

104TH CONGRESS
2D SESSION

H. R. 3640

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.

IN THE HOUSE OF REPRESENTATIVES

JUNE 13, 1996

Mr. BONO (for himself, Mr. HUNTER, Mr. BROWN of California, Mr. CALVERT, and Mr. BURTON of Indiana) introduced the following bill; which was referred to the Committee on Resources

A BILL

To provide for the settlement of issues and claims related to the trust lands of the Torres-Martinez Desert Cahuilla Indians, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

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

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

7 (a) FINDINGS.—The Congress finds and declares
8 that:

1 (1) In 1876, the Torres-Martinez Indian Res-
2 ervation was created, reserving a single, 640-acre
3 section of land in the Coachella Valley, California, at
4 the northern end of the Salton Sink. The Reserva-
5 tion was expanded in 1891 by Executive Order, pur-
6 suant to the Mission Indian Relief Act of 1891, add-
7 ing about 12,000 acres to the original 640-acre res-
8 ervation.

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

13 (3) In 1909 an additional 12,000 acres of land,
14 9,000 of which were then submerged under the
15 Salton Sea, were added to the reservation under a
16 Secretarial Order issued pursuant to a 1907 amend-
17 ment of the Mission Indian Relief Act. Due to reced-
18 ing water levels in the Salton Sea through the proc-
19 ess of evaporation, at the time of the 1909 enlarge-
20 ment of the reservation, there were some expecta-
21 tions that the Salton Sea would recede within a pe-
22 riod of 25 years.

23 (4) Through the present day, the majority of
24 the lands added to the reservation in 1909 remain
25 inundated due in part to the flowage of natural run-

1 off and drainage water from the irrigation systems
2 of the Imperial, Coachella, and Mexicali Valleys into
3 the Salton Sea.

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

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

21 (7) On August 20, 1992, the Federal District
22 Court for the Southern District of California entered
23 a judgment in the U.S. Suit requiring the Coachella
24 Valley Water District to pay \$212,908.41 in past
25 and future damages and the Imperial Irrigation Dis-

1 trict to pay \$2,795,694.33 in past and future dam-
2 ages in lieu of the United States' request for a per-
3 manent injunction against continued flooding of the
4 submerged lands.

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

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

17 (10) In 1991, the Tribe brought its own law-
18 suit, Torres-Martinez Desert Cahuilla Indians, et
19 al., v. Imperial Irrigation District, et al., Case No.
20 91-1670 J (LSP) (hereafter in this section referred
21 to as the "Indian Suit") in the United States Dis-
22 trict Court, Southern District of California, against
23 the two water districts, and amended the complaint
24 to include as a plaintiff, Mary Resvaloso, in her own

1 right, and as class representative of all other af-
2 fected Indian allotment owners.

3 (11) The Indian Suit has been stayed by the
4 District Court to facilitate settlement negotiations.

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

10 **SEC. 3. DEFINITIONS.**

11 For the purposes of this Act:

12 (1) The term “Tribe” means the Torres-Mar-
13 tinez Desert Cahuilla Indians, a federally recognized
14 Indian tribe with a reservation located in Riverside
15 and Imperial Counties, California.

16 (2) The term “allottees” means those individual
17 Tribe members, their successors, heirs, and assigns,
18 who have individual ownership of allotted Indian
19 trust lands within the Torres-Martinez Indian Res-
20 ervation.

21 (3) The term “Salton Sea” means the inland
22 body of water located in Riverside and Imperial
23 counties which serves as a drainage reservoir for
24 water from precipitation, natural runoff, irrigation

1 return flows, wastewater, floods, and other inflow
2 from within its watershed area.

3 (4) The term “Settlement Agreement” means
4 the Agreement of Compromise and Settlement Con-
5 cerning Claims to Lands of the United States With-
6 in and on the Perimeter of the Salton Sea Drainage
7 Reservoir Held in Trust for the Torres-Martinez In-
8 dians executed on _____.

9 (5) The term “Secretary” means the Secretary
10 of the Interior.

11 (6) The term “permanent flowage easement”
12 means the perpetual right by the water districts to
13 use the described lands in the Salton Sink within
14 and below the minus 220-foot contour as a drainage
15 reservoir to receive and store water from their re-
16 spective water and drainage systems, including flood
17 water, return flows from irrigation, tail water, leach
18 water, operational spills and any other water which
19 overflows and floods such lands, originating from
20 lands within such water districts.

21 **SEC. 4. RATIFICATION OF SETTLEMENT AGREEMENT.**

22 The United States hereby approves, ratifies, and con-
23 firms the Settlement Agreement.

1 **SEC. 5. SETTLEMENT FUNDS.**

2 (a) ESTABLISHMENT OF TRIBAL AND ALLOTTEES
3 SETTLEMENT TRUST FUNDS ACCOUNTS.—

4 (1) IN GENERAL.—There are established in the
5 Treasury of the United States three settlement trust
6 fund accounts to be known as the “Torres-Martinez
7 Settlement Trust Funds Account”, the “Torres-Mar-
8 tinez Allottees Settlement Account I”, and the
9 “Torres-Martinez Allottees Settlement Account II”,
10 respectively.

