

104TH CONGRESS
2D SESSION

S. 1893

To provide for the settlement of issues and claims related to the trust lands of the Torres-Martinez Desert Cahuilla Indians, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 19, 1996

Mrs. FEINSTEIN introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

A BILL

To provide for the settlement of issues and claims related to the trust lands of the Torres-Martinez Desert Cahuilla Indians, 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 “Torres-Martinez
5 Desert Cahuilla Indians Claims Settlement Act”.

6 **SEC. 2. CONGRESSIONAL FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—The Congress finds and declares
8 that:

9 (1) In 1876, the Torres-Martinez Indian Res-
10 ervation was created, reserving a single, 640-acre

1 section of land in the Coachella Valley, California, at
2 the northern end of the Salton Sink. The Reserva-
3 tion was expanded in 1891 by Executive Order, pur-
4 suant to the Mission Indian Relief Act of 1891, add-
5 ing about 12,000 acres to the original 640-acre res-
6 ervation.

7 (2) Between 1905 and 1907, flood waters of the
8 Colorado River filled the Salton Sink, creating the
9 Salton Sea, inundating approximately 2,000 acres of
10 the 1891 reservation lands.

11 (3) In 1909 an additional 12,000 acres of land,
12 9,000 of which were then submerged under the
13 Salton Sea, were added to the reservation under a
14 Secretarial Order issued pursuant to a 1907 amend-
15 ment of the Mission Indian Relief Act. Due to reced-
16 ing water levels in the Salton Sea through the proc-
17 ess of evaporation, at the time of the 1909 enlarge-
18 ment of the reservation, there were some expecta-
19 tions that the Salton Sea would recede within a pe-
20 riod of 25 years.

21 (4) Through the present day, the majority of
22 the lands added to the reservation in 1909 remain
23 inundated due in part to the flowage of natural run-
24 off and drainage water from the irrigation systems

1 of the Imperial, Coachella, and Mexicali Valleys into
2 the Salton Sea.

3 (5) In addition to those lands that are inun-
4 dated, there are also tribal and individual Indian
5 lands located on the perimeter of the Salton Sea
6 that are not currently irrigable due to lack of proper
7 drainage.

8 (6) In 1982, the United States brought an ac-
9 tion in trespass, United States of America, in its
10 own right and on behalf of Torres-Martinez Band of
11 Mission Indians and the Allottees therein v. The Im-
12 perial Irrigation District and Coachella Valley Water
13 District, Case No. 82–1790 K (M) (referred to in
14 this section as the “United States Suit”) on behalf
15 of the Torres-Martinez Indian Tribe and affected In-
16 dian allottees against the 2 water districts seeking
17 damages related to the inundation of tribal-owned
18 and allottee-owned lands and injunctive relief to pre-
19 vent future discharge of water on such lands.

20 (7) On August 20, 1992, the Federal District
21 Court for the Southern District of California entered
22 a judgment in the United States Suit requiring the
23 Coachella Valley Water District to pay \$212,908.41
24 in past and future damages and the Imperial Irriga-
25 tion District to pay \$2,795,694.33 in past and fu-

1 ture damages in lieu of the United States request
2 for a permanent injunction against continued flood-
3 ing of the submerged lands.

4 (8) The United States, the Coachella Valley
5 Water District, and the Imperial Irrigation District
6 have filed notices of appeal with the United States
7 Court of Appeals for the Ninth Circuit from the dis-
8 trict court’s judgment in the United States Suit
9 (Case numbers 93–55389, 93–55398, and 93–
10 55402), and the Torres-Martinez Indian Tribe has
11 filed a notice of appeal from the district court’s de-
12 nial of its motion to intervene as a matter of right
13 (Case number 92–55129).

14 (9) The Court of Appeals for the Ninth Circuit
15 has stayed further action on the appeals pending the
16 outcome of settlement negotiations.

