

**§ 1778e. Permanent flowage easements****(a) Conveyance of easement to Coachella Valley Water District****(1) Tribal interest**

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 convey to the Coachella Valley Water District 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, in accordance with the terms and conditions of the Settlement Agreement.

**(2) United States interest**

The United States, in its own right shall, notwithstanding any prior or present reservation or withdrawal of land of any kind, convey to the Coachella Valley Water District 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.

**(b) Conveyance of easement to Imperial Irrigation District****(1) Tribal interest**

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 the Imperial Irrigation District 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, in accordance with the terms and conditions of the Settlement Agreement.

**(2) United States**

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 the Imperial Irrigation District 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.

(Pub. L. 106-568, title VI, § 607, Dec. 27, 2000, 114 Stat. 2911.)

## EFFECTIVE DATE

Section effective on date on which the Secretary determines that certain conditions with respect to the Settlement Agreement and provisions of title VI of Pub. L. 106-568 have been met, see section 611(b) of Pub. L. 106-568, set out as a note under section 1778 of this title.

**§ 1778f. Satisfaction of claims, waivers, and releases****(a) Satisfaction of claims**

The benefits available to the Tribe and the allottees under the terms and conditions of the

Settlement Agreement and the provisions of this subchapter shall constitute full and complete satisfaction of the claims by the Tribe and the allottees arising from or related to the inundation and lack of drainage of tribal and allottee lands described in section 1778 of this title and further defined in the Settlement Agreement.

**(b) Approval of waivers and releases**

The United States hereby approves and confirms the releases and waivers required by the Settlement Agreement and this subchapter.

(Pub. L. 106-568, title VI, § 608, Dec. 27, 2000, 114 Stat. 2912.)

## EFFECTIVE DATE

Section effective on date on which the Secretary determines that certain conditions with respect to the Settlement Agreement and provisions of title VI of Pub. L. 106-568 have been met, see section 611(b) of Pub. L. 106-568, set out as a note under section 1778 of this title.

**§ 1778g. Miscellaneous provisions****(a) Eligibility for benefits**

Nothing in this subchapter or 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.

**(b) Eligibility for other services not affected**

No payment pursuant to this subchapter shall result in the reduction or denial of any Federal services or programs to the Tribe or to members of the Tribe, to which they are entitled or eligible because of their status as a federally recognized Indian tribe or member of the Tribe.

**(c) Preservation of existing rights**

Except as provided in this subchapter or the Settlement Agreement, any right to which the Tribe is entitled under existing law shall not be affected or diminished.

**(d) Amendment of Settlement Agreement**

The Settlement Agreement may be amended from time to time 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—

(1) December 27, 2000, in the case of Modifications One and Three; and

(2) September 14, 2000, in the case of Modification Four.

(Pub. L. 106-568, title VI, § 609, Dec. 27, 2000, 114 Stat. 2912.)

**§ 1778h. Authorization of appropriations**

There are authorized to be appropriated such sums as are necessary to carry out this subchapter.

(Pub. L. 106-568, title VI, § 610, Dec. 27, 2000, 114 Stat. 2912.)

SUBCHAPTER XIII—CHEROKEE, CHOCTAW, AND CHICKASAW NATIONS CLAIMS SETTLEMENT

**§ 1779. Findings**

The Congress finds the following:

(1) It is the policy of the United States to promote tribal self-determination and economic self-sufficiency and to encourage the resolution of disputes over historical claims through mutually agreed-to settlements between Indian Nations and the United States.

(2) There are pending before the United States Court of Federal Claims certain lawsuits against the United States brought by the Cherokee, Choctaw, and Chickasaw Nations seeking monetary damages for the alleged use and mismanagement of tribal resources along the Arkansas River in eastern Oklahoma.

(3) The Cherokee Nation, a federally recognized Indian tribe with its present tribal headquarters south of Tahlequah, Oklahoma, having adopted its most recent constitution on June 26, 1976, and having entered into various treaties with the United States, including but not limited to the Treaty at Hopewell, executed on November 28, 1785 (7 Stat. 18), and the Treaty at Washington, D.C., executed on July 19, 1866 (14 Stat. 799), has maintained a continuous government-to-government relationship with the United States since the earliest years of the Union.

(4) The Choctaw Nation, a federally recognized Indian tribe with its present tribal headquarters in Durant, Oklahoma, having adopted its most recent constitution on July 9, 1983, and having entered into various treaties with the United States of America, including but not limited to the Treaty at Hopewell, executed on January 3, 1786 (7 Stat. 21), and the Treaty at Washington, D.C., executed on April 28, 1866 (7 Stat. 21),<sup>1</sup> has maintained a continuous government-to-government relationship with the United States since the earliest years of the Union.

