Calendar No. 923

106TH CONGRESS, 2d Session | SENATE | REPORT 106–474

PROVIDING FOR THE SETTLEMENT OF ISSUES AND CLAIMS RELATED TO THE TRUST LANDS OF THE TORRES-MARTINEZ DESERT CAHUILLA INDIANS, AND FOR OTHER PURPOSES

OCTOBER 3 (legislative day, SEPTEMBER 22), 2000.—Ordered to be printed

Mr. CAMPBELL, from the Committee on Indian Affairs, submitted the following

REPORT

[To accompany H.R. 4643]

The Committee on Indian Affairs, to which was referred the bill (H.R. 4643) 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, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of H.R. 4643 is to provide for the settlement of issues and claims related to the trust lands of the Torres-Martinez Desert Cahuilla Indians of California.

BACKGROUND

The Torres-Martinez Desert Cahuilla Indians have lived in the Coachella Valley area of Southern California for hundreds of years. The Tribe currently numbers more than 500 members who live on or in the vicinity of the more than 40 separate land parcels that comprise the Torres-Martinez Reservation.

The Torres-Martinez Indian Reservation was created in 1876 in the Coachella Valley north of the Salton Sink. In 1891, an Executive Order expanded the original 640-acre reservation by about 12,000 acres. Between 1905 and 1907, flood waters of the Colorado River filled the Salton Sink, creating the Salton Sea and inundating about 2,000 acres of the 1891 reservation lands. In 1909, a Secretarial Order transferred another 12,000 acres of land to the Reservation. About 9,000 acres of these lands were submerged

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under the Salton Sea; however, it was expected at the time of the transfer that the Salton Sea would recede from these lands within 25 years. Contrary to expectations, the Salton Sea did not recede, in large part due to natural runoff and drainage water flowing into it from the irrigation systems of the Imperial, Coachella, and Mexicali Valleys. This irrigation drainage was facilitated by various actions by the federal government, including construction of the Coachella Canal in the 1940's. Currently, 11,800 acres of the Tribe's 25,000-acre reservation are either under water or are not irrigable due to lack of proper drainage.

In 1982, the United States brought an action in trespass in the Federal District Court of Southern California on behalf of the Tribe and its affected allottee landowners against the Imperial Irrigation District and the Coachella Valley Water District. See *United States of America, et al.* v. *The Imperial Irrigation District, et al.* (Case No. 82–1790–K (M)). This suit sought damages related to the inundation of Indian lands and injunctive relief against further flooding of those lands. On August 25, 1992, the court entered a final judgment which found the two districts liable for trespass but denied the United States' request for injunctive relief and ejectment. The Court ordered the two districts to pay the Tribe a total of $3,008,602 in past and future damages in lieu of a permanent injunction against continued flooding of the submerged lands.

The United States, the two districts and the Tribe appealed the District Court's decision to the Ninth Circuit Court of Appeals. Subsequently, the Interior and Justice Departments entered into negotiations with the Tribe and the two districts in an effort to avoid a lengthy and costly appellate process and to resolve finally the dispute. Another objective of the negotiations was to resolve similar claims brought by the Tribe and affected allottees in a separate lawsuit against the United States and the two districts. To facilitate settlement negotiations, the court stayed action on the appeals as well as initial action on the Tribe's separate suit.

In June, 1996, after months of difficult negotiations, representatives of the United States, the Tribe, the Imperial Irrigation District and the Coachella Valley Water District signed a Settlement Agreement that resolves their conflicting claims and provides for dismissal of litigation. Legislation necessary to ratify this Settlement Agreement and to authorize the Federal actions and appropriations necessary for its implementation was introduced in the House of Representatives on June 16, 1996, by Representative Sonny Bono as H.R. 3640. On June 19, 1996, Senators Dianne Feinstein and Barbara Boxer introduced companion legislation in the Senate as S. 1893. The House Committee on Resources subsequently reported H.R. 3640 (H. Report 104–777) and the House passed the bill on September 10, 1996. In the Senate, the Committee on Indian Affairs held a hearing on S. 1863 on July 18, 1996, and reported the bill favorably to the Senate on July 24th (S. Rept. 104–360). However, neither bill was considered by the full Senate before the 104th Congress adjourned sine die.

No Torres-Martinez settlement legislation was introduced in the 105th Congress, during which time various legal and legislative efforts were under way in California to clarify state law with respect to gaming. Because the outcome of these efforts would have a direct bearing on key settlement provisions, and because there was

a need to address concerns raised by the Cabazon Band of Mission Indians regarding the proximity to their reservation of possible land selections by the Torres-Martinez Tribe for gaming purposes, settlement legislation was held in abeyance. By the time the second session of the 106th Congress convened, the legal status of gaming in California, and Indian gaming in particular, had been clearly established. Consequently, on June 13, 2000, Representative Mary Bono for herself and Representative George Miller introduced H.R. 4643, which was referred to the Committee on Resources. On July 26, 2000, the Committee reported the bill favorably and on September 19, 2000, the House passed H.R. 4643 and sent it to the Senate, where it was referred to the Committee on Indian Affairs.

SUMMARY OF SETTLEMENT PROVISIONS

As passed by the House of Representatives, H.R. 4643 is essentially the same legislation that was introduced in the House and the Senate in the 104th Congress as H.R. 3640 and S. 1863, respectively. The primary difference is new language in the Settlement Agreement and in section 6 of H.R. 4643 that reflects an agreement negotiated by representatives of the Torres-Martinez Tribe and the Cabazon Band of Mission Indians, with involvement by Executive Branch and Congressional representatives, regarding the proximity of possible future land selections by the Torres-Martinez Tribe to lands of the Cabazon Band.

H.R. 4643 ratifies the Torres-Martinez Settlement Agreement and provides for its implementation. The bill provides for the establishment of trust accounts in the United States Treasury for the benefit of the Tribe and its affected allottee landowners. It authorizes payment of $10,200,000 in Federal funds—$4.2 million from the Department of Justice Judgment Fund and $6 million in appropriated funds, to be paid into the tribal and allottee trust accounts. The Coachella Valley Water District will pay approximately $338,000 and the Imperial Irrigation District will pay approximately $3,671,000 into these accounts, making the settlement payments total $14,200,000.

The Settlement Agreement and H.R. 4643 provide authority for the Interior Department to take into trust status up to 11,800 acres of land (an amount equal to the flooded area of the Torres-Martinez reservation) purchased or otherwise acquired by the Tribe within two separate acquisition areas defined in the Settlement Agreement that are located roughly within the western and eastern boundaries of the Coachella Valley, subject to certain conditions. Trust acquisitions within the secondary area are limited to 640 acres and must be consolidated into not more than two separate parcels. Trust acquisitions in the primary area are limited to 11,800 acres minus the number of acres acquired in the secondary acquisition area.

The Settlement Agreement and the Act further provide that the Secretary shall not take into trust status any land acquired by the Tribe within either the primary or the secondary acquisition area if the governing body of a city within whose incorporated area the land is located, or, if the land is unincorporated, the governing body of Riverside County, objects to such trust acquisition. Under the terms of the Settlement Agreement, lands located within either land selection area and situated within two miles of the reservation

lands of any other Indian tribe will not be eligible for conveyance into trust absent the consent of the affected Indian tribe.

The new language added by the House in section 6 of H.R. 4643 further bars the Secretary from taking into trust for the Tribe under generally applicable Federal statutes or regulations any lands that are both outside the boundaries of the secondary acquisition area and contiguous to any lands within the secondary acquisition area that are taken into trust pursuant to the Settlement Agreement and this Act.

The Tribe's right to conduct gaming on lands taken into trust pursuant to the settlement is limited and restricted to one gaming operation on one physical site. Any gaming on these lands must be conducted consistent with the requirements of the Indian Gaming Regulatory Act (25 U.S.C. 2701; 102 Stat. 2467). Lands taken into trust for the Tribe shall be considered as if they were acquired in 1909 except with respect to water rights. Lands acquired by the Tribe will be subject to all valid water rights existing at the time of acquisition, and the Tribe will obtain all valid water rights appurtenant to acquired lands.

The settlement also provides that the Tribe and the United States will convey to the water districts a permanent flowage easement over all Indian trust lands (approximately 11,800 acres), and all Federal lands (approximately 110,000 acres) located within and below the minus 200′ contour of the Salton Sink.

LEGISLATIVE HISTORY

H.R. 4643 was introduced on June 13, 2000, by Representative Mary Bono and Representative George Miller (D–CA) and referred to the Committee on Resources. On July 26, 2000, the Resources Committee ordered H.R. 4643 reported favorably to the House of Representatives. On September 18, 2000, the House passed H.R. 4643 and on September 19, 2000, the bill was received by the Senate and referred to the Committee on Indian Affairs.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTE

On September 27, 2000, the Committee on Indian Affairs, in an open business session, considered H.R. 4643 and on a roll call vote of 8 yeas and 2 nays, ordered the bill reported favorably without amendment.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section cites the short title of H.R. 4643 as the "Torres-Martinez Desert Cahuilla Indians Claims Settlement Act."

