

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

operation of the McClellan-Kerr Navigation Way. The Indian Nations and the United States shall lodge the consent decree with the Court of Federal Claims within 30 days of December 13, 2002, and shall move for entry of the consent decree at such time as all appropriations by Congress pursuant to the authority of this subchapter have been made and deposited into the appropriate tribal trust fund account of the Indian Nations as described in section 1779d of this title. Upon entry of the consent decree, all the Indian Nations' claims and all their past, present, and future right, title, and interest to the Disclaimed Drybed Lands, shall be deemed extinguished. No claims may be asserted in the future against the United States pursuant to sections 1491, 1346(a)(2), or 1505 of title 28 for actions taken or failed to have been taken by the United States for events occurring prior to the date of the extinguishment of claims with respect to the Riverbed.

**(b) Release of tribal claims to certain Drybed Lands**

**(1) In general**

Upon the deposit of all funds authorized for appropriation under subsection (c) of this section for an Indian Nation into the appropriate trust fund account described in section 1779d of this title—

(A) all claims now existing or which may arise in the future with respect to the Disclaimed Drybed Lands and all right, title, and interest that the Indian Nations and the United States as trustee on behalf of the Indian Nation may have to the Disclaimed Drybed Lands, shall be deemed extinguished;

(B) any interest of the Indian Nations or the United States as trustee on their behalf in the Disclaimed Drybed Lands shall further be extinguished pursuant to the Trade and Intercourse Act of 1790, Act of July 22, 1790 (ch. 33, 1 Stat. 137), and all subsequent amendments thereto (as codified at 25 U.S.C. 177);

(C) to the extent parties other than the Indian Nations have transferred interests in the Disclaimed Drybed Lands in violation of the Trade and Intercourse Act, Congress does hereby approve and ratify such transfers of interests in the Disclaimed Drybed Lands to the extent that such transfers otherwise are valid under law; and

(D) the Secretary is authorized to execute an appropriate document citing this subchapter, suitable for filing with the county clerks, or such other county official as appropriate, of those counties wherein the foregoing described lands are located, disclaiming any tribal or Federal interest on behalf of the Indian Nations in such Disclaimed Drybed Lands. The Secretary is authorized to file with the counties a plat or map of the disclaimed lands should the Secretary determine that such filing will clarify the extent of lands disclaimed. Such a plat or map may be filed regardless of whether the map or plat has been previously approved for filing, whether or not the map or plat has been filed, and regardless of whether the map or plat constitutes a final deter-

mination by the Secretary of the extent of the Indian Nations' original claim to the Disclaimed Drybed Lands. The disclaimer filed by the United States shall constitute a disclaimer of the Disclaimed Drybed Lands for purposes of the Trade and Intercourse Act (25 U.S.C. 177).

**(2) Special provisions**

Notwithstanding any provision of this subchapter—

(A) the Indian Nations do not relinquish any right, title, or interest in any lands which constitute the Wetbed Lands subject to the navigational servitude exercised by the United States on the Wetbed Lands. By virtue of the exercise of the navigational servitude, the United States shall not be liable to the Indian Nations for any loss they may have related to the minerals in the Wetbed Lands;

(B) no provision of this subchapter shall be construed to extinguish or convey any water rights of the Indian Nations in the Arkansas River or any other stream or the beneficial interests or title of any of the Indian Nations in and to lands held in trust by the United States on December 13, 2002, which lie above or below the mean high water mark of the Arkansas River, except for the Disclaimed Drybed Lands; and

(C) the Indian Nations do not relinquish any right, title, or interest in any lands or minerals of certain unallotted tracts which are identified in the official records of the Eastern Oklahoma Regional Office, Bureau of Indian Affairs. The disclaimer to be filed by the Secretary of the Interior under subsection (b)(1) of this section shall reflect the legal description of the unallotted tracts retained by the Nations.

**(3) Setoff**

In the event the Court of Federal Claims does not enter the consent decree as set forth in subsection (a) of this section, the United States shall be entitled to setoff against any claims of the Indian Nations as set forth in subsection (a) of this section, any funds transferred to the Indian Nations pursuant to section 1779d of this title, and any interest accrued thereon up to the date of setoff.

**(4) Quiet title actions**

Notwithstanding any other provision of law, neither the United States nor any department of the United States nor the Indian Nations shall be made parties to any quiet title lawsuit or other lawsuit to determine ownership of or an interest in the Disclaimed Drybed Lands initiated by any private person or private entity after execution of the disclaimer set out in subsection (b)(1) of this section. The United States will have no obligation to undertake any future quiet title actions or actions for the recovery of lands or funds relating to any Drybed Lands retained by the Indian Nation or Indian Nations under this subchapter, including any lands which are Wetbed Lands on December 13, 2002, but which subsequently lie above the mean high water mark of the Arkansas River and the failure or dec-

mination to initiate any quiet title action or to manage any such Drybed Lands shall not constitute a breach of trust by the United States or be compensable to the Indian Nation or Indian Nations in any manner.