(5) The Chickasaw Nation, a federally recognized Indian tribe with its present tribal headquarters in Ada, Oklahoma, having adopted its most recent constitution on August 27, 1983, and having entered into various treaties with the United States of America, including but not limited to the Treaty at Hopewell, executed on January 10, 1786 (7 Stat. 24), and the Treaty at Washington, D.C., executed on April 28, 1866 (7 Stat. 21),<sup>1</sup> has maintained a continuous government-to-government relationship with the United States since the earliest years of the Union.

(6) In the first half of the 19th century, the Cherokee, Choctaw, and Chickasaw Nations were forcibly removed from their homelands in the southeastern United States to lands west of the Mississippi in the Indian Territory that were ceded to them by the United States. From the "Three Forks" area near present day Muskogee, Oklahoma, downstream to the point of confluence with the Canadian River, the Arkansas River flowed entirely within the territory of the Cherokee Nation. From that point of confluence downstream to the Arkansas territorial line, the Arkansas River formed the boundary between the Cherokee Nation on the left side of the thread of the river and the Choctaw and Chickasaw Nations on the right.

(7) Pursuant to the Act of April 30, 1906 (34 Stat. 137),<sup>2</sup> tribal property not allotted to individuals or otherwise disposed of, including the bed and banks of the Arkansas River, passed to the United States in trust for the use and benefit of the respective Indian Nations in accordance with their respective interests therein.

(8) For more than 60 years after Oklahoma statehood, the Bureau of Indian Affairs believed that Oklahoma owned the Riverbed from the Arkansas State line to Three Forks, and therefore took no action to protect the Indian Nations' Riverbed resources such as oil, gas, and Drybed Lands suitable for grazing and agriculture.

(9) Third parties with property near the Arkansas River began to occupy the Indian Nations' Drybed Lands—lands that were under water at the time of statehood but that are now dry due to changes in the course of the river.

(10) In 1966, the Indian Nations sued the State of Oklahoma to recover their lands. In 1970, the Supreme Court of the United States decided in the case of Choctaw Nation vs. Oklahoma (396 U.S. 620),<sup>3</sup> that the Indian Nations retained title to their respective portions of the Riverbed along the navigable reach of the river.

(11) In 1987, the Supreme Court of the United States in the case of United States vs. Cherokee Nation (480 U.S. 700) decided that the riverbed lands did not gain an exemption from the Federal Government's navigational servitude and that the Cherokee Nation had no right to compensation for damage to its interest by exercise of the Government's servitude.

(12) In 1989, the Indian Nations filed lawsuits against the United States in the United States Court of Federal Claims (Case Nos. 218-89L and 630-89L), seeking damages for the United States' use and mismanagement of tribal trust resources along the Arkansas River. Those actions are still pending.

(13) In 1997, the United States filed quiet title litigation against individuals occupying some of the Indian Nations' Drybed Lands. That action, filed in the United States District Court for the Eastern District of Oklahoma, was dismissed without prejudice on technical grounds.

(14) Much of the Indian Nations' Drybed Lands have been occupied by a large number of adjacent landowners in Oklahoma. Without Federal legislation, further litigation against thousands of such landowners would be likely and any final resolution of disputes would take many years and entail great expense to the United States, the Indian Nations, and the individuals and entities occupying the Drybed Lands and would seriously impair long-term economic planning and development for all parties.

(15) The Councils of the Cherokee and Choctaw Nations and the Legislature of the Chickasaw Nation have each enacted tribal resolutions which would, contingent upon the pas-

<sup>1</sup> So in original. Probably should be "(14 Stat. 769)."

<sup>2</sup> See References in Text note below.

<sup>3</sup> So in original. Probably should be "(397 U.S. 620)."

sage of this subchapter and the satisfaction of its terms and in exchange for the moneys appropriated hereunder—

(A) settle and forever release their respective claims against the United States asserted by them in United States Court of Federal Claims Case Nos. 218–89L and 630–89L; and

(B) forever disclaim any and all right, title, and interest in and to the Disclaimed Drybed Lands, as set forth in those enactments of the respective councils of the Indian Nations.

