
16 Milk River Project authorized by Congress on
17 March 25, 1905.

18 (B) INCLUSIONS.—The term “St. Mary
19 Unit” includes—

20 (i) Sherburne Dam and Reservoir;

21 (ii) Swift Current Creek Dike;

22 (iii) Lower St. Mary Lake;

23 (iv) St. Mary Canal Diversion Dam;

24 and

1 (v) St. Mary Canal and appur-
2 tenances.

3 (17) SECRETARY.—The term “Secretary”
4 means the Secretary of the Interior.

5 (18) STATE.—The term “State” means the
6 State of Montana.

7 (19) SWIFTCURRENT CREEK BANK STABILIZA-
8 TION PROJECT.—The term “Swiftcurrent Creek
9 Bank Stabilization Project” means the project to
10 mitigate the physical and environmental problems
11 associated with the St. Mary Unit from Sherburne
12 Dam to the St. Mary River, as described in the re-
13 port entitled “Boulder/Swiftcurrent Creek Stabiliza-
14 tion Project, Phase II Investigations Report”, pre-
15 pared by DOWL HKM, and dated March 2012.

16 (20) TRIBAL WATER RIGHTS.—The term “Trib-
17 al water rights” means the water rights of the Tribe
18 described in article III of the Compact and this Act,
19 including—

20 (A) the Lake Elwell allocation provided to
21 the Tribe under section 9; and

22 (B) the instream flow water rights de-
23 scribed in section 19.

1 (21) **TRIBE.**—The term “Tribe” means the
2 Blackfoot Tribe of the Blackfoot Indian Reservation
3 of Montana.

4 **SEC. 4. RATIFICATION OF COMPACT.**

5 (a) **RATIFICATION.**—

6 (1) **IN GENERAL.**—As modified by this Act, the
7 Compact is authorized, ratified, and confirmed.

8 (2) **AMENDMENTS.**—Any amendment to the
9 Compact is authorized, ratified, and confirmed, to
10 the extent that such amendment is executed to make
11 the Compact consistent with this Act.

12 (b) **EXECUTION.**—

13 (1) **IN GENERAL.**—To the extent that the Com-
14 pact does not conflict with this Act, the Secretary
15 shall execute the Compact, including all exhibits to,
16 or parts of, the Compact requiring the signature of
17 the Secretary.

18 (2) **MODIFICATIONS.**—Nothing in this Act pre-
19 cludes the Secretary from approving any modifica-
20 tion to an appendix or exhibit to the Compact that
21 is consistent with this Act, to the extent that the
22 modification does not otherwise require congress-
23 sional approval under section 2116 of the Revised
24 Statutes (25 U.S.C. 177) or any other applicable
25 provision of Federal law.

1 (c) ENVIRONMENTAL COMPLIANCE.—

2 (1) IN GENERAL.—In implementing the Com-
3 pact and this Act, the Secretary shall comply with
4 all applicable provisions of—

5 (A) the Endangered Species Act of 1973
6 (16 U.S.C. 1531 et seq.);

7 (B) the National Environmental Policy Act
8 of 1969 (42 U.S.C. 4321 et seq.); and

9 (C) all other applicable environmental laws
10 and regulations.

11 (2) EFFECT OF EXECUTION.—

12 (A) IN GENERAL.—The execution of the
13 Compact by the Secretary under this section
14 shall not constitute a major Federal action for
15 purposes of the National Environmental Policy
16 Act of 1969 (42 U.S.C. 4321 et seq.).

17 (B) COMPLIANCE.—The Secretary shall
18 carry out all Federal compliance activities nec-
19 essary to implement the Compact and this Act.

20 **SEC. 5. MILK RIVER WATER RIGHT.**

21 (a) IN GENERAL.—With respect to the Milk River
22 water right, the Tribe—

23 (1) may continue the historical uses and the
24 uses in existence on the date of enactment of this
25 Act; and

1 (2) except as provided in article III.F.1.d of the
2 Compact, shall not develop new uses until the date
3 on which—

4 (A) the Tribe has entered into the agree-
5 ment described in subsection (c); or

6 (B) the Secretary has established the
7 terms and conditions described in subsection
8 (e).

9 (b) WATER RIGHTS ARISING UNDER STATE LAW.—
10 With respect to any water rights arising under State law
11 in the Milk River Basin owned or acquired by the Tribe,
12 the Tribe—

13 (1) may continue any use in existence on the
14 date of enactment of this Act; and

15 (2) shall not change any use until the date on
16 which—

17 (A) the Tribe has entered into the agree-
18 ment described in subsection (c); or

19 (B) the Secretary has established the
20 terms and conditions described in subsection
21 (e).

22 (c) TRIBAL AGREEMENT.—

23 (1) IN GENERAL.—In consultation with the
24 Commissioner of Reclamation and the Director of
25 the Bureau of Indian Affairs, the Tribe and the

1 Fort Belknap Indian Community shall enter into an
2 agreement to provide for the exercise of their respec-
3 tive water rights on the respective reservations of
4 the Tribe and the Fort Belknap Indian Community
5 in the Milk River.

6 (2) CONSIDERATIONS.—The agreement entered
7 into under paragraph (1) shall take into consider-
8 ation—

9 (A) the equal priority dates of the 2 Indian
10 tribes;

11 (B) the water supplies of the Milk River;
12 and

13 (C) historical, current, and future uses
14 identified by each Indian tribe.

15 (d) SECRETARIAL DETERMINATION.—

16 (1) IN GENERAL.—Not later than 120 days
17 after the date on which the agreement described in
18 subsection (c) is submitted to the Secretary, the Sec-
19 retary shall review and approve or disapprove the
20 agreement.

21 (2) APPROVAL.—The Secretary shall approve
22 the agreement if the Secretary finds that the agree-
23 ment—

24 (A) equitably accommodates the interests
25 of each Indian tribe in the Milk River;

1 (B) adequately considers the factors de-
2 scribed in subsection (c)(2); and

3 (C) is otherwise in accordance with appli-
4 cable law.

5 (3) DEADLINE EXTENSION.—The deadline to
6 review the agreement described in paragraph (1)
7 may be extended by the Secretary after consultation
8 with the Tribe and the Fort Belknap Indian Com-
9 munity.

10 (e) SECRETARIAL DECISION.—

11 (1) IN GENERAL.—If the Tribe and the Fort
12 Belknap Indian Community do not, by 3 years after
13 the Secretary certifies under section 20(f)(5) that
14 the Tribal membership has approved the Compact
15 and this Act, enter into an agreement approved
16 under subsection d(2), the Secretary, in the Sec-
17 retary's sole discretion, shall establish, after con-
18 sultation with the Tribe and the Fort Belknap In-
19 dian Community, terms and conditions that reflect
20 the considerations described in subsection (c)(2) by
21 which the respective water rights of the Tribe and
22 the Fort Belknap Indian Community in the Milk
23 River may be exercised.

24 (2) CONSIDERATION AS FINAL AGENCY AC-
25 TION.—The establishment by the Secretary of terms

1 and conditions under paragraph (1) shall be consid-
2 ered to be a final agency action for purposes of re-
3 view under chapter 7 of title 5, United States Code.

4 (3) JUDICIAL REVIEW.—An action for judicial
5 review pursuant to this section shall be brought by
6 not later than the date that is 1 year after the date
7 of notification of the establishment of the terms and
8 conditions under this subsection.

9 (4) INCORPORATION INTO DECREES.—The
10 agreement under subsection (c), or the decision of
11 the Secretary under this subsection, shall be filed
12 with the Montana Water Court, or the district court
13 with jurisdiction, for incorporation into the final de-
14 crees of the Tribe and the Fort Belknap Indian
15 Community.

16 (5) EFFECTIVE DATE.—The agreement under
17 subsection (c) and a decision of the Secretary under
18 this subsection—

19 (A) shall be effective immediately; and

20 (B) may not be modified absent—

21 (i) the approval of the Secretary; and

22 (ii) the consent of the Tribe and the

23 Fort Belknap Indian Community.

24 (f) USE OF FUNDS.—The Secretary shall distribute
25 equally the funds made available under section

1 18(a)(2)(C)(ii) to the Tribe and the Fort Belknap Indian
2 Community to use to reach an agreement under this sec-
3 tion, including for technical analyses and legal and other
4 related efforts.

5 **SEC. 6. WATER DELIVERY THROUGH MILK RIVER PROJECT.**

6 (a) IN GENERAL.—Subject to the availability of ap-
7 propriations, the Secretary, acting through the Commis-
8 sioner of Reclamation, shall carry out the activities au-
9 thorized under this section with respect to the St. Mary
10 River water right.

11 (b) TREATMENT.—Notwithstanding article IV.D.4 of
12 the Compact, any responsibility of the United States with
13 respect to the St. Mary River water right shall be limited
14 to, and fulfilled pursuant to—

15 (1) subsection (c) of this section; and

16 (2) subsection (b)(3) of section 16 and sub-
17 section (a)(1)(C) of section 18.

18 (c) WATER DELIVERY CONTRACT.—

19 (1) IN GENERAL.—Not later than 180 days
20 after the enforceability date, the Secretary shall
21 enter into a water delivery contract with the Tribe
22 for the delivery of not greater than 5,000 acre-feet
23 per year of the St. Mary River water right through
24 Milk River Project facilities to the Tribe or another
25 entity specified by the Tribe.

1 (2) TERMS AND CONDITIONS.—The contract
2 under paragraph (1) shall establish the terms and
3 conditions for the water deliveries described in para-
4 graph (1) in accordance with the Compact and this
5 Act.

6 (3) REQUIREMENTS.—The water delivery con-
7 tract under paragraph (1) shall include provisions
8 requiring that—

9 (A) the contract shall be without limit as
10 to term;

11 (B) the Tribe, and not the United States,
12 shall collect, and shall be entitled to, all consid-
13 eration due to the Tribe under any lease, con-
14 tract, or agreement entered into by the Tribe
15 pursuant to subsection (f);

16 (C) the United States shall have no obliga-
17 tion to monitor, administer, or account for—

18 (i) any funds received by the Tribe as
19 consideration under any lease, contract, or
20 agreement entered into by the Tribe pursu-
21 ant to subsection (f); or

22 (ii) the expenditure of such funds;

23 (D) if water deliveries under the contract
24 are interrupted for an extended period of time
25 because of damage to, or a reduction in the ca-

1 capacity of, St. Mary Unit facilities, the rights of
2 the Tribe shall be treated in the same manner
3 as the rights of other contractors receiving
4 water deliveries through the Milk River Project
5 with respect to the water delivered under this
6 section;

7 (E) deliveries of water under this section
8 shall be—

9 (i) limited to not greater than 5,000
10 acre-feet of water in any 1 year;

11 (ii) consistent with operations of the
12 Milk River Project and without additional
13 costs to the Bureau of Reclamation, in-
14 cluding operation, maintenance, and re-
15 placement costs; and

16 (iii) without additional cost to the
17 Milk River Project water users; and

18 (F) the Tribe shall be required to pay
19 OM&R for water delivered under this section.

