**George W. Bush Presidential Library**

**Collection:** Executive Clerk, Office of the

**Series:** Saunders, G. Timothy (Tim) – Bill Files

**Folder Title:** 12/27/2001 [H.R. 483]

# Bills Received at the White House

Date received and notification to OMB: **12/18/2001**

Last day for action: **12/29/2001**

| | Official Title | signed 12/27/01 |
|---|---|---|
| **H.R.483** | An Act regarding the use of the trust land and resources of the Confederated Tribes of the Warm Springs Reservation of Oregon. | 499975 |

499975

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

December 21, 2001

THE PRESIDENT HAS SEEN
12-27-01

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 483 - Confederated Tribes of the Warm Springs Reservation of Oregon Agreement Approval and Leasing Extension
Sponsors - Rep. Walden (R) OR and 4 others

Last Day for Action

December 29, 2001 - Saturday

Purpose

(1) Approves an agreement among the Confederated Tribes of the Warm Springs of Oregon, the Portland General Electric Company, and the Department of the Interior regarding the use of tribal trust land and resources; and (2) authorizes 99-year leases on land held in trust for the Tribes.

Agency Recommendations

| | |
|---|---|
| Office of Management and Budget | Approval |
| Department of the Interior (DOI) | Approval |
| Department of the Treasury | No objection (Informally) |
| Department of Energy | No comment (Informally) |
| Department of Justice | No comment (Informally) |

Discussion

The Portland General Electric Company (PGE) owns the Pelton Hydroelectric Project (including three dams and associated generation and transmission facilities), which is located partially on land held in trust for the Confederated Tribes of the Warm Spring Reservation of Oregon. Through several contracts beginning in 1955, the Tribes have leased reservation land and granted certain easements and rights to PGE to construct and operate the Project in return for financial compensation.

On April 12, 2000, the Tribes, PGE, and DOI entered into the Long-Term Global Settlement and Compensation Agreement, which establishes a process under which the Tribes will acquire partial ownership of the Project. According to the House Resources Committee Report on H.R. 483, the Agreement will allow the Tribes to purchase one third of the Project for $30 million with a future option to buy additional interests. The Tribes plan to finance their acquisition through the issuance of bonds. Notwithstanding DOI's approval of the Agreement consistent with its authority under current law, the Tribes, at the request of their bonding counsel, have sought "legislative 'approval' of the Agreement to provide an 'unqualified' level of assurance that the Agreement is binding and will not be altered." The enrolled bill satisfies this request and also extends the current 25 year limit on the leasing of the Tribes' trust lands.

Specifically, H.R. 483 approves the subject Agreement and states that no Federal law regarding tribal lands, resources, or other assets would: (1) invalidate the Agreement; or (2) prevent or restrict the Tribes from pledging, encumbering, or using funds received by them in connection with the Agreement. At DOI's request, the introduced bill was amended to clarify that any agreement that DOI had approved, or will approve, under the authority used to approve the subject Agreement, "shall not require Congressional approval or ratification to be valid and binding on the parties thereto."

H.R. 483 also allows reservation lands held in trust for the Tribes to be leased by the Indian owners, with the Secretary's approval, for public, religious, educational, recreational, residential, business, or certain other purposes, for terms of not to exceed 99 years. Similar leasing authority has been provided to other tribes in recent years. Finally, the enrolled bill makes its provisions retroactive to April 12, 2000, which is the date of the subject Agreement.

Conclusion and Recommendations

In its views letter, DOI reiterates its position that H.R. 483 is unnecessary, because "the Secretary had and has all the necessary authority" to approve the Agreement. Notwithstanding this position, DOI recommends approval of H.R. 483, concluding that it has been amended as DOI requested and "the Department does not want to stand in the way of the Tribes securing their financing."

We join Interior in recommending the approval of H.R. 483, which passed the House by voice vote and the Senate by unanimous consent.