Section 2. Congressional findings and purpose

This section sets forth Congressional findings and purpose. Subsection (a) states findings and declarations that:

(1) in 1876, 640 acres north of the Salton Sink in the Coachella Valley, California, were designated as the Torres-Martinez Indian Reservation; in 1891, an Executive Order issued pursuant to the Mission Relief Act of 1891 added another 12,000 acres to the reservation;

(2) between 1905 and 1907, Colorado River flood waters filled the Salton Sink, creating the Salton Sea and inundating approximately 2,000 acres of the 1891 reservation lands;

(3) in 1909, a Secretarial Order, issued pursuant to a 1907 amendment to the Mission Relief Act, added 12,000 acres of land, 9,000 of which were then submerged under the Salton Sea, to the reservation, with the expectation that the sea would recede from the submerged acreage within 25 years;

(4) a majority of the lands added to the reservation in 1909 remain inundated due in part to the flowage of natural runoff and drainage water from irrigation systems of the Imperial, Coachella, and Mexicali Valleys into the Salton Sea;

(5) in addition to the inundated lands, other tribal and individual Indian lands located on the perimeter of the Salton Sea are not irrigable due to the lack of proper drainage;

(6) in 1982, the United States, in its own right and on behalf of the Tribe and allottees, brought an action in trespass seeking damages and injunctive relief (the United States Suit) against the Imperial Irrigation District (IID) and Coachella Valley Water District (CVWD);

(7) in 1992, a Federal court entered judgment in the United States Suit requiring CVWD to pay $212,908 and IID to pay $2,795,694, in past and future damages to the Tribe in lieu of a permanent injunction against continued flooding of submerged lands;

(8) the United States, CVWD and IID and the Tribe filed notices of appeal regarding the United States Suit;

(9) the Court of Appeals for the Ninth Circuit stayed further action on appeals pending the outcome of settlement negotiations;

(10) in 1991, the Tribe, for itself and for an individual allottee in her own right and as class representative of all other affected Indian allottees, brought suit (the Indian Suit) against the two water districts;

(11) the Indian Suit was stayed by the court to facilitate settlement negotiations.

Subsection (b) provides that the purpose of the bill is to facilitate and implement the Settlement Agreement negotiated and executed by the parties to the United States Suit and the Indian Suit for the purpose of resolving their conflicting claims to their mutual satisfaction and in the public interest.

Section 3. Definitions

This section provides definitions of the terms "Tribe"; "Allottees"; "Salton Sea"; "Settlement Agreement"; "Secretary"; and "Permanent Flowage Easement".

Section 4. Ratification of settlement agreement

This section provides that the United States approves, ratifies and confirms the Settlement Agreement.

Section 5. Settlement funds

Subsection (a) provides for one tribal and two allottee settlement trust fund accounts to be established in the United States treasury for the Tribe and Allottees, deposits into which shall be available

to the Secretary for distribution to the Tribe and Allottees in accordance with subsection 5(c). These accounts shall be known as the "Torres-Martinez Settlement Account"; the "Torres-Martinez Allottees Settlement Account I"; and, the Torres-Martinez Settlement Account II".

Subsection (b) provides for CVWD to pay $337,908 and IID to pay $3,670,694 to the United States for the benefit of the Tribe and Allottees; for such payments to be allocated to the three trust fund accounts pursuant to the Settlement Agreement; for the United States to pay $4,200,000 from the Department of Justice Judgment Fund and $6,000,000 to be appropriated by Congress into the three trust fund accounts; for CVWD or IID to pay an additional amount on any delinquent payment; and for CVWD, IID and the United States to be severally, not jointly, liable for its respective obligations to make payments under this subsection (b).

Subsection (c) requires the Secretary to administer the three trust fund accounts established under subsection (a) in accordance with the terms and conditions of the Settlement Agreement.

Section 6. Trust land acquisition and status

Subsection (a) provides that the Secretary shall convey into trust status not more than 11,800 acres of land purchased or otherwise acquired by the Tribe within two geographic areas in accordance with the Settlement Agreement and this Act, and that such lands shall be considered as if they were acquired in 1909 except with respect to water rights.

The Tribe may acquire and have conveyed into trust status 11,800 acres of land within a "primary acquisition area", as defined in the Settlement Agreement, less the number of acres acquired and conveyed into trust within a "secondary acquisition area", as defined in the Settlement Agreement. Not more than 640 acres of land may be acquired in the secondary acquisition area.

The Secretary shall not convey into trust any lands located in the primary acquisition area if the governing body of the city within whose incorporated boundaries the subject land lie, or, if the lands are located within an unincorporated area, the governing body of Riverside County, objects to the Tribe's request to convey the lands into trust and notifies the Secretary of such objection within 60 days of receiving the Tribe's request.

The Secretary shall not convey into trust any lands located in the secondary acquisition area if the governing body of the city within whose incorporated boundaries the subject lands lie, or, if the lands are located within an unincorporated area, the governing body of Riverside County, objects to the Tribe request to convey the lands into trust and notifies the Secretary of such objection within 60 days of receiving the Tribe's request.

The Secretary shall not take into trust for the Tribe under generally applicable Federal statutes or regulations any lands that are both outside the boundaries of the secondary acquisition area and contiguous to any lands within the secondary acquisition area that are taken into trust pursuant to the terms of the Settlement Agreement and this Act.

Subsection (b) provides that the Tribe may conduct gaming on only one site within the lands acquired under this section using the acquisition process established under the Settlement Agreement.

Subsection (c) provides that all lands acquired by the Tribe shall be subject to: (1) all valid water rights existing at the time of acquisition; (2) the paramount rights of any person who recharges or stores water in a groundwater basin; and (3) all valid water rights appurtenant to the land at the time immediately prior to tribal acquisition.

Section 7. Permanent flowage easements

This section provides that the United States, as trustee for the Tribe and individual Indian allotment owners, and the Tribe shall convey to the CVWD and to the IID a permanent flowage easement as to all Indian trust lands (approximately 11,800 acres) located within and below the minus 220-foot contour of the Salton Sink. It further provides that the United States, in its own rights, shall convey to CVWD and the IID a permanent flowage easement as to all Federal lands (approximately 110,000 acres), located within and below the minus 220-foot contour of the Salton Sink, in accordance with the terms and conditions of the Settlement Agreement.

Section 8. Satisfaction of claims, waivers, and releases

Subsection (a) provides that the benefits available to the Tribe and allottees under the Settlement Agreement and this Act shall constitute full and complete satisfaction of all claims by the Tribe and the allottees arising from or related to the inundation and lack of drainage of tribal and allottee lands.

Subsection (b) provides that the United States approves and confirms the releases and waivers required by the Settlement Agreement and this Act.

Section 9. Miscellaneous provisions

Subsection (a) provides that nothing in the Act of the Settlement Agreement shall affect the eligibility of the Tribe or its members for any Federal program or diminish the trust responsibility of the United States to the Tribe and its members.

Subsection (b) provides that no payments made pursuant to this Act shall result in the reduction or denial of any Federal services or programs to the Tribe or its members to which they are entitled or eligible because of their status as a Federally recognized Tribe or member thereof.

Subsection (c) provides that except for rights specifically waived in the Act or the Settlement Agreement, nothing in this Act shall affect or diminish any right to which the Tribe is entitled under existing law.

Subsection (d) provides that the Settlement Agreement may be amended in accordance with its terms and conditions to the extent that such amendments are not inconsistent with the trust land acquisition provisions of the Settlement Agreement as such provisions existed on the date of enactment of this Act in the case of Modifications One and Three, and on September 14, 2000, in case of Modification Four.

Section 10. Authorization of appropriations

This section authorizes the appropriation of such sums as are necessary to carry out this Act.

Section 11. Effective dates

Subsection (a) provides that this Act shall become effective on the date of enactment, except as provided in subsection (b).

Subsection (b) provides that Sections 4, 5, 6, 7, and 8 shall take effect on the date on which the Secretary determines that the Tribe, CVWD, and IID have agreed to the Settlement Agreement and the provisions of this Act, and that the Tribe has executed the waivers and releases required by the Settlement Agreement and this Act.

COST AND BUDGETARY CONSIDERATION

The cost and budgetary estimate for H.R. 4643, as provided by the Congressional Budget Office, is set forth below:

H.R. 4643—Torres-Martinez Desert Cahuilla Indians Claims Settlement Act

Summary: H.R. 4643 would ratify a settlement agreement entered into by the Department of Justice (DOJ), the Imperial Irrigation District, the Coachella Valley Water District, and the Torres-Martinez Desert Cahuilla Indian Tribe. Under the agreement, the tribe would receive a total of $10 million from the federal government to compensate the tribe for the flooding of reservation lands and relief against further inundation of those lands. In addition, the Department of the Interior (DOI) would take into trust up to 11,800 acres of land acquired by the tribe, and the tribe would be permitted to conduct gaming on this land.

The legislation would authorize the appropriation of $6 million to the tribe to satisfy the terms of the settlement agreement. CBO estimates that implementing H.R. 4643 would cost $6 million in fiscal year 2001. Under the settlement, an additional $4 million would be paid from the Judgment Fund to the tribe, and would not require appropriation action. Enacting H.R. 4643 would result in direct spending of $4 million in fiscal year 2001. Because the legislation would affect direct spending, pay-as-you-go procedures would apply. The legislation contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). Any costs resulting from the settlement agreement would be incurred voluntarily by the parties to that agreement.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 4643 is shown in the following table. This estimate assumes that the amounts authorized will be appropriated and that the legislation will be enacted near the beginning of fiscal year 2001. The costs of this legislation fall within budget function 800 (general government) and 450 (community and regional development).

	By fiscal year, in millions of dollars—				
	2001	2002	2003	2004	2005
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Authorization Level	6	0	0	0	0
Estimated Outlays	6	0	0	0	0
CHANGES IN DIRECT SPENDING					
Budget Authority	4	0	0	0	0

	By fiscal year, in millions of dollars—				
	2001	2002	2003	2004	2005
Estimated Outlays	4	0	0	0	0

Basis of estimate: H.R. 4643 would authorize DOJ and DOI to make payments to new tribal trust funds, including $4 million from the Judgment Fund and $6 million from appropriated amounts. These funds could be spent on attorney fees, per capita payments, land acquisition, and other activities as provided for in the settlement agreement.

