

105TH CONGRESS
2D SESSION

H. R. 3055

IN THE SENATE OF THE UNITED STATES

OCTOBER 13 (legislative day, OCTOBER 2), 1998

Received

AN ACT

To deem the activities of the Miccosukee Tribe on the Miccosukee Reserved Area to be consistent with the purposes of the Everglades National Park, and for other purposes.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Miccosukee Reserved
3 Area Act”.

4 **SEC. 2. FINDINGS.**

5 Congress finds the following:

6 (1) Since 1964, the Miccosukee Tribe of Indi-
7 ans of Florida have lived and governed their own af-
8 fairs on a strip of land on the northern edge of the
9 Everglades National Park pursuant to permits from
10 the National Park Service and other legal authority.
11 The current permit expires in 2014.

12 (2) Since the commencement of the Tribe’s per-
13 mitted use and occupancy of the Special Use Permit
14 Area, the Tribe’s membership has grown, as have
15 the needs and desires of the Tribe and its members
16 for modern housing, governmental and administra-
17 tive facilities, schools and cultural amenities, and re-
18 lated structures.

19 (3) The United States, the State of Florida, the
20 Miccosukee Tribe, and the Seminole Tribe of Florida
21 are participating in a major intergovernmental effort
22 to restore the South Florida ecosystem, including
23 the restoration of the environment of the Park.

24 (4) The Special Use Permit Area is located
25 within the northern boundary of the Park, which is
26 critical to the protection and restoration of the Ever-

1 glades, as well as to the cultural values of the
2 Miccosukee Tribe.

3 (5) The interests of both the Miccosukee Tribe
4 and the United States would be enhanced by a fur-
5 ther delineation of the rights and obligations of each
6 with respect to the Special Use Permit Area and to
7 the Park as a whole.

8 (6) The amount and location of land allocated
9 to the Tribe fulfills the purposes of the Park.

10 (7) The use of the Miccosukee Reserved Area
11 by the Miccosukee Tribe does not constitute an
12 abandonment of the Park.

13 **SEC. 3. PURPOSES.**

14 The purposes of this Act are as follows:

15 (1) To replace the special use permit with a
16 legal framework under which the Tribe can live per-
17 manently and govern the Tribe's own affairs in a
18 modern community within the Park.

19 (2) To protect the Park outside the boundaries
20 of the Miccosukee Reserved Area from adverse ef-
21 fects of structures or activities within that area, and
22 to support restoration of the South Florida eco-
23 system, including restoring the environment of the
24 Park.

1 **SEC. 4. DEFINITIONS.**

2 In this Act:

3 (1) ADMINISTRATOR.—The term “Adminis-
4 trator” means the Administrator of the Environ-
5 mental Protection Agency.

6 (2) EVERGLADES.—The term “Everglades”
7 means the areas within the Florida Water Conserva-
8 tion Areas, Everglades National Park, and Big Cy-
9 press National Preserve.

10 (3) FEDERAL AGENCY.—The term “Federal
11 agency” means an agency, as that term is defined
12 in section 551(1) of title 5, United States Code.

13 (4) MICCOSUKEE RESERVED AREA; MRA.—

14 (A) IN GENERAL.—The term “Miccosukee
15 Reserved Area” or “MRA” means, notwith-
16 standing any other provision of law and subject
17 to the limitations specified in section 6(d) of
18 this Act, the portion of the Everglades National
19 Park described in subparagraph (B) that is de-
20 picted on the map entitled “Miccosukee Re-
21 served Area” numbered NPS–160/41,038, and
22 dated September 30, 1998, copies of which
23 shall be kept available for public inspection in
24 the offices of the National Park Service, De-
25 partment of the Interior, and shall be filed with

1 appropriate officers of Miami-Dade County and
2 the Miccosukee Tribe of Indians of Florida.