20 (d) SHORTAGE SHARING OR REDUCTION.—

21 (1) IN GENERAL.—The 5,000 acre-feet per year
22 of water delivered under paragraph (3)(E)(i) of sub-
23 section (c) shall not be subject to shortage sharing
24 or reduction, except as provided in paragraph (3)(D)
25 of that subsection.

1 (2) NO INJURY TO MILK RIVER PROJECT
2 WATER USERS.—Notwithstanding article IV.D.4 of
3 the Compact, any reduction in the Milk River
4 Project water supply caused by the delivery of water
5 under subsection (c) shall not constitute injury to
6 Milk River Project water users.

7 (e) SUBSEQUENT CONTRACTS.—

8 (1) IN GENERAL.—As part of the studies au-
9 thorized by section 7(c)(1), the Secretary, acting
10 through the Commissioner of Reclamation, and in
11 cooperation with the Tribe, shall identify alternatives
12 to provide to the Tribe water from the St. Mary
13 River water right in quantities greater than the
14 5,000 acre-feet per year of water described in sub-
15 section (c)(3)(E)(i).

16 (2) CONTRACT FOR WATER DELIVERY.—If the
17 Secretary determines under paragraph (1) that more
18 than 5,000 acre-feet per year of the St. Mary River
19 water right can be delivered to the Tribe, the Sec-
20 retary shall offer to enter into 1 or more contracts
21 with the Tribe for the delivery of that water, subject
22 to the requirements of subsection (c)(3), except sub-
23 section (c)(3)(E)(i), and this subsection.

24 (3) TREATMENT.—Any delivery of water under
25 this subsection shall be subject to reduction in the

1 same manner as for Milk River Project contract
2 holders.

3 (f) SUBCONTRACTS.—

4 (1) IN GENERAL.—The Tribe may enter into
5 any subcontract for the delivery of water under this
6 section to a third party, in accordance with section
7 15(e).

8 (2) COMPLIANCE WITH OTHER LAW.—All sub-
9 contracts described in paragraph (1) shall comply
10 with—

11 (A) this Act;

12 (B) the Compact;

13 (C) the tribal water code; and

14 (D) other applicable law.

15 (3) NO LIABILITY.—The Secretary shall not be
16 liable to any party, including the Tribe, for any term
17 of, or any loss or other detriment resulting from, a
18 lease, contract, or other agreement entered into pur-
19 suant to this subsection.

20 (g) EFFECT OF PROVISIONS.—Nothing in this sec-
21 tion—

22 (1) precludes the Tribe from taking the water
23 described in subsection (e)(3)(E)(i), or any addi-
24 tional water provided under subsection (e), from the
25 direct flow of the St. Mary River; or

1 sections (c) and (e) of section 6, together with any use
2 by the Tribe of that water in accordance with this Act—

3 (1) shall be considered to be an authorized pur-
4 pose of the Milk River Project; and

5 (2) shall not change the priority date of any
6 Tribal water rights.

7 (c) ST. MARY RIVER STUDIES.—

8 (1) IN GENERAL.—Subject to the availability of
9 appropriations, the Secretary, in cooperation with
10 the Tribe and the State, shall conduct—

11 (A) an appraisal study—

12 (i) to develop a plan for the manage-
13 ment and development of water supplies in
14 the St. Mary River Basin and Milk River
15 Basin, including the St. Mary River and
16 Milk River water supplies for the Tribe
17 and the Milk River water supplies for the
18 Fort Belknap Indian Community; and

19 (ii) to identify alternatives to develop
20 additional water of the St. Mary River for
21 the Tribe; and

22 (B) a feasibility study—

23 (i) using the information resulting
24 from the appraisal study conducted under
25 paragraph (1) and such other information

1 as is relevant, to evaluate the feasibility
2 of—

3 (I) alternatives for the rehabilita-
4 tion of the St. Mary Diversion Dam
5 and Canal; and

6 (II) increased storage in Fresno
7 Dam and Reservoir; and

8 (ii) to create a cost allocation study
9 that is based on the authorized purposes
10 described in subsections (a) and (b).

11 (2) COOPERATIVE AGREEMENT.—On request of
12 the Tribe, the Secretary shall enter into a coopera-
13 tive agreement with the Tribe with respect to the
14 portion of the appraisal study described in para-
15 graph (1)(A).

16 (3) COSTS NONREIMBURSABLE.—The cost of
17 the studies under this subsection shall not be—

18 (A) considered to be a cost of the Milk
19 River Project; or

20 (B) reimbursable in accordance with the
21 reclamation laws.

22 (d) SWIFTCURRENT CREEK BANK STABILIZATION.—

23 (1) IN GENERAL.—Subject to the availability of
24 appropriations, the Secretary, acting through the
25 Commissioner of Reclamation, shall carry out appro-

1 appropriate activities concerning the Swiftcurrent Creek
2 Bank Stabilization Project, including—

3 (A) a review of the final project design;

4 and

5 (B) value engineering analyses.

6 (2) MODIFICATION OF FINAL DESIGN.—Prior to
7 beginning construction activities for the Swiftcurrent
8 Creek Bank Stabilization Project, on the basis of the
9 review conducted under paragraph (1), the Secretary
10 shall negotiate with the Tribe appropriate changes,
11 if any, to the final design—

12 (A) to ensure compliance with applicable
13 industry standards;

14 (B) to improve the cost-effectiveness of the
15 Swiftcurrent Creek Bank Stabilization Project;
16 and

17 (C) to ensure that the Swiftcurrent Creek
18 Bank Stabilization Project may be constructed
19 using only the amounts made available under
20 section 18.

21 (3) APPLICABILITY OF ISDEAA.—At the request
22 of the Tribe, and in accordance with the Indian Self-
23 Determination and Education Assistance Act (25
24 U.S.C. 450 et seq.), the Secretary shall enter into 1

1 or more agreements with the Tribe to carry out the
2 Swiftcurrent Bank Stabilization Project.

3 (e) ADMINISTRATION.—The Commissioner of Rec-
4 lamation and the Tribe shall negotiate the cost of any
5 oversight activity carried out by the Bureau of Reclama-
6 tion under any agreement entered into under this section,
7 subject to the condition that the total cost for the over-
8 sight shall not exceed 4 percent of the total costs incurred
9 under this section.

10 (f) MILK RIVER PROJECT RIGHTS-OF-WAY AND
11 EASEMENTS.—

12 (1) IN GENERAL.—Subject to paragraphs (2)
13 and (3), the Tribe shall grant the United States a
14 right-of-way on Reservation land owned by the Tribe
15 for all uses by the Milk River Project (permissive or
16 otherwise) in existence as of December 31, 2015, in-
17 cluding all facilities, flowage easements, and access
18 easements necessary for the operation and mainte-
19 nance of the Milk River Project.

20 (2) AGREEMENT REGARDING EXISTING USES.—
21 The Tribe and the Secretary shall enter into an
22 agreement for a process to determine the location,
23 nature, and extent of the existing uses referenced in
24 this subsection. The agreement shall require that—

1 (A) a panel of three individuals determine
2 the location, nature, and extent of existing uses
3 necessary for the operation and maintenance of
4 the Milk River Project (the “Panel Determina-
5 tion”), with the Tribe appointing one represent-
6 ative of the Tribe, the Secretary appointing one
7 representative of the Secretary, and those two
8 representatives jointly appointing a third indi-
9 vidual;

10 (B) if the Panel Determination is unani-
11 mous, the Tribe grant a right-of-way to the
12 United States for the existing uses identified in
13 the Panel Determination in accordance with ap-
14 plicable law without additional compensation;

15 (C) if the Panel Determination is not
16 unanimous—

17 (i) the Secretary adopt the Panel De-
18 termination with any amendments the Sec-
19 retary reasonably determines necessary to
20 correct any clear error (the “Interior De-
21 termination”), provided that if any portion
22 of the Panel Determination is unanimous,
23 the Secretary will not amend that portion;
24 and

1 (ii) the Tribe grant a right-of-way to
2 the United States for the existing uses
3 identified in the Interior Determination in
4 accordance with applicable law without ad-
5 ditional compensation, with the agreement
6 providing for the timing of the grant to
7 take into consideration the possibility of
8 review under subsection (f)(5).

9 (3) EFFECT.—Determinations made under this
10 subsection—

11 (A) do not address title as between the
12 United States and the Tribe; and

13 (B) do not apply to any new use of Res-
14 ervation land by the United States for the Milk
15 River Project after December 31, 2015.

16 (4) INTERIOR DETERMINATION AS FINAL AGEN-
17 CY ACTION.—Any determination by the Secretary
18 under paragraph (2)(C) shall be considered to be a
19 final agency action for purposes of review under
20 chapter 7 of title 5, United States Code.

21 (5) JUDICIAL REVIEW.—An action for judicial
22 review pursuant to this section shall be brought by
23 not later than the date that is 1 year after the date
24 of notification of the Interior Determination.

1 (g) FUNDING.—The total amount of obligations in-
2 curred by the Secretary shall not exceed—

3 (1) \$3,800,000 to carry out subsection (c);

4 (2) \$20,700,000 to carry out subsection (d);

5 and

6 (3) \$3,100,000 to carry out subsection (f).

7 **SEC. 8. ST. MARY CANAL HYDROELECTRIC POWER GENERA-**
8 **TION.**

9 (a) BUREAU OF RECLAMATION JURISDICTION.—Ef-
10 fective beginning on the date of enactment of this Act,
11 the Commissioner of Reclamation shall have exclusive ju-
12 risdiction to authorize the development of hydropower on
13 the St. Mary Unit.

14 (b) RIGHTS OF TRIBE.—

15 (1) EXCLUSIVE RIGHT OF TRIBE.—Subject to
16 paragraph (2) and notwithstanding any other provi-
17 sion of law, the Tribe shall have the exclusive right
18 to develop and market hydroelectric power of the St.
19 Mary Unit.

20 (2) LIMITATIONS.—The exclusive right de-
21 scribed in paragraph (1)—

22 (A) shall expire on the date that is 15
23 years after the date of enactment of an Act ap-
24 propriating funds for rehabilitation of the St.
25 Mary Unit; but

1 (B) may be extended by the Secretary at
2 the request of the Tribe.

3 (3) OM&R COSTS.—Effective beginning on the
4 date that is 10 years after the date on which the
5 Tribe begins marketing hydroelectric power gen-
6 erated from the St. Mary Unit to any third party,
7 the Tribe shall make annual payments for operation,
8 maintenance, and replacement costs attributable to
9 the direct use of any facilities by the Tribe for hy-
10 droelectric power generation, in amounts determined
11 in accordance with the guidelines and methods of the
12 Bureau of Reclamation for assessing operation,
13 maintenance, and replacement charges.

