

SUBCHAPTER XII—TORRES-MARTINEZ
DESERT CAHUILLA INDIANS CLAIMS
SETTLEMENT

§ 1778. Congressional findings and purpose

(a) Findings

The Congress finds the following:

(1) In 1876, the Torres-Martinez Indian Reservation was created, reserving a single, 640-acre section of land in the Coachella Valley, California, north of the Salton Sink. The Reservation was expanded in 1891 by Executive order, pursuant to the Mission Indian Relief Act of 1891, adding about 12,000 acres to the original 640-acre reservation.

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

(3) 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 a Secretarial Order issued pursuant to a 1907 amendment of the Mission Indian Relief Act. Due to receding water levels in the Salton Sea through the process of evaporation, at the time of the 1909 enlargement of the reservation, there were some expectations that the Salton Sea would recede within a period of 25 years.

(4) Through the present day, the 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 the irrigation systems of the Imperial, Coachella, and Mexicali Valleys into the Salton Sea.

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

(6) In 1982, the United States 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) (hereafter in this section referred to as the "U.S. Suit") on behalf of the Torres-Martinez Indian Tribe and affected Indian allottees against the two water districts seeking damages related to the inundation of tribal- and allottee-owned lands and injunctive relief to prevent future discharge of water on such lands.

(7) On August 20, 1992, the Federal District Court for the Southern District of California entered a judgment in the U.S. Suit requiring the Coachella Valley Water District to pay \$212,908.41 in past and future damages and the Imperial Irrigation District to pay \$2,795,694.33 in past and future damages in lieu of the United States request for a permanent injunction against continued flooding of the submerged lands.

(8) The United States, the Coachella Valley Water District, and the Imperial Irrigation District have filed notices of appeal with the United States Court of Appeals for the Ninth Circuit from the district court's judgment in

the U.S. Suit (Nos. 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).

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

(10) 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) (hereafter in this section referred to as the "Indian Suit") in the United States District Court, Southern District of California, against the two water districts, and amended the complaint to include as a plaintiff, Mary Resvaloso, in her own right, and as class representative of all other affected Indian allotment owners.

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

(b) Purpose

The purpose of this subchapter is to facilitate and implement the settlement agreement negotiated and executed by the parties to the U.S. Suit and Indian Suit for the purpose of resolving their conflicting claims to their mutual satisfaction and in the public interest.

(Pub. L. 106-568, title VI, § 602, Dec. 27, 2000, 114 Stat. 2906.)

REFERENCES IN TEXT

The Mission Indian Relief Act of 1891 and the Mission Indian Relief Act, referred to in subsec. (a)(1) and (3), means act Jan. 12, 1891, ch. 65, 26 Stat. 712, as amended, which is not classified to the Code.

EFFECTIVE DATE

Pub. L. 106-568, title VI, § 611, Dec. 27, 2000, 114 Stat. 2912, provided that:

"(a) IN GENERAL.—Except as provided by subsection (b), this title [see Short Title note below] shall take effect on the date of the enactment of this Act [Dec. 27, 2000].

"(b) EXCEPTION.—Sections 4, 5, 6, 7, and 8 [probably means sections 604 to 608 of title VI of Pub. L. 106-568, which are classified to sections 1778b to 1778f of this title] shall take effect on the date on which the Secretary determines the following conditions have been met:

"(1) The Tribe agrees to the Settlement Agreement and the provisions of this title and executes the releases and waivers required by the Settlement Agreement and this title.

"(2) The Coachella Valley Water District agrees to the Settlement Agreement and to the provisions of this title.

"(3) The Imperial Irrigation District agrees to the Settlement Agreement and to the provisions of this title."

SHORT TITLE

Pub. L. 106-568, title VI, § 601, Dec. 27, 2000, 114 Stat. 2906, provided that: "This title [enacting this subchapter and provisions set out as a note above] may be cited as the 'Torres-Martinez Desert Cahuilla Indians Claims Settlement Act'."