3 (B) DESCRIPTION.—The description of the
4 lands referred to in subparagraph (A) is as fol-
5 lows: “Beginning at the western boundary of
6 Everglades National Park at the west line of
7 sec. 20, T. 54 S., R. 35 E., thence E. following
8 the Northern boundary of said Park in T. 54
9 S., Rs. 35 and 36 E., to a point in sec. 19, T.
10 54 S., R. 36 E., 500 feet west of the existing
11 road known as Seven Mile Road, thence 500
12 feet south from said point, thence west parallel-
13 ing the Park boundary for 3,200 feet, thence
14 south for 600 feet, thence west, paralleling the
15 Park boundary to the west line of sec. 20, T.
16 54 S., R. 35 E., thence N. 1,100 feet to the
17 point of beginning.”.

18 (5) PARK.—The term “Park” means the Ever-
19 glades National Park, including any additions to
20 that Park.

21 (6) PERMIT.—The term “permit”, unless other-
22 wise specified, means any federally issued permit, li-
23 cense, certificate of public convenience and necessity,
24 or other permission of any kind.

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

4 (8) SOUTH FLORIDA ECOSYSTEM.—The term
5 “South Florida ecosystem” has the meaning given
6 that term in section 528(a)(4) of the Water Re-
7 sources Development Act of 1996 (Public Law 104–
8 303).

9 (9) SPECIAL USE PERMIT AREA.—The term
10 “special use permit area” means the area of 333.3
11 acres on the northern boundary of the Park reserved
12 for the use, occupancy, and governance of the Tribe
13 under a special use permit before the date of enact-
14 ment of this Act.

15 (10) TRIBE.—The term “Tribe”, unless other-
16 wise specified, means the Miccosukee Tribe of Indi-
17 ans of Florida, a tribe of American Indians recog-
18 nized by the United States and organized under sec-
19 tion 16 of the Act of June 18, 1934 (48 Stat. 987;
20 25 U.S.C. 476), and recognized by the State of Flor-
21 ida pursuant to chapter 285, Florida Statutes.

22 (11) TRIBAL.—The term “tribal” means of or
23 pertaining to the Miccosukee Tribe of Indians of
24 Florida.

1 (12) TRIBAL CHAIRMAN.—The term “tribal
2 chairman” means the duly elected chairman of the
3 Miccosukee Tribe of Indians of Florida, or the des-
4 ignee of that chairman.

5 **SEC. 5. TRIBAL RIGHTS AND AUTHORITY ON THE**
6 **MICCOSUKEE RESERVED AREA.**

7 (a) SPECIAL USE PERMIT TERMINATED.—

8 (1) TERMINATION.—The special use permit
9 dated February 1, 1973, issued by the Secretary to
10 the Tribe, and any amendments to that permit, are
11 terminated.

12 (2) EXPANSION OF SPECIAL USE PERMIT
13 AREA.—The geographical area contained in the
14 former special use permit area referred to in para-
15 graph (1) shall be expanded pursuant to this Act
16 and known as the Miccosukee Reserved Area.

17 (3) GOVERNANCE OF AFFAIRS IN MICCOSUKEE
18 RESERVED AREA.—Subject to the provisions of this
19 Act and other applicable Federal law, the Tribe shall
20 govern its own affairs and otherwise make laws and
21 apply those laws in the MRA as though the MRA
22 were a Federal Indian reservation.

23 (b) PERPETUAL USE AND OCCUPANCY.—The Tribe
24 shall have the exclusive right to use and develop the MRA
25 in perpetuity in a manner consistent with this Act for pur-

1 poses of the administration, education, housing, and cul-
2 tural activities of the Tribe, including commercial services
3 necessary to support those purposes.

4 (c) INDIAN COUNTRY STATUS.—The MRA shall be—

5 (1) considered to be Indian country (as that
6 term is defined in section 1151 of title 18, United
7 States Code); and

8 (2) treated as a federally recognized Indian res-
9 ervation solely for purposes of—

10 (A) determining the authority of the Tribe
11 to govern its own affairs and otherwise make
12 laws and apply those laws within the MRA; and

13 (B) the eligibility of the Tribe and its
14 members for any Federal health, education, em-
15 ployment, economic assistance, revenue sharing,
16 or social welfare programs, or any other similar
17 Federal program for which Indians are eligible
18 because of their—

19 (i) status as Indians; and

20 (ii) residence on or near an Indian
21 reservation.