14 (c) BUREAU OF RECLAMATION COOPERATION.—The
15 Commissioner of Reclamation shall cooperate with the
16 Tribe in the development of any hydroelectric power gen-
17 eration project under this section.

18 (d) AGREEMENT.—Before construction of a hydro-
19 electric power generation project under this section, the
20 Tribe shall enter into an agreement with the Commis-
21 sioner of Reclamation that includes provisions—

22 (1) requiring that—

23 (A) the design, construction, and operation
24 of the project shall be consistent with the Bu-
25 reau of Reclamation guidelines and methods for

1 hydroelectric power development at Bureau fa-
2 cilities, as appropriate; and

3 (B) the hydroelectric power generation
4 project will not impair the efficiencies of the
5 Milk River Project for authorized purposes;

6 (2) regarding construction and operating cri-
7 teria and emergency procedures; and

8 (3) under which any modification proposed by
9 the Tribe to a facility owned by the Bureau of Rec-
10 lamation shall be subject to review and approval by
11 the Secretary, acting through the Commissioner of
12 Reclamation.

13 (e) USE OF HYDROELECTRIC POWER BY TRIBE.—
14 Any hydroelectric power generated in accordance with this
15 section shall be used or marketed by the Tribe.

16 (f) REVENUES.—The Tribe shall collect and retain
17 any revenues from the sale of hydroelectric power gen-
18 erated by a project under this section.

19 (g) LIABILITY OF UNITED STATES.—The United
20 States shall have no obligation to monitor, administer, or
21 account for—

22 (1) any revenues received by the Tribe under
23 this section; or

24 (2) the expenditure of those revenues.

1 (h) PREFERENCE.—During any period for which the
2 exclusive right of the Tribe described in subsection (b)(1)
3 is not in effect, the Tribe shall have a preference to de-
4 velop hydropower on the St. Mary Unit facilities, in ac-
5 cordance with Bureau of Reclamation guidelines and
6 methods for hydroelectric power development at Bureau
7 facilities.

8 **SEC. 9. STORAGE ALLOCATION FROM LAKE ELWELL.**

9 (a)(1) STORAGE ALLOCATION TO TRIBE.—The Sec-
10 retary shall allocate to the Tribe 45,000 acre-feet per year
11 of water stored in Lake Elwell for use by the Tribe for
12 any beneficial purpose on or off the Reservation, under
13 a water right held by the United States and managed by
14 the Bureau of Reclamation, as measured at the outlet
15 works of Tiber Dam or through direct pumping from Lake
16 Elwell.

17 (2) REDUCTION.—Up to 10,000 acre-feet per year of
18 water allocated to the Tribe pursuant to paragraph (1)
19 will be subject to an acre-foot for acre-foot reduction if
20 depletions from the Tribal water rights above Lake Elwell
21 exceed 88,000 acre-feet per year of water because of New
22 Development (as defined in article II.37 of the Compact).

23 (b) TREATMENT.—

1 (1) IN GENERAL.—The allocation to the Tribe
2 under subsection (a) shall be considered to be part
3 of the Tribal water rights.

4 (2) PRIORITY DATE.—The priority date of the
5 allocation to the Tribe under subsection (a) shall be
6 the priority date of the Lake Elwell water right held
7 by the Bureau of Reclamation.

8 (3) ADMINISTRATION.—The Tribe shall admin-
9 ister the water allocated under subsection (a) in ac-
10 cordance with the Compact and this Act.

11 (c) ALLOCATION AGREEMENT.—

12 (1) IN GENERAL.—As a condition of receiving
13 an allocation under this section, the Tribe shall
14 enter into an agreement with the Secretary to estab-
15 lish the terms and conditions of the allocation, in ac-
16 cordance with the Compact and this Act.

17 (2) INCLUSIONS.—The agreement under para-
18 graph (1) shall include provisions establishing that—

19 (A) the agreement shall be without limit as
20 to term;

21 (B) the Tribe, and not the United States,
22 shall be entitled to all consideration due to the
23 Tribe under any lease, contract, or agreement
24 entered into by the Tribe pursuant to sub-
25 section (d);

1 (C) the United States shall have no obliga-
2 tion to monitor, administer, or account for—

3 (i) any funds received by the Tribe as
4 consideration under any lease, contract, or
5 agreement entered into by the Tribe pursu-
6 ant to subsection (d); or

7 (ii) the expenditure of those funds;

8 (D) if the capacity or function of Lake
9 Elwell facilities are significantly reduced, or are
10 anticipated to be significantly reduced, for an
11 extended period of time, the Tribe shall have
12 the same rights as other storage contractors
13 with respect to the allocation under this section;

14 (E) the costs associated with the construc-
15 tion of the storage facilities at Tiber Dam allo-
16 cable to the Tribe shall be nonreimbursable;

17 (F) no water service capital charge shall be
18 due or payable for any water allocated to the
19 Tribe pursuant to this section or the allocation
20 agreement, regardless of whether that water is
21 delivered for use by the Tribe or under a lease,
22 contract, or by agreement entered into by the
23 Tribe pursuant to subsection (d);

24 (G) the Tribe shall not be required to
25 make payments to the United States for any

1 water allocated to the Tribe under this Act or
2 the allocation agreement, except for each acre-
3 foot of stored water leased or transferred for in-
4 dustrial purposes as described in subparagraph
5 (H);

6 (H) for each acre-foot of stored water
7 leased or transferred by the Tribe for industrial
8 purposes—

9 (i) the Tribe shall pay annually to the
10 United States an amount necessary to
11 cover the proportional share of the annual
12 operation, maintenance, and replacement
13 costs allocable to the quantity of water
14 leased or transferred by the Tribe for in-
15 dustrial purposes; and

16 (ii) the annual payments of the Tribe
17 shall be reviewed and adjusted, as appro-
18 priate, to reflect the actual operation,
19 maintenance, and replacement costs for
20 Tiber Dam; and

21 (I) the adjustment process identified in
22 subsection (a)(1) will be based on specific enu-
23 merated provisions.

24 (d) AGREEMENTS BY TRIBE.—The Tribe may use,
25 lease, contract, exchange, or enter into other agreements

1 for use of the water allocated to the Tribe under sub-
2 section (a), if—

3 (1) the use of water that is the subject of such
4 an agreement occurs within the Missouri River
5 Basin; and

6 (2) the agreement does not permanently alien-
7 ate any portion of the water allocated to the Tribe
8 under subsection (a).

9 (e) **EFFECTIVE DATE.**—The allocation under sub-
10 section (a) takes effect on the enforceability date.

11 (f) **NO CARRYOVER STORAGE.**—The allocation under
12 subsection (a) shall not be increased by any year-to-year
13 carryover storage.

14 (g) **DEVELOPMENT AND DELIVERY COSTS.**—The
15 United States shall not be required to pay the cost of de-
16 veloping or delivering any water allocated under this sec-
17 tion.

18 **SEC. 10. IRRIGATION ACTIVITIES.**

19 (a) **IN GENERAL.**—Subject to the availability of ap-
20 propriations, the Secretary, acting through the Commis-
21 sioner of Reclamation and in accordance with subsection
22 (c), shall carry out the following actions relating to the
23 Blackfeet Irrigation Project:

24 (1) Deferred maintenance.

1 (2) Dam safety improvements for Four Horns
2 Dam.

3 (3) Rehabilitation and enhancement of the Four
4 Horns Feeder Canal, Dam, and Reservoir.

5 (b) LEAD AGENCY.—The Bureau of Reclamation
6 shall serve as the lead agency with respect to any activities
7 carried out under this section.

8 (c) SCOPE OF DEFERRED MAINTENANCE ACTIVITIES
9 AND FOUR HORNS DAM SAFETY IMPROVEMENTS.—

10 (1) IN GENERAL.—Subject to the conditions de-
11 scribed in paragraph (2), the scope of the deferred
12 maintenance activities and Four Horns Dam safety
13 improvements shall be as generally described in—

14 (A) the document entitled “Engineering
15 Evaluation and Condition Assessment, Black-
16 feet Irrigation Project”, prepared by DOWL
17 HKM, and dated August 2007; and

18 (B) the provisions relating to Four Horns
19 Rehabilitated Dam of the document entitled
20 “Four Horns Dam Enlarged Appraisal Evalua-
21 tion Design Report”, prepared by DOWL
22 HKM, and dated April 2007.

23 (2) CONDITIONS.—The conditions referred to in
24 paragraph (1) are that, before commencing construc-
25 tion activities, the Secretary shall—

1 (A) review the design of the proposed reha-
2 bilitation or improvement;

3 (B) perform value engineering analyses;

4 (C) perform appropriate Federal environ-
5 mental compliance activities; and

6 (D) ensure that the deferred maintenance
7 activities and dam safety improvements may be
8 constructed using only the amounts made avail-
9 able under section 18.

10 (d) SCOPE OF REHABILITATION AND ENHANCEMENT
11 OF FOUR HORNS FEEDER CANAL, DAM, AND RES-
12 ERVOIR.—

13 (1) IN GENERAL.—The scope of the rehabilita-
14 tion and improvements shall be as generally de-
15 scribed in the document entitled “Four Horns Feed-
16 er Canal Rehabilitation with Export”, prepared by
17 DOWL HKM, and dated April 2013, subject to the
18 condition that, before commencing construction ac-
19 tivities, the Secretary shall—

20 (A) review the design of the proposed reha-
21 bilitation or improvement;

22 (B) perform value engineering analyses;

23 (C) perform appropriate Federal environ-
24 mental compliance activities; and

1 (D) ensure that the rehabilitation and im-
2 provements may be constructed using only the
3 amounts made available under section 18.

4 (2) INCLUSIONS.—The activities carried out by
5 the Secretary under this subsection shall include—

6 (A) the rehabilitation or improvement of
7 the Four Horns feeder canal system to a capaci-
8 ty of not fewer than 360 cubic feet per second;

9 (B) the rehabilitation or improvement of
10 the outlet works of Four Horns Dam and Res-
11 ervoir to deliver not less than 15,000 acre-feet
12 of water per year, in accordance with subpara-
13 graph (C); and

14 (C) construction of facilities to deliver not
15 less than 15,000 acre-feet of water per year
16 from Four Horns Dam and Reservoir, to a
17 point on or near Birch Creek to be designated
18 by the Tribe and the State for delivery of water
19 to the water delivery system of the Pondera
20 County Canal and Reservoir Company on Birch
21 Creek, in accordance with the Birch Creek
22 Agreement.

23 (3) NEGOTIATION WITH TRIBE.—On the basis
24 of the review described in paragraph (1)(A), the Sec-
25 retary shall negotiate with the Tribe appropriate

1 changes to the final design of any activity under this
2 subsection to ensure that the final design meets ap-
3 plicable industry standards.