Spending subject to appropriation

H.R. 4643 would authorize the appropriation of $6 million to the trust funds established by this legislation to satisfy the settlement agreement entered into by the DOJ, the Imperial Irrigation District, the Coachella Valley Water District, and the Torres-Martinez Desert Cahuilla Indian Tribe. The funds deposited into the trust funds would become the tribe's property, so assuming that appropriations of $6 million are provided in 2001, outlays of that amount would be recorded in that year.

In addition, H.R. 4643 would authorize DOI to take into trust up to 11,800 acres of land acquired by the tribe. Based on information from the department, CBO estimates that any administrative cost to the federal government to take those lands into trust would not be significant.

Direct spending

Under the terms of the settlement agreement, the federal government would transfer $4 million into the tribe's trust funds from the Judgment Fund. The funds deposited into the trust funds would become the tribe's property. Because the settlement agreement requires the approval of the Congress, enacting H.R. 4643 would result in additional direct spending of $4 million in 2001. The tribe does not have a legal claim pending against the federal government, so the Judgment Fund is not available to fund a settlement agreement absent this legislation.

This settlement would extinguish any future claim that the tribe may have against the United States, so it is possible that the amount paid to the tribe under the legislation could be offset by a reduction in payments that would be made from the Judgment Fund in future years. However, CBO cannot estimate either the likelihood or the magnitude of such offset because there is no basis for predicting either the outcome of possible litigation against the United States or the amount of compensation, if any.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The following table summarizes the estimated impact of H.R. 4643 on direct spending.

	By fiscal year, in millions of dollars—										
	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Changes in outlays [1]	0	4	0	0	0	0	0	0	0	0	0
Changes in receipts	Not applicable										

[1] This cost could be offset by a reduction in future payments from the Judgment Fund, however, CBO cannot estimate the likelihood or magnitude of such an offset.

Intergovernmental and private-sector impact: H.R. 4643 contains no intergovernmental or private-sector mandates as defined in UMRA. Any costs resulting from the settlement agreement would be incurred voluntarily by the parties to that agreement. Under the terms of the agreement, the Coachella Valley Water District and the Imperial Irrigation District would make certain payments for the benefit of the tribe. In return for these payment and other benefits conferred by the agreement, the tribe would give up its claims relating to land flooded by the Salton Sea.

Previous CBO cost estimate: On August 17, 2000, CBO transmitted an estimate for H.R. 4643, the Torres-Martinez Desert Cahuilla Indians Claims Settlement Act, as ordered reported by the House Committee on Resources on July 26, 2000. The two versions of the legislation are similar, and our cost estimates are identical.

Estimate prepared by: Federal Costs: Lanette J. Keith. Impact on State, Local, and Tribal Governments: Marjorie Miller. Impact on the Private Sector: Lauren Marks.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires each report accompanying a bill to evaluate the regulatory and paperwork impact that would be incurred in carrying out the bill. The Committee finds that enactment of H.R. 4643 will result in *de minimis* regulatory and paperwork impact.

EXECUTIVE COMMUNICATIONS

The Committee has received no official communication from the Administration on the provisions of H.R. 4643.

CHANGES IN EXISTING LAW

The Committee finds that H.R. 4643, if enacted, would make no changes in existing law.

APPENDIX I

The text of the Agreement of Compromise and Settlement Concerning Claims to Lands of the United States Within and on the Perimeter of the Salton Sea Drainage Reservoir Held in Trust for the Torres-Martinez Indians, together with four Modifications thereto, set forth below:

AGREEMENT OF COMPROMISE AND SETTLEMENT CONCERNING CLAIMS TO LANDS OF THE UNITED STATES WITHIN AND ON THE PERIMETER OF THE SALTON SEA DRAINAGE RESERVOIR HELD IN TRUST FOR THE TORRES-MARTINEZ INDIANS

This Agreement of Compromise and Settlement (hereinafter "Agreement") is made this _____ day of June, 1996 between the United States of America, in its own right and as Trustee on behalf of the Torres-Martinez Band of Mission Indians and affected Indian allotment owners (hereinafter "United States"), acting through the Secretary of the Interior (hereinafter "Secretary"); the Torres-Martinez Desert Cahuilla Indians (hereinafter "Tribe"); the Imperial Irrigation District (hereinafter "IID"); the Coachella Valley Water District (hereinafter "CVWD"); and Mary Resvaloso, in her own right and as class representative of all other affected Indian allotment owners; sometimes referred to collectively as the "Parties."

RECITALS

WHEREAS, the Torres-Martinez Indian Reservation (hereinafter "Reservation"), located in the Coachella Valley, California, at the northern end of the Salton Basin, was established by Executive Order on May 15, 1876, reserving a single section (640 acres) of land for the use and benefit of the Tribe; and

WHEREAS, the Reservation was expanded by an Executive Order issued on December 19, 1891, pursuant to the Mission Indian Relief Act of 1891, adding to the Reservation about 12,000 acres of lands situated between the mountain foothills and the Salton Sink which

at its lowest point measures at approximately 275 feet below sea level; and

WHEREAS, from 1905 - 1907, the flood waters of the Colorado River filled the Salton Sink, creating the Salton Sea and inundating a portion of the 1891 reservation lands; and

WHEREAS, in 1909 an additional 12,000 acres of land, 9,000 of which were then submerged under the Salton Sea, were added to the Reservation under an Executive Order issued pursuant to a 1907 amendment of the Mission Indian Relief Act; and

WHEREAS, due to receding water levels in the Salton Sea through the process of evaporation at the time of the second enlargement of the Reservation in 1909, there were some expectations that the Salton Sea would recede within a period of 25 years; and

WHEREAS, the United States, the Tribe and the affected Indian allotment owners contend that agricultural drainage waters from the Imperial, Mexicali and Coachella Valleys irrigation systems flow into the Salton Sea, and that these waters commingle with natural runoff and precipitation causing both inundation of Reservation and allottee-owned lands under the Salton Sea (approximately 11,800 acres) and damages to Reservation and allottee-owned lands on or near the perimeter of the Salton Sea (approximately 4700 acres) due to saturation (hereinafter "perimeter lands"); and

WHEREAS, in 1982, the U.S. brought an action in trespass entitled United States of America, in its own right and on behalf of Torres-Martinez Band of Mission Indians and the Allottees

therein v. The Imperial Irrigation District and Coachella Valley Water District, Case No. 82-1790 K (M) (hereinafter "U.S. Suit") on behalf of the Torres-Martinez Indian Tribe and affected Indian allottees against IID and CVWD for past damages related to the inundation of Reservation and allottee-owned lands and injunctive relief to prevent future discharge of water on such lands; and

WHEREAS, on August 20, 1992, the Federal District Court, Southern District of California entered a judgment in the U.S. Suit requiring CVWD to pay $70,238.41 in past damages and $142,670 in future damages for a total of $212,908.41 and IID, $940,984.33 in past damages and $1,854,710 in future damages, for a total of $2,795,694.33, resulting in a combined total of $3,008,608.74; and

WHEREAS, the United States, IID and CVWD have filed notices of appeal with United States Court of Appeals for the Ninth Circuit from the district court's judgment in the U.S. Suit (No's. 93-55389, 93-55398 and 93-55402) and the Tribe has filed a notice of appeal from the district court's denial of its motion to intervene as a matter of right (No. 92-55129);

WHEREAS, the Court of Appeals for the Ninth Circuit has stayed further action on the appeals pending the outcome of settlement negotiations; and

WHEREAS, in 1991, the Tribe brought its own lawsuit, Torres-Martinez Desert Cahuilla Indians, et al., v. Imperial Irrigation District, et al., Case No. 91-1670 J (LSP) (hereinafter "Indian Suit") in the United States District Court, Southern District of California against the two districts, and amended the complaint to

include as an additional plaintiff, Mary Resvaloso, in her own right and as class representative of all other affected Indian allotment owners; and

WHEREAS, the Indian Suit has been stayed by the District Court to facilitate settlement negotiations.

WHEREAS, The United States, the Tribe, IID, CVWD and Mary Resvaloso on behalf of all affected Indian allotment owners, believe it is in their best interests to enter into this Agreement as a compromise and final settlement of all issues and claims in both the U.S. Suit and the Indian Suit;

NOW THEREFORE, in consideration of the following terms, conditions, and promises, the Parties agree as follows:

TERMS OF AGREEMENT

I. EFFECTIVENESS OF AGREEMENT. The Parties hereby agree that this Agreement shall take effect and be binding upon the Parties on the date the Secretary issues a written notice to all parties stating that all of the following actions have been performed and completed:

(a) the Agreement is approved and duly executed by the Secretary;

(b) the Agreement is approved and duly executed by the Chairperson of the Tribe on behalf of the Tribe in accordance with and pursuant to a tribal resolution authorizing the Chairperson of the Tribe to execute the Agreement;

(c) the Agreement is approved and duly executed by IID;

(d) the Agreement is approved and duly executed by CVWD;

(e) the Agreement is approved and duly executed by Mary Resvaloso and the procedures set forth in section XI of the Agreement have been accomplished;

(f) the United States Congress enacts and the President signs legislative acts (i) authorizing and ratifying the Agreement (hereinafter "Settlement Legislation") and (ii) appropriating the funds called for by subsection II(c)(ii) of the Agreement (hereinafter, "Appropriation Legislation"), provided that such legislative acts do not alter the essential terms and conditions of the Agreement;

(g) the Parties file and the U.S. Court of Appeals for the Ninth Circuit grants, motions to dismiss their respective appeals;

(h) the United States, IID and CVWD, upon dismissal of their respective appeals, file a joint motion in the district court requesting that the court vacate its judgment in the U.S. Suit; and

(i) the Tribe files and the U.S. District Court, Southern District of California grants, a motion to dismiss with prejudice the Indian Suit.