M E Daniels

Mitchell E. Daniels, Jr.
Director

Enclosures

# United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

Honorable Mitchell E. Daniels, Jr. DEC 19 2001
Director, Office of Management and Budget
Attention: Assistant Director for Legislative Reference
Washington, DC 20503

Dear Mr. Daniels:

This letter responds to your request for the views of the Department of the Interior with respect to enrolled bill H.R. 483, "Regarding the use of the trust land and resources of the Confederated Tribes of the Warm Springs Reservation of Oregon."

We recommend that the President approve the enrolled bill.

On April 12, 2000, The Confederated Tribes of the Warm Springs Reservation signed an agreement that created a process whereby the Tribes would gain part ownership in the three dam Pelton Project partially situated on Reservation land and would become a co-applicant with Portland General Electric in the Federal Energy Regulatory Commission (FERC) licensing process. The Agreement was approved by the Secretary of the Interior. The Tribes plan to finance their participation in the Project through the issuance of bonds. The bonding counsel asked the Tribes to seek legislative "approval" of the Agreement to provide an "unqualified" level of assurance that the Agreement is binding and will not be altered. H.R. 483 would grant Congressional approval of the agreement as requested by the bonding counsel.

It is the Department's position that the Secretary had and has all the necessary authority under the Federal Power Act (FPA) to approve the terms and intent of the Agreement without legislative approval. The Secretary has approved agreements of a similar nature in the past without Congressional approval, and has the authority to do so in the future.

In a letter to the Chairman of the House Resources Committee dated May 15, 2001, the Department requested that the bill be amended to make clear that the Secretary is deemed authorized to take all actions necessary to approve and implement not only the Agreement, but all other such agreements authorized by the FPA entered into previously, and in the future, under the Secretary. The House Resources Committee amended the legislation accordingly.

While the Department still views H.R. 483 as unnecessary, the Department does not want to stand in the way of the Tribes securing their financing. Accordingly, the Department of the Interior has no objection to this legislation and recommends that the President approve the enrolled bill.

Sincerely,

Neal A. McCaleb

Assistant Secretary for Indian Affairs

499975

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

'01 DEC 21 PM3:05

THE DIRECTOR

December 21, 2001

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 483 - Confederated Tribes of the Warm Springs Reservation of Oregon Agreement Approval and Leasing Extension
Sponsors - Rep. Walden (R) OR and 4 others

Last Day for Action

December 29, 2001 - Saturday

Purpose

(1) Approves an agreement among the Confederated Tribes of the Warm Springs of Oregon, the Portland General Electric Company, and the Department of the Interior regarding the use of tribal trust land and resources; and (2) authorizes 99-year leases on land held in trust for the Tribes.

Agency Recommendations

| | |
|---|---|
| Office of Management and Budget | Approval |
| Department of the Interior (DOI) | Approval |
| Department of the Treasury | No objection (Informally) |
| Department of Energy | No comment (Informally) |
| Department of Justice | No comment (Informally) |

Discussion

The Portland General Electric Company (PGE) owns the Pelton Hydroelectric Project (including three dams and associated generation and transmission facilities), which is located partially on land held in trust for the Confederated Tribes of the Warm Spring Reservation of Oregon. Through several contracts beginning in 1955, the Tribes have leased reservation land and granted certain easements and rights to PGE to construct and operate the Project in return for financial compensation.

On April 12, 2000, the Tribes, PGE, and DOI entered into the Long-Term Global Settlement and Compensation Agreement, which establishes a process under which the Tribes will acquire partial ownership of the Project. According to the House Resources Committee Report on H.R. 483, the Agreement will allow the Tribes to purchase one third of the Project for $30 million with a future option to buy additional interests. The Tribes plan to finance their acquisition through the issuance of bonds. Notwithstanding DOI's approval of the Agreement consistent with its authority under current law, the Tribes, at the request of their bonding counsel, have sought "legislative 'approval' of the Agreement to provide an 'unqualified' level of assurance that the Agreement is binding and will not be altered." The enrolled bill satisfies this request and also extends the current 25 year limit on the leasing of the Tribes' trust lands.