4 (e) FUNDING.—The total amount of obligations in-
5 curred by the Secretary in carrying out this section shall
6 not exceed \$54,900,000, of which—

7 (1) \$40,900,000 shall be allocated to carry out
8 the activities described in subsection (e); and

9 (2) \$14,000,000 shall be allocated to carry out
10 the activities described in subsection (d)(2).

11 (f) NONREIMBURSABILITY OF COSTS.—All costs in-
12 curred by the Secretary in carrying out this section shall
13 be nonreimbursable.

14 (g) NON-FEDERAL CONTRIBUTION.—No part of the
15 project under subsection (d) shall be commenced until the
16 State has made available \$20,000,000 to carry out the ac-
17 tivities described in subsection (d)(2).

18 (h) ADMINISTRATION.—The Commissioner of Rec-
19 lamation and the Tribe shall negotiate the cost of any
20 oversight activity carried out by the Bureau of Reclama-
21 tion under any agreement entered into under subsection
22 (m), subject to the condition that the total cost for the
23 oversight shall not exceed 4 percent of the total project
24 costs for each project.

1 (i) PROJECT EFFICIENCIES.—If the total cost of
2 planning, design, and construction activities relating to
3 the projects described in this section results in cost sav-
4 ings and is less than the amounts authorized to be obli-
5 gated, the Secretary, at the request of the Tribe, may—

6 (1) use those cost savings to carry out a project
7 described in section 7(d), 11, 12, or 13; or

8 (2) deposit those cost savings to the Blackfeet
9 OM&R Trust Account.

10 (j) OWNERSHIP BY TRIBE OF BIRCH CREEK DELIV-
11 ERY FACILITIES.—Notwithstanding any other provision of
12 law, the Secretary shall transfer to the Tribe, at no cost,
13 title in and to the facilities constructed under subsection
14 (d)(2)(C).

15 (k) OWNERSHIP, OPERATION, AND MAINTENANCE.—
16 On transfer to the Tribe of title under subsection (j), the
17 Tribe shall—

18 (1) be responsible for OM&R in accordance with
19 the Birch Creek Agreement; and

20 (2) enter into an agreement with the Bureau of
21 Indian Affairs regarding the operation of the facili-
22 ties described in that subsection.

23 (l) LIABILITY OF UNITED STATES.—The United
24 States shall have no obligation or responsibility with re-
25 spect the facilities described in subsection (d)(2)(C).

1 (m) APPLICABILITY OF ISDEAA.—At the request of
2 the Tribe, and in accordance with the Indian Self-Deter-
3 mination and Education Assistance Act (25 U.S.C. 450
4 et seq.), the Secretary shall enter into 1 or more agree-
5 ments with the Tribe to carry out this section.

6 (n) EFFECT.—Nothing in this section—

7 (1) alters any applicable law (including regula-
8 tions) under which the Bureau of Indian Affairs col-
9 lects assessments or carries out Blackfeet Irrigation
10 Project OM&R; or

11 (2) impacts the availability of amounts made
12 available under subsection (a)(1)(B) of section 18.

13 **SEC. 11. DESIGN AND CONSTRUCTION OF MR&I SYSTEM.**

14 (a) IN GENERAL.—Subject to the availability of ap-
15 propriations, the Secretary, acting through the Commis-
16 sioner of Reclamation, shall plan, design, and construct
17 the water diversion and delivery features of the MR&I Sys-
18 tem in accordance with 1 or more agreements between the
19 Secretary and the Tribe.

20 (b) LEAD AGENCY.—The Bureau of Reclamation
21 shall serve as the lead agency with respect to any activity
22 to design and construct the water diversion and delivery
23 features of the MR&I System.

24 (c) SCOPE.—

1 (1) IN GENERAL.—The scope of the design and
2 construction under this section shall be as generally
3 described in the document entitled “Blackfeet Re-
4 gional Water System”, prepared by DOWL HKM,
5 dated June 2010, and modified by DOWL HKM in
6 the addendum to the report dated March 2013, sub-
7 ject to the condition that, before commencing final
8 design and construction activities, the Secretary
9 shall—

10 (A) review the design of the proposed reha-
11 bilitation and construction;

12 (B) perform value engineering analyses;
13 and

14 (C) perform appropriate Federal compli-
15 ance activities.

16 (2) NEGOTIATION WITH TRIBE.—On the basis
17 of the review described in paragraph (1)(A), the Sec-
18 retary shall negotiate with the Tribe appropriate
19 changes, if any, to the final design—

20 (A) to ensure that the final design meets
21 applicable industry standards;

22 (B) to improve the cost-effectiveness of the
23 delivery of MR&I System water; and

1 (C) to ensure that the MR&I System may
2 be constructed using only the amounts made
3 available under section 18.

4 (d) NONREIMBURSABILITY OF COSTS.—All costs in-
5 curred by the Secretary in carrying out this section shall
6 be nonreimbursable.

7 (e) FUNDING.—The total amount of obligations in-
8 curred by the Secretary in carrying out this section shall
9 not exceed \$76,200,000.

10 (f) NON-FEDERAL CONTRIBUTION.—

11 (1) CONSULTATION.—Before completion of the
12 final design of the MR&I System required by sub-
13 section (c), the Secretary shall consult with the
14 Tribe, the State, and other affected non-Federal
15 parties to discuss the possibility of receiving non-
16 Federal contributions for the cost of the MR&I Sys-
17 tem.

18 (2) NEGOTIATIONS.—If, based on the extent to
19 which non-Federal parties are expected to use the
20 MR&I System, a non-Federal contribution to the
21 MR&I System is determined by the parties described
22 in paragraph (1) to be appropriate, the Secretary
23 shall initiate negotiations for an agreement regard-
24 ing the means by which the contributions shall be
25 provided.

1 (g) OWNERSHIP BY TRIBE.—Title to the MR&I Sys-
2 tem and all facilities rehabilitated or constructed under
3 this section shall be held by the Tribe.

4 (h) ADMINISTRATION.—The Commissioner of Rec-
5 lamation and the Tribe shall negotiate the cost of any
6 oversight activity carried out by the Bureau of Reclama-
7 tion under any agreement entered into under this section,
8 subject to the condition that the total cost for the over-
9 sight shall not exceed 4 percent of the total costs incurred
10 under this section.

11 (i) OM&R COSTS.—The Federal Government shall
12 have no obligation to pay for the operation, maintenance,
13 or replacement costs for any facility rehabilitated or con-
14 structed under this section.

15 (j) PROJECT EFFICIENCIES.—If the total cost of
16 planning, design, and construction activities relating to
17 the projects described in this section results in cost sav-
18 ings and is less than the amounts authorized to be obli-
19 gated, the Secretary, at the request of the Tribe, may—

20 (1) use those cost savings to carry out a project
21 described in section 7(d), 10, 11(a), 12, or 13; or

22 (2) deposit those cost savings to the Blackfeet
23 OM&R Trust Account.

24 (k) APPLICABILITY OF ISDEAA.—At the request of
25 the Tribe, and in accordance with the Indian Self-Deter-

1 mination and Education Assistance Act (25 U.S.C. 450
2 et seq.), the Secretary shall enter into 1 or more agree-
3 ments with the Tribe to carry out this section.

4 **SEC. 12. DESIGN AND CONSTRUCTION OF WATER STORAGE**
5 **AND IRRIGATION FACILITIES.**

6 (a) IN GENERAL.—Subject to the availability of ap-
7 propriations, the Secretary, acting through the Commis-
8 sioner of Reclamation, shall plan, design, and construct
9 1 or more facilities to store water and support irrigation
10 on the Reservation in accordance with 1 or more agree-
11 ments between the Secretary and the Tribe.

12 (b) LEAD AGENCY.—The Bureau of Reclamation
13 shall serve as the lead agency with respect to any activity
14 to design and construct the irrigation development and
15 water storage facilities described in subsection (c).

16 (c) SCOPE.—

17 (1) IN GENERAL.—The scope of the design and
18 construction under this section shall be as generally
19 described in the document entitled “Blackfeet Water
20 Storage, Development, and Project Report”, pre-
21 pared by DOWL HKM, and dated March 13, 2013,
22 as modified and agreed to by the Secretary and the
23 Tribe, subject to the condition that, before com-
24 mencing final design and construction activities, the
25 Secretary shall—

1 (A) review the design of the proposed con-
2 struction;

3 (B) perform value engineering analyses;
4 and

5 (C) perform appropriate Federal compli-
6 ance activities.

7 (2) MODIFICATION.—The Secretary may modify
8 the scope of construction for the projects described
9 in the document referred to in paragraph (1), if—

10 (A) the modified project is—

11 (i) similar in purpose to the proposed
12 projects; and

13 (ii) consistent with the purposes of
14 this Act; and

15 (B) the Secretary has consulted with the
16 Tribe regarding any modification.

17 (3) NEGOTIATION WITH TRIBE.—On the basis
18 of the review described in paragraph (1)(A), the Sec-
19 retary shall negotiate with the Tribe appropriate
20 changes, if any, to the final design—

21 (A) to ensure that the final design meets
22 applicable industry standards;

23 (B) to improve the cost-effectiveness of any
24 construction; and

1 (C) to ensure that the projects may be con-
2 structed using only the amounts made available
3 under section 18.

4 (d) NONREIMBURSABILITY OF COSTS.—All costs in-
5 curred by the Secretary in carrying out this section shall
6 be nonreimbursable.

7 (e) FUNDING.—The total amount of obligations in-
8 curred by the Secretary in carrying out this section shall
9 not exceed \$87,300,000.

10 (f) OWNERSHIP BY TRIBE.—Title to all facilities re-
11 habilitated or constructed under this section shall be held
12 by the Tribe, except that title to the Birch Creek Unit
13 of the Blackfeet Indian Irrigation Project shall remain
14 with the Bureau of Indian Affairs.

15 (g) ADMINISTRATION.—The Commissioner of Rec-
16 lamation and the Tribe shall negotiate the cost of any
17 oversight activity carried out by the Bureau of Reclama-
18 tion under any agreement entered into under this section,
19 subject to the condition that the total cost for the over-
20 sight shall not exceed 4 percent of the total costs incurred
21 under this section.

22 (h) OM&R COSTS.—The Federal Government shall
23 have no obligation to pay for the operation, maintenance,
24 or replacement costs for the facilities rehabilitated or con-
25 structed under this section.

1 (i) PROJECT EFFICIENCIES.—If the total cost of
2 planning, design, and construction activities relating to
3 the projects described in this section results in cost sav-
4 ings and is less than the amounts authorized to be obli-
5 gated, the Secretary, at the request of the Tribe, may—

6 (1) use those cost savings to carry out a project
7 described in section 7(d), 10, 11, or 13; or

8 (2) deposit those cost savings to the Blackfeet
9 OM&R Trust Account.