II. MONETARY CONTRIBUTIONS.

(a) Cash Payments by CVWD. (1) Not later than thirty (30) days following the date on which the Agreement becomes effective, CVWD shall deliver to the Secretary a warrant in the amount of $337,908.41, payable to the United States, for the benefit of the Tribe and any affected Indian allotment owners.

(2) Such amount shall be deposited by the United States into the appropriate trust account(s) provided for and in accordance with section IX of the Agreement.

(3) If any portion of the sum described in subparagraph (a)(i) is not paid by the date that payment of such sum is due, CVWD shall pay an additional amount equal to ten percent (10%) interest per annum on the amount outstanding, compounded yearly on the thirty-first of December of each respective year until all amounts due are paid.

(4) Upon delivery of the amount(s) described in subparagraphs (a)(1) and/or (a)(3) above to the Secretary, CVWD shall have no further liability, obligation, or responsibility to any party for handling, disposition or distribution of the said amount(s) including, without limitation, disposition of such amount(s) in the trust account(s) provided for in section IX of this Agreement.

(5) CVWD shall have no liability or obligation to any party for the amounts agreed to be paid by either IID pursuant to paragraph (b) of this section or the United States, pursuant to paragraph (c) of this section.

(b) Cash Payments by IID. (1) Not later than thirty (30) days following the date on which the Agreement becomes effective, IID shall deliver to the Secretary a warrant in the amount of $3,670,694.33, payable to the United States, for the benefit of the Tribe and any affected Indian allotment owners.

(2) Such amount shall be deposited by the United States into the appropriate trust account(s) provided for and in accordance with section IX of this Agreement.

(3) If any portion of the sum described in subparagraph (b)(i) is not paid on the date that payment of such sum is due, IID shall pay an additional amount equal to ten percent (10%) interest per annum on the amount outstanding, compounded yearly on the thirty-first of December of each respective year until all amounts due are paid.

(4) Upon delivery of the amount(s) described in subparagraphs (b)(1) and/or (b)(3) above to the Secretary, IID shall have no further liability, obligation, or responsibility to any party for handling, disposition or distribution of the said amount(s), including, without limitation, disposition of such amount(s) in the trust account(s) provided for in section IX of this Agreement.

(5) IID shall have no liability or obligation to any party for the amounts agreed to be paid by either CVWD pursuant to paragraph (b) of this section or the United States, pursuant to paragraph (c) of this section.

(c) **Cash Payments by the United States.** Subject to the authorization and appropriation of funds, the United States agrees to contribute to the Tribe and any affected allottees the sum of $10,200,000 in settlement of potential money claim exposure against the United States as follows:

(1) The sum of $4,200,000 shall be contributed by the United States in settlement of potential money claim exposure against the United States. This amount will be deposited into the appropriate trust accounts provided for and in accordance with section IX of this Agreement, no later than one hundred and twenty (120) days following the effective date of this Agreement or as soon thereafter as the deposits of said amount reasonably can be accomplished.

(2) The sum of $6,000,000 shall be contributed by the United States from funds appropriated to the Department of the Interior for this purpose and deposited into the appropriate trust accounts provided for and in accordance with section IX of this Agreement, no later than one hundred and twenty (120) days after the date on which legislation appropriating said funds is enacted into law.

(3) The United States shall have no liability or obligation to any party for the amounts agreed to be paid by CVWD and IID under paragraphs (a) and (b) of this section.

III. STAYS OF COURT PROCEEDINGS. The parties shall cooperate in securing court approval to stay or continue all proceedings in the pending lawsuits, until such time as the lawsuits shall have been dismissed as provided in sections I and IV of this Agreement or the Agreement shall have terminated.

IV. MUTUAL RELEASE AND SATISFACTION OF ALL CLAIMS.

(a) The Parties mutually understand and agree that the benefits to be received under the Agreement and the Settlement Legislation shall constitute full and complete satisfaction of all claims by each Party against any other Party alleged in either the U.S. Suit or the Indian Suit. More particularly, (1) the United States agrees to refrain forever from instituting, maintaining, prosecuting, or continuing to maintain or prosecute any suit or action against CVWD or IID (and their respective administrators, successors, agents, assign, representatives, employees, officers, and directors) based upon either (i) any claim, demand, action, cause of action or liability that was alleged in the U.S. Suit or the Indian Suit or (ii) past or future damages to the perimeter lands; (2) the Tribe agrees to refrain forever from instituting, maintaining, prosecuting, or continuing to maintain or prosecute any suit or action against CVWD or IID (and their respective administrative, employees, officers and directors) based upon either (i) any claim, demand, action, cause of action or liability that was alleged in the U.S. Suit or the Indian Suit or (ii) past or future damages to the perimeter lands; (3) the Tribe agrees to refrain forever from instituting, maintaining, prosecuting, or continuing to maintain or prosecute any suit or action against the United States based upon either (i) any claim, demand, action, cause of action or liability that was the subject of either the U.S. Suit or the Indian Suit or (ii) past or future damages to the perimeter lands; (4) CVWD and IID agree to refrain forever from instituting, maintaining, prosecuting, or continuing to maintain or

prosecute any suit or action against the United States or the Tribe (and their respective administrators, successors, agents, assigns, representatives and employees), based upon either (i) any claim, demand, action, cause of action or liability that was alleged in the U.S. Suit or the Indian Suit or (ii) past or future damages to the perimeter lands; and (5). Mary Resvaloso on her own behalf and as class representative of all other affected Indian allotment owners, agrees to refrain forever from instituting, maintaining, prosecuting, or continuing to maintain or prosecute any suit or action against the United States, CVWD or IID (and their respective administrators, successors, agents, assigns, representatives, employees, officers or directors), based upon either (i) any claim, demand, action, cause of action or liability that was alleged in the U.S. Suit or the Indian Suit or (ii) past or future damages to the perimeter lands.

(b) The Parties mutually understand and agree that the disputes giving rise to and being resolved by this Agreement and the Settlement Legislation have concerned the inundation of specified Indian lands, and have not concerned either water rights or the enforcement of federal or state environmental laws, statutes, and regulations. Further, the parties mutually understand and agree that nothing in this section or any other section of this Agreement may be construed as barring the initiation of suits or actions to enforce applicable water rights, environmental laws, statutes, or regulations.

(c) The Parties mutually understand and agree that nothing in this Agreement is intended to compromise the collateral estoppel or res judicata effect of the district court's judgment in the U.S. Suit as if said judgment was not vacated.

(d) The Parties agree to file [a] motions[s] to dismiss the U.S. Suit and the Indian Suit as, where and in a manner and form appropriate and necessary to accomplish the dismissal of the suits, within 30 days following either the date this Agreement is enacted into law by the Settlement Legislation, or the date this Agreement is approved by the District Court in accordance with Section XI, whichever of the two dates is later.

V. PERMANANT FLOWAGE EASEMENT. Not later than thirty (30) days following the effective date of this Agreement:

(a) The United States, in its capacity as trustee for the Tribe as well as for any affected Indian allotment owners, and their successors and assigns, and the Tribe in its own right and that of its successors and assigns, shall grant and convey to CVWD a permanent flowage easement as to all lands held in trust for the benefit of the Tribe and any affected Indian allotment owners located within and below the -220' contour of the Salton Sink (approximately 11,800 acres), in the form attached hereto as Exhibit "A", which upon acceptance by CVWD pursuant to California Government Code § 27281 shall be recorded in the Office of County Recorder of Riverside County, California and the Office of County Recorder of Imperial County, California, and evidence of said

easement shall be entered upon the land records of the Bureau of Land Management and the Bureau of Indian Affairs; and

(b) The United States, in its own right shall, notwithstanding any prior or present reservation or withdrawal of land of any kind, grant and convey to CVWD a permanent flowage easement as to all federal lands located within and below the -220' contour of the Salton Sink (approximately 110,000 acres), in the form attached hereto as Exhibit "A", which upon acceptance by CVWD pursuant to California Government Code § 27281 shall be recorded in the Office of County Recorder of Riverside County, California and the Office of County Recorder of Imperial County, California, and evidence of said easement shall be entered in the land records of the Bureau of Land Management.

(c) The United States, in its capacity as trustee for the Tribe as well as for any affected Indian allotment owners, and their successors and assigns, and the Tribe in its own right and that of its successors and assigns, shall grant and convey to IID a permanent flowage easement as to all lands held in trust for the benefit of the Tribe and any affected Indian allotment owners located within and below the -220' contour of the Salton Sink (approximately 11,800 acres), in the form attached hereto as Exhibit "A", which upon acceptance by IID pursuant to California Government Code § 27281 shall be recorded in the Office of County Recorder of Riverside County, California and the Office of County Recorder of Imperial County, California, and evidence of said

easement shall be entered upon the land records of the Bureau of Land Management.

(d) The United States, in its own right shall, notwithstanding any prior or present reservation or withdrawal of land of any kind, grant and convey to IID a permanent flowage easement as to all federal lands located within and below the -220' contour of the Salton Sink (approximately 110,000 acres), in the form attached hereto as Exhibit "A", which upon acceptance by IID pursuant to California Government Code § 27281 shall be recorded in the Office of County Recorder of Riverside County, California and the Office of County Recorder of Imperial County, California, and evidence of said easement shall be entered in the land records of the Bureau of Land Management.

(e) For the purposes of this Agreement, the term "permanant flowage easement" shall mean the perpetual right by the water districts to use the described lands within and below the -220' contour as a drainage reservoir to receive and store water from their respective water and drainage systems including flood water, return flows from irrigation, tail water, leach water, operational spills, and any other water which overflows and floods said lands originating from lands within said water districts.

VI. <u>ACQUISITION AND PLACEMENT OF LANDS INTO TRUST STATUS</u>. The United States, acting through the Secretary, shall convey into trust status for the benefit of the Tribe certain lands which the Tribe may purchase or otherwise acquire pursuant to this Agreement

subject to the limitations, terms and conditions of this Agreement and the provisions of the Settlement Legislation.