(16) The resolutions adopted by the respective Councils of the Cherokee, Choctaw, and Chickasaw Nations each provide that, contingent upon the passage of the settlement legislation and satisfaction of its terms, each Indian Nation agrees to dismiss, release, and forever discharge its claims asserted against the United States in the United States Court of Federal Claims, Case Nos. 218–89L and 630–89L, and to forever disclaim any right, title, or interest of the Indian Nation in the Disclaimed Drybed Lands, in exchange for the funds appropriated and allocated to the Indian Nation under the provisions of the settlement legislation, which funds the Indian Nation agrees to accept in full satisfaction and settlement of all claims against the United States for the damages sought in the aforementioned claims asserted in the United States Court of Federal Claims, and as full and fair compensation for disclaiming its right, title, and interest in the Disclaimed Drybed Lands.

(17) In those resolutions, each Indian Nation expressly reserved all of its beneficial interest and title to all other Riverbed lands, including minerals, as determined by the Supreme Court in *Choctaw Nation v. Oklahoma*, 397 U.S. 620 (1970), and further reserved any and all right, title, or interest that each Nation may have in and to the water flowing in the Arkansas River and its tributaries.

(Pub. L. 107–331, title VI, §602, Dec. 13, 2002, 116 Stat. 2845.)

#### REFERENCES IN TEXT

The Act of April 30, 1906 (34 Stat. 137), referred to in par. (7), probably means the Act of April 26, 1906, ch. 1876, 34 Stat. 137, which was classified in part as a note under section 355 of this title.

#### SHORT TITLE

Pub. L. 107–331, title VI, §601, Dec. 13, 2002, 116 Stat. 2845, provided that: “This title [enacting this subchapter] may be cited as the ‘Cherokee, Choctaw, and Chickasaw Nations Claims Settlement Act.’”

### § 1779a. Purposes

The purposes of this subchapter are to resolve all claims that have been or could have been brought by the Cherokee, Choctaw, and Chickasaw Nations against the United States, and to confirm that the Indian Nations are forever disclaiming any right, title, or interest in the Disclaimed Drybed Lands, which are contiguous to the channel of the Arkansas River as of December 13, 2002, in certain townships in eastern Oklahoma.

(Pub. L. 107–331, title VI, §603, Dec. 13, 2002, 116 Stat. 2847.)

### § 1779b. Definitions

For the purposes of this subchapter, the following definitions apply:

#### (1) Disclaimed Drybed Lands

The term “Disclaimed Drybed Lands” means all Drybed Lands along the Arkansas River that are located in Township 10 North in Range 24 East, Townships 9 and 10 North in Range 25 East, Township 10 North in Range 26 East, and Townships 10 and 11 North in Range 27 East, in the State of Oklahoma.

#### (2) Drybed Lands

The term “Drybed Lands” means those lands which, on December 13, 2002, lie above and contiguous to the mean high water mark of the Arkansas River in the State of Oklahoma. The term “Drybed Lands” is intended to have the same meaning as the term “Upland Claim Area” as used by the Bureau of Land Management Cadastral Survey Geographic Team in its preliminary survey of the Arkansas River. The term “Drybed Lands” includes any lands so identified in the “Holway study.”

#### (3) Indian Nation; Indian Nations

The term “Indian Nation” means the Cherokee Nation, Choctaw Nation, or Chickasaw Nation, and the term “Indian Nations” means all 3 tribes collectively.

#### (4) Riverbed

The term “Riverbed” means the Drybed Lands and the Wetbed Lands and includes all minerals therein.

#### (5) Secretary

The term “Secretary” means the Secretary of the Interior.

#### (6) Wetbed Lands

The term “Wetbed Lands” means those Riverbed lands which lie below the mean high water mark of the Arkansas River in the State of Oklahoma as of December 13, 2002, exclusive of the Drybed Lands. The term “Wetbed Lands” is intended to have the same meaning as the term “Present Channel Claim Areas” as utilized by the Bureau of Land Management Cadastral Survey Geographic Team in its preliminary survey of the Arkansas River.

(Pub. L. 107–331, title VI, §604, Dec. 13, 2002, 116 Stat. 2847.)

### § 1779c. Settlement and claims; appropriations; allocation of funds

#### (a) Extinguishment of claims

Pursuant to their respective tribal resolutions, and in exchange for the benefits conferred under this subchapter, the Indian Nations shall, on December 13, 2002, enter into a consent decree with the United States that waives, releases, and dismisses all the claims they have asserted or could have asserted in their cases numbered 218–89L and 630–89L pending in the United States Court of Federal Claims against the United States, including but not limited to claims arising out of any and all of the Indian Nations’ interests in the Disclaimed Drybed Lands and arising out of construction, maintenance and