10 (j) APPLICABILITY OF ISDEAA.—At the request of
11 the Tribe, and in accordance with the Indian Self-Deter-
12 mination and Education Assistance Act (25 U.S.C. 450
13 et seq.), the Secretary shall enter into 1 or more agree-
14 ments with the Tribe to carry out this section.

15 **SEC. 13. BLACKFEET WATER, STORAGE, AND DEVELOP-**
16 **MENT PROJECTS.**

17 (a) IN GENERAL.—

18 (1) SCOPE.—The scope of the construction
19 under this section shall be as generally described in
20 the document entitled “Blackfeet Water Storage,
21 Development, and Project Report”, prepared by
22 DOWL HKM, and dated March 13, 2013, as modi-
23 fied and agreed to by the Secretary and the Tribe.

1 (2) MODIFICATION.—The Tribe may modify the
2 scope of the projects described in the document re-
3 ferred to in paragraph (1) if—

4 (A) the modified project is—

5 (i) similar to the proposed project;

6 and

7 (ii) consistent with the purposes of
8 this Act; and

9 (B) the modification is approved by the
10 Secretary.

11 (b) NONREIMBURSABILITY OF COSTS.—All costs in-
12 curred by the Secretary in carrying out this section shall
13 be nonreimbursable.

14 (c) FUNDING.—The total amount of obligations in-
15 curred by the Secretary in carrying out this section shall
16 not exceed \$91,000,000.

17 (d) OM&R COSTS.—The Federal Government shall
18 have no obligation to pay for the operation, maintenance,
19 or replacement costs for the facilities rehabilitated or con-
20 structed under this section.

21 (e) OWNERSHIP BY TRIBE.—Title to any facility con-
22 structed under this section shall be held by the Tribe.

23 **SEC. 14. EASEMENTS AND RIGHTS-OF-WAY.**

24 (a) TRIBAL EASEMENTS AND RIGHTS-OF-WAY.—

1 (1) IN GENERAL.—On request of the Secretary,
2 the Tribe shall grant, at no cost to the United
3 States, such easements and rights-of-way over tribal
4 land as are necessary for the construction of the
5 projects authorized by sections 10 and 11.

6 (2) JURISDICTION.—An easement or right-of-
7 way granted by the Tribe pursuant to paragraph (1)
8 shall not affect in any respect the civil or criminal
9 jurisdiction of the Tribe over the easement or right-
10 of-way.

11 (b) LANDOWNER EASEMENTS AND RIGHTS-OF-
12 WAY.—In partial consideration for the construction activi-
13 ties authorized by section 11, and as a condition of receiv-
14 ing service from the MR&I System, a landowner shall
15 grant, at no cost to the United States or the Tribe, such
16 easements and rights-of-way over the land of the land-
17 owner as may be necessary for the construction of the
18 MR&I System.

19 (c) LAND ACQUIRED BY UNITED STATES OR
20 TRIBE.—Any land acquired within the boundaries of the
21 Reservation by the United States on behalf of the Tribe,
22 or by the Tribe on behalf of the Tribe, in connection with
23 achieving the purposes of this Act shall be held in trust
24 by the United States for the benefit of the Tribe.

1 **SEC. 15. TRIBAL WATER RIGHTS.**

2 (a) CONFIRMATION OF TRIBAL WATER RIGHTS.—

3 (1) IN GENERAL.—The Tribal water rights are
4 ratified, confirmed, and declared to be valid.

5 (2) USE.—Any use of the Tribal water rights
6 shall be subject to the terms and conditions of the
7 Compact and this Act.

8 (3) CONFLICT.—In the event of a conflict be-
9 tween the Compact and this Act, the provisions of
10 this Act shall control.

11 (b) INTENT OF CONGRESS.—It is the intent of Con-
12 gress to provide to each allottee benefits that are equiva-
13 lent to, or exceed, the benefits the allottees possess on the
14 day before the date of enactment of this Act, taking into
15 consideration—

16 (1) the potential risks, cost, and time delay as-
17 sociated with litigation that would be resolved by the
18 Compact and this Act;

19 (2) the availability of funding under this Act
20 and from other sources;

21 (3) the availability of water from the Tribal
22 water rights; and

23 (4) the applicability of section 7 of the Act of
24 February 8, 1887 (25 U.S.C. 381), and this Act to
25 protect the interests of allottees.

1 (c) TRUST STATUS OF TRIBAL WATER RIGHTS.—

2 The Tribal water rights—

3 (1) shall be held in trust by the United States
4 for the use and benefit of the Tribe and the allottees
5 in accordance with this Act; and

6 (2) shall not be subject to forfeiture or aban-
7 donment.

8 (d) ALLOTTEES.—

9 (1) APPLICABILITY OF ACT OF FEBRUARY 8,
10 1887.—The provisions of section 7 of the Act of Feb-
11 ruary 8, 1887 (25 U.S.C. 381), relating to the use
12 of water for irrigation purposes shall apply to the
13 Tribal water rights.

14 (2) ENTITLEMENT TO WATER.—Any entitle-
15 ment to water of an allottee under Federal law shall
16 be satisfied from the Tribal water rights.

17 (3) ALLOCATIONS.—An allottee shall be entitled
18 to a just and equitable allocation of water for irriga-
19 tion purposes.

20 (4) CLAIMS.—

21 (A) EXHAUSTION OF REMEDIES.—Before
22 asserting any claim against the United States
23 under section 7 of the Act of February 8, 1887
24 (25 U.S.C. 381), or any other applicable law,
25 an allottee shall exhaust remedies available

1 under the tribal water code or other applicable
2 tribal law.

3 (B) ACTION FOR RELIEF.—After the ex-
4 haustion of all remedies available under the
5 tribal water code or other applicable tribal law,
6 an allottee may seek relief under section 7 of
7 the Act of February 8, 1887 (25 U.S.C. 381),
8 or other applicable law.

9 (5) AUTHORITY OF SECRETARY.—The Sec-
10 retary shall have the authority to protect the rights
11 of allottees in accordance with this section.

12 (e) AUTHORITY OF TRIBE.—

13 (1) IN GENERAL.—The Tribe shall have the au-
14 thority to allocate, distribute, and lease the Tribal
15 water rights for any use on the Reservation in ac-
16 cordance with the Compact, this Act, and applicable
17 Federal law.

18 (2) OFF-RESERVATION USE.—The Tribe may
19 allocate, distribute, and lease the Tribal water rights
20 for off-Reservation use in accordance with the Com-
21 pact, subject to the approval of the Secretary.

22 (3) LAND LEASES BY ALLOTTEES.—Notwith-
23 standing paragraph (1), an allottee may lease any
24 interest in land held by the allottee, together with
25 any water right determined to be appurtenant to the

1 interest in land, in accordance with the tribal water
2 code.

3 (f) TRIBAL WATER CODE.—

4 (1) IN GENERAL.—Notwithstanding article
5 IV.C.1. of the Compact, not later than 4 years after
6 the date on which the Tribe ratifies the Compact in
7 accordance with this Act, the Tribe shall enact a
8 tribal water code that provides for—

9 (A) the management, regulation, and gov-
10 ernance of all uses of the Tribal water rights in
11 accordance with the Compact and this Act; and

12 (B) establishment by the Tribe of condi-
13 tions, permit requirements, and other require-
14 ments for the allocation, distribution, or use of
15 the Tribal water rights in accordance with the
16 Compact and this Act.

17 (2) INCLUSIONS.—Subject to the approval of
18 the Secretary, the tribal water code shall provide—

19 (A) that use of water by allottees shall be
20 satisfied with water from the Tribal water
21 rights;

22 (B) a process by which an allottee may re-
23 quest that the Tribe provide water for irrigation
24 use in accordance with this Act, including the
25 provision of water under any allottee lease

1 under section 4 of the Act of June 25, 1910
2 (25 U.S.C. 403);

3 (C) a due process system for the consider-
4 ation and determination by the Tribe of any re-
5 quest by an allottee (or a successor in interest
6 to an allottee) for an allocation of water for ir-
7 rigation purposes on allotted land, including a
8 process for—

9 (i) appeal and adjudication of any de-
10 nied or disputed distribution of water; and

11 (ii) resolution of any contested admin-
12 istrative decision; and

13 (D) a requirement that any allottee assert-
14 ing a claim relating to the enforcement of rights
15 of the allottee under the tribal water code, or
16 to the quantity of water allocated to land of the
17 allottee, shall exhaust all remedies available to
18 the allottee under tribal law before initiating an
19 action against the United States or petitioning
20 the Secretary pursuant to subsection (d)(4)(B).

21 (3) ACTION BY SECRETARY.—

22 (A) IN GENERAL.—During the period be-
23 ginning on the date of enactment of this Act
24 and ending on the date on which a tribal water
25 code described in paragraphs (1) and (2) is en-

1 acted, the Secretary shall administer, with re-
2 spect to the rights of allottees, the Tribal water
3 rights in accordance with this Act.

4 (B) APPROVAL.—The tribal water code de-
5 scribed in paragraphs (1) and (2) shall not be
6 valid unless—

7 (i) the provisions of the tribal water
8 code required by paragraph (2) are ap-
9 proved by the Secretary; and

10 (ii) each amendment to the tribal
11 water code that affects a right of an allot-
12 tee is approved by the Secretary.

13 (C) APPROVAL PERIOD.—

14 (i) IN GENERAL.—The Secretary shall
15 approve or disapprove the tribal water code
16 or an amendment to the tribal water code
17 not later than 180 days after the date on
18 which the tribal water code or amendment
19 is submitted to the Secretary.

20 (ii) EXTENSION.—The deadline de-
21 scribed in clause (i) may be extended by
22 the Secretary after consultation with the
23 Tribe.

24 (g) ADMINISTRATION.—

1 (1) NO ALIENATION.—The Tribe shall not per-
2 manently alienate any portion of the Tribal water
3 rights.

4 (2) PURCHASES OR GRANTS OF LAND FROM IN-
5 DIANS.—An authorization provided by this Act for
6 the allocation, distribution, leasing, or other ar-
7 rangement entered into pursuant to this Act shall be
8 considered to satisfy any requirement for authoriza-
9 tion of the action by treaty or convention imposed by
10 section 2116 of the Revised Statutes (25 U.S.C.
11 177).

12 (3) PROHIBITION ON FORFEITURE.—The non-
13 use of all or any portion of the Tribal water rights
14 by a lessee or contractor shall not result in the for-
15 feiture, abandonment, relinquishment, or other loss
16 of all or any portion of the Tribal water rights.

17 (h) EFFECT.—Except as otherwise expressly provided
18 in this section, nothing in this Act—

19 (1) authorizes any action by an allottee against
20 any individual or entity, or against the Tribe, under
21 Federal, State, tribal, or local law; or

22 (2) alters or affects the status of any action
23 brought pursuant to section 1491(a) of title 28,
24 United States Code.