Specifically, H.R. 483 approves the subject Agreement and states that no Federal law regarding tribal lands, resources, or other assets would: (1) invalidate the Agreement; or (2) prevent or restrict the Tribes from pledging, encumbering, or using funds received by them in connection with the Agreement. At DOI's request, the introduced bill was amended to clarify that any agreement that DOI had approved, or will approve, under the authority used to approve the subject Agreement, "shall not require Congressional approval or ratification to be valid and binding on the parties thereto."

H.R. 483 also allows reservation lands held in trust for the Tribes to be leased by the Indian owners, with the Secretary's approval, for public, religious, educational, recreational, residential, business, or certain other purposes, for terms of not to exceed 99 years. Similar leasing authority has been provided to other tribes in recent years. Finally, the enrolled bill makes its provisions retroactive to April 12, 2000, which is the date of the subject Agreement.

Conclusion and Recommendations

In its views letter, DOI reiterates its position that H.R. 483 is unnecessary, because "the Secretary had and has all the necessary authority" to approve the Agreement. Notwithstanding this position, DOI recommends approval of H.R. 483, concluding that it has been amended as DOI requested and "the Department does not want to stand in the way of the Tribes securing their financing."

We join Interior in recommending the approval of H.R. 483, which passed the House by voice vote and the Senate by unanimous consent.

M E Daniels

Mitchell E. Daniels, Jr.
Director

Enclosures

SS/ RM NO. 499975

# WHITE HOUSE STAFFING MEMORANDUM

Date: 12-21-01 ACTION / CONCURRENCE / COMMENT DUE BY: 12-26-01, COB

Subject: H.R. 483 -- CONTRACT APPROVAL FOR THE CONFEDERATED TRIBES OF THE WARM SPRINGS RESERVATION OF OREGON

| | ACTION | FYI | | ACTION | FYI |
|---|---|---|---|---|---|
| VICE PRESIDENT | ☑ | ☐ | HUBBARD | ☐ | ☐ |
| CARD | ☑ | ☐ | HUGHES | ☑ | ☐ |
| BLAKEMAN | ☐ | ☐ | IRASTORZA | ☐ | ☐ |
| BOLTEN | ☑ | ☐ | JOHNSON | ☐ | ☐ |
| CALIO | ☑ | ☐ | LINDSEY | ☑ | ☐ |
| CONNAUGHTON | ☐ | ☐ | MIERS | ☐ | ☑ |
| DANIELS | ☐ | ☑ | RICE | ☐ | ☐ |
| FLEISCHER | ☐ | ☑ | RIDGE | ☐ | ☐ |
| GERSON | ☐ | ☐ | ROVE | ☑ | ☐ |
| GONZALES | ☑ | ☐ | SPELLINGS | ☑ | ☐ |
| HAGIN | ☐ | ☐ | CLERK | ☐ | ☑ |
| HAWKINS | ☑ | ☐ | ______ | ☐ | ☐ |

REMARKS:
PLEASE SEND COMMENTS TO THE STAFF SECRETARY, EXT. 62702, FAX 62215, NO LATER THAN COB WEDNESDAY, 12-26-01. THANK YOU.

RESPONSE:

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

December 21, 2001

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 483 - Confederated Tribes of the Warm Springs Reservation of Oregon Agreement Approval and Leasing Extension
Sponsors - Rep. Walden (R) OR and 4 others

Last Day for Action

December 29, 2001 - Saturday

Purpose

(1) Approves an agreement among the Confederated Tribes of the Warm Springs of Oregon, the Portland General Electric Company, and the Department of the Interior regarding the use of tribal trust land and resources; and (2) authorizes 99-year leases on land held in trust for the Tribes.

Agency Recommendations

| | |
|---|---|
| Office of Management and Budget | Approval |
| Department of the Interior (DOI) | Approval |
| Department of the Treasury | No objection (Informally) |
| Department of Energy | No comment (Informally) |
| Department of Justice | No comment (Informally) |

Discussion

The Portland General Electric Company (PGE) owns the Pelton Hydroelectric Project (including three dams and associated generation and transmission facilities), which is located partially on land held in trust for the Confederated Tribes of the Warm Spring Reservation of Oregon. Through several contracts beginning in 1955, the Tribes have leased reservation land and granted certain easements and rights to PGE to construct and operate the Project in return for financial compensation.