17 (10) In 1991, the Torres-Martinez Indian Tribe
18 brought its own lawsuit, Torres-Martinez Desert
19 Cahuilla Indians, et al., v. Imperial Irrigation Dis-
20 trict, et al., Case No. 91–1670 J (LSP) (referred to
21 in this section as the “Indian Suit”) in the United
22 States District Court, Southern District of Califor-
23 nia, against the two water districts, and amended
24 the complaint to include as a plaintiff, Mary

1 Resvaloso, in her own right, and as class representa-
2 tive of all other affected Indian allotment owners.

3 (11) The Indian Suit has been stayed by the
4 District Court to facilitate settlement negotiations.

5 (b) PURPOSE.—The purpose of this Act is to facili-
6 tate and implement the settlement agreement negotiated
7 and executed by the parties to the United States Suit and
8 Indian Suit for the purpose of resolving their conflicting
9 claims to their mutual satisfaction and in the public inter-
10 est.

11 **SEC. 3. DEFINITIONS.**

12 For the purposes of this Act:

13 (1) ALLOTTEES.—The term “allottees” means
14 those individual members of the Tribe, their succes-
15 sors, heirs, and assigns, who have individual owner-
16 ship of allotted Indian trust lands within the Torres-
17 Martinez Indian Reservation.

18 (2) PERMANENT FLOWAGE EASEMENT.—The
19 term “permanent flowage easement” means the per-
20 petual right by the water districts to use the de-
21 scribed lands in the Salton Sink within and below
22 the minus 220-foot contour as a drainage reservoir
23 to receive and store water from their respective
24 water and drainage systems, including flood water,
25 return flows from irrigation, tail water, leach water,

1 operational spills and any other water which over-
2 flows and floods such lands, originating from lands
3 within such water districts.

4 (3) SALTON SEA.—The term “Salton Sea”
5 means the inland body of water located in Riverside
6 and Imperial counties in California, which serves as
7 a drainage reservoir for water from precipitation,
8 natural runoff, irrigation return flows, wastewater,
9 floods, and other inflow from within its watershed
10 area.

11 (5) SECRETARY.—The term “Secretary” means
12 the Secretary of the Interior.

13 (6) SETTLEMENT AGREEMENT.—The term
14 “Settlement Agreement” means the Agreement of
15 Compromise and Settlement Concerning Claims to
16 Lands of the United States Within and on the Pe-
17 rimeter of the Salton Sea Drainage Reservoir Held
18 in Trust for the Torres-Martinez Indians executed
19 on _____.

20 (7) TRIBE.—The term “Tribe” means the
21 Torres-Martinez Desert Cahuilla Indians, a federally
22 recognized Indian tribe with a reservation located in
23 Riverside and Imperial Counties, California.

1 **SEC. 4. RATIFICATION OF SETTLEMENT AGREEMENT.**

2 The United States hereby approves, ratifies, and con-
3 firms the Settlement Agreement.

4 **SEC. 5. SETTLEMENT FUNDS.**

5 (a) ESTABLISHMENT OF TRIBAL AND ALLOTTEES
6 SETTLEMENT TRUST FUNDS ACCOUNTS.—

7 (1) IN GENERAL.—There are established in the
8 Treasury of the United States 3 settlement trust
9 fund accounts to be known as—

10 (A) the Torres-Martinez Settlement Trust
11 Funds Account;

12 (B) the Torres-Martinez Allottees' Settle-
13 ment Account I; and

14 (C) the Torres-Martinez Allottees' Settle-
15 ment Account II.

16 (2) AVAILABILITY.—Amounts held in the
17 Torres-Martinez Settlement Trust Funds Account,
18 the Torres-Martinez Allottees' Settlement Account I,
19 and the Torres-Martinez Allottees' Settlement Ac-
20 count II shall be available to the Secretary for dis-
21 tribution to the Tribe and affected allottees in ac-
22 cordance with subsection (c).

23 (b) CONTRIBUTIONS TO THE SETTLEMENT TRUST
24 FUNDS.—

25 (1) IN GENERAL.—Amounts paid to the Sec-
26 retary for deposit into the trust fund accounts estab-

1 lished by subsection (a) shall be allocated among
2 and deposited in the trust accounts in the amounts
3 determined by the tribal-allottee allocation provisions
4 of the Settlement Agreement.

5 (2) CASH PAYMENTS BY COACHELLA VALLEY
6 WATER DISTRICT.—Within the time, in the manner,
7 and upon the conditions specified in the Settlement
8 Agreement, the Coachella Valley Water District shall
9 pay the sum of \$337,908.41 to the United States for
10 the benefit of the Tribe and any affected allottees.

11 (3) CASH PAYMENTS BY IMPERIAL IRRIGATION
12 DISTRICT.—Within the time, in the manner, and
13 upon the conditions specified in the Settlement
14 Agreement, the Imperial Irrigation District shall pay
15 the sum of \$3,670,694.33 to the United States for
16 the benefit of the Tribe and any affected allottees.

17 (4) CASH PAYMENTS BY THE UNITED
18 STATES.—Within the time and upon the conditions
19 specified in the Settlement Agreement, the United
20 States shall pay into the three separate tribal and
21 allottee trust fund accounts the total sum of
22 \$10,200,000, of which sum—

23 (A) \$4,200,000 shall be provided from
24 moneys appropriated by Congress under section
25 1304 of title 31, United States Code, the condi-

1 tions of which are deemed to have been met, in-
2 cluding those of section 2414 of title 28, United
3 States Code; and

4 (B) \$6,000,000 shall be provided from
5 moneys appropriated by Congress for this spe-
6 cific purpose to the Secretary.

7 (5) **ADDITIONAL PAYMENTS.**—In the event that
8 any of the sums described in paragraphs (2) or (3)
9 are not timely paid by the Coachella Valley Water
10 District or the Imperial Irrigation District, as the
11 case may be, the delinquent payor shall pay an addi-
12 tional sum equal to 10 percent interest annually on
13 the amount outstanding daily, compounded yearly on
14 December 31 of each respective year, until all out-
15 standing amounts due have been paid in full.

16 (6) **SEVERALLY LIABLE FOR PAYMENTS.**—The
17 Coachella Valley Water District, the Imperial Irriga-
18 tion District, and the United States shall each be
19 severally liable, but not jointly liable, for its respec-
20 tive obligation to make the payments specified by
21 this subsection.

22 (c) **ADMINISTRATION OF SETTLEMENT TRUST**
23 **FUNDS.**—The Secretary shall administer and distribute
24 funds held in the Torres-Martinez Settlement Trust
25 Funds Account, the Torres-Martinez Allottees' Settlement

1 Account I, and the Torres-Martinez Allottees' Settlement
2 Account II in accordance with the terms and conditions
3 of the Settlement Agreement.

4 **SEC. 6. TRUST LAND ACQUISITION AND STATUS.**

5 (a) ACQUISITION AND PLACEMENT OF LANDS INTO
6 TRUST.—

7 (1) IN GENERAL.—The Secretary shall convey
8 into trust status lands purchased or otherwise ac-
9 quired by the Tribe within the areas described in
10 paragraphs (2) and (3) in an acreage amount not to
11 exceed 11,800 acres in accordance with the terms,
12 conditions, criteria, and procedures set forth in the
13 Settlement Agreement and this Act. Subject to such
14 terms, conditions, criteria, and procedures, all lands
15 purchased or otherwise acquired by the Tribe and
16 conveyed into trust status for the benefit of the
17 Tribe pursuant to the Settlement Agreement and
18 this Act shall be considered as if such lands were so
19 acquired in trust status in 1909 except as to water
20 rights as provided in subsection (c).

21 (2) PRIMARY ACQUISITION AREA.—

22 (A) IN GENERAL.—The primary area with-
23 in which lands may be acquired pursuant to
24 paragraph (1) are those certain lands located in
25 the Primary Acquisition Area, as defined in the

1 Settlement Agreement. The amount of acreage
2 that may be acquired from such area is 11,800
3 acres less the number of acres acquired and
4 conveyed into trust by reason of paragraph (3).

5 (B) CONDITION OF ACQUISITION.—Lands
6 may not be acquired under this paragraph if, by
7 majority vote, the governing body of the city
8 within whose incorporated boundaries (as such
9 boundaries exist on the date of the execution of
10 the Settlement Agreement) such lands are situ-
11 ated—

12 (i) objects to the request of the Tribe
13 to convey such lands into trust; and

14 (ii) notifies the Secretary of any such
15 objection in writing within 60 days after
16 receiving a copy of the request of the Tribe
17 in accordance with the Settlement Agree-
18 ment.

19 (3) SECONDARY ACQUISITION AREA.—

20 (A) IN GENERAL.—Not more than 640
21 acres of land may be acquired pursuant to
22 paragraph (1) from those certain lands located
23 in the Secondary Acquisition Area, as defined
24 in the Settlement Agreement.

1 (B) EFFECT OF OBJECTION BY CERTAIN
2 GOVERNING BODIES.—Lands referred to in sub-
3 paragraph (A) may not be acquired pursuant to
4 paragraph (1) if, by majority vote—

5 (i) the governing body of the city
6 whose incorporated boundaries the subject
7 lands are situated within; or

8 (ii) the governing body of Riverside
9 County, California, in the event that such
10 lands are located within an unincorporated
11 area,

12 formally objects to the request of the Tribe to
13 convey the subject lands into trust and notifies
14 the Secretary of such objection in writing with-
15 in 60 days after receiving a copy of the request
16 of the Tribe in accordance with the Settlement
17 Agreement.

18 (b) RESTRICTIONS ON GAMING.—The Tribe shall
19 have the right to conduct gaming on only 1 site within
20 the lands acquired pursuant to subsection (a)(1) (as pro-
21 vided more particularly in the Settlement Agreement).

22 (c) WATER RIGHTS.—All lands acquired by the Tribe
23 under subsection (a) shall—

24 (1) be subject to all valid water rights existing
25 at the time of tribal acquisition, including all rights

1 under any permit or license issued under the laws of
2 the State of California to—

3 (A) commence an appropriation of water;

4 (B) appropriate water; or

5 (C) increase the amount of water appro-
6 priated;

7 (2) be subject to the paramount rights of any
8 person who at any time recharges or stores water in
9 a ground water basin to recapture or recover the re-
10 charged or stored water or to authorize others to re-
11 capture or recover the recharged or stored water;
12 and

13 (3) continue to enjoy all valid water rights ap-
14 purtenant to the land existing immediately prior to
15 the time of tribal acquisition.

16 **SEC. 7. PERMANENT FLOWAGE EASEMENTS.**

17 (a) CONVEYANCE OF EASEMENT TO COACHELLA
18 VALLEY WATER DISTRICT.—

19 (1) TRIBAL INTEREST.—The United States, in
20 its capacity as trustee for the Tribe, as well as for
21 any affected Indian allotment owners, and their suc-
22 cessors and assigns, and the Tribe in its own right
23 and that of its successors and assigns, shall convey
24 to the Coachella Valley Water District a permanent
25 flowage easement as to all Indian trust lands (ap-

1 proximately 11,800 acres) located within and below
2 the minus 220-foot contour of the Salton Sink, in
3 accordance with the terms and conditions of the Set-
4 tlement Agreement.

5 (2) UNITED STATES INTEREST.—The United
6 States, in its own right shall, notwithstanding any
7 prior or present reservation or withdrawal of land of
8 any kind, convey to Coachella Valley Water District
9 a permanent flowage easement as to all Federal
10 lands (approximately 110,000 acres) located within
11 and below the minus 220-foot contour of the Salton
12 Sink, in accordance with the terms and conditions of
13 the Settlement Agreement.