1 **SEC. 16. BLACKFEET SETTLEMENT TRUST FUND.**

2 (a) ESTABLISHMENT.—There is established in the
3 Treasury of the United States a trust fund, to be known
4 as the “Blackfeet Settlement Trust Fund” (referred to in
5 this section as the “Trust Fund”), to be managed, in-
6 vested, and distributed by the Secretary and to remain
7 available until expended, consisting of the amounts depos-
8 ited in the Trust Fund under subsection (c), together with
9 any interest earned on those amounts, for the purpose of
10 carrying out this Act.

11 (b) ACCOUNTS.—The Secretary shall establish in the
12 Trust Fund the following accounts:

- 13 (1) The Administration and Energy Account.
- 14 (2) The OM&R Account.
- 15 (3) The St. Mary Account.
- 16 (4) The Blackfeet Water, Storage, and Develop-
17 ment Projects Account.

18 (c) DEPOSITS.—The Secretary shall deposit in the
19 Trust Fund—

- 20 (1) in the Administration and Energy Account,
21 the amount made available pursuant to section
22 18(a)(1)(A);
- 23 (2) in the OM&R Account, the amount made
24 available pursuant to section 18(a)(1)(B);
- 25 (3) in the St. Mary Account, the amount made
26 available pursuant to section 18(a)(1)(C); and

1 (4) in the Blackfeet Water, Storage, and Devel-
2 opment Projects Account, the amount made avail-
3 able pursuant to section 18(a)(1)(D).

4 (d) MANAGEMENT.—The Secretary shall manage, in-
5 vest, and distribute all amounts in the Trust Fund in a
6 manner that is consistent with the investment authority
7 of the Secretary under—

8 (1) the first section of the Act of June 24,
9 1938 (25 U.S.C. 162a);

10 (2) the American Indian Trust Fund Manage-
11 ment Reform Act of 1994 (25 U.S.C. 4001 et seq.);
12 and

13 (3) this section.

14 (e) AVAILABILITY OF AMOUNTS.—

15 (1) IN GENERAL.—Amounts appropriated to,
16 and deposited in, the Trust Fund, including any in-
17 vestment earnings, shall be made available to the
18 Tribe by the Secretary beginning on the enforce-
19 ability date.

20 (2) FUNDING FOR TRIBAL IMPLEMENTATION
21 ACTIVITIES.—Notwithstanding paragraph (1), on ap-
22 proval pursuant to this Act and the Compact by a
23 referendum vote of a majority of votes cast by mem-
24 bers of the Tribe on the day of the vote, as certified
25 by the Secretary and the Tribe and subject to the

1 availability of appropriations, of the amounts in the
2 Administration and Energy Account, \$4,800,000
3 shall be made available to the Tribe for the imple-
4 mentation of this Act.

5 (f) WITHDRAWALS UNDER AIFRMRA.—

6 (1) IN GENERAL.—The Tribe may withdraw
7 any portion of the funds in the Trust Fund on ap-
8 proval by the Secretary of a tribal management plan
9 submitted by the Tribe in accordance with the
10 American Indian Trust Fund Management Reform
11 Act of 1994 (25 U.S.C. 4001 et seq.).

12 (2) REQUIREMENTS.—

13 (A) IN GENERAL.—In addition to the re-
14 quirements under the American Indian Trust
15 Fund Management Reform Act of 1994 (25
16 U.S.C. 4001 et seq.), the tribal management
17 plan under paragraph (1) shall require that the
18 Tribe shall spend all amounts withdrawn from
19 the Trust Fund in accordance with this Act.

20 (B) ENFORCEMENT.—The Secretary may
21 carry out such judicial and administrative ac-
22 tions as the Secretary determines to be nec-
23 essary to enforce the tribal management plan to
24 ensure that amounts withdrawn by the Tribe

1 from the Trust Fund under this subsection are
2 used in accordance with this Act.

3 (g) WITHDRAWALS UNDER EXPENDITURE PLAN.—

4 (1) IN GENERAL.—The Tribe may submit to
5 the Secretary a request to withdraw funds from the
6 Trust Fund pursuant to an approved expenditure
7 plan.

8 (2) REQUIREMENTS.—To be eligible to with-
9 draw funds under an expenditure plan under para-
10 graph (1), the Tribe shall submit to the Secretary
11 for approval an expenditure plan for any portion of
12 the Trust Fund that the Tribe elects to withdraw
13 pursuant to this subsection, subject to the condition
14 that the funds shall be used for the purposes de-
15 scribed in this Act.

16 (3) INCLUSIONS.—An expenditure plan under
17 this subsection shall include a description of the
18 manner and purpose for which the amounts pro-
19 posed to be withdrawn from the Trust Fund will be
20 used by the Tribe, in accordance with subsection (h).

21 (4) APPROVAL.—On receipt of an expenditure
22 plan under this subsection, the Secretary shall ap-
23 prove the plan, if the Secretary determines that the
24 plan—

25 (A) is reasonable; and

1 (B) is consistent with, and will be used for,
2 the purposes of this Act.

3 (5) ENFORCEMENT.—The Secretary may carry
4 out such judicial and administrative actions as the
5 Secretary determines to be necessary to enforce an
6 expenditure plan to ensure that amounts disbursed
7 under this subsection are used in accordance with
8 this Act.

9 (h) USES.—Amounts from the Trust Fund shall be
10 used by the Tribe for the following purposes:

11 (1) The Administration and Energy Account
12 shall be used for administration of the Tribal water
13 rights and energy development projects under this
14 Act and the Compact.

15 (2) The OM&R Account shall be used to assist
16 the Tribe in paying OM&R costs.

17 (3) The St. Mary Account shall be distributed
18 pursuant to an expenditure plan approved under
19 subsection (g), subject to the conditions that—

20 (A) during the period for which the
21 amount is available and held by the Secretary,
22 \$500,000 shall be distributed to the Tribe an-
23 nually as compensation for the deferral of the
24 St. Mary water right; and

1 (B) any additional amounts deposited in
2 the account may be withdrawn and used by the
3 Tribe to pay OM&R costs or other expenses for
4 1 or more projects to benefit the Tribe, as ap-
5 proved by the Secretary, subject to the require-
6 ment that the Secretary shall not approve an
7 expenditure plan under this paragraph unless
8 the Tribe provides a resolution of the tribal
9 council—

10 (i) approving the withdrawal of the
11 funds from the account; and

12 (ii) acknowledging that the Secretary
13 will not be able to distribute funds under
14 subparagraph (A) indefinitely if the prin-
15 cipal funds in the account are reduced.

16 (4) The Blackfeet Water, Storage, and Develop-
17 ment Projects Account shall be used to carry out
18 section 13.

19 (i) LIABILITY.—The Secretary and the Secretary of
20 the Treasury shall not be liable for the expenditure or in-
21 vestment of any amounts withdrawn from the Trust Fund
22 by the Tribe under subsection (f) or (g).

23 (j) NO PER CAPITA DISTRIBUTIONS.—No portion of
24 the Trust Fund shall be distributed on a per capita basis
25 to any member of the Tribe.

1 (k) DEPOSIT OF FUNDS.—On request by the Tribe,
2 the Secretary may deposit amounts from an account de-
3 scribed in paragraph (1), (2), or (4) of subsection (b) to
4 any other account the Secretary determines to be appro-
5 priate.

6 **SEC. 17. BLACKFEET WATER SETTLEMENT IMPLEMENTA-**
7 **TION FUND.**

8 (a) ESTABLISHMENT.—There is established in the
9 Treasury of the United States a nontrust, interest-bearing
10 account, to be known as the “Blackfeet Water Settlement
11 Implementation Fund” (referred to in this section as the
12 “Implementation Fund”), to be managed and distributed
13 by the Secretary, for use by the Secretary for carrying
14 out this Act.

15 (b) ACCOUNTS.—The Secretary shall establish in the
16 Implementation Fund the following accounts:

17 (1) The MR&I System, Irrigation, and Water
18 Storage Account.

19 (2) The Blackfeet Irrigation Project Deferred
20 Maintenance and Four Horns Dam Safety Improve-
21 ments Account.

22 (3) The St. Mary/Milk Water Management and
23 Activities Fund.

24 (c) DEPOSITS.—The Secretary shall deposit in the
25 Implementation Fund—

1 (1) in the MR&I System, Irrigation, and Water
2 Storage Account, the amount made available pursu-
3 ant to section 18(a)(2)(A);

4 (2) in the Blackfeet Irrigation Project Deferred
5 Maintenance and Four Horns Dam Safety Improve-
6 ments Account, the amount made available pursuant
7 to section 18(a)(2)(B); and

8 (3) in the St. Mary/Milk Water Management
9 and Activities Fund, the amount made available pur-
10 suant to section 18(a)(2)(C).

11 (d) USES.—

12 (1) MR&I SYSTEM, IRRIGATION, AND WATER
13 STORAGE ACCOUNT.—The MR&I System, Irrigation,
14 and Water Storage Account shall be used to carry
15 out sections 11 and 12.

16 (2) BLACKFEET IRRIGATION PROJECT DE-
17 FERRED MAINTENANCE AND FOUR HORNS DAM
18 SAFETY IMPROVEMENTS ACCOUNT.—The Blackfeet
19 Irrigation Project Deferred Maintenance and Four
20 Horns Dam Safety Improvements Account shall be
21 used to carry out section 10.

22 (3) ST. MARY/MILK WATER MANAGEMENT AND
23 ACTIVITIES ACCOUNT.—The St. Mary/Milk Water
24 Management and Activities Account shall be used to
25 carry out sections 5 and 7.

1 (e) MANAGEMENT.—Amounts in the Implementation
2 Fund shall not be available to the Secretary for expendi-
3 ture until the enforceability date.