On April 12, 2000, the Tribes, PGE, and DOI entered into the Long-Term Global Settlement and Compensation Agreement, which establishes a process under which the Tribes will acquire partial ownership of the Project. According to the House Resources Committee Report on H.R. 483, the Agreement will allow the Tribes to purchase one third of the Project for $30 million with a future option to buy additional interests. The Tribes plan to finance their acquisition through the issuance of bonds. Notwithstanding DOI's approval of the Agreement consistent with its authority under current law, the Tribes, at the request of their bonding counsel, have sought "legislative 'approval' of the Agreement to provide an 'unqualified' level of assurance that the Agreement is binding and will not be altered." The enrolled bill satisfies this request and also extends the current 25 year limit on the leasing of the Tribes' trust lands.

Specifically, H.R. 483 approves the subject Agreement and states that no Federal law regarding tribal lands, resources, or other assets would: (1) invalidate the Agreement; or (2) prevent or restrict the Tribes from pledging, encumbering, or using funds received by them in connection with the Agreement. At DOI's request, the introduced bill was amended to clarify that any agreement that DOI had approved, or will approve, under the authority used to approve the subject Agreement, "shall not require Congressional approval or ratification to be valid and binding on the parties thereto."

H.R. 483 also allows reservation lands held in trust for the Tribes to be leased by the Indian owners, with the Secretary's approval, for public, religious, educational, recreational, residential, business, or certain other purposes, for terms of not to exceed 99 years. Similar leasing authority has been provided to other tribes in recent years. Finally, the enrolled bill makes its provisions retroactive to April 12, 2000, which is the date of the subject Agreement.

Conclusion and Recommendations

In its views letter, DOI reiterates its position that H.R. 483 is unnecessary, because "the Secretary had and has all the necessary authority" to approve the Agreement. Notwithstanding this position, DOI recommends approval of H.R. 483, concluding that it has been amended as DOI requested and "the Department does not want to stand in the way of the Tribes securing their financing."

We join Interior in recommending the approval of H.R. 483, which passed the House by voice vote and the Senate by unanimous consent.

M E Daniels

Mitchell E. Daniels, Jr.
Director

Enclosures

United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

DEC 19 2001

Honorable Mitchell E. Daniels, Jr.
Director, Office of Management and Budget
Attention: Assistant Director for Legislative Reference
Washington, DC 20503

Dear Mr. Daniels:

This letter responds to your request for the views of the Department of the Interior with respect to enrolled bill H.R. 483, "Regarding the use of the trust land and resources of the Confederated Tribes of the Warm Springs Reservation of Oregon."

We recommend that the President approve the enrolled bill.

On April 12, 2000, The Confederated Tribes of the Warm Springs Reservation signed an agreement that created a process whereby the Tribes would gain part ownership in the three dam Pelton Project partially situated on Reservation land and would become a co-applicant with Portland General Electric in the Federal Energy Regulatory Commission (FERC) licensing process. The Agreement was approved by the Secretary of the Interior. The Tribes plan to finance their participation in the Project through the issuance of bonds. The bonding counsel asked the Tribes to seek legislative "approval" of the Agreement to provide an "unqualified" level of assurance that the Agreement is binding and will not be altered. H.R. 483 would grant Congressional approval of the agreement as requested by the bonding counsel.

It is the Department's position that the Secretary had and has all the necessary authority under the Federal Power Act (FPA) to approve the terms and intent of the Agreement without legislative approval. The Secretary has approved agreements of a similar nature in the past without Congressional approval, and has the authority to do so in the future.

In a letter to the Chairman of the House Resources Committee dated May 15, 2001, the Department requested that the bill be amended to make clear that the Secretary is deemed authorized to take all actions necessary to approve and implement not only the Agreement, but all other such agreements authorized by the FPA entered into previously, and in the future, under the Secretary. The House Resources Committee amended the legislation accordingly.