(a) The Secretary, in accordance with the terms and conditions of this Agreement and the provisions of the Settlement Legislation, shall convey up to 11,800 acres of land into trust status for the benefit of the Tribe.

(b) The Tribe and the United States understand and agree that only lands purchased or otherwise acquired by the Tribe within either of the two designated acquisition areas defined and described in paragraphs (c) and (d) of this section shall be eligible for conveyance into trust status under the terms and conditions of this Agreement and the Settlement Legislation.

(c) **Primary Acquisition Area.** The Primary Acquisition Area shall lie within the area bounded on the south by the the Riverside County Line commencing at the northwest corner of Section 6, T 9 S, R 9 E; thence running east along the Riverside County Line to the point at which the Riverside County Line intersects the western shoreline of the Salton Sea; thence running north along the western shoreline of the Salton Sea; thence running in an easterly direction along the northern shoreline of the Salton Sea and continuing until its intersection with the northwest corner of the southwest quarter of Section 34, T 7 S, R 10 E; thence running northeasterly in a straight line to northeast corner of Section 26, T 7 S, R 10 E; thence continuing in a northeasterly direction to its intersection with the Coachella Canal; thence running

northwesterly along the Coachella Canal until its intersection with the northern boundary of Section 19, T 6 S, R 9 E; thence running west in a straight line to the northwest corner of Section 20, T 6 S, R 7 E (hereinafter, "northern boundary of the Primary Acquisition Area"); thence running southeasterly in a straight line to the northwest corner of Section 6, T 9 S, R 9 E. Attached hereto and incorporated herein as Exhibit "B" is a map outlining the Primary Acquisition Area. The total number of acres of land within the Primary Acquisition Area that may be conveyed into trust status in accordance with this Agreement and pursuant to the Settlement Legislation shall not exceed 11,800 less the number of acres of land situated within the Secondary Acquisition Area and conveyed into trust status in accordance with this Agreement and pursuant to the Settlement Legislation.

(d) **Secondary Acquisition Area:** The Secondary Acquisition Area shall lie within the area bounded on the south by the northern boundary of the Primary Acquisition Area; thence commencing at the point at which the Coachella Canal intersects the northern boundary of Section 19, T 6 S, R 9 E running northwesterly along the the Coachella Canal to its intersection with the eastern boundary of Section 3, T 5 S, R 7 E; thence running north along the eastern boundary of Section 3, T 5 S, R 7 E and continuing north in a straight line into Section 34, T 4 S, R 7 E to its intersection with the powerline; thence running northwesterly along the powerline until its intersection with the eastern boundary of Section 15, T 4 S, R 6 E; thence running northwesterly in a

straight line to the northwest corner of Section 15, T 4 S, R 6 E; thence running southwesterly in a straight line to the southwest corner of Section 17, T 5 S, R 5 E; thence running southeasterly in a straight line to the southwest corner of Section 18, T 6 S, R 7 E; thence running east along the southern boundary of Section 18, T 6 S, R 7 E, to the northwest corner of Section 20, T 6 S, R 7 E. Attached hereto and incorporated herein as Exhibit "B" is a map outlining the Secondary Acquisition Area. The total number of acres of land within the Secondary Acquisition Area that may be conveyed into trust status in accordance with this Agreement and pursuant to the Settlement Legislation shall not exceed 640.

(e) With regard to all lands which the Tribe purchases or otherwise acquires within the Primary and Secondary Acquisition Areas for purposes of having said lands placed into trust status in accordance with this Agreement and pursuant to the Settlement Legislation, the Tribe shall submit to the Secretary a written request to convey such lands into trust. Such request shall include the following information: the identity of the parties from whom the land was acquired; the location and legal description of the land at issue; a description of how the Tribe plans to use the land; a statement concerning the financial impact, if any, which the removal of such lands from the tax rolls may have on local government; and any other information which the Secretary may deem necessary or appropriate. The Secretary shall provide a copy of such request to (a) the local government whose incorporated boundaries the subject lands are situated within or (b) the County

of Riverside California, in the event such lands are located within unincorporated areas.

(f) With regard to lands acquired by the Tribe within the Primary Acquisition Area for conveyance into trust status pursuant to this Agreement, the Tribe agrees to acquire contiguous parcels of land which are contiguous to the Tribe's reservation lands to the maximum extent practicable. To the extent the Tribe acquires lands within the Primary Acquisition Area pursuant to this Agreement which are not contiguous to its reservation lands, the Tribe further agrees to acquire parcels of at least 40 acres in size and to cluster such parcels as close as possible to one another to the maximum extent practicable.

(g) Lands acquired by the Tribe in the Primary Acquisition Area pursuant to and in accordance with the terms and conditions of this Agreement shall be conveyed and held by the United States in trust for the sole use and benefit of the Tribe within 180 days following the date on which all of the following conditions and actions have been demonstrated to have been satisfied, performed and/or completed:

(1) the Tribe files with the Secretary a written request to convey such lands into trust in accordance with paragraph (e) of this section;

(2) the number of acres per request for conveyance into trust equals or exceeds 160 acres;

(3) compliance with part 151.12 of title 25, Code of Federal Regulations;

(4) the Secretary has not received written notification from the local governing body of any incorporated city which is incorporated on or prior to the date of this Agreement whose incorporated boundaries (as those boundaries were established as of the date of this Agreement) the subject lands are situated within, formally notifying the Secretary that such governing body, by majority vote, objects to the Tribe's request to convey the subject lands into trust and so notifies the Secretary within sixty (60) days of receiving a copy of the Tribe's request from the Secretary in accordance with paragraph (e) of this section; and

(5) compliance with all applicable provisions of this section.

(h) With regard to lands that may be acquired by the Tribe within the Secondary Acquisition Area for conveyance into trust status pursuant to this Agreement, the Tribe agrees that it shall limit its acquisitions to parcels of land which are contiguous to one another and to consolidate such parcels in no more than two separate composite clusters of contiguous parcels of land, the combined total acreage of which shall not exceed 640 acres.

(i) All lands acquired by the Tribe in the Secondary Acquisition Area pursuant to and in accordance with the terms and conditions of this Agreement shall be conveyed and held by the United States in trust for the sole use and benefit of the Tribe within 180 days following the date on which all of the following conditions and actions have been demonstrated to have been satisfied, performed and/or completed:

(1) the Tribe files with the Secretary a written request to convey such lands into trust in accordance with paragraph (g) of this section;

(2) compliance with part 151.12 of title 25, Code of Federal Regulations;

(3) compliance with all applicable provisions of this section;

(4) the Secretary has not recieved written notification from (a) the local governing body of the incorporated city whose incorporated boundaries the subject lands are situated within or (b) the governing body of Riverside County, California, in the event that such lands are located within an unincorporated area, formally notifying the Secretary that such governing body, by majority vote, objects to the Tribe's request to convey the subject lands into trust and so notifies the Secretary of such objection within sixty days (60) of receiving a copy of the Tribe's request from the Secretary in accordance with paragraph (e) of this section; and

(5) compliance with all applicable provisions of this section.

It is further agreed and understood that the Tribe shall submit no more than three separate written requests to convey lands it has acquired within the Secondary Acquisition Area into trust status and that the Secretary shall grant no more than three such requests.

(j) The provisions of paragraphs (g) and (i) notwithstanding, the United States and the Tribe understand and agree that lands located within either the Primary or Secondary Acquisition Areas and situated within a one (1) mile radius of the reservation lands of any other federally-recognized Indian tribe shall not be conveyed into trust for the benefit of the Tribe absent the consent of the appropriate officials or governing body of the affected Indian tribe or tribes.

(k) With respect to the acreage and contiguity standards established by this section as prerequisites to the conveyance of land into trust, the Secretary may in his discretion waive such requirements upon request of the Tribe and upon a satisfactory showing that such waiver is reasonably necessary to facilitate the Tribe's proposed use of the lands at issue.

(l) Concurrently with the submission of any written request to the Secretary to convey lands into trust in accordance with paragraph (e), the Tribe agrees to record an acknowledgment in the form of Exhibit "C".

(m) The United States and the Tribe hereby acknowledge and agree that IID and CVWD have no responsibility or liability with respect to the purchase or acquisition of lands, including, without limitation, the responsibility to convey such lands into trust or any other responsibility set forth in this section.

VII. STATUS OF LANDS TAKEN INTO TRUST. The Secretary and the Tribe agree that any and all lands which are conveyed into trust

for the benefit of the Tribe pursuant to and in accordance with the terms and conditions of this Agreement shall be deemed to have been taken into trust as of 1909, subject to the following exceptions, conditions, restrictions and limitations:

(a) With respect to any gaming that may be conducted by the Tribe on such lands, the Tribe agrees:

(1) that the conduct of any gaming on such lands shall forever be limited and restricted to occur on no more than one specific site at any one time;

(2) to provide the Secretary with a tribal resolution which states that the Tribe is exercising its right under this Agreement to conduct gaming on a single site situated on lands acquired and conveyed into trust pursuant to this Agreement and identifies the site by location and size in terms of acreage;

(3) to submit such resolution to the Secretary at the time the Tribe submits to the Secretary its request to convey the subject land into trust in accordance with Section VI of this Agreement; and

(4) the Tribe shall have the right to relocate any such gaming operation from a site situated on lands acquired and conveyed into trust pursuant to this Agreement to any other site situated on such lands, provided that all gaming activity at the first site is terminated prior to or simultaneously with the commencement of gaming activity on the second site.