4 **SEC. 18. AUTHORIZATION OF APPROPRIATIONS.**

5 (a) IN GENERAL.—Subject to subsection (b), there
6 are authorized to be appropriated to the Secretary—

7 (1) as adjusted on appropriation to reflect
8 changes since April 2010 in the Consumer Price
9 Index for All Urban Consumers West Urban 50,000
10 to 1,500,000 index for the amount appropriated—

11 (A) for deposit in the Administration and
12 Energy Account of the Blackfeet Settlement
13 Trust Fund established under section 16(b)(1),
14 \$28,900,000;

15 (B) for deposit in the OM&R Account of
16 the Blackfeet Settlement Trust Fund estab-
17 lished under section 16(b)(2), \$27,760,000;

18 (C) for deposit in the St. Mary Account of
19 the Blackfeet Settlement Trust Fund estab-
20 lished under section 16(b)(3), \$27,800,000; and

21 (D) for deposit in the Blackfeet Water,
22 Storage, and Development Projects Account of
23 the Blackfeet Settlement Trust Fund estab-
24 lished under section 16(b)(4), \$91,000,000; and

1 (2) as adjusted annually to reflect changes
2 since April 2010 in the Bureau of Reclamation Con-
3 struction Cost Trends Index applicable to the types
4 of construction involved—

5 (A) for deposit in the MR&I System, Irri-
6 gation, and Water Storage Account of the
7 Blackfeet Water Settlement Implementation
8 Fund established under section 17(b)(1),
9 \$163,500,000;

10 (B) for deposit in the Blackfeet Irrigation
11 Project Deferred Maintenance, Four Horns
12 Dam Safety, and Rehabilitation and Enhance-
13 ment of the Four Horns Feeder Canal, Dam,
14 and Reservoir Improvements Account of the
15 Blackfeet Water Settlement Implementation
16 Fund established under section 17(b)(2),
17 \$54,900,000, of which—

18 (i) \$40,900,000 shall be made avail-
19 able for activities and projects under sec-
20 tion 10(c); and

21 (ii) \$14,000,000 shall be made avail-
22 able for activities and projects under sec-
23 tion 10(d)(2); and

24 (C) for deposit in the St. Mary/Milk Water
25 Management and Activities Account of the

1 Blackfeet Water Settlement Implementation
2 Fund established under section 17(b)(3),
3 \$28,100,000, of which—

4 (i) \$27,600,000 shall be allocated in
5 accordance with section 7(g); and

6 (ii) \$500,000 shall be used to carry
7 out section 5.

8 (b) ADJUSTMENTS.—

9 (1) IN GENERAL.—The adjustment of the
10 amounts authorized to be appropriated pursuant to
11 subsection (a)(1) shall occur each time an amount is
12 appropriated for an account and shall add to, or
13 subtract from, as applicable, the total amount au-
14 thorized.

15 (2) REPETITION.—The adjustment process
16 under this subsection shall be repeated for each sub-
17 sequent amount appropriated until the amount au-
18 thorized, as adjusted, has been appropriated.

19 (3) TREATMENT.—The amount of an adjust-
20 ment may be considered—

21 (A) to be authorized as of the date on
22 which congressional action occurs; and

23 (B) in determining the amount authorized
24 to be appropriated.

1 **SEC. 19. WATER RIGHTS IN LEWIS AND CLARK NATIONAL**
2 **FOREST AND GLACIER NATIONAL PARK.**

3 The instream flow water rights of the Tribe on land
4 within the Lewis and Clark National Forest and Glacier
5 National Park—

6 (1) are confirmed; and

7 (2) shall be as described in the document enti-
8 tled “Stipulation to Address Claims by and for the
9 Benefit of the Blackfeet Indian Tribe to Water
10 Rights in the Lewis & Clark National Forest and
11 Glacier National Park,” dated _____, and
12 as finally decreed by the Montana Water Court, or,
13 if the Montana Water Court is found to lack juris-
14 diction, by the United States district court with ju-
15 risdiction.

16 **SEC. 20. WAIVERS AND RELEASES OF CLAIMS.**

17 (a) IN GENERAL.—

18 (1) WAIVER AND RELEASE OF CLAIMS BY
19 TRIBE AND UNITED STATES AS TRUSTEE FOR
20 TRIBE.—Subject to the reservation of rights and re-
21 tention of claims under subsection (c), as consider-
22 ation for recognition of the Tribal water rights and
23 other benefits as described in the Compact and this
24 Act, the Tribe, acting on behalf of the Tribe and
25 members of the Tribe (but not any member of the
26 Tribe as an allottee), and the United States, acting

1 as trustee for the Tribe and the members of the
2 Tribe (but not any member of the Tribe as an allot-
3 tee), shall execute a waiver and release of all claims
4 for water rights within the State that the Tribe, or
5 the United States acting as trustee for the Tribe, as-
6 serted or could have asserted in any proceeding, in-
7 cluding a State stream adjudication, on or before the
8 enforceability date, except to the extent that such
9 rights are recognized in the Compact and this Act.

10 (2) WAIVER AND RELEASE OF CLAIMS BY
11 UNITED STATES AS TRUSTEE FOR ALLOTTEES.—
12 Subject to the reservation of rights and the retention
13 of claims under subsection (c), as consideration for
14 recognition of the Tribal water rights and other ben-
15 efits as described in the Compact and this Act, the
16 United States, acting as trustee for allottees, shall
17 execute a waiver and release of all claims for water
18 rights within the Reservation that the United States,
19 acting as trustee for the allottees, asserted or could
20 have asserted in any proceeding, including a State
21 stream adjudication, on or before the enforceability
22 date, except to the extent that such rights are recog-
23 nized in the Compact and this Act.

24 (3) WAIVER AND RELEASE OF CLAIMS BY
25 TRIBE AGAINST UNITED STATES.—Subject to the

1 reservation of rights and retention of claims under
2 subsection (d), the Tribe, acting on behalf of the
3 Tribe and members of the Tribe (but not any mem-
4 ber of the Tribe as an allottee), shall execute a waiv-
5 er and release of all claims against the United
6 States (including any agency or employee of the
7 United States)—

8 (A) relating to—

9 (i) water rights within the State that
10 the United States, acting as trustee for the
11 Tribe, asserted or could have asserted in
12 any proceeding, including a stream adju-
13 dication in the State, except to the extent
14 that such rights are recognized as Tribal
15 water rights under this Act;

16 (ii) damage, loss, or injury to water,
17 water rights, land, or natural resources
18 due to loss of water or water rights (in-
19 cluding damages, losses, or injuries to
20 hunting, fishing, gathering, or cultural
21 rights due to loss of water or water rights,
22 claims relating to interference with, diver-
23 sion, or taking of water, or claims relating
24 to failure to protect, acquire, replace, or
25 develop water, water rights, or water infra-

1 structure) within the State that first ac-
2 crued at any time on or before the enforce-
3 ability date;

4 (iii) a failure to establish or provide a
5 municipal rural or industrial water delivery
6 system on the Reservation;

7 (iv) a failure to provide for operation
8 or maintenance, or deferred maintenance,
9 for the Blackfeet Irrigation Project or any
10 other irrigation system or irrigation project
11 on the Reservation;

12 (v) the litigation of claims relating to
13 the water rights of the Tribe in the State;
14 and

15 (vi) the negotiation, execution, or
16 adoption of the Compact (including exhib-
17 its) or this Act;

18 (B) reserved in subsections (b) through (d)
19 of section 6 of the settlement for the case styled
20 Blackfeet Tribe v. United States, No. 02–127L
21 (Fed. Cl. 2012); and

22 (C) that first accrued at any time on or
23 before the enforceability date—

24 (i) arising from the taking or acquisi-
25 tion of the land of the Tribe or resources

1 for the construction of the features of the
2 St. Mary Unit of the Milk River Project;

3 (ii) relating to the construction, oper-
4 ation, and maintenance of the St. Mary
5 Unit of the Milk River Project, including
6 Sherburne Dam, St. Mary Diversion Dam,
7 St. Mary Canal and associated infrastruc-
8 ture, and the management of flows in
9 Swiftcurrent Creek, including the diversion
10 of Swiftcurrent Creek into Lower St. Mary
11 Lake;

12 (iii) relating to the construction, oper-
13 ation, and management of Lower Two
14 Medicine Dam and Reservoir and Four
15 Horns Dam and Reservoir, including any
16 claim relating to the failure to provide dam
17 safety improvements for Four Horns Res-
18 ervoir; or

19 (iv) relating to the allocation of
20 waters of the Milk River and St. Mary
21 River (including tributaries) between the
22 United States and Canada pursuant to the
23 International Boundary Waters Treaty of
24 1909 (36 Stat. 2448).

1 (b) EFFECTIVENESS.—The waivers and releases
2 under subsection (a) shall take effect on the enforceability
3 date.

4 (c) WITHDRAWAL OF OBJECTIONS.—The Tribe shall
5 withdraw all objections to the water rights claims filed by
6 the United States for the benefit of the Milk River Project,
7 except objections to those claims consolidated for adjudica-
8 tion within Basin 40J, within 14 days of the certification
9 under section 20(f)(5) that the Tribal membership has ap-
10 proved the Compact and this Act.

11 (1) Prior to withdrawal of the objections, the
12 Tribe may seek leave of the Montana Water Court
13 for a right to reinstate the objections in the event
14 the conditions of enforceability in section 20(f) (1)
15 through (8) are not satisfied by the date of expira-
16 tion described in section 23 of this Act.

17 (2) If the conditions of enforceability in section
18 20(f) (1) through (8) are satisfied, and any author-
19 ity the Montana Water Court may have granted the
20 Tribe to reinstate objections described in this section
21 has not yet expired, the Tribe shall notify the Mon-
22 tana Water Court and the United States in writing
23 that it will not exercise any such authority.

24 (d) RESERVATION OF RIGHTS AND RETENTION OF
25 CLAIMS.—Notwithstanding the waivers and releases under

1 subsection (a), the Tribe, acting on behalf of the Tribe
2 and members of the Tribe, and the United States, acting
3 as trustee for the Tribe and allottees, shall retain—

4 (1) all claims relating to—

5 (A) enforcement of, or claims accruing
6 after the enforceability date relating to water
7 rights recognized under, the Compact, any final
8 decree, or this Act;

9 (B) activities affecting the quality of
10 water, including any claim under—

11 (i) the Comprehensive Environmental
12 Response, Compensation, and Liability Act
13 of 1980 (42 U.S.C. 9601 et seq.), includ-
14 ing damages to natural resources;

15 (ii) the Safe Drinking Water Act (42
16 U.S.C. 300f et seq.);

17 (iii) the Federal Water Pollution Con-
18 trol Act (33 U.S.C. 1251 et seq.) (com-
19 monly referred to as the “Clean Water
20 Act”); and

21 (iv) any regulations implementing the
22 Acts described in clauses (i) through (iii);
23 or

24 (C) damage, loss, or injury to land or nat-
25 ural resources that are not due to loss of water

1 or water rights (including hunting, fishing,
2 gathering, or cultural rights);

3 (2) all rights to use and protect water rights ac-
4 quired after the date of enactment of this Act; and

5 (3) all rights, remedies, privileges, immunities,
6 and powers not specifically waived and released pur-
7 suant to this Act or the Compact.