While the Department still views H.R. 483 as unnecessary, the Department does not want to stand in the way of the Tribes securing their financing. Accordingly, the Department of the Interior has no objection to this legislation and recommends that the President approve the enrolled bill.

Sincerely,

Neal A. McCaleb

Assistant Secretary for Indian Affairs

# One Hundred Seventh Congress of the United States of America

**AT THE FIRST SESSION**

***Begun and held at the City of Washington on Wednesday, the third day of January, two thousand and one***

## An Act

Regarding the use of the trust land and resources of the Confederated Tribes of the Warm Springs Reservation of Oregon.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. AUTHORIZATION FOR 99-YEAR LEASES.**

The first section of the Act entitled "An Act to authorize the leasing of restricted Indian lands for public, religious, educational, residential, business, and other purposes requiring the grant of long-term leases", approved August 9, 1955 (25 U.S.C. 415(a)), is amended—

(1) by inserting ", the reservation of the Confederated Tribes of the Warm Springs Reservation of Oregon," after "Spanish Grant")"; and

(2) by inserting "lands held in trust for the Confederated Tribes of the Warm Springs Reservation of Oregon" before ", lands held in trust for the Cherokee Nation of Oklahoma".

**SEC. 2. USE OF CERTAIN TRUST LANDS AND RESOURCES FOR ECONOMIC DEVELOPMENT.**

(a) APPROVAL OF AGREEMENT.—The use of tribal lands, resources, and other assets described in the document entitled "Long-Term Global Settlement and Compensation Agreement", dated April 12, 2000 (hereafter referred to as the "GSA"), entered into by the Department of the Interior, the Confederated Tribes of the Warm Springs Reservation of Oregon (in this section referred to as the "Tribes"), and the Portland General Electric Company, and in the Included Agreements, as attached to the GSA on April 12, 2000, and delivered to the Department of the Interior on that date, is approved and ratified. The authorization, execution, and delivery of the GSA is approved. In this section, the GSA and the Included Agreements are collectively referred to as the "Agreement". Any provision of Federal law which applies to tribal land, resources, or other assets (including proceeds derived therefrom) as a consequence of the Tribes' status as a federally recognized Indian tribe shall not—

(1) render the Agreement unenforceable or void against the parties; or

(2) prevent or restrict the Tribes from pledging, encumbering, or using funds or other assets that may be paid to or received by or on behalf of the Tribes in connection with the Agreement.

(b) AUTHORITY OF SECRETARY.—

(1) IN GENERAL.—Congress hereby deems that the Secretary of the Interior had and has the authority—

(A) to approve the Agreement; and

(B) to implement the provisions of the Agreement under which the Secretary has obligations as a party thereto.

(2) OTHER AGREEMENTS.—Any agreement approved by the Secretary prior to or after the date of the enactment of this Act under the authority used to approve the Agreement shall not require Congressional approval or ratification to be valid and binding on the parties thereto.

(c) RULES OF CONSTRUCTION.—

(1) SCOPE OF SECTION.—This section shall be construed as addressing only—

(A) the validity and enforceability of the Agreement with respect to provisions of Federal law referred to in section 2(a) of this Act; and

(B) approval for provisions of the Agreement and actions that are necessary to implement provisions of the Agreement that the parties may be required to obtain under Federal laws referred to in section 2(a) of this Act.

(2) AUTHORITY.—Nothing in this Act shall be construed to imply that the Secretary of the Interior did not have the authority under Federal law as in effect immediately before the enactment of this Act to approve the use of tribal lands, resources, or other assets in the manner described in the Agreement or in the implementation thereof.

**SEC. 3. EFFECTIVE DATE.**

This Act shall take effect as of April 12, 2000.

Dennis Hastert

*Speaker of the House of Representatives.*

Robert C. Byrd

~~*Vice President of the United States and*~~
*President of the Senate* pro tempore.

APPROVED
DEC 27 2001

George Bush