(b) With respect to water rights, all lands taken into trust pursuant to this Agreement shall be:

(1) subject to all valid water rights existing at the time such lands are acquired by the Tribe, including, but not limited to, all rights under any permit or license issued under the laws of the State of California to commence an appropriation of water, to appropriate water, or to increase the amount of water appropriated;

(2) subject to all paramount rights of any person who at any time recharges or stores water in a groundwater basin to recapture or recover the recharged or stored water or to authorize others to recapture or recover the recharged or stored water; and

(3) entitled to the benefit of all valid water rights appurtenant to the land existing immediately prior to the time the Tribe acquires such lands

VIII. WATER ISSUES

(a) **Groundwater Replenishment Assessments.** The Tribe hereby agrees that it shall be subject to all applicable groundwater replenishment assessments levied by or on behalf of CVWD or the United States government, by and through CVWD, for all lands owned by or on behalf of the Tribe, whether in fee or otherwise, which are acquired after the effective date of this Agreement, provided that:

(1) the land is situated within the boundaries of Improvement District No. 1, as such is defined and described in paragraph (b) of this section; and

(2) the assessments are uniform and nondiscriminatory as established from time to time by the Board of Directors of CVWD, in accordance with CVWD'S rules and regulations.

(b) **Improvement District No. 1.** With regard to Improvement District No. 1, formed by CVWD on or about October 15, 1934, and set out in the map attached hereto and incorporated herein as Exhibit "D", CVWD and the Tribe hereby agree that:

(1) the Tribe shall use canal water, instead of domestic water or well water, for any land acquired by or on behalf of the Tribe or any allotment owners of the Tribe when CVWD determines in its sole discretion to provide canal water for irrigation purposes; provided that:

(A) such land is within the boundaries of Improvement District No. 1; and

(B) the assessments are uniform and nondiscriminatory as established from time to time by the Board of Directors of CVWD, in accordance with CVWD's rules and regulations;

(2) the Tribe shall use canal water when CVWD determines in its sole discretion to provide canal water in place of ground water for irrigation purposes. Provided CVWD provides canal water, as set forth herein, the Tribe shall not pump or allow others, except CVWD, to pump water from wells on land owned or controlled by the Tribe, excepting only to the extent that such canal water is of insufficient quality for particular uses to be made of such land which determination shall be made by CVWD in its reasonable discretion;

(3) CVWD shall serve canal water to the Tribes pursuant to CVWD's prevailing policies, rules and regulations governing the provision of service of canal water, as they may be amended from time to time by CVWD's Board of Directors;

(4) all charges for delivery of canal water to the Tribe shall be paid by the Tribe based on the uniform and non-discriminatory rate schedules estimated from time to time by the Board of Directors of CVWD, in accordance with the CVWD rules and regulations; and

(5) the Tribe shall accept full and exclusive responsibility for the management and use of the canal water delivered by CVWD to the Tribe, at the point of delivery agreed to by CVWD and the Tribe and the Tribe shall hold CVWD free and harmless from any responsibility which may result directly or indirectly from the management and use of canal water by the Tribe.

(c) **Assessments Outside of Improvement District No. 1.** Notwithstanding anything contained to the contrary herein, the Tribe hereby agrees that the Tribe shall be subject to all replenishment assessments levied by the CVWD outside of Improvement District No. 1 and within Riverside County for any lands acquired by or on behalf of the Tribe on or after the effective date of this Agreement; provided, that the assessments are uniform and nondiscriminatory established from time to time by the Board of Directors of CVWD, in accordance with CVWD's rules and regulations.

IX. TRUST ACCOUNTS AND DISPOSITION OF FUNDS

(a) **Tribal Settlement Trust Funds Account.** No later than thirty (30) days following the enactment of the Settlement Legislation, the United States shall establish in the Treasury of the United States a trust funds account for the benefit of the Tribe to be known as the "Torres Martinez Settlement Trust Funds Account" (hereinafter, "Tribal Settlement Account").

(b) **Allottees Settlement Trust Funds Accounts.** No later than thirty (30) days following the enactment of the Settlement Legislation, the United States shall establish in the Treasury of the United States the following two trust funds accounts:

(1) "Torres Martinez Allottees Settlement Account I" for the benefit of those allottees having a property interest in trust lands located within and below the -220' contour of the Salton Sink (hereinafter, "Allottees Account I"); and

(2) "Torres Martinez Allottees Settlement Account II" for the benefit of those allottees having a property interest in those certain trust lands located on the perimeter of the Salton Sink above the -220'contour which are damaged due to the raised watertable (hereinafter, "Allottees Account II").

(c) **Allocation and Deposit of Monetary Contributions.** The Parties understand and agree that the Indian trust lands which are at issue in the U.S. Suit and the Indian Suit are comprised of both tribal lands and allotted lands and that the monetary contributions made by CVWD, IID, and the United States for the benefit of the Tribe and affected allottees pursuant to section II of the Agreement shall be allocated between the Tribe and affected

allottees on a proportionate acreage basis and deposited into the appropriate trust funds accounts as follows:

(1) 75% of the total amount of monetary payments paid to the United States for the benefit of the Tribe and affected allottees by CVWD and IID pursuant to section II of the Agreement shall be deposited in the Tribal Settlement Account and Allottees Account I in amounts proportionate to the total number of acres in which the beneficiaries of such trust accounts have a property interest.

(2) 25% of the total amount of monetary payments paid to the United States for the benefit of the Tribe and affected allottees by CVWD and IID pursuant to section II of the Agreement shall be deposited into the Tribal Settlement Account, Allottees Account I and Allottees Account II in amounts proportionate to the total number of affected acres in which the beneficiaries of such trust account have a property interest.

(3) 50% of the total amount of monetary payments paid by the United States for the benefit of the Tribe and affected allottees pursuant to subsection II(c)(i) of the Agreement shall be deposited into the Tribal Settlement Account and Allottees Account I in amounts proportionate to the total number of affected acres in which the beneficiaries of such trust accounts have a property interest.

(4) 50% of the total amount of monetary payments paid by the United States for the benefit of the Tribe and affected allottees pursuant to subsection II(c)(i) of the Agreement shall be

deposited into the Tribal Settlement Account, Allottees Account I and Allottees Account II in amounts proportionate to the total number of affected acres in which the beneficiaries of such trust accounts have a property interest.

(5) 100% of the total amount of monetary payments paid by the United States for the benefit of the Tribe and affected allottees pursuant to subsection II(c)(ii) of the Agreement shall be deposited into the Tribal Settlement Account, Allottees Account I and Allottees Account II in amounts proportionate to the total number of affected acres in which the beneficiaries of such trust account have a property interest.

(d) **Investment of Monetary Contributions.** The Secretary agrees to invest all sums deposited into, accruing to, and remaining in, the Tribal Trust Account, Suspension Account I and Suspension Account II in accordance with 25 U.S.C. Sec. 162(a).

(e) **Distribution of Sums Held in Trust Accounts.**

(1) The Secretary and the Tribe agree that any and all sums held in the Tribal Settlement Account shall be available for distribution to the Tribe as may be requested by the Tribe subject to the following terms and conditions:

(A) The Tribe shall use such sums only for the purposes of education, land acquisition, economic development, youth and elderly programs, or other tribal purposes, including, but not limited to, the payment of attorney fees for legal services rendered to the Tribe in connection with the U.S. Suit, the Indian Suit and the settlement of the same, in accordance with plans and

budgets developed by the Tribe and approved by the Secretary.

(B) Nothing in this subsection or other section of this Agreement may be construed as prohibiting the Tribe from using a portion of the sums held for the purpose of making per-capita payments to members of the Tribe; provided, that such portion shall not exceed twenty five percent (25%) of the total amount of the sum held in the Tribal Settlement Account.

(2) The Secretary agrees to promptly distribute the sums held in Allottees Account I and Allottees Account II to owners of the allotted lands at issue in the U.S. Suit and the Indian Suit, as their interests appear on the date the Agreement is executed. In order to make such distributions as promptly as possible the Secretary further agrees to take appropriate action to identify all eligible allottees and to calculate their appropriate shares expeditiously.

(f) **Waiver.** The Parties understand and agree that IID and CVWD shall have no responsibility or liability for the Tribal Settlement Account, Allottees Account I, or Allottees Account II, including but not limited to, the establishment of such accounts, determination of the allocation of funds between such accounts, distribution of monies to or from such accounts, and the investment of monies in such accounts.

X. SETTLEMENT LEGISLATION. All parties agree to support the introduction and enactment of legislation to implement this Agreement which is substantially the same in text and form as that

proposed legislation attached hereto as Exhibit "E". This Agreement shall be effective only if the Settlement Legislation does not alter the essential terms of the Agreement.

XI. SETTLEMENT LITIGATION

(a) The Parties all mutually intend that this Agreement shall fully, fairly and finally resolve all claims pertaining to all Indian trust lands covered by this Agreement, including not only tribal lands owned by the Tribe but also allotted lands owned by a large number of individual Indian trust beneficiaries or their assigns. Some of the affected allottees are represented in the U.S. Suit by their federal trustee, the United States. All affected allottees are represented in the Indian Suit by Mary Resvaloso, an individual allottee and class representative. The party representatives of the absent allottees are satisfied that the Agreement fully and fairly compensates all affected landowners, whether tribal or individual, and that it is necessary and proper to make this agreement finally conclusive and binding upon all such landowners. Consequently, the Parties to the Agreement stipulate that:

(1) within 5 days of signing the Agreement or as soon thereafter as is possible, they shall file a joint motion in the United States Court of Appeals for the Ninth Circuit for a limited remand of the U.S. Suit for purposes of class certification and approval of settlement;

(2) within 5 days of an order by the court of appeals granting a limited remand, the Parties shall file a motion or joint motions in the United States District Court for the Southern District of California, seeking the following actions from the court:

(A) Consolidation of the U.S. Suit and the Indian Suit for purposes of class certification for settlement purpose only, approval of settlement and notice of same.

