

Public Law 85-915

AN ACT

September 2, 1958
[H. R. 12662]

To provide for the acquisition of lands by the United States required for the reservoir created by the construction of Oahe Dam on the Missouri River and for rehabilitation of the Indians of the Standing Rock Sioux Reservation in South Dakota and North Dakota, and for other purposes.

Oahe Dam and
Reservoir Project,
Mo.

Acquisition of
land.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in furtherance of the Oahe Dam and Reservoir project as authorized by the Act of December 22, 1944 (58 Stat. 887, 891)—

(a) title to the entire interest, excluding the interest in oil, gas, and all other minerals of any nature whatsoever, in approximately 55,993.82 acres of land within the taking area described in this Act on the Standing Rock Reservation in South Dakota and North Dakota, in which Indians have a trust or restricted interest, and title to any interest Indians may have in the bed of the Missouri River so far as it is within the boundaries of the Standing Rock Reservation, are hereby taken by the United States for the Oahe project on the Missouri River and in consideration thereof the United States will pay to the Standing Rock Sioux Tribe and the individual Indian owners out of funds available for the Oahe Dam and Reservoir project:

(1) a sum aggregating \$1,952,040, to be disbursed in accordance with schedules prepared by the Missouri River Basin project investigation staff; and

(2) the amount of \$3,299,513, which shall be in settlement of all claims, rights, and demands of the tribe and individual Indians arising out of the taking under this Act, to be disbursed in accordance with the provisions of section 2 hereof;

(b) upon a determination by the Secretary of the Army, filed among the appropriate land records of the Department of the Interior within two years from the date of enactment of this Act, that any of the lands described in this Act are not required for Oahe project purposes, title to such land shall be reverted in the former owner; and

(c) if the Secretary of the Army determines that additional Indian lands, tribal or individual, within the Standing Rock Reservation are required for project purposes, he may acquire such lands by purchase with the approval of the Secretary of the Interior, or by condemnation.

Standing Rock
Sioux Tribe.
Payments.

SEC. 2. The payments authorized by this Act, less the amount heretofore deposited by the United States in the case entitled "United States of America, Plaintiff vs. 2,005.32 acres of land etc. and Sioux Indians of Standing Rock Reservation et al., Defendants", civil numbered 722 filed in the United States District Court for the District of South Dakota, shall be deposited to the credit of the Standing Rock Sioux Tribe in the Treasury of the United States to draw interest on the principal at the rate of 4 per centum per annum until expended. The sum of \$1,952,040 shall be allocated in accordance with the tract and ownership schedules to be prepared by the Missouri River Basin investigation staff after consultation with the tribal council to correct known errors. The amounts allocated to the lands owned by individual Indians shall be credited to their respective individual Indian money accounts. No part of the compensation for the property taken by this Act shall be subject to any lien, debt, or claim of any nature whatsoever against the tribe or individual Indians except delinquent debts owed by the tribe to the United States or owed by individual Indians to the tribe or to the United States. One-half of the amount

paid pursuant to subsection 1 (a) (2) of this Act shall be consolidated with the rehabilitation appropriation authorized by section 5 of this Act and shall be expended in accordance with the provisions of section 5: *Provided*, That a sum not to exceed \$726,546 shall be available from said remaining one-half to pay expenses, costs, losses, and damages of members of the tribe as a direct result of moving themselves and their possessions on account of the taking under section 1 of this Act. No part of such amounts shall be used for per capita payments.

Limitation.

SEC. 3. The Secretary of the Army, out of funds appropriated for the construction of the Oahe project other than those authorized by this Act, shall relocate and reestablish such Indian cemeteries, tribal monuments, and shrines within the area taken under this Act as the Standing Rock Tribal Council shall select and designate, with the approval of the Secretary of the Interior.

Indian Cemeteries, Monuments, etc.

SEC. 4. The Secretary of the Army is authorized and directed, out of funds appropriated for the Oahe project, to protect, replace, relocate, or reconstruct any existing essential agency facilities on the Standing Rock Sioux Reservation, including schools, hospitals, service buildings, agents' and employees' quarters, roads, bridges, and incidental matters or facilities in connection therewith, which the Secretary of the Interior determines will be impaired by the construction of the Oahe project.

Reconstruction of facilities.

SEC. 5. There is authorized to be appropriated the further sum of \$6,960,000, which shall be deposited in the Treasury of the United States to the credit of the Standing Rock Sioux Tribe to draw interest on the principal at the rate of 4 per centum per annum until expended for the purpose of developing individual and family plans, relocating, reestablishing, and providing other assistance designed to help improve the economic and social conditions of all recognized members of the Standing Rock Sioux Tribe regardless of residence on the reservation: *Provided*, That such fund may be expended in accordance with plans and programs approved both by the tribal council and the Secretary of the Interior: *And provided further*, That no part of such funds shall be used for per capita payments, or for the purchase of land by the tribe except for the purpose of resale to individual Indians in furtherance of the rehabilitation program authorized by this section.

Appropriation.