22 (d) EXCLUSIVE FEDERAL JURISDICTION PRE-
23 SERVED.—The exclusive Federal legislative jurisdiction as
24 applied to the MRA as in effect on the date of enactment
25 of this Act shall be preserved. The Act of August 15,

1 1953, 67 Stat. 588, chapter 505 and the amendments
 2 made by that Act, including section 1162 of title 18,
 3 United States Code, as added by that Act and section
 4 1360 of title 28, United States Code, as added by that
 5 Act, shall not apply with respect to the MRA.

6 (e) OTHER RIGHTS PRESERVED.—Nothing in this
 7 Act shall affect any rights of the Tribe under Federal law,
 8 including the right to use other lands or waters within the
 9 Park for other purposes, including, fishing, boating, hik-
 10 ing, camping, cultural activities, or religious observances.

11 **SEC. 6. PROTECTION OF EVERGLADES NATIONAL PARK.**

12 (a) ENVIRONMENTAL PROTECTION AND ACCESS RE-
 13 QUIREMENTS.—

14 (1) IN GENERAL.—The MRA shall remain with-
 15 in the boundaries of the Park and be a part of the
 16 Park in a manner consistent with this Act.

17 (2) COMPLIANCE WITH APPLICABLE LAWS.—
 18 The Tribe shall be responsible for compliance with
 19 all applicable laws, except as otherwise provided by
 20 this Act.

21 (3) PREVENTION OF DEGRADATION; ABATE-
 22 MENT.—

23 (A) PREVENTION OF DEGRADATION.—Pur-
 24 suant to the requirements of the Federal Water
 25 Pollution Control Act (33 U.S.C. 1251 et seq.),

1 the Tribe shall prevent and abate degradation
2 of the quality of surface or groundwater that is
3 released into other parts of the Park, as fol-
4 lows:

5 (i) With respect to water entering the
6 MRA which fails to meet applicable water
7 quality standards approved by the Admin-
8 istrator under the Federal Water Pollution
9 Control Act (33 U.S.C. 1251 et seq.), ac-
10 tions of the Tribe shall not further degrade
11 water quality.

12 (ii) With respect to water entering the
13 MRA which meets applicable water quality
14 standards approved by the Administrator
15 under the Federal Water Pollution Control
16 Act (33 U.S.C. 1251 et seq.), the Tribe
17 shall not cause the water to fail to comply
18 with applicable water quality standards.

19 (B) PREVENTION AND ABATEMENT.—The
20 Tribe shall prevent and abate disruption of the
21 restoration or preservation of the quantity, tim-
22 ing, or distribution of surface or groundwater
23 that would enter the MRA and flow, directly or
24 indirectly, into other parts of the Park, but only
25 to the extent that such disruption is caused by

1 conditions, activities, or structures within the
2 MRA.

3 (C) PREVENTION OF SIGNIFICANT PROPAGA-
4 GATION OF EXOTIC PLANTS AND ANIMALS.—
5 The Tribe shall prevent significant propagation
6 of exotic plants or animals outside the MRA
7 that may otherwise be caused by conditions, ac-
8 tivities, or structures within the MRA.

9 (D) PUBLIC ACCESS TO CERTAIN AREAS
10 OF THE PARK.—The Tribe shall not impede
11 public access to those areas of the Park outside
12 the boundaries of the MRA, and to and from
13 the Big Cypress National Preserve, except that
14 the Tribe shall not be required to allow individ-
15 uals who are not members of the Tribe access
16 to the MRA other than Federal employees,
17 agents, officers, and officials (as provided in
18 this Act).

19 (E) PREVENTION OF SIGNIFICANT CUMU-
20 LATIVE ADVERSE ENVIRONMENTAL IMPACTS.—

21 (i) IN GENERAL.—The Tribe shall
22 prevent and abate any significant cumu-
23 lative adverse environmental impact on the
24 Park outside the MRA resulting from de-

1 velopment or other activities within the
2 MRA.

3 (ii) PROCEDURES.—Not later than 12
4 months after the date of enactment of this
5 Act, the Tribe shall develop, publish, and
6 implement procedures that shall ensure
7 adequate public notice and opportunity to
8 comment on major tribal actions within the
9 MRA that may contribute to a significant
10 cumulative adverse impact on the Ever-
11 glades ecosystem.