**(5) Land to be conveyed in fee**

To the extent that the United States determines that it is able to effectively maintain the McClellan-Kerr Navigation Way without retaining title to lands above the high water mark of the Arkansas River as of December 13, 2002, said lands, after being declared surplus, shall be conveyed in fee to the Indian Nation within whose boundary the land is located. The United States shall not be obligated to accept such property in trust.

**(c) Authorization for settlement appropriations**

There is authorized to be appropriated an aggregate sum of \$40,000,000 as follows:

- (1) \$10,000,000 for fiscal year 2004.
- (2) \$10,000,000 for fiscal year 2005.
- (3) \$10,000,000 for fiscal year 2006.
- (4) \$10,000,000 for fiscal year 2007.

**(d) Allocation and deposit of funds**

After payment pursuant to section 1779e of this title, the remaining funds authorized for appropriation under subsection (c) of this section shall be allocated among the Indian Nations as follows:

- (1) 50 percent to be deposited into the trust fund account established under section 1779d of this title for the Cherokee Nation.
- (2) 37.5 percent to be deposited into the trust fund account established under section 1779d of this title for the Choctaw Nation.
- (3) 12.5 percent to be deposited into the trust fund account established under section 1779d of this title for the Chickasaw Nation.

(Pub. L. 107-331, title VI, §605, Dec. 13, 2002, 116 Stat. 2848.)

REFERENCES IN TEXT

The Trade and Intercourse Act, referred to in subsection (b)(1)(B) to (D), is not classified to the Code. See sections 177, 179, 180, 193, 194, 201, 229, 230, 251, 263, and 264 of this title.

**§ 1779d. Tribal trust funds**

**(a) Establishment, purpose, and management of trust funds**

**(1) Establishment**

There are hereby established in the United States Treasury 3 separate tribal trust fund accounts for the benefit of each of the Indian Nations, respectively, for the purpose of receiving all appropriations made pursuant to section 1779c(c) of this title, and allocated pursuant to section 1779c(d) of this title.

**(2) Availability of amounts in trust fund accounts**

Amounts in the tribal trust fund accounts established by this section shall be available to the Secretary for management and investment on behalf of the Indian Nations and distribution to the Indian Nations in accordance with this subchapter. Funds made available from the tribal trust funds under this section

shall be available without fiscal year limitation.

**(b) Management of funds**

**(1) Land acquisition**

**(A) Trust land status pursuant to regulations**

The funds appropriated and allocated to the Indian Nations pursuant to section 1779c(c) and (d)<sup>1</sup> of this title, and deposited into trust fund accounts pursuant to subsection (a) of this section, together with any interest earned thereon, may be used for the acquisition of land by the Indian Nations. The Secretary may accept such lands into trust for the beneficiary Indian Nation pursuant to the authority provided in section 465 of this title and in accordance with the Secretary's trust land acquisition regulations at part 151 of title 25, Code of Federal Regulations, in effect at the time of the acquisition, except for those acquisitions covered by paragraph (1)(B).

**(B) Required trust land status**

Any such trust land acquisitions on behalf of the Cherokee Nation shall be mandatory if the land proposed to be acquired is located within Township 12 North, Range 21 East, in Sequoyah County, Township 11 North, Range 18 East, in McIntosh County, Townships 11 and 12 North, Range 19 East, or Township 12 North, Range 20 East, in Muskogee County, Oklahoma, and not within the limits of any incorporated municipality as of January 1, 2002, if—

- (i) the land proposed to be acquired meets the Department of the Interior's minimum environmental standards and requirements for real estate acquisitions set forth in 602 DM 2.6, or any similar successor standards or requirements for real estate acquisitions in effect on the date of acquisition; and
- (ii) the title to such land meets applicable Federal title standards in effect on the date of the acquisition.

**(C) Other expenditure of funds**

The Indian Nations may elect to expend all or a portion of the funds deposited into its trust account for any other purposes authorized under paragraph (2).

**(2) Investment of trust funds; no per capita payment**

**(A) No per capita payments**

No money received by the Indian Nations hereunder may be used for any per capita payment.

**(B) Investment by Secretary**

Except as provided in this section and section 1779e of this title, the principal of such funds deposited into the accounts established hereunder and any interest earned thereon shall be invested by the Secretary in accordance with current laws and regulations for the investing of tribal trust funds.

**(C) Use of principal funds**

The principal amounts of said funds and any amounts earned thereon shall be made

<sup>1</sup> See References in Text note below.