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

18 (b) CONTRIBUTIONS TO THE SETTLEMENT TRUST
19 FUNDS.—

20 (1) IN GENERAL.—Amounts paid to the Sec-
21 retary for deposit into the trust fund accounts estab-
22 lished by subsection (a) shall be allocated among
23 and deposited in the trust accounts in the amounts
24 determined by the tribal-allottee allocation provisions
25 of the Settlement Agreement.

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

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

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

19 (A) \$4,200,000 shall be provided from
20 moneys appropriated by Congress under section
21 1304 of title 31, United States Code, the condi-
22 tions of which are deemed to have been met, in-
23 cluding those of section 2414 of title 28, United
24 States Code; and

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

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

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

19 (c) ADMINISTRATION OF SETTLEMENT TRUST
20 FUNDS.—The Secretary shall administer and distribute
21 funds held in the Torres-Martinez Settlement Trust
22 Funds Account, the Torres-Martinez Allottees Settlement
23 Account I, and the Torres-Martinez Allottees Settlement
24 Account II in accordance with the terms and conditions
25 of the Settlement Agreement.

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

2 (a) ACQUISITION AND PLACEMENT OF LANDS INTO
3 TRUST.—

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

18 (2) PRIMARY ACQUISITION AREA.—(A) The pri-
19 mary area within which lands may be acquired pur-
20 suant to paragraph (1) are those certain lands lo-
21 cated in the Primary Acquisition Area, as defined in
22 the Settlement Agreement. The amount of acreage
23 that may be acquired from such area is 11,800 acres
24 less the number of acres acquired and conveyed into
25 trust by reason of paragraph (3).

1 (B) Lands may not be acquired under this
2 paragraph if by majority vote of the governing body
3 of the city within whose incorporated boundaries (as
4 such boundaries exist on the date of the Settlement
5 Agreement) objects to the Tribe's request to convey
6 such lands into trust and notifies the Secretary of
7 such objection in writing within 60 days of receiving
8 a copy of the Tribe's request in accordance with the
9 Settlement Agreement.

10 (3) SECONDARY ACQUISITION AREA.—

11 (A) Not more than 640 acres of land may
12 be acquired pursuant to paragraph (1) from
13 those certain lands located in the Secondary Ac-
14 quisition Area, as defined in the Settlement
15 Agreement.

16 (B) Lands referred to in subparagraph (A)
17 may not be acquired pursuant to paragraph (1)
18 if by majority vote—

19 (i) the governing body of the city
20 whose incorporated boundaries the subject
21 lands are situated within, or

22 (ii) the governing body of Riverside
23 County, California, in the event that such
24 lands are located within an unincorporated
25 area,

1 formally objects to the Tribe’s request to convey
2 the subject lands into trust and notifies the
3 Secretary of such objection in writing within 60
4 days of receiving a copy of the Tribe’s request
5 in accordance with the Settlement Agreement.

6 (b) RESTRICTIONS ON GAMING.—The Tribe shall
7 have the right to conduct gaming on only one site within
8 the lands acquired pursuant to subsection (a)(1) as more
9 particularly provided in the Settlement Agreement.

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

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

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

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

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

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

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

18 (2) UNITED STATES INTEREST.—The United
19 States, in its own right shall, notwithstanding any
20 prior or present reservation or withdrawal of land of
21 any kind, convey to Coachella Valley Water District
22 a permanent flowage easement as to all Federal
23 lands (approximately 110,000 acres) located within
24 and below the minus 220-foot contour of the Salton

1 Sink, in accordance with the terms and conditions of
2 the Settlement Agreement.

3 (b) CONVEYANCE OF EASEMENT TO IMPERIAL IRRI-
4 GATION DISTRICT.—

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

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

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

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

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

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

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

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

1 (c) PRESERVATION OF EXISTING RIGHTS.—Except
2 for the rights specifically waived by this Act or the Settle-
3 ment Agreement, nothing in this Act shall affect or dimin-
4 ish any right to which the Tribe is entitled under existing
5 law.

6 (d) TAX TREATMENT.—None of the moneys paid to,
7 or any of the lands acquired and placed into trust for,
8 the Tribe or allottees under this Act shall be deemed to
9 be taxable under Federal or State law, nor shall such pay-
10 ments or transfers be taxable events.

11 (e) AMENDMENT OF SETTLEMENT AGREEMENT.—
12 The Settlement Agreement may be amended from time to
13 time in accordance with its terms and conditions.

14 **SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

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

17 **SEC. 11. EFFECTIVE DATE.**

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

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

24 (1) The Tribe agrees to the Settlement Agree-
25 ment and the provisions of this Act and executes the

1 releases and waivers required by the Settlement
2 Agreement and this Act.

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

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

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