12 (iii) WRITTEN NOTICE.—The proce-
13 dures in clause (ii) shall include timely
14 written notice to the Secretary and consid-
15 eration of the Secretary’s comments.

16 (F) WATER QUALITY STANDARDS.—

17 (i) IN GENERAL.—Not later than 12
18 months after the date of enactment of this
19 Act, the Tribe shall adopt and comply with
20 water quality standards within the MRA
21 that are at least as protective as the water
22 quality standards for the area encompassed
23 by Everglades National Park approved by
24 the Administrator under the Federal

1 Water Pollution Control Act (33 U.S.C.
2 1251 et seq.).

3 (ii) TRIBAL WATER QUALITY STAND-
4 ARDS.—The Tribe may not adopt water
5 quality standards for the MRA under
6 clause (i) that are more restrictive than
7 the water quality standards adopted by the
8 Tribe for contiguous reservation lands that
9 are not within the Park.

10 (iii) EFFECT OF FAILURE TO ADOPT
11 OR PRESCRIBE STANDARDS.—In the event
12 the Tribe fails to adopt water quality
13 standards referred to in clause (i), the
14 water quality standards applicable to the
15 Everglades National Park, approved by the
16 Administrator under the Federal Water
17 Pollution Control Act (33 U.S.C. 1251 et
18 seq.), shall be deemed to apply by oper-
19 ation of Federal law to the MRA until
20 such time as the Tribe adopts water qual-
21 ity standards that meet the requirements
22 of this subparagraph.

23 (iv) MODIFICATION OF STANDARDS.—
24 If, after the date of enactment of this Act,
25 the standards referred to in clause (iii) are

1 revised, not later than 1 year after those
2 standards are revised, the Tribe shall make
3 such revisions to water quality standards
4 of the Tribe as are necessary to ensure
5 that those water quality standards are at
6 least as protective as the revised water
7 quality standards approved by the Admin-
8 istrator.

9 (v) EFFECT OF FAILURE TO MODIFY
10 WATER QUALITY STANDARDS.—If the
11 Tribe fails to revise water quality stand-
12 ards in accordance with clause (iv), the re-
13 vised water quality standards applicable to
14 the Everglades Park, approved by the Ad-
15 ministrator under the Federal Water Pol-
16 lution Control Act (33 U.S.C. 1251 et
17 seq.) shall be deemed to apply by operation
18 of Federal law to the MRA until such time
19 as the Tribe adopts water quality stand-
20 ards that are at least as protective as the
21 revised water quality standards approved
22 by the Administrator.

23 (G) NATURAL EASEMENTS.—The Tribe
24 shall not engage in any construction, develop-

1 ment, or improvement in any area that is des-
2 ignated as a natural easement.

3 (b) HEIGHT RESTRICTIONS.—

4 (1) RESTRICTIONS.—Except as provided in
5 paragraphs (2) through (4), no structure con-
6 structed within the MRA shall exceed the height of
7 45 feet or exceed 2 stories, except that a structure
8 within the Miccosukee Government Center, as shown
9 on the map referred to in section 4(4), shall not ex-
10 ceed the height of 70 feet.

11 (2) EXCEPTIONS.—The following types of struc-
12 tures are exempt from the restrictions of this section
13 to the extent necessary for the health, safety, or wel-
14 fare of the tribal members, and for the utility of the
15 structures:

16 (A) Water towers or standpipes.

17 (B) Radio towers.

18 (C) Utility lines.

19 (3) WAIVER.—The Secretary may waive the re-
20 strictions of this subsection if the Secretary finds
21 that the needs of the Tribe for the structure that is
22 taller than structure allowed under the restrictions
23 would outweigh the adverse effects to the Park or its
24 visitors.

1 (4) GRANDFATHER CLAUSE.—Any structure ap-
2 proved by the Secretary before the date of enact-
3 ment of this Act, and for which construction com-
4 mences not later than 12 months after the date of
5 enactment of this Act, shall not be subject to the
6 provisions of this subsection.

7 (5) MEASUREMENT.—The heights specified in
8 this subsection shall be measured from mean sea
9 level.

