

112TH CONGRESS  
1ST SESSION

# S. 1345

To provide for equitable compensation to the Spokane Tribe of Indians of the Spokane Reservation for the use of tribal land for the production of hydropower by the Grand Coulee Dam, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JULY 11, 2011

Ms. CANTWELL (for herself and Mrs. MURRAY) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

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## A BILL

To provide for equitable compensation to the Spokane Tribe of Indians of the Spokane Reservation for the use of tribal land for the production of hydropower by the Grand Coulee Dam, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Spokane Tribe of Indi-  
5       ans of the Spokane Reservation Grand Coulee Dam Equi-  
6       table Compensation Settlement Act”.

7       **SEC. 2. FINDINGS.**

8       Congress finds that—

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

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

11          (3) in August 1933, the Columbia Basin Com-  
12          mission, an agency of the State of Washington, re-  
13          ceived a preliminary permit from the Federal Power  
14          Commission for water power development at the  
15          Grand Coulee site;

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

20          (5) in the mid-1930s, the Federal Government,  
21          which is not subject to licensing under the Federal  
22          Power Act (16 U.S.C. 792 et seq.)—

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

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

3 (6) when the Grand Coulee Dam project was  
4 federalized, the Federal Government recognized  
5 that—

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

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

13 (7) in the Act of June 29, 1940 (16 U.S.C.  
14 835d et seq.), Congress—

15 (A) granted to the United States—

16 (i) in aid of the construction, oper-  
17 ation, and maintenance of the Columbia  
18 Basin Project, all the right, title, and in-  
19 terest of the Spokane Tribe and Colville  
20 Tribes in and to the tribal and allotted  
21 land within the Spokane and Colville Res-  
22 ervations, as designated by the Secretary  
23 of the Interior from time to time; and

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

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

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

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

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

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

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

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

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

1           (10) the Spokane Tribe, having suffered harm  
2 similar to that suffered by the Colville Tribes, did  
3 not file a claim within the 5-year statute of limita-  
4 tions under the Indian Claims Commission Act;

5           (11) neither the Colville Tribes nor the Spokane  
6 Tribe filed claims for compensation for use of the  
7 land of the respective Tribes with the Commission  
8 prior to August 13, 1951, but both Tribes filed un-  
9 related land claims prior to August 13, 1951;

10           (12) in 1976, over objections by the United  
11 States, the Colville Tribes were successful in amend-  
12 ing the 1951 Claims Commission land claims to add  
13 the Grand Coulee claim of the Colville Tribes;

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

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

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

1           (16) the payments and delegation made pursu-  
2           ant to this Act constitute fair and equitable com-  
3           pensation for the past and continued use of Spokane  
4           tribal land for the production of hydropower at  
5           Grand Coulee Dam; and

6           (17) by vote of the Spokane tribal membership,  
7           the Spokane Tribe has resolved that the payments  
8           and delegation made pursuant to this Act constitute  
9           fair and equitable compensation for the past and  
10          continued use of Spokane tribal land for the produc-  
11          tion of hydropower at Grand Coulee Dam.

12 **SEC. 3. PURPOSE.**

13          The purpose of this Act is to provide fair and equi-  
14          table compensation to the Spokane Tribe for the use of  
15          the land of the Spokane Tribe for the generation of hydro-  
16          power by the Grand Coulee Dam.

17 **SEC. 4. DEFINITIONS.**

18          In this Act:

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

24           (2) COLVILLE SETTLEMENT AGREEMENT.—The  
25           term “Colville Settlement Agreement” means the

1 Settlement Agreement entered into between the  
2 United States and the Colville Tribes, signed by the  
3 United States on April 21, 1994, and by the Colville  
4 Tribes on April 16, 1994, to settle the claims of the  
5 Colville Tribes in Docket 181–D of the Indian  
6 Claims Commission, which docket was transferred to  
7 the United States Court of Federal Claims.

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

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

17 (5) CONFEDERATED TRIBES ACT.—The term  
18 “Confederated Tribes Act” means the Confederated  
19 Tribes of the Colville Reservation Grand Coulee  
20 Dam Settlement Act (Public Law 103–436; 108  
21 Stat. 4577).

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

1           (7) SECRETARY.—The term “Secretary” means  
2           the Secretary of the Interior.

3           (8) SPOKANE BUSINESS COUNCIL.—The term  
4           “Spokane Business Council” means the governing  
5           body of the Spokane Tribe under the constitution of  
6           the Spokane Tribe.

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

10 **SEC. 5. SETTLEMENT FUND.**

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

15           (1) amounts deposited in the Fund under sub-  
16           section (b); and

17           (2) any interest earned on investment of  
18           amounts in the Fund.

19           (b) DEPOSITS.—From amounts made available under  
20           section 11—

21           (1) for fiscal year 2012, the Secretary shall de-  
22           posit in the Fund \$23,900,000; and

23           (2) for each of the 4 fiscal years thereafter, the  
24           Secretary shall deposit in the Fund \$18,900,000.