SEC. 6. All minerals, including oil and gas, within the area taken by this Act shall be and hereby are reserved to the tribe or individual Indian owners as their interests may appear, but the exploration, exploitation, and development of the minerals, including oil and gas, shall be subject to all reasonable regulations which may be imposed by the Secretary of the Army for the protection of the Oahe project.

Mineral rights.

SEC. 7. Members of the tribe now residing within the taking area of the project shall have the right without charge to remain on and use the lands taken by this Act until required to vacate in accordance with the provisions of this Act.

Rights in taking area.

SEC. 8. Up to sixty days before the individual landowners are required to vacate the land in accordance with the provisions of this Act, they shall have the right without charge to cut and remove all timber from their respective lands and to salvage the improvements on their respective lands but, if said rights are waived or not exercised within the time limit herein specified, the tribe, through the tribal council, may exercise the rights: *Provided*, That the salvage permitted by this section shall not be construed to be compensation.

SEC. 9. (a) Except as provided in subsection (b), the schedule under which the tribe and the members thereof shall vacate the taking area shall be as follows:

Schedule for vacating.

(1) Little Eagle and Wakpala districts, within eight months from the date of this Act;

- (2) Kenel district, within twelve months from such date;
- (3) Agency district, within eighteen months from such date; and
- (4) Cannonball district, within twenty-four months from such date.

(b) The Chief of Engineers, subject to approval by the Secretary of the Interior, may make such changes in the schedule provided in subsection (a) of this section as he deems necessary, except that, in any event, all lands within the taking area shall be vacated within two years after that date on which the Missouri River is diverted through the tunnels at the Oahe Dam or such prior date as the Chief of Engineers may fix, with the approval of the Secretary of the Interior.

Use of land.

SEC. 10. After the Oahe Dam gates are closed and the waters of the Missouri River impounded, the said Indian tribe and the members thereof shall be given exclusive permission, without cost, to graze stock on the land between the water level of the reservoir and the exterior boundary of the taking area. The said tribal council and the members of said Indian tribe shall be permitted to have, without cost, access to the shoreline of the reservoir, including permission to hunt and fish in and on the aforesaid shoreline and reservoir, subject, however, to regulations governing the corresponding use by other citizens of the United States.

Authorization to purchase and sell certain lands.

SEC. 11. For the purposes of (1) providing substitute land for individual Indians whose land is within the taking area, (2) consolidating land holdings, and (3) eliminating fractionated heirship interests within the reservation, the Secretary of the Interior is authorized to purchase, with funds made available by such individual Indians or by the tribe, land or interests in land, and to sell tribal land upon request of the tribe, but no service charge shall be made by the United States. The land selected by and purchased for individual Indians may be either inside or outside the boundaries of the Standing Rock Sioux Reservation as diminished. Title to any land or interests in land acquired within the boundaries of the reservation shall be taken in the name of the United States in trust for the tribe or the individual Indian for whom the land is acquired, and title to any land or interests in land acquired outside the boundaries of the reservation shall be taken in the name of the individual for whom it is acquired. Trust title shall be subject to the laws and regulations applicable to other trust titles within the reservation.

For the purposes of this section, the Secretary of the Interior is also authorized to partition or sell individually owned land in which all interests are in a trust or restricted status upon request of the owners of not less than a 25 per centum interest in the land. Any such sale shall be by competitive bid, except that with the concurrence of the owners of not less than a 25 per centum interest in the land, any owner of an interest in the land, or the tribe, if the land is within the Standing Rock Sioux Reservation, shall have the right to purchase the land within a reasonable time fixed by the Secretary prior to a competitive sale at not less than its appraised value. If more than one preference right is exercised, the sale shall be by competitive bid, limited to the tribe and to the persons entitled to a preference. The Secretary of the Interior may represent for the purpose of this paragraph any Indian owner who is a minor, or who is non compos mentis, or under any other legal disability, and, after giving reasonable notice of the proposed sale by publication, may represent an Indian owner who cannot be located, and he may execute any title documents necessary to convey a marketable and recordable title.

Nothing in this section shall be construed to diminish the authority to acquire, sell, or exchange land that is contained in other provisions of law.

SEC. 12. No part of any expenditure made by the United States under any or all of the provisions of this agreement and the subsequent acts of ratification shall be charged as an offset or counterclaim against any tribal claim which has arisen under any treaty, law, or Executive order of the United States prior to the effective date of taking of said land as provided for in section 1 hereof and the payment of Sioux benefits as provided for in section 17 of the said Act of March 2, 1889 (25 Stat. 888), as amended, shall be continued under the provision of section 14 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), on the basis now in operation without regard to the loss of tribal land within the taking area under the provisions of this agreement.

Restriction.

25 USC 474.

SEC. 13. The Secretary of the Treasury, upon certification by the Secretary of the Interior, shall reimburse the Standing Rock Sioux Tribe for fees and expenses incurred in connection with the taking of Indian lands within the Standing Rock Sioux Reservation for the Oahe project: *Provided*, That such reimbursable fees and expenses do not exceed in the aggregate \$135,000: *Provided further*, That attorney fees shall be paid under the terms of a contract approved by the Secretary of the Interior.

Reimbursement.