10 (c) OTHER CONDITIONS.—

11 (1) GAMING.—No class II or class III gaming
12 (as those terms are defined in section 4 (7) and (8)
13 of the Indian Gaming Regulatory Act (25 U.S.C.
14 2703 (7) and (8)) shall be conducted within the
15 MRA.

16 (2) AVIATION.—

17 (A) IN GENERAL.—No commercial aviation
18 may be conducted from or to the MRA.

19 (B) EMERGENCY OPERATORS.—Takeoffs
20 and landings of aircraft shall be allowed for
21 emergency operations and administrative use by
22 the Tribe or the United States, including re-
23 source management and law enforcement.

24 (C) STATE AGENCIES AND OFFICIALS.—

25 The Tribe may permit the State of Florida, as

1 agencies or municipalities of the State of Flor-
2 ida to provide for takeoffs or landings of air-
3 craft on the MRA for emergency operations or
4 administrative purposes.

5 (3) VISUAL QUALITY.—

6 (A) IN GENERAL.—In the planning, use,
7 and development of the MRA by the Tribe, the
8 Tribe shall consider the quality of the visual ex-
9 perience from the Shark River Valley visitor use
10 area, including limitations on the height and lo-
11 cations of billboards or other commercial signs
12 or other advertisements visible from the Shark
13 Valley visitor center, tram road, or observation
14 tower.

15 (B) EXEMPTION OF MARKINGS.—The
16 Tribe may exempt markings on a water tower
17 or standpipe that merely identify the Tribe.

18 (d) EASEMENTS AND RANGER STATION.—Notwith-
19 standing any other provision of this Act, the following pro-
20 visions shall apply:

21 (1) NATURAL EASEMENTS.—

22 (A) IN GENERAL.—The use and occupancy
23 of the MRA by the Tribe shall be perpetually
24 subject to natural easements on parcels of land
25 that are—

1 (i) bounded on the north and south by
2 the boundaries of the MRA, specified in
3 the legal description under section 4(4);
4 and

5 (ii) bounded on the east and west by
6 boundaries that run perpendicular to the
7 northern and southern boundaries of the
8 MRA, as provided in the description under
9 subparagraph (B).

10 (B) DESCRIPTION.—The description re-
11 ferred to in subparagraph (A)(ii) is as follows:

12 (i) Easement number 1, being 445
13 feet wide with western boundary 525 feet,
14 and eastern boundary 970 feet, east of the
15 western boundary of the MRA.

16 (ii) Easement number 2, being 443
17 feet wide with western boundary 3,637
18 feet, and eastern boundary 4,080 feet, east
19 of the western boundary of the MRA.

20 (iii) Easement number 3, being 320
21 feet wide with western boundary 5,380
22 feet, and eastern boundary 5,700 feet, east
23 of the western boundary of the MRA.

24 (iv) Easement number 4, being 290
25 feet wide with western boundary 6,020

1 feet, and eastern boundary 6,310 feet, east
2 of the western boundary of the MRA.

3 (v) Easement number 5, being 290
4 feet wide with western boundary 8,170
5 feet, and eastern boundary 8,460 feet, east
6 of the western boundary of the MRA.

7 (vi) Easement number 6, being 312
8 feet wide with western boundary 8,920
9 feet, and eastern boundary 9,232 feet, east
10 of the western boundary of the MRA.

11 (2) EXTENT OF EASEMENTS.—The aggregate
12 extent of the east-west parcels of lands subject to
13 easements under paragraph (1) shall not exceed
14 2,100 linear feet, as depicted on the map referred to
15 in section 4(4).

16 (3) USE OF EASEMENTS.—At the discretion of
17 the Secretary, the Secretary may use the natural
18 easements specified in paragraph (1) to fulfill a
19 hydrological or other environmental objective of the
20 Everglades National Park.

21 (4) ADDITIONAL REQUIREMENTS.—In addition
22 to providing for the easements specified in para-
23 graph (1), the Tribe shall not impair or impede the
24 continued function of the water control structures
25 designated as “S-12A” and “S-12B”, located north

1 of the MRA on the Tamiami Trail and any existing
2 water flow ways under the Old Tamiami Trail.

