

Calendar No. 622

104TH CONGRESS
2^D SESSION

H. R. 3640

AN ACT

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.

SEPTEMBER 19, 1996

Read twice and placed on the calendar

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IN THE SENATE OF THE UNITED STATES

SEPTEMBER 11, 1996

Received

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AN ACT

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,*

1 **SECTION 1. SHORT TITLE.**

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

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

5 (a) FINDINGS.—The Congress finds and declares
6 that:

7 (1) In 1876, the Torres-Martinez Indian Res-
8 ervation was created, reserving a single, 640-acre
9 section of land in the Coachella Valley, California,
10 north of the Salton Sink. The Reservation was ex-
11 panded in 1891 by Executive Order, pursuant to the
12 Mission Indian Relief Act of 1891, adding about
13 12,000 acres to the original 640-acre reservation.

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

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

1 tions that the Salton Sea would recede within a pe-
2 riod of 25 years.

3 (4) Through the present day, the majority of
4 the lands added to the reservation in 1909 remain
5 inundated due in part to the flowage of natural run-
6 off and drainage water from the irrigation systems
7 of the Imperial, Coachella, and Mexicali Valleys into
8 the Salton Sea.

9 (5) In addition to those lands that are inun-
10 dated, there are also tribal and individual Indian
11 lands located on the perimeter of the Salton Sea
12 that are not currently irrigable due to lack of proper
13 drainage.

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

1 (7) On August 20, 1992, the Federal District
2 Court for the Southern District of California entered
3 a judgment in the U.S. Suit requiring the Coachella
4 Valley Water District to pay \$212,908.41 in past
5 and future damages and the Imperial Irrigation Dis-
6 trict to pay \$2,795,694.33 in past and future dam-
7 ages in lieu of the United States' request for a per-
8 manent injunction against continued flooding of the
9 submerged lands.

10 (8) The United States, the Coachella Valley
11 Water District, and the Imperial Irrigation District
12 have filed notices of appeal with the United States
13 Court of Appeals for the Ninth Circuit from the dis-
14 trict court's judgment in the U.S. Suit (Numbers
15 93-55389, 93-55398, and 93-55402), and the
16 Tribe has filed a notice of appeal from the district
17 court's denial of its motion to intervene as a matter
18 of right (No. 92-55129).

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

22 (10) In 1991, the Tribe brought its own law-
23 suit, Torres-Martinez Desert Cahuilla Indians, et
24 al., v. Imperial Irrigation District, et al., Case No.
25 91-1670 J (LSP) (hereafter in this section referred

1 to as the “Indian Suit”) in the United States Dis-
2 trict Court, Southern District of California, against
3 the two water districts, and amended the complaint
4 to include as a plaintiff, Mary Resvaloso, in her own
5 right, and as class representative of all other af-
6 fected Indian allotment owners.

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

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

14 **SEC. 3. DEFINITIONS.**

15 For the purposes of this Act:

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

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

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

7 (4) The term “Settlement Agreement” means
8 the Agreement of Compromise and Settlement Con-
9 cerning Claims to Lands of the United States With-
10 in and on the Perimeter of the Salton Sea Drainage
11 Reservoir Held in Trust for the Torres-Martinez In-
12 dians executed on June 18, 1996.

13 (5) The term “Secretary” means the Secretary
14 of the Interior.

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

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

2 The United States hereby approves, ratifies, and con-
3 firms the Settlement Agreement.

4 **SEC. 5. SETTLEMENT FUNDS.**

5 (a) ESTABLISHMENT OF TRIBAL AND ALLOTTEES
6 SETTLEMENT TRUST FUNDS ACCOUNTS.—

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

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

21 (b) CONTRIBUTIONS TO THE SETTLEMENT TRUST
22 FUNDS.—

23 (1) IN GENERAL.—Amounts paid to the Sec-
24 retary for deposit into the trust fund accounts estab-
25 lished by subsection (a) shall be allocated among
26 and deposited in the trust accounts in the amounts

1 determined by the tribal-allottee allocation provisions
2 of the Settlement Agreement.

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

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

15 (4) CASH PAYMENTS BY THE UNITED
16 STATES.—Within the time and upon the conditions
17 specified in the Settlement Agreement, the United
18 States shall pay into the three separate tribal and
19 allottee trust fund accounts the total sum of
20 \$10,200,000, of which sum—

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

1 including those of section 2414 of title 28, United
2 States Code; and

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

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

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

21 (c) ADMINISTRATION OF SETTLEMENT TRUST
22 FUNDS.—The Secretary shall administer and distribute
23 funds held in the Torres-Martinez Settlement Trust
24 Funds Account, the Torres-Martinez Allottees Settlement
25 Account I, and the Torres-Martinez Allottees Settlement

1 Account II in accordance with the terms and conditions
2 of the Settlement Agreement.

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

4 (a) ACQUISITION AND PLACEMENT OF LANDS INTO
5 TRUST.—

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

22 (2) PRIMARY ACQUISITION AREA.—(A) The pri-
23 mary area within which lands may be acquired pur-
24 suant to paragraph (1) are those certain lands lo-
25 cated in the Primary Acquisition Area, as defined in

1 the Settlement Agreement. The amount of acreage
2 that may be acquired from such area is 11,800 acres
3 less the number of acres acquired and conveyed into
4 trust by reason of paragraph (3).

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

14 (3) SECONDARY ACQUISITION AREA.—

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

20 (B) Lands referred to in subparagraph (A)
21 may not be acquired pursuant to paragraph (1)
22 if by majority vote—

23 (i) the governing body of the city
24 whose incorporated boundaries the subject
25 lands are situated within, or

1 (ii) the governing body of Riverside
2 County, California, in the event that such
3 lands are located within an unincorporated
4 area,

5 formally objects to the Tribe's request to convey
6 the subject lands into trust and notifies the
7 Secretary of such objection in writing within 60
8 days of receiving a copy of the Tribe's request
9 in accordance with the Settlement Agreement.

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

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

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

23 (2) be subject to the paramount rights of any
24 person who at any time recharges or stores water in
25 a ground water basin to recapture or recover the re-

1 charged or stored water or to authorize others to re-
2 capture or recover the recharged or stored water;
3 and

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

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

8 (a) CONVEYANCE OF EASEMENT TO COACHELLA
9 VALLEY WATER DISTRICT.—

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

21 (2) UNITED STATES INTEREST.—The United
22 States, in its own right shall, notwithstanding any
23 prior or present reservation or withdrawal of land of
24 any kind, convey to Coachella Valley Water District
25 a permanent flowage easement as to all Federal

1 lands (approximately 110,000 acres) located within
2 and below the minus 220-foot contour of the Salton
3 Sink, in accordance with the terms and conditions of
4 the Settlement Agreement.

5 (b) CONVEYANCE OF EASEMENT TO IMPERIAL IRRI-
6 GATION 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 grant
12 and convey to the Imperial Irrigation District a per-
13 manent flowage easement as to all Indian trust
14 lands (approximately 11,800 acres) located within
15 and below the minus 220-foot contour of the Salton
16 Sink, in accordance with the terms and conditions of
17 the Settlement Agreement.

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

1 Salton Sink, in accordance with the terms and con-
2 ditions of the Settlement Agreement.

3 **SEC. 8. SATISFACTION OF CLAIMS, WAIVERS, AND**
4 **RELEASES.**

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

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

17 **SEC. 9. MISCELLANEOