

106TH CONGRESS
2^D SESSION

H. R. 4643

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 19, 2000

Received; read twice and referred to the Committee on Indian Affairs

AN ACT

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Torres-Martinez
3 Desert Cahuilla Indians Claims Settlement Act”.

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

5 (a) FINDINGS.—The Congress finds the following:

6 (1) In 1876, the Torres-Martinez Indian Res-
7 ervation was created, reserving a single, 640-acre
8 section of land in the Coachella Valley, California,
9 north of the Salton Sink. The Reservation was ex-
10 panded in 1891 by Executive Order, pursuant to the
11 Mission Indian Relief Act of 1891, adding about
12 12,000 acres to the original 640-acre reservation.

13 (2) Between 1905 and 1907, flood waters of the
14 Colorado River filled the Salton Sink, creating the
15 Salton Sea, inundating approximately 2,000 acres of
16 the 1891 reservation lands.

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

1 (4) Through the present day, the majority of
2 the lands added to the reservation in 1909 remain
3 inundated due in part to the flowage of natural run-
4 off and drainage water from the irrigation systems
5 of the Imperial, Coachella, and Mexicali Valleys into
6 the Salton Sea.

7 (5) In addition to those lands that are unin-
8 dated, there are also tribal and individual Indian
9 lands located on the perimeter of the Salton Sea
10 that are not currently irrigable due to lack of proper
11 drainage.

12 (6) In 1982, the United States brought an ac-
13 tion in trespass entitled “United States of America,
14 in its own right and on behalf of Torres-Martinez
15 Band of Mission Indians and the Allottees therein v.
16 the Imperial Irrigation District and Coachella Valley
17 Water District”, Case No. 82–1790 K (M) (here-
18 after in this section referred to as the “U.S. Suit”)
19 on behalf of the Torres-Martinez Indian Tribe and
20 affected Indian allottees against the two water dis-
21 tricts seeking damages related to the inundation of
22 tribal- and allottee-owned lands and injunctive relief
23 to prevent future discharge of water on such lands.

24 (7) On August 20, 1992, the Federal District
25 Court for the Southern District of California entered

1 a judgment in the U.S. Suit requiring the Coachella
2 Valley Water District to pay \$212,908.41 in past
3 and future damages and the Imperial Irrigation Dis-
4 trict to pay \$2,795,694.33 in past and future dam-
5 ages in lieu of the United States request for a per-
6 manent injunction against continued flooding of the
7 submerged lands.

8 (8) The United States, the Coachella Valley
9 Water District, and the Imperial Irrigation District
10 have filed notices of appeal with the United States
11 Court of Appeals for the Ninth Circuit from the dis-
12 trict court's judgment in the U.S. Suit (Nos. 93-
13 55389, 93-55398, and 93-55402), and the Tribe
14 has filed a notice of appeal from the district court's
15 denial of its motion to intervene as a matter of right
16 (No. 92-55129).

17 (9) The Court of Appeals for the Ninth Circuit
18 has stayed further action on the appeals pending the
19 outcome of settlement negotiations.

20 (10) In 1991, the Tribe brought its own law-
21 suit, Torres-Martinez Desert Cahuilla Indians, et
22 al., v. Imperial Irrigation District, et al., Case No.
23 91-1670 J (LSP) (hereafter in this section referred
24 to as the "Indian Suit") in the United States Dis-
25 trict Court, Southern District of California, against

1 the two water districts, and amended the complaint
2 to include as a plaintiff, Mary Resvaloso, in her own
3 right, and as class representative of all other af-
4 fected Indian allotment owners.

5 (11) The Indian Suit has been stayed by the
6 district court to facilitate settlement negotiations.

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

12 **SEC. 3. DEFINITIONS.**

13 For the purposes of this Act:

14 (1) **TRIBE.**—The term “Tribe” means the
15 Torres-Martinez Desert Cahuilla Indians, a federally
16 recognized Indian tribe with a reservation located in
17 Riverside and Imperial Counties, California.

18 (2) **ALLOTTEES.**—The term “allottees” means
19 those individual Tribe members, their successors,
20 heirs, and assigns, who have individual ownership of
21 allotted Indian trust lands within the Torres-Mar-
22 tinez Indian Reservation.

23 (3) **SALTON SEA.**—The term “Salton Sea”
24 means the inland body of water located in Riverside
25 and Imperial Counties which serves as a drainage

1 reservoir for water from precipitation, natural run-
2 off, irrigation return flows, wastewater, floods, and
3 other inflow from within its watershed area.

4 (4) SETTLEMENT AGREEMENT.—The term
5 “Settlement Agreement” means the Agreement of
6 Compromise and Settlement Concerning Claims to
7 the Lands of the United States Within and on the
8 Perimeter of the Salton Sea Drainage Reservoir
9 Held in Trust for the Torres-Martinez Indians exe-
10 cuted on June 18, 1996, as modified by the first,
11 second, third, and fourth modifications thereto.

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

14 (6) PERMANENT FLOWAGE EASEMENT.—The
15 term “permanent flowage easement” means the per-
16 petual right by the water districts to use the de-
17 scribed lands in the Salton Sink within and below
18 the minus 220-foot contour as a drainage reservoir
19 to receive and store water from their respective
20 water and drainage systems, including flood water,
21 return flows from irrigation, tail water, leach water,
22 operational spills, and any other water which over-
23 flows and floods such lands, originating from lands
24 within such water districts.

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 three settlement trust
9 fund accounts to be known as the “Torres-Martinez
10 Settlement Trust Funds Account”, the “Torres-Mar-
11 tinez Allottees Settlement Account I”, and the
12 “Torres-Martinez Allottees Settlement Account II”,
13 respectively.

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

21 (b) CONTRIBUTIONS TO THE SETTLEMENT TRUST
22 FUNDS.—

23 (1) IN GENERAL.—Amounts paid to the Sec-
24 retary for deposit into the trust fund accounts estab-
25 lished by subsection (a) shall be allocated among
26 and deposited in the trust accounts in the amounts

1 determined by the tribal-allottee allocation provisions
2 of the Settlement Agreement.

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

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

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

21 (A) \$4,200,000 shall be provided from
22 moneys appropriated by Congress under section
23 1304 of title 31, United States Code, the condi-
24 tions of which are deemed to have been met, in-

1 including those of section 2414 of title 28, United
2 States Code; and

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

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

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

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

1 Account II in accordance with the terms and conditions
2 of the Settlement Agreement.

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

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

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

22 (2) PRIMARY ACQUISITION AREA.—

23 (A) IN GENERAL.—The primary area with-
24 in which lands may be acquired pursuant to
25 paragraph (1) consists of the lands located in

1 the Primary Acquisition Area, as defined in the
2 Settlement Agreement. The amount of acreage
3 that may be acquired from such area is 11,800
4 acres less the number of acres acquired and
5 conveyed into trust under paragraph (3).

6 (B) EFFECT OF OBJECTION.—Lands re-
7 ferred to in subparagraph (A) may not be ac-
8 quired pursuant to paragraph (1) if by majority
9 vote the governing body of the city within whose
10 incorporated boundaries (as such boundaries
11 exist on the date of the Settlement Agreement)
12 the subject lands are situated within formally
13 objects to the Tribe’s request to convey the sub-
14 ject lands into trust and notifies the Secretary
15 of such objection in writing within 60 days of
16 receiving a copy of the Tribe’s request in ac-
17 cordance with the Settlement Agreement. Upon
18 receipt of such a notification, the Secretary
19 shall deny the acquisition request.

20 (3) SECONDARY ACQUISITION AREA.—

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

1 (B) EFFECT OF OBJECTION.—Lands re-
2 ferred to in subparagraph (A) may not be ac-
3 quired pursuant to paragraph (1) if by majority
4 vote—

5 (i) the governing body of the city
6 within whose incorporated boundaries (as
7 such boundaries exist on the date of the
8 Settlement Agreement) the subject lands
9 are situated within; or

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

14 formally objects to the Tribe's request to convey
15 the subject lands into trust and notifies the
16 Secretary of such objection in writing within 60
17 days of receiving a copy of the Tribe's request
18 in accordance with the Settlement Agreement.
19 Upon receipt of such a notification, the Sec-
20 retary shall deny the acquisition request.

21 (4) CONTIGUOUS LANDS.—The Secretary shall
22 not take any lands into trust for the Tribe under
23 generally applicable Federal statutes or regulations
24 where such lands are both—

1 (A) contiguous to any lands within the
2 Secondary Acquisition Area that are taken into
3 trust pursuant to the terms of the Settlement
4 Agreement and this Act; and

5 (B) situated outside the Secondary Acqui-
6 sition Area.

7 (b) RESTRICTIONS ON GAMING.—The Tribe may con-
8 duct gaming on only one site within the lands acquired
9 pursuant to subsection 6(a)(1) as more particularly pro-
10 vided in the Settlement Agreement.

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

13 (1) be subject to all valid water rights existing
14 at the time of tribal acquisition, including (but not
15 limited to) all rights under any permit or license
16 issued under the laws of the State of California to
17 commence an appropriation of water, to appropriate
18 water, or to increase the amount of water appro-
19 priated;

20 (2) be subject to the paramount rights of any
21 person who at any time recharges or stores water in
22 a ground water basin to recapture or recover the re-
23 charged or stored water or to authorize others to re-
24 capture or recover the recharged or stored water;
25 and

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

4 **SEC. 7. PERMANENT FLOWAGE EASEMENTS.**

5 (a) CONVEYANCE OF EASEMENT TO COACHELLA
6 VALLEY WATER DISTRICT.—

7 (1) TRIBAL INTEREST.—The United States, in
8 its capacity as trustee for the Tribe, as well as for
9 any affected Indian allotment owners, and their suc-
10 cessors and assigns, and the Tribe in its own right
11 and that of its successors and assigns, shall convey
12 to the Coachella Valley Water District a permanent
13 flowage easement as to all Indian trust lands (ap-
14 proximately 11,800 acres) located within and below
15 the minus 220-foot contour of the Salton Sink, in
16 accordance with the terms and conditions of the Set-
17 tlement Agreement.

18 (2) UNITED STATES INTEREST.—The United
19 States, in its own right shall, notwithstanding any
20 prior or present reservation or withdrawal of land of
21 any kind, convey to the Coachella Valley Water Dis-
22 trict a permanent flowage easement as to all Federal
23 lands (approximately 110,000 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 (b) CONVEYANCE OF EASEMENT TO IMPERIAL IRRI-
4 GATION DISTRICT.—

5 (1) TRIBAL INTEREST.—The United States, in
6 its capacity as trustee for the Tribe, as well as for
7 any affected Indian allotment owners, and their suc-
8 cessors and assigns, and the Tribe in its own right
9 and that of its successors and assigns, shall grant
10 and convey to the Imperial Irrigation District a per-
11 manent flowage easement as to all Indian trust
12 lands (approximately 11,800 acres) located within
13 and below the minus 220-foot contour of the Salton
14 Sink, in accordance with the terms and conditions of
15 the Settlement Agreement.

16 (2) UNITED STATES.—The United States, in its
17 own right shall, notwithstanding any prior or
18 present reservation or withdrawal of land of any
19 kind, grant and convey to the Imperial Irrigation
20 District a permanent flowage easement as to all
21 Federal lands (approximately 110,000 acres) located
22 within and below the minus 220-foot contour of the
23 Salton Sink, in accordance with the terms and con-
24 ditions of the Settlement Agreement.

1 **SEC. 8. SATISFACTION OF CLAIMS, WAIVERS, AND**
2 **RELEASES.**

3 (a) **SATISFACTION OF CLAIMS.**—The benefits avail-
4 able to the Tribe and the allottees under the terms and
5 conditions of the Settlement Agreement and the provisions
6 of this Act shall constitute full and complete satisfaction
7 of the claims by the Tribe and the allottees arising from
8 or related to the inundation and lack of drainage of tribal
9 and allottee lands described in section 2 of this Act and
10 further defined in the Settlement Agreement.

11 (b) **APPROVAL OF WAIVERS AND RELEASES.**—The
12 United States hereby approves and confirms the releases
13 and waivers required by the Settlement Agreement and
14 this Act.

15 **SEC. 9. MISCELLANEOUS PROVISIONS.**

16 (a) **ELIGIBILITY FOR BENEFITS.**—Nothing in this
17 Act or the Settlement Agreement shall affect the eligibility
18 of the Tribe or its members for any Federal program or
19 diminish the trust responsibility of the United States to
20 the Tribe and its members.

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

1 (c) PRESERVATION OF EXISTING RIGHTS.—Except
2 as provided in this Act or the Settlement Agreement, any
3 right to which the Tribe is entitled under existing law shall
4 not be affected or diminished.

5 (d) AMENDMENT OF SETTLEMENT AGREEMENT.—
6 The Settlement Agreement may be amended from time to
7 time in accordance with its terms and conditions to the
8 extent that such amendments are not inconsistent with the
9 trust land acquisition provisions of the Settlement Agree-
10 ment, as such provisions existed on—

11 (1) the date of the enactment of this Act, in the
12 case of Modifications One and Three; and

13 (2) September 14, 2000, in the case of Modi-
14 fication Four.

15 **SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

16 There are authorized to be appropriated such sums
17 as are necessary to carry out this Act.

18 **SEC. 11. EFFECTIVE DATE.**

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

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

1 (1) The Tribe agrees to the Settlement Agree-
2 ment and the provisions of this Act and executes the
3 releases and waivers required by the Settlement
4 Agreement and this Act.

5 (2) The Coachella Valley Water District agrees
6 to the Settlement Agreement and to the provisions
7 of this Act.

8 (3) The Imperial Irrigation District agrees to
9 the Settlement Agreement and to the provisions of
10 this Act.

 Passed the House of Representatives September 18,
2000.

Attest:

JEFF TRANDAHL,
Clerk.