§ 1778a. Definitions

For the purposes of this subchapter:

(1) Tribe

The term "Tribe" means the Torres-Martinez Desert Cahuilla Indians, a federally rec-

ognized Indian tribe with a reservation located in Riverside and Imperial Counties, California.

(2) Allottees

The term “allottees” means those individual Tribe members, their successors, heirs, and assigns, who have individual ownership of allotted Indian trust lands within the Torres-Martinez Indian Reservation.

(3) Salton Sea

The term “Salton Sea” means the inland body of water located in Riverside and Imperial Counties which serves as a drainage reservoir for water from precipitation, natural runoff, irrigation return flows, wastewater, floods, and other inflow from within its watershed area.

(4) Settlement agreement

The term “Settlement Agreement” means the Agreement of Compromise and Settlement Concerning Claims to the Lands of the United States Within and on the Perimeter of the Salton Sea Drainage Reservoir Held in Trust for the Torres-Martinez Indians executed on June 18, 1996, as modified by the first, second, third, and fourth modifications thereto.

(5) Secretary

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

(6) Permanent flowage easement

The term “permanent flowage easement” means the perpetual right by the water districts to use the described lands in the Salton Sink within and below the minus 220-foot 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 such lands, originating from lands within such water districts.

(Pub. L. 106-568, title VI, §603, Dec. 27, 2000, 114 Stat. 2908.)

§ 1778b. Ratification of Settlement Agreement

The United States hereby approves, ratifies, and confirms the Settlement Agreement.

(Pub. L. 106-568, title VI, §604, Dec. 27, 2000, 114 Stat. 2908.)

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.

§ 1778c. Settlement funds

(a) Establishment of tribal and allottees settlement trust funds accounts

(1) In general

There are established in the Treasury of the United States three settlement trust fund accounts to be known as the “Torres-Martinez Settlement Trust Funds Account”, the “Torres-Martinez Allottees Settlement Ac-

count I”, and the “Torres-Martinez Allottees Settlement Account II”, respectively.

(2) Availability

Amounts held in the Torres-Martinez Settlement Trust Funds Account, the Torres-Martinez Allottees Settlement Account I, and the Torres-Martinez Allottees Settlement Account II shall be available to the Secretary for distribution to the Tribe and affected allottees in accordance with subsection (c) of this section.

(b) Contributions to the settlement trust funds

(1) In general

Amounts paid to the Secretary for deposit into the trust fund accounts established by subsection (a) of this section shall be allocated among and deposited in the trust accounts in the amounts determined by the tribal-allottee allocation provisions of the Settlement Agreement.

(2) Cash payments by Coachella Valley Water District

Within the time, in the manner, and upon the conditions specified in the Settlement Agreement, the Coachella Valley Water District shall pay the sum of \$337,908.41 to the United States for the benefit of the Tribe and any affected allottees.

(3) Cash payments by Imperial Irrigation District

Within the time, in the manner, and upon the conditions specified in the Settlement Agreement, the Imperial Irrigation District shall pay the sum of \$3,670,694.33 to the United States for the benefit of the Tribe and any affected allottees.

(4) Cash payments by the United States

Within the time and upon the conditions specified in the Settlement Agreement, the United States shall pay into the three separate tribal and allottee trust fund accounts the total sum of \$10,200,000, of which sum—

(A) \$4,200,000 shall be provided from moneys appropriated by Congress under section 1304 of title 31, the conditions of which are deemed to have been met, including those of section 2414 of title 28; and

(B) \$6,000,000 shall be provided from moneys appropriated by Congress for this specific purpose to the Secretary.

(5) Additional payments

In the event that any of the sums described in paragraph (2) or (3) are not timely paid by the Coachella Valley Water District or the Imperial Irrigation District, as the case may be, the delinquent payor shall pay an additional sum equal to 10 percent interest annually on the amount outstanding daily, compounded yearly on December 31 of each respective year, until all outstanding amounts due have been paid in full.

(6) Severally liable for payments

The Coachella Valley Water District, the Imperial Irrigation District, and the United States shall each be severally liable, but not jointly liable, for its respective obligation to make the payments specified by this subsection.