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

5 (d) PAYMENT OF FUNDS TO SPOKANE BUSINESS  
6 COUNCIL.—

7 (1) REQUEST.—At any time after amounts are  
8 deposited in the Fund, the Spokane Business Coun-  
9 cil may submit to the Secretary written notice of the  
10 adoption by the Spokane Business Council of a reso-  
11 lution requesting that the Secretary pay all or a por-  
12 tion of the amounts in the Fund to the Spokane  
13 Business Council.

14 (2) PAYMENT.—Not later than 60 days after  
15 receipt of a notice under paragraph (1), the Sec-  
16 retary shall pay the amount requested to the Spo-  
17 kane Business Council.

18 (e) USE OF FUNDS.—

19 (1) CULTURAL RESOURCE REPOSITORY AND IN-  
20 TERPRETIVE CENTER.—

21 (A) IN GENERAL.—Of the initial deposit  
22 under subsection (b)(1), \$5,000,000 shall be  
23 used by the Spokane Business Council for the  
24 planning, design, construction, equipping, and  
25 continuing operation and maintenance of a Cul-

1 tural Resource Repository and Interpretive Cen-  
2 ter to—

3 (i) house, preserve, and protect the  
4 burial remains and funerary and cultural  
5 resources affected by the operation of the  
6 Grand Coulee Dam; and

7 (ii) provide an interpretive and edu-  
8 cational facility regarding the culture and  
9 history of the Spokane Tribe.

10 (B) EFFECT.—The funding under sub-  
11 paragraph (A) does not alter or affect any au-  
12 thority, obligation, or responsibility of the  
13 United States under—

14 (i) the Native American Graves Pro-  
15 tection and Repatriation Act (25 U.S.C.  
16 3001 et seq.);

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

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

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

23 (2) OTHER USES.—Of all other amounts depos-  
24 ited in the Fund (including interest generated on  
25 those amounts)—

1 (A) 25 percent shall be—

2 (i) reserved by the Spokane Business  
3 Council; and

4 (ii) used for discretionary purposes of  
5 general benefit to all members of the Spo-  
6 kane Tribe; and

7 (B) 75 percent shall be used by the Spo-  
8 kane Business Council to carry out—

9 (i) resource development programs;

10 (ii) credit programs;

11 (iii) scholarship programs; or

12 (iv) reserve, investment, and economic  
13 development programs.

14 **SEC. 6. PAYMENTS BY ADMINISTRATOR.**

15 (a) INITIAL PAYMENT.—On March 1, 2012, the Ad-  
16 ministrator shall pay to the Spokane Tribe an amount  
17 equal to 25 percent of the Computed Annual Payment for  
18 fiscal year 2011.

19 (b) SUBSEQUENT PAYMENTS.—

20 (1) IN GENERAL.—Not later than March 1,  
21 2013, and March 1 of each year thereafter through  
22 March 1, 2021, the Administrator shall pay the Spo-  
23 kane Tribe an amount equal to 25 percent of the  
24 Computed Annual Payment for the preceding fiscal  
25 year.

1           (2) MARCH 1, 2022, AND SUBSEQUENT YEARS.—  
2           Not later than March 1, 2022, and March 1 of each  
3           year thereafter, the Administrator shall pay the Spo-  
4           kane Tribe an amount equal to 32 percent of the  
5           Computed Annual Payment for the preceding fiscal  
6           year.

7   **SEC. 7. TREATMENT AFTER AMOUNTS ARE PAID.**

8           (a) USE OF PAYMENTS.—Payments made to the Spo-  
9           kane Business Council or Spokane Tribe under section 5  
10          or 6 may be used or invested by the Business Council in  
11          the same manner and for the same purposes as other Spo-  
12          kane Tribe governmental amounts.

13          (b) NO TRUST RESPONSIBILITY OF THE SEC-  
14          RETARY.—Neither the Secretary nor the Administrator  
15          shall have any trust responsibility for the investment, su-  
16          pervision, administration, or expenditure of any amounts  
17          after the date on which the funds are paid to the Spokane  
18          Business Council or Spokane Tribe under section 5 or 6.

19          (c) TREATMENT OF FUNDS FOR CERTAIN PUR-  
20          POSES.—The payments of all amounts to the Spokane  
21          Business Council and Spokane Tribe under sections 5 and  
22          6, and the interest and income generated by those  
23          amounts, shall be treated in the same manner as payments  
24          under section 6 of the Saginaw Chippewa Indian Tribe

1 of Michigan Distribution of Judgment Funds Act (100  
2 Stat. 677).

3 (d) TRIBAL AUDIT.—After the date on which  
4 amounts are paid to the Spokane Business Council or Spo-  
5 kane Tribe under section 5 or 6, the amounts shall—

6 (1) constitute Spokane Tribe governmental  
7 amounts; and

8 (2) be subject to an annual tribal government  
9 audit.