3 (5) USE BY DEPARTMENT OF THE INTERIOR.—

4 The Department of the Interior shall have a right,
5 in perpetuity, to use and occupy, and to have vehicu-
6 lar and airboat access to, the Tamiami Ranger Sta-
7 tion identified on the map referred to in section
8 4(4), except that the pad on which such station is
9 constructed shall not be increased in size without the
10 consent of the Tribe.

11 **SEC. 7. IMPLEMENTATION PROCESS.**

12 (a) GOVERNMENT-TO-GOVERNMENT AGREE-
13 MENTS.—The Secretary and the tribal chairman shall
14 make reasonable, good faith efforts to implement the re-
15 quirements of this Act. Those efforts may include govern-
16 ment-to-government consultations, and the development of
17 standards of performance and monitoring protocols.

18 (b) FEDERAL MEDIATION AND CONCILIATION SERV-
19 ICE.—If the Secretary and the tribal chairman concur that
20 they cannot reach agreement on any significant issue re-
21 lating to the implementation of the requirements of this
22 Act, the Secretary and the tribal chairman may jointly re-
23 quest that the Federal Mediation and Conciliation Service
24 assist them in reaching a satisfactory agreement.

1 (c) 60-DAY TIME LIMIT.—The Federal Mediation
2 and Conciliation Service may conduct mediation or other
3 nonbinding dispute resolution activities for a period not
4 to exceed 60 days beginning on the date on which the Fed-
5 eral Mediation and Conciliation Service receives the re-
6 quest for assistance, unless the Secretary and the tribal
7 chairman agree to an extension of period of time.

8 (d) OTHER RIGHTS PRESERVED.—The facilitated
9 dispute resolution specified in this section shall not preju-
10 dice any right of the parties to—

11 (1) commence an action in a court of the
12 United States at any time; or

13 (2) any other resolution process that is not pro-
14 hibited by law.

15 **SEC. 8. MISCELLANEOUS.**

16 (a) NO GENERAL APPLICABILITY.—Nothing in this
17 Act creates any right, interest, privilege, or immunity af-
18 fecting any other Tribe or any other park or Federal
19 lands.

20 (b) NONINTERFERENCE WITH FEDERAL AGENTS.—

21 (1) IN GENERAL.—Federal employees, agents,
22 officers, and officials shall have a right of access to
23 the MRA—

24 (A) to monitor compliance with the provi-
25 sions of this Act; and

1 (B) for other purposes, as though it were
2 a Federal Indian reservation.

3 (2) STATUTORY CONSTRUCTION.—Nothing in
4 this Act shall authorize the Tribe or members or
5 agents of the Tribe to interfere with any Federal
6 employee, agent, officer, or official in the perform-
7 ance of official duties (whether within or outside the
8 boundaries of the MRA) except that nothing in this
9 paragraph may prejudice any right under the Con-
10 stitution of the United States.

11 (c) FEDERAL PERMITS.—

12 (1) IN GENERAL.—No Federal permit shall be
13 issued to the Tribe for any activity or structure that
14 would be inconsistent with this Act.

15 (2) CONSULTATIONS.—Any Federal agency con-
16 sidering an application for a permit for construction
17 or activities on the MRA shall consult with, and con-
18 sider the advice, evidence, and recommendations of
19 the Secretary before issuing a final decision.

20 (3) RULE OF CONSTRUCTION.—Except as oth-
21 erwise specifically provided in this Act, nothing in
22 this Act supersedes any requirement of any other
23 applicable Federal law.

24 (d) VOLUNTEER PROGRAMS AND TRIBAL INVOLVE-
25 MENT.—The Secretary may establish programs that foster

1 greater involvement by the Tribe with respect to the Park.
2 Those efforts may include internships and volunteer pro-
3 grams with tribal schoolchildren and with adult tribal
4 members.

5 (e) SAVING ECOSYSTEM RESTORATION.—

6 (1) IN GENERAL.—Nothing in this Act shall be
7 construed to amend or prejudice the authority of the
8 United States to design, construct, fund, operate,
9 permit, remove, or degrade canals, levees, pumps,
10 impoundments, wetlands, flow ways, or other facili-
11 ties, structures, or systems, for the restoration or
12 protection of the South Florida ecosystem pursuant
13 to Federal laws.