(B) Approval by the court of a form of notice to be given to allottee class members pursuant to the notice requirements of Federal Rule of Civil Procedure 23(c) ("Rule 23(c)") and Rule 23(e), concerning future actions to be taken in the two consolidated lawsuits, including the certification of a class for settlement purposes only under Rule 23(b)(3) and approval of the Agreement under Rule 23(e)

(C) Issuance of an order requiring all interested parties and putative class members to appear at a time certain and show cause why the court should not certify for settlement purposes only a defined class of affected allottee landowners under Rule 23(b)(3) and approve the Agreement under Rule 23(e).

(D) Conduct of a hearing by the court with respect to the matters set forth in preceding subparagraph (C), to be held no sooner than sixty (60) days after notice to the parties of the date set by the court for such hearings.

(E) Entry by the court of orders certifying for settlement purposes only a defined allottee class under Rule 23 (b)(3) and approving the Agreement under Rule 23(e)

(b) Within five days of receiving notice of the hearing referred to in subparagraph (a)(2)(D) above, the United States shall provide notice to putative class members in the form approved by the court pursuant to subparagraph (a)(2)(B) above, which notice the United States presently expects will require publication and individual mailings to the last known addresses of all owners of affected allotments (or of fractional interests therein), as revealed by the Bureau of Indian Affairs (BIA) realty records regarding such allottee ownership. At the hearing, the United States shall be prepared to describe to the court the manner in which it attempted to notify all affected allotment owners.

(c) If a significant number of the putative class whose interests in the perimeter lands elect to be excluded from the class, the Parties retain the right to repudiate the Agreement. For purposes of this paragraph, "a significant number" is equal to those allottees or their heirs whose interests in these lands aggregates to a total of 470 acres, or more, which is 10 percent or more of the total perimeter lands.

(d) If within one hundred twenty (120) days following the date on which the court issues an order approving the form of notice filed by the Parties with the motion set forth in paragraph (a)(2) above, the court shall fail to certify a class of affected allottees for settlement purposes only under Rule 23(b)(3) or

should fail to approve the Agreement under Rule 23(e) as being fair and reasonable, each party reserves the right to timely withdraw from the Agreement after the expiration of such four-month period, by giving written notice to the other parties of such withdrawal; provided, that if no notice of withdrawal is given by any party within five months of the filing of said motion or motions, the Parties shall be deemed to have waived their right of withdrawal under this paragraph.

XII. GENERAL PROVISIONS.

(a) **Compromise Agreement**. The Parties understand and agree that this Agreement is the result of a compromise among the Parties and shall not at any time or for any purpose be considered as an admission of liability or responsibility, nor shall the payment of money in consideration for the execution of this Agreement constitute or be construed as an admission of any liability whatsoever by any of the Parties.

(b) **Modification of Agreement**. The terms and conditions of this Agreement may be modified by mutual agreement of the Parties provided that the modifications are duly approved by each of the Parties and that any such modifications are not inconsistent with the settlement legislation enacted by the United States Congress.

(c) **Existing Rights**. This Agreement is not intended to diminish rights which the Tribe would otherwise have under existing law, either with respect to the Tribe's present right to acquire trust land under currently applicable federal statutes and

regulations or with respect to the Tribe's present right to conduct gaming on trust land within or contiguous to the boundaries of the Tribe's reservation as said boundaries existed in 1988 provided such land is acquired in trust under currently applicable federal statutes and regulations.

(d) **Parties To Bear Own Expenses.** Each party shall bear its own costs, attorney's fees and expenses in connection with the pending lawsuits, this Agreement and the implementation thereof.

DATED:_____, 1996 UNITED STATES OF AMERICA

By_____

DATED:_____, 1996 UNITED STATES OF AMERICA

By _____

DATED:_____, 1996 TORRES-MARTINEZ DESERT CAHUILLA INDIANS

By _____

DATED:_____, 1996 IMPERIAL IRRIGATION DISTRICT

By _____

DATED:_____, 1996 COACHELLA VALLEY WATER DISTRICT

By _____

DATED:_____, 1996 _____
MARY RESVALOSO

DATED:_____, 1996 _____
MARY RESVALOSO FOR OTHER AFFECTED INDIAN ALLOTTEES

This instument was acknowledged before me on this ___ day of June, 1996 by Ada Deer as Assistant Secretary - Indian Affairs, Department of the Interior of the United States of America.

_____

My Commission Expires:

_____

This instument was acknowledged before me on this ___ day of June, 1996 by Lois J. Schiffer, Assistant Attorney General, Department of Justice, United States of America.

_____

My Commission Expires:

_____

This instument was acknowledged before me on this ___ day of June, 1996 by Mary Belardo, Chairperson, Torres- Martinez Band of Mission Indians.

_____

My Commission Expires:

_____

This instument was acknowledged before me on this ___ day of June, 1996 by _____ _____, Imperial Irrigation District.

_____

My Commission Expires:

_____

This instument was acknowledged before me on this ___ day of June, 1996 by _____
_____, Coachella Valley Water District.

_____

My Commission Expires:

_____

This instument was acknowledged before me on this ___ day of June, 1996 by Mary Resvaloso, in he own right and as class representative of all other affected Indian allotment owners.

_____

My Commission Expires:

_____

FIRST MODIFICATION TO AGREEMENT

Pursuant to the modification provisions in Section XII(b) of the original AGREEMENT OF COMPROMISE AND SETTLEMENT CONCERNING CLAIMS TO LANDS OF THE UNITED STATES WITHIN AND ON THE PERIMETER OF THE SALTON SEA DRAINAGE RESERVOIR HELD IN TRUST FOR THE TORRES-MARTINEZ INDIANS, dated June 18, 1996 (hereinafter "Agreement"), the undersigned representatives of all parties to said Agreement hereby agree to the following modification to said Agreement:

After Section VII(a)(4) of the Agreement, at page 21 thereof, the following new Section VII(a)(5) shall be inserted as follows:

"(5) Notwithstanding any other provision of this Agreement, the Tribe shall not exercise its right to conduct gaming within the Secondary Acquisition Area under this Agreement on any site located northwest of a straight line running along the center of Dillon Road and extending to the northeast and southwest from the ends of Dillon Road, as graphically depicted on the map attached hereto as Exhibit A and hereby incorporated by reference herein."

FIRST MODIFICATION TO AGREEMENT

DATED: September 27, 1996 UNITED STATES OF AMERICA

By _____

DATED: September 27, 1996 UNITED STATES OF AMERICA

By _____

DATED: September 27, 1996 TORRES-MARTINEZ DESERT CAHUILLA INDIANS

By _____

DATED: September 27, 1996 IMPERIAL IRRIGATION DISTRICT

By _____

DATED: September 27, 1996 COACHELLA VALLEY WATER DISTRICT

By _____

DATED: September 27, 1996 _____
MARY RESVALOSO

DATED: September 27, 1996 _____
MARY RESVALOSO FOR OTHER AFFECTED INDIAN ALLOTTEES

SECOND MODIFICATION TO AGREEMENT

Pursuant to the modification provisions in Section XII(b) of the original AGREEMENT OF COMPROMISE AND SETTLEMENT CONCERNING CLAIMS TO LANDS OF THE UNITED STATES WITHIN AND ON THE PERIMETER OF THE SALTON SEA DRAINAGE RESERVOIR HELD IN TRUST FOR THE TORRES-MARTINEZ INDIANS, dated June 18, 1996 (hereinafter "Agreement"), the undersigned representatives of all parties to said Agreement hereby agree to the following modification to said Agreement:

In place of Section XI of the Agreement, at pages 29-32 thereof, the following amended Section XI shall be inserted:

XI. SETTLEMENT LITIGATION

The Parties all mutually intend that this Agreement shall fully, fairly and finally resolve all claims pertaining to all Indian trust lands covered by this Agreement, including not only tribal lands owned by the Tribe but also allotted lands owned by a large number of individual Indian trust beneficiaries or their assigns. Some of the affected allottees are represented in the U.S. Suit by their federal trustee, the United States. All affected allottees are represented in the Indian Suit by Mary Resvaloso, an individual allottee and class representative. The party representatives of the absent allottees are satisfied that the Agreement fully and fairly compensates all

affected landowners, whether tribal or individual, and that it is necessary and proper to make this agreement finally conclusive and binding upon all such landowners. Consequently, the Parties to the Agreement stipulate that:

(1) within 20 days from the President's signing into law of legislation ratifying the Agreement or as soon thereafter as is reasonably practicable, the Parties shall file a joint motion in the Indian Suit seeking the following actions from the court relating to certification of the class for settlement purposes only and approval of the settlement:

(A) Approval by the court of a form of notice to be given to allottee class members pursuant to the notice requirements of Federal Rule of Civil Procedure 23(c) ("Rule 23(c)") and Rule 23(e), concerning future actions to be taken in the Indian Suit, including the certification of a class for settlement purposes only under Rule 23(b)(3) and approval of the Agreement under Rule 23(e).

(B) Issuance of an order requiring all interested parties and putative class members to appear at a time certain and show cause why the court should not certify for settlement purposes only a defined class of affected allottee landowners under Rule 23(b)(3) and approve the Agreement under Rule 23(e).

(C) Conduct of a hearing by the court with respect to the matters set forth in preceding subparagraph (B), to be held no sooner than sixty (60) days after notice to the Parties of the date set by the court for such hearings.

(D) Entry by the court of orders certifying for settlement purposes only a defined allottee class under Rule 23 (b)(3) and approving the Agreement under Rule 23(e).