10 **SEC. 8. REPAYMENT CREDIT.**

11 (a) IN GENERAL.—The Administrator shall deduct  
12 from the interest payable to the Secretary of the Treasury  
13 from net proceeds (as defined in section 13 of the Federal  
14 Columbia River Transmission System Act (16 U.S.C.  
15 838k))—

16 (1) in fiscal year 2022, \$2,700,000; and

17 (2) in each subsequent fiscal year in which the  
18 Administrator makes a payment under section 6,  
19 \$2,700,000.

20 (b) CREDITING.—

21 (1) IN GENERAL.—Except as provided in para-  
22 graphs (2) and (3), each deduction made under this  
23 section for the fiscal year shall be—

24 (A) a credit to the interest payments oth-  
25 erwise payable by the Administrator to the Sec-

1           retary of the Treasury during the fiscal year in  
2           which the deduction is made; and

3                   (B) allocated pro rata to all interest pay-  
4           ments on debt associated with the generation  
5           function of the Federal Columbia River Power  
6           System that are due during the fiscal year.

7           (2) DEDUCTION GREATER THAN AMOUNT OF  
8           INTEREST.—If, in an applicable fiscal year under  
9           paragraph (1), the deduction is greater than the  
10          amount of interest due on debt associated with the  
11          generation function for the fiscal year, the amount  
12          of the deduction that exceeds the interest due on  
13          debt associated with the generation function shall be  
14          allocated pro rata to all other interest payments due  
15          during the fiscal year.

16          (3) CREDIT.—To the extent that a deduction  
17          exceeds the total amount of interest described in  
18          paragraphs (1) and (2), the deduction shall be ap-  
19          plied as a credit against any other payments that  
20          the Administrator makes to the Secretary of the  
21          Treasury.

22 **SEC. 9. DELEGATION OF AUTHORITY; RESERVATION**  
23 **BOUNDARY; RETENTION OF AUTHORITY.**

24          (a) DELEGATION OF AUTHORITY.—The delegation by  
25          the Secretary to the Spokane Tribe under the authority

1 of the following, with respect to land that is located within  
2 the exterior boundaries of the Spokane Indian Reserva-  
3 tion, is confirmed:

4 (1) The Act of June 17, 1902 (43 U.S.C. 373).

5 (2) The Act of June 29, 1940 (16 U.S.C.  
6 835d).

7 (3) Section 15 of the Act of August 4, 1939  
8 (43 U.S.C. 485i).

9 (4) The Lake Roosevelt Cooperative Manage-  
10 ment Agreement concluded in April 1990 among the  
11 Department of the Interior, the Spokane Tribe, and  
12 the Confederated Tribes of the Colville Reservation,  
13 over all land acquired by the United States pursuant  
14 to the Act of June 29, 1940 (16 U.S.C. 835d), also  
15 known as the Reservation or Indian Zone.

16 (b) COLVILLE-SPOKANE RESERVATION BOUND-  
17 ARY.—Nothing in this section—

18 (1) establishes or affects—

19 (A) the precise location of the boundary  
20 between the Spokane Indian Reservation and  
21 the Colville Reservation along the Columbia  
22 River; or

23 (B) the agreement between the Colville  
24 Tribes and the Spokane Tribe that the common  
25 boundary of the Spokane Tribe and Colville

1 Tribes Indian zones established under the Act  
2 of June 29, 1940 (16 U.S.C. 835d), shall follow  
3 the center line of Lake Roosevelt, without ref-  
4 erence to the course of the submerged Columbia  
5 River; or

6 (2) affects the rights of the Colville Tribes or  
7 the Spokane Tribe to the use of the respective por-  
8 tion of each tribe of the Indian zone, as provided in  
9 the Act of June 29, 1940 (16 U.S.C. 835d).

10 (c) RETENTION OF AUTHORITY BY THE UNITED  
11 STATES.—Nothing in this Act alters or affects the author-  
12 ity or responsibility of—

13 (1) the United States to carry out the Columbia  
14 Basin Project under the Columbia Basin Project Act  
15 (16 U.S.C. 835 et seq.); or

16 (2) the National Park Service to administer the  
17 Lake Roosevelt National Recreation Area under the  
18 Act of August 25, 1916 (39 Stat. 535, chapter 408;  
19 16 U.S.C. 1 et seq.).

20 **SEC. 10. SATISFACTION OF CLAIMS.**

21 Payment by the Secretary under section 5 and the  
22 Administrator under section 6 and delegation under sec-  
23 tion 9 constitute full satisfaction of the claim of the Spo-  
24 kane Tribe to a fair share of the annual hydropower reve-  
25 nues generated by the Grand Coulee Dam project for the



1 past and continued use of land of the Spokane Tribe for  
2 the production of hydropower at Grand Coulee Dam.

3 **SEC. 11. ADMINISTRATION.**

4 Nothing in this Act establishes any precedent or is  
5 binding on the Southwestern Power Administration, West-  
6 ern Area Power Administration, or Southeastern Power  
7 Administration.

8 **SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

9 There are authorized to be appropriated such sums  
10 as are necessary to carry out this Act.

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