14 (2) USE OF NONEASEMENT LANDS.—

15 (A) IN GENERAL.—The Secretary may use
16 all or any part of the MRA lands to the extent
17 necessary to restore or preserve the quality,
18 quantity, timing, or distribution of surface or
19 groundwater, if other reasonable alternative
20 measures to achieve the same purpose are im-
21 practical.

22 (B) SECRETARIAL AUTHORITY.—The Sec-
23 retary may use lands referred to in subpara-
24 graph (A) either under an agreement with the
25 tribal chairman or upon an order of the United

1 States district court for the district in which
2 the MRA is located, upon petition by the Sec-
3 retary and finding by the court that—

4 (i) the proposed actions of the Sec-
5 retary are necessary; and

6 (ii) other reasonable alternative meas-
7 ures are impractical.

8 (3) COSTS.—

9 (A) IN GENERAL.—In the event the Sec-
10 retary exercises the authority granted the Sec-
11 retary under paragraph (2), the United States
12 shall be liable to the Tribe or the members of
13 the Tribe for—

14 (i) cost of modification, removal, relo-
15 cation, or reconstruction of structures law-
16 fully erected in good faith on the MRA;
17 and

18 (ii) loss of use of the affected land
19 within the MRA.

20 (B) PAYMENT OF COMPENSATION.—Any
21 compensation paid under subparagraph (A)
22 shall be paid as cash payments with respect to
23 taking structures and other fixtures and in the
24 form of rights to occupy similar land adjacent
25 to the MRA with respect to taking land.

1 (4) RULE OF CONSTRUCTION.—Paragraphs (2)
2 and (3) shall not apply to a natural easement de-
3 scribed in section 6(d)(1).

4 (f) PARTIES HELD HARMLESS.—

5 (1) UNITED STATES HELD HARMLESS.—

6 (A) IN GENERAL.—Subject to subpara-
7 graph (B) with respect to any tribal member,
8 tribal employee, tribal contractor, tribal enter-
9 prise, or any person residing within the MRA,
10 notwithstanding any other provision of law, the
11 United States (including an officer, agent, or
12 employee of the United States), shall not be lia-
13 ble for any action or failure to act by the Tribe
14 (including an officer, employee, or member of
15 the Tribe), including any failure to perform any
16 of the obligations of the Tribe under this Act.

17 (B) RULE OF CONSTRUCTION.—Nothing in
18 this paragraph shall be construed to alter any
19 liability or other obligation that the United
20 States may have under the Indian Self-Deter-
21 mination and Education Assistance Act (25
22 U.S.C. 450 et seq.).

23 (2) TRIBE HELD HARMLESS.—Notwithstanding
24 any other provision of law, the Tribe and the mem-

1 bers of the Tribe shall not be liable for any injury,
2 loss, damage, or harm that—

3 (A) occurs with respect to the MRA; and

4 (B) is caused by an action or failure to act
5 by the United States, or the officer, agent, or
6 employee of the United States (including the
7 failure to perform any obligation of the United
8 States under this Act).

9 (g) COOPERATIVE AGREEMENTS.—Nothing in this
10 Act shall alter the authority of the Secretary and the Tribe
11 to enter into any cooperative agreement, including any
12 agreement concerning law enforcement, emergency re-
13 sponse, or resource management.

14 (h) WATER RIGHTS.—Nothing in this Act shall en-
15 hance or diminish any water rights of the Tribe, or mem-
16 bers of the Tribe, or the United States (with respect to
17 the Park).

18 (i) ENFORCEMENT.—

19 (1) ACTIONS BROUGHT BY ATTORNEY GEN-
20 ERAL.—The Attorney General may bring a civil ac-
21 tion in the United States district court for the dis-
22 trict in which the MRA is located, to enjoin the
23 Tribe from violating any provision of this Act.

24 (2) ACTION BROUGHT BY TRIBE.—The Tribe
25 may bring a civil action in the United States district

1 court for the district in which the MRA is located
2 to enjoin the United States from violating any provi-
3 sion of this Act.

Passed the House of Representatives October 12,
1998.

Attest:

ROBIN H. CARLE,
Clerk.