SEC. 14. Any individual member of the Standing Rock Sioux Tribe shall have the right to reject the sum tendered to him as payment in accordance with the schedules to be prepared by the Missouri River Basin investigation staff by filing within one year from the date of this Act a notice of rejection with the Chief of Engineers, United States Army, Washington, District of Columbia. If the land of any Indian rejecting payment is included in condemnation proceedings heretofore instituted, the court in those proceedings shall proceed to determine the just compensation to which the individual is entitled and, if the land is not included in such condemnation proceedings, jurisdiction is hereby conferred upon the United States District Court for the District of South Dakota, or the United States District Court for the District of North Dakota, as the case may be, to determine just compensation in accordance with procedures applicable to the determination of just compensation in condemnation proceedings.

Rejection of payment.

No court costs shall be charged against an individual but all other costs and expenses, including counsel fees, shall be at the contesting individual's expense. If the amount fixed by the court exceeds the amount theretofore tendered to the individual, the Secretary of the Army shall deposit the difference in court; if the amount fixed by the court is less than the amount theretofore tendered to the individual, the difference shall be credited to the United States.

Court costs.

SEC. 15. There is hereby authorized to be appropriated such amounts as may be necessary for the purposes of this Act.

Appropriations.

SEC. 16. Subject to the provisions of section 1 of this Act, the taking area referred to in this Act and the land for which the compensation of \$1,952,040 has been allowed under this Act, containing approximately 55,993.82 acres, is the land defined in report numbered 134, Missouri River Basin investigation project, and delimited on a map entitled "Map Showing Tribal and Individual Indian Restricted and Trust Land of the Standing Rock Sioux Reservation Acquired by the United States for the Oahe Project and Forming the Basis for the Agreed Sale Price of \$1,952,040 Under an Agreement Dated March 24, 1958, Between the United States and the Standing Rock Sioux Tribe" on file in the Bureau of Indian Affairs.

Definition.

SEC. 17. All funds authorized by this Act paid to the tribe and individual Indians shall be exempt from all forms of State and Federal taxation.

Tax exemption.

Approved September 2, 1958.

Public Law 85-916

AN ACT

September 2, 1958
[H. R. 12670]

To provide for additional payments to the Indians of the Crow Creek Sioux Reservation, South Dakota, whose lands have been acquired for the Fort Randall Dam and Reservoir project, and for other purposes.

Crow Creek
Sioux Indians.
Payments for
lands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Army is authorized and directed to pay to the Crow Creek Sioux Tribe and the individual Indian owners, out of funds made available for the Fort Randall Dam and Reservoir project, in settlement of all claims, rights, and demands of said tribe and its members arising out of the construction of the Fort Randall Dam and Reservoir project, an amount equal to the difference between \$1,395,811.94 and the sum paid for the taking of lands in condemnation proceedings entitled "United States of America, plaintiff, against 9,148.69 acres of land, etc., and Crow Creek Tribe of Sioux Indians, et al., defendants", civil numbered 184, and "United States of America, plaintiff, against 365.62 acres of land, etc., and State of South Dakota, et al., defendants", civil numbered 844 filed in the United States District Court for the District of South Dakota.

Deposit of pay-
ments.

SEC. 2. The payments authorized by section 1 of this Act shall be deposited to the credit of the Crow Creek Sioux Tribe in the Treasury of the United States to draw interest on the principal at the rate of 4 per centum per annum until expended. The sum of \$126,000 shall be allocated to the former owners on a prorated basis in accordance with the tract and ownership schedules set forth in the condemnation proceedings referred to in section 1, after consultation with the Missouri River Basin investigation staff and the tribal council to correct known errors. The amounts allocated to the lands owned by individual Indians shall be credited to their respective individual Indian money accounts. No part of the compensation for the property taken by the condemnation proceedings referred to in section 1, whether paid in the proceedings or under this Act, shall be subject to any lien, debt, or claim of any nature whatsoever against the tribe or individual Indians except delinquent debts owed by the tribe to the United States or owed by individual Indians to the tribe or to the United States. The cost of moving dwellings and other buildings owned by the Indians from the Fort Randall Dam and Reservoir project area shall be paid out of the part of the payment authorized under section 1 and payable to the tribe.

Mineral rights
revested in former
owners.

SEC. 3. The Secretary of the Army shall revest or cause to be revested in the former owners all of the right, title, and interest of the United States in minerals acquired through the condemnation proceedings referred to in section 1 of this Act; but the exploration, exploitation, and development of the minerals, including oil and gas, shall be subject to all reasonable regulations which may be imposed by the Secretary of the Army for the protection of the Fort Randall Dam and Reservoir project.

Retention of
timber, etc.

SEC. 4. Individual Indians and the tribe are authorized without charge to retain timber and improvements previously removed by them from the lands acquired in the condemnation proceedings referred to in section 1 hereof; and former owners shall also have the right, without charge, prior to September 30, 1958, to cut and remove any remaining timber and salvage any remaining improvements on the respective lands acquired from them in said condemnation proceedings; but, if said rights are waived or not exercised by September 30, 1958, the tribe, through the tribal council, may, prior to January 1, 1959, exercise the rights: *Provided*, That the salvage previously