(2) Within a reasonable time following receipt of notice from the court to the Parties of the date set by the court for a hearing referred to in subparagraph (1)(C) above, the United States and the Tribe shall jointly provide notice to putative class members in the form approved by the court pursuant to subparagraph (1)(A) above, which notice the Parties presently expect will require publication and individual mailings to the last known addresses of all owners of affected allotments (or of fractional interests therein), as revealed by the Bureau of Indian Affairs (BIA) realty records regarding such allottee ownership. At the hearing, the United States and the Tribe shall be prepared to describe to the court the manner in which they attempted to notify all affected allotment owners.

(3) If a significant number of the putative class whose interests in the perimeter lands elect to be excluded from the class, the Parties retain the right to repudiate the Agreement. For purposes of this paragraph, "a significant number" is

equal to those allottees or their heirs whose interests in these lands aggregates to a total of 470 acres, or more, which is 10 percent or more of the total perimeter lands.

(4) If within one hundred twenty (120) days following the last date on which the court holds a hearing with respect to the matters set forth in preceding subparagraph (1)(C), the court shall fail to certify a class of affected allottees for settlement purposes only under Rule 23(b)(3) or should fail to approve the Agreement under Rule 23(e) as being fair and reasonable, each party reserves the right to timely withdraw from the Agreement after the expiration of such 120-day period, by giving written notice to the other parties of such withdrawal; provided, that if no notice of withdrawal is given by any party within 150 days after the last date on which the court holds a hearing under subparagraph (1) (C), the Parties shall be deemed to have waived their right of withdrawal under this paragraph.

DATED:_____, 2000

UNITED STATES OF AMERICA

By_____

DATED:_____, 2000

UNITED STATES OF AMERICA

By _____

DATED:_____, 2000

TORRES-MARTINEZ DESERT CAHUILLA INDIANS

By _____

DATED:_____, 2000

IMPERIAL IRRIGATION DISTRICT

By _____

DATED: 3/14, 2000

COACHELLA VALLEY WATER DISTRICT

By Tom Levy

DATED:_____, 2000

_____

MARY RESVALOSO

DATED:_____, 2000

_____

MARY RESVALOSO FOR OTHER AFFECTED INDIAN ALLOTTEES

RECEIVED
JUL 11 2000
Fredericks, Pelcyger & Hester, LLC

THIRD MODIFICATION TO AGREEMENT

Pursuant to the modification provisions in Section XII(b) of the original AGREEMENT OF COMPROMISE AND SETTLEMENT CONCERNING CLAIMS TO LANDS OF THE UNITED STATES WITHIN AND ON THE PERIMETER OF THE SALTON SEA DRAINAGE RESERVOIR HELD IN TRUST FOR THE TORRES-MARTINEZ INDIANS, dated June 18, 1996 (hereinafter "Agreement"), the undersigned representatives of all parties to said Agreement hereby agree to the following modification to said Agreement:

In place of Section VI(d) of the Agreement, at pages 15-16 thereof, the following amended Section VI(d) shall be inserted:

(d) **Secondary Acquisition Area:** The Secondary Acquisition Area shall be confined to an area located entirely within the City of Coachella's "Planning Area Boundary" (as shown in the City of Coachella General Plan 2020 adopted by City Council Resolution No. 98-48 on October 7, 1998 [Land Use Policy Diagram, Figure 10, Page 18]) -- excluding any lands west of old Highway 86 and Dillon Road, and excluding any lands within the Mecca Hills Wilderness area -- more particularly described as follows: beginning at the intersection of Harrison Street (old Highway 86) and 56th Avenue (Airport Boulevard); thence north on Harrison Street to Dillon Road; thence northeast and north on Dillon Road to 44th Avenue; thence east on 44th Avenue to Johnson Street; thence south on Johnson Street to 56th Avenue; thence west on 56th Avenue to the point of origin. (Attached hereto and incorporated herein as Exhibit A is a map of the City of Coachella's "Planning Area

Boundary." Also attached hereto and incorporated herein as Exhibit B is a map of the Secondary Acquisition Area, graphically depicting the foregoing metes-and-bounds description of that Area. Also attached hereto and incorporated herein as Exhibit C is a legal description of the Secondary Acquisition Area using Township, Range and Section designations.) The total number of acres of land within the Secondary Acquisition Area that may be conveyed into trust status in accordance with this Agreement and pursuant to the Settlement Legislation shall not exceed 640.

THIRD MODIFICATION TO AGREEMENT

DATED:_____, 2000 UNITED STATES OF AMERICA

By _____

DATED:_____, 2000 UNITED STATES OF AMERICA

By _____

DATED: July 8, 2000 TORRES-MARTINEZ DESERT CAHUILLA INDIANS

By Mary E. Belardo

DATED:_____, 2000 IMPERIAL IRRIGATION DISTRICT

By _____

DATED:_____, 2000 COACHELLA VALLEY WATER DISTRICT

DATED:_____, 2000 By _____

DATED:_____, 2000 By _____
MARY RESVALOSO

DATED:_____, 2000 By _____
MARY RESVALOSO FOR OTHER AFFECTED INDIAN ALLOTTEES

EXHIBIT C TO THIRD MODIFICATION TO AGREEMENT

That portion of the southeast quarter which is south east of the existing Dillon Road in Section 20, Township 5 South, Range 8 East;

That portion of Section 29 which is south east of the existing Dillon Road in Section 29, Township 5 South, Range 8 East;

All of Sections 21 through 28 of Township 5 South, Range 8 East;

All of Sections 32 through 36 of Township 5 South, Range 8 East;

All of Sections 19 through 20 of Township 5 South, Range 9 East;

All of Sections 29 through 32 of Township 5 South, Range 9 East;

All of Sections 1 through 5 of Township 6 South, Range 8 East;

All of Sections 8 through 17 of Township 6 South, Range 8 East;

All of Sections 5 through 8 of Township 6 South, Range 9 East; and

All of Sections 17 through 18 of Township 6 South, Range 9 East;

San Bernardino Base and Meridian,

County of Riverside,

State of California.

FOURTH MODIFICATION TO AGREEMENT

Pursuant to the modification provisions in Section XII(b) of the original AGREEMENT OF COMPROMISE AND SETTLEMENT CONCERNING CLAIMS TO LANDS OF THE UNITED STATES WITHIN AND ON THE PERIMETER OF THE SALTON SEA DRAINAGE RESERVOIR HELD IN TRUST FOR THE TORRES-MARTINEZ INDIANS, dated June 18, 1996 (hereinafter "Agreement"), the undersigned representatives of all parties to said Agreement hereby agree to the following modification to said Agreement:

In place of Section VI(d) of the Agreement, at pages 15-16 thereof, the following amended Section VI(d) shall be inserted:

(d) **Secondary Acquisition Area:** The Secondary Acquisition Area shall consist of those lands encompassing 36 sections within four townships, T. 5 S., R. 8 E., T. 6 S., R. 8 E., T. 5 S., R. 9 E., and T. 6 S., R. 9 E., San Bernardino Meridian, excluding any lands located within the Mecca Hills Wilderness Area, all located within Riverside County, the perimeter of which is more particularly described as follows:

Beginning at the northwest section corner of section 23, T. 5 S., R. 8 E., hereinafter known as the Point of the Beginning (POB);

Thence easterly along the north boundaries of sections 23 and 24, T. 5 S., R. 8 E., continuing easterly along the north boundaries of sections 19, 20, 21, and 22, T. 5 S., R. 9 E. to the northeast section corner of section 22, T. R. S., R. 9 E.;

Thence southerly along the east boundaries of sections 22, 27, and 34, T. 5 S., R. 9 E, continuing southerly along the east boundaries of sections 3, 10, and 15, T. 6 S., R. 9 E. to the southeast section corner of section 15, T. 6 S., R. 9 E. ;

Thence westerly along the south boundaries of sections 15, 16, 17, and 18, T. 6 S., R. 9 E., continuing westerly along the south boundaries of sections 13 and 14, T. 6 S., R. 8 E. to the southwest section corner of section 14, T. 6 S., R. 8 E.;

Thence northerly along the west boundaries of sections 14, 11, and 2 of T. 6 S., R. 8 E., continuing northerly along the west boundaries sections 35, 26, and 23, T. 5 S., R. 8 E., to the POB. *(Attached hereto and incorporated herein as Exhibit A is a map entitled "Modification4" and dated 9/8/00, also attached hereto as Exhibit B is a legal description of the Secondary Acquisition Area using Township, Range and Section designations.)* The total number of acres of land within the Secondary Acquisition Area that may be conveyed into trust status in accordance with this Agreement and pursuant to the Settlement Legislation shall not exceed 640.

DATED: 9/13, 2000

UNITED STATES OF AMERICA

By _____

DATED: _____, 2000

UNITED STATES OF AMERICA

By _____

DATED: _____, 2000

TORRES-MARTINEZ DESERT CAHUILLA INDIANS

By _____

DATED: _____, 2000

IMPERIAL IRRIGATION DISTRICT

By _____

DATED: _____, 2000

COACHELLA VALLEY WATER DISTRICT

By _____

DATED: _____, 2000

_____
MARY RESVALOSO

DATED: _____, 2000

_____
MARY RESVALOSO FOR OTHER AFFECTED INDIAN ALLOTTEES

EXHIBIT B TO FOURTH MODIFICATION TO AGREEMENT

Secondary Acquisition Area
Legal Description of Lands

San Bernardino Meridian, California

T. 5 S., R. 8 E.
secs. 23, 24, 25, 26, 35, and 36

T. 6 S., R. 8 E.
secs. 1, 2, 11, 12, 13, and 14

T. 5 S., R. 9 E.
secs. 19, 20, 21, 22, 27, 28, 29, 30, 31, 32, 33, and 34

T. 6 S., R. 9 E.
secs. 3, 4, 5, 6, 7, 8, 9, 10, 15, 16, 17, and 18

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