14 (b) CONVEYANCE OF EASEMENT TO IMPERIAL IRRI-
15 GATION DISTRICT.—

16 (1) TRIBAL INTEREST.—The United States, in
17 its capacity as trustee for the Tribe, as well as for
18 any affected Indian allotment owners, and their suc-
19 cessors and assigns, and the Tribe in its own right
20 and that of its successors and assigns, shall grant
21 and convey to the Imperial Irrigation District a per-
22 manent flowage easement as to all Indian trust
23 lands (approximately 11,800 acres) located within
24 and below the minus 220-foot contour of the Salton

1 Sink, in accordance with the terms and conditions of
2 the Settlement Agreement.

3 (2) UNITED STATES.—The United States, in its
4 own right shall, notwithstanding any prior or
5 present reservation or withdrawal of land of any
6 kind, grant and convey to the Imperial Irrigation
7 District a permanent flowage easement as to all
8 Federal lands (approximately 110,000 acres) located
9 within and below the minus 220-foot contour of the
10 Salton Sink, in accordance with the terms and con-
11 ditions of the Settlement Agreement.

12 **SEC. 8. SATISFACTION OF CLAIMS, WAIVERS, AND RE-**
13 **LEASES.**

14 (a) SATISFACTION OF CLAIMS.—The benefits avail-
15 able to the Tribe and the allottees under the terms and
16 conditions of the Settlement Agreement and the provisions
17 of this Act shall constitute full and complete satisfaction
18 of the claims by the Tribe and the allottees arising from
19 or related to the inundation and lack of drainage of tribal
20 and allottee lands described in section 2 of this Act and
21 further defined in the Settlement Agreement.

22 (b) APPROVAL OF WAIVERS AND RELEASES.—The
23 United States hereby approves and confirms the releases
24 and waivers required by the Settlement Agreement and
25 this Act.

1 **SEC. 9. MISCELLANEOUS PROVISIONS.**

2 (a) **ELIGIBILITY FOR BENEFITS.**—Nothing in this
3 Act or the Settlement Agreement shall affect the eligibility
4 of the Tribe or its members for any Federal program or
5 diminish the trust responsibility of the United States to
6 the Tribe and its members.

7 (b) **ELIGIBILITY FOR OTHER SERVICES NOT AF-**
8 **FECTED.**—No payment pursuant to this Act shall result
9 in the reduction or denial of any Federal services or pro-
10 grams to the Tribe or to members of the Tribe, to which
11 they are entitled or eligible because of their status as a
12 federally recognized Indian tribe or member of the Tribe.

13 (c) **PRESERVATION OF EXISTING RIGHTS.**—Except
14 for the rights specifically waived by this Act or the Settle-
15 ment Agreement, nothing in this Act shall affect or dimin-
16 ish any right to which the Tribe is entitled under existing
17 law.

18 (d) **TAX TREATMENT.**—None of the moneys paid to,
19 or any of the lands acquired and placed into trust for,
20 the Tribe or allottees under this Act shall be deemed to
21 be taxable under Federal or State law, nor shall such pay-
22 ments or transfers be taxable events.

23 (e) **AMENDMENT OF SETTLEMENT AGREEMENT.**—
24 The Settlement Agreement may be amended from time to
25 time in accordance with its terms and conditions.

1 **SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

2 There are authorized to be appropriated such sums
3 as are necessary to carry out this Act.

4 **SEC. 11. EFFECTIVE DATE.**

5 (a) IN GENERAL.—Except as provided by subsection
6 (b), this Act shall take effect on the date of enactment
7 of this Act.

8 (b) EXCEPTION.—Sections 4, 5, 6, 7, and 8 shall take
9 effect on the date on which the Secretary of the Interior
10 determines the following conditions have been met:

11 (1) The Tribe agrees to the Settlement Agree-
12 ment and the provisions of this Act and executes the
13 releases and waivers required by the Settlement
14 Agreement and this Act.

15 (2) The Coachella Valley Water District agrees
16 to the Settlement Agreement and to the provisions
17 of this Act.

18 (3) The Imperial Irrigation District agrees to
19 the Settlement Agreement and to the provisions of
20 this Act.

○