8 (e) EFFECT OF COMPACT AND ACT.—Nothing in the
9 Compact or this Act—

10 (1) affects the ability of the United States, act-
11 ing as a sovereign, to take any action authorized by
12 law (including any law relating to health, safety, or
13 the environment), including—

14 (A) the Comprehensive Environmental Re-
15 sponse, Compensation, and Liability Act of
16 1980 (42 U.S.C. 9601 et seq.);

17 (B) the Safe Drinking Water Act (42
18 U.S.C. 300f et seq.);

19 (C) the Federal Water Pollution Control
20 Act (33 U.S.C. 1251 et seq.) (commonly re-
21 ferred to as the “Clean Water Act”); and

22 (D) any regulations implementing the Acts
23 described in subparagraphs (A) through (C);

1 (2) affects the ability of the United States to
2 act as trustee for any other Indian tribe or allottee
3 of any other Indian tribe;

4 (3) confers jurisdiction on any State court—

5 (A) to interpret Federal law regarding
6 health, safety, or the environment;

7 (B) to determine the duties of the United
8 States or any other party pursuant to a Federal
9 law regarding health, safety, or the environ-
10 ment; or

11 (C) to conduct judicial review of a Federal
12 agency action;

13 (4) waives any claim of a member of the Tribe
14 in an individual capacity that does not derive from
15 a right of the Tribe;

16 (5) revives any claim waived by the Tribe in the
17 case styled *Blackfeet Tribe v. United States*, No.
18 02–127L (Fed. Cl. 2012); or

19 (6) revives any claim released by an allottee or
20 a tribal member in the settlement for the case styled
21 *Cobell v. Salazar*, No. 1:96CV01285–JR (D.D.C.
22 2012).

23 (f) ENFORCEABILITY DATE.—The enforceability date
24 shall be the date on which the Secretary publishes in the
25 Federal Register a statement of findings that—

1 (1)(A) the Montana Water Court has approved
2 the Compact, and that decision has become final and
3 nonappealable; or

4 (B) if the Montana Water Court is found to
5 lack jurisdiction, the appropriate United States dis-
6 trict court has approved the Compact, and that deci-
7 sion has become final and nonappealable;

8 (2) all amounts authorized under section 18(a)
9 have been appropriated;

10 (3) the agreements required by sections 6(c),
11 7(f), and 9(c) have been executed;

12 (4) the State has appropriated and paid into an
13 interest-bearing escrow account any payments due
14 as of the date of enactment of this Act to the Tribe
15 under the Compact, the Birch Creek Agreement, and
16 this Act;

17 (5) the members of the Tribe have voted to ap-
18 prove this Act and the Compact by a majority of
19 votes cast on the day of the vote, as certified by the
20 Secretary and the Tribe;

21 (6) the Secretary has fulfilled the requirements
22 of section 9(a);

23 (7) the agreement or terms and conditions re-
24 ferred to in section 5 are executed and final; and

1 (8) the waivers and releases described in sub-
2 section (a) have been executed by the Tribe and the
3 Secretary.

4 (g) TOLLING OF CLAIMS.—

5 (1) IN GENERAL.—Each applicable period of
6 limitation and time-based equitable defense relating
7 to a claim described in this section shall be tolled
8 during the period beginning on the date of enact-
9 ment of this Act and ending on the date on which
10 the amounts made available to carry out this Act are
11 transferred to the Secretary.

12 (2) EFFECT OF SUBSECTION.—Nothing in this
13 subsection revives any claim or tolls any period of
14 limitation or time-based equitable defense that ex-
15 pired before the date of enactment of this Act.

16 (h) EXPIRATION.—If all appropriations authorized by
17 this Act have not been made available to the Secretary
18 by January 21, 2026, the waivers and releases described
19 in this section shall—

20 (1) expire; and

21 (2) have no further force or effect.

22 (i) VOIDING OF WAIVERS.—If the waivers and re-
23 leases described in this section are void under subsection
24 (g)—

1 (1) the approval of the United States of the
2 Compact under section 4 shall no longer be effective;

3 (2) any unexpended Federal funds appropriated
4 or made available to carry out the activities author-
5 ized by this Act, together with any interest earned
6 on those funds, and any water rights or contracts to
7 use water and title to other property acquired or
8 constructed with Federal funds appropriated or
9 made available to carry out the activities authorized
10 under this Act shall be returned to the Federal Gov-
11 ernment, unless otherwise agreed to by the Tribe
12 and the United States and approved by Congress;
13 and

14 (3) except for Federal funds used to acquire or
15 develop property that is returned to the Federal
16 Government under paragraph (2), the United States
17 shall be entitled to offset any Federal funds appro-
18 priated or made available to carry out the activities
19 authorized under this Act that were expended or
20 withdrawn, together with any interest accrued,
21 against any claims against the United States relat-
22 ing to water rights in the State asserted by the
23 Tribe or any user of the Tribal water rights or in
24 any future settlement of the water rights of the
25 Tribe or an allottee.

1 **SEC. 21. SATISFACTION OF CLAIMS.**

2 (a) TRIBAL CLAIMS.—The benefits realized by the
3 Tribe under this Act shall be in complete replacement of,
4 complete substitution for, and full satisfaction of all—

5 (1) claims of the Tribe against the United
6 States waived and released pursuant to section
7 20(a); and

8 (2) objections withdrawn pursuant to section
9 20(c).

10 (b) ALLOTTEE CLAIMS.—The benefits realized by the
11 allottees under this Act shall be in complete replacement
12 of, complete substitution for, and full satisfaction of—

13 (1) all claims waived and released pursuant to
14 section 20(a)(2); and

15 (2) any claim of an allottee against the United
16 States similar in nature to a claim described in sec-
17 tion 20(a)(2) that the allottee asserted or could have
18 asserted.

19 **SEC. 22. MISCELLANEOUS PROVISIONS.**

20 (a) WAIVER OF SOVEREIGN IMMUNITY.—Except as
21 provided in subsections (a) through (c) of section 208 of
22 the Department of Justice Appropriation Act, 1953 (43
23 U.S.C. 666), nothing in this Act waives the sovereign im-
24 munity of the United States.

25 (b) OTHER TRIBES NOT ADVERSELY AFFECTED.—
26 Nothing in this Act quantifies or diminishes any land or

1 water right, or any claim or entitlement to land or water,
2 of an Indian tribe, band, or community other than the
3 Tribe.

4 (c) LIMITATION ON CLAIMS FOR REIMBURSEMENT.—
5 With respect to any Indian-owned land located within the
6 Reservation—

7 (1) the United States shall not submit against
8 that land any claim for reimbursement of the cost
9 to the United States of carrying out this Act or the
10 Compact; and

11 (2) no assessment of that land shall be made
12 regarding that cost.

13 (d) LIMITATION ON LIABILITY OF UNITED
14 STATES.—

15 (1) IN GENERAL.—The United States has no
16 obligation—

17 (A) to monitor, administer, or account for,
18 in any manner, any funds provided to the Tribe
19 by the State; or

20 (B) to review or approve any expenditure
21 of those funds.

22 (2) INDEMNITY.—The Tribe shall indemnify the
23 United States, and hold the United States harmless,
24 with respect to all claims (including claims for
25 takings or breach of trust) arising from the receipt

1 or expenditure of amounts described in the sub-
2 section.

3 (e) EFFECT ON CURRENT LAW.—Nothing in this sec-
4 tion affects any provision of law (including regulations)
5 in effect on the day before the date of enactment of this
6 Act with respect to preenforcement review of any Federal
7 environmental enforcement action.

8 (f) EFFECT ON RECLAMATION LAWS.—The activities
9 carried out by the Commissioner of Reclamation under
10 this Act shall not establish a precedent or impact the au-
11 thority provided under any other provision of the reclama-
12 tion laws, including—

13 (1) the Reclamation Rural Water Supply Act of
14 2006 (43 U.S.C. 2401 et seq.); and

15 (2) the Omnibus Public Land Management Act
16 of 2009 (Public Law 111–11; 123 Stat. 991).

17 (g) IRRIGATION EFFICIENCY IN UPPER BIRCH
18 CREEK DRAINAGE.—Any activity carried out by the Tribe
19 in the Upper Birch Creek Drainage (as defined in article
20 II.50 of the Compact) using funds made available to carry
21 out this Act shall achieve an irrigation efficiency of not
22 less than 50 percent.

23 (h) BIRCH CREEK AGREEMENT APPROVAL.—The
24 Birch Creek Agreement is approved to the extent that the

1 Birch Creek Agreement requires approval under section
2 2116 of the Revised Statutes (25 U.S.C. 177).

3 (i) LIMITATION ON EFFECT.—Nothing in this Act or
4 the Compact—

5 (1) makes an allocation or apportionment of
6 water between or among States; or

7 (2) addresses or implies whether, how, or to
8 what extent the Tribal water rights, or any portion
9 of the Tribal water rights, should be accounted for
10 as part of, or otherwise charged against, an alloca-
11 tion or apportionment of water made to a State in
12 an interstate allocation or apportionment.

13 **SEC. 23. EXPIRATION ON FAILURE TO MEET ENFORCE-**
14 **ABILITY DATE.**

15 If the Secretary fails to publish a statement of find-
16 ings under section 20(f) by not later than January 21,
17 2025, or such alternative later date as is agreed to by the
18 Tribe and the Secretary, after reasonable notice to the
19 State, as applicable—

20 (1) this Act expires effective on the later of—

21 (A) January 22, 2025; and

22 (B) the day after such alternative later
23 date as is agreed to by the Tribe and the Sec-
24 retary;

1 (2) any action taken by the Secretary and any
2 contract or agreement entered into pursuant to this
3 Act shall be void;

4 (3) any amounts made available under section
5 18, together with any interest on those amounts,
6 that remain unexpended shall immediately revert to
7 the general fund of the Treasury, except for any
8 funds made available under section 16(e)(2) if the
9 Montana Water Court denies the Tribe's request to
10 reinstate the objections in section 20(c); and

11 (4) the United States shall be entitled to offset
12 against any claims asserted by the Tribe against the
13 United States relating to water rights—

14 (A) any funds expended or withdrawn from
15 the amounts made available pursuant to this
16 Act; and

17 (B) any funds made available to carry out
18 the activities authorized by this Act from other
19 authorized sources, except for any funds pro-
20 vided under section 16(e)(2) if the Montana
21 Water court denies the Tribe's request to rein-
22 state the objections in section 20(c).

23 **SEC. 24. ANTIDEFICIENCY.**

24 The United States shall not be liable for any failure
25 to carry out any obligation or activity authorized by this

1 Act (including any obligation or activity under the Com-
2 pact) if—

3 (1) adequate appropriations are not provided
4 expressly by Congress to carry out the purposes of
5 this Act; or

6 (2) there are not enough monies available to
7 carry out the purposes of this Act in the Reclama-
8 tion Water Settlements Fund established under sec-
9 tion 10501(a) of the Omnibus Public Land Manage-
10 ment Act of 2009 (43 U.S.C. 407(a)).

11 **SEC. 25. OFFSETS.**

12 If insufficient funds are appropriated to carry out
13 this Act for a fiscal year, the Secretary may use to carry
14 out this Act such amounts as are necessary from other
15 amounts made available to the Secretary for that fiscal
16 year that are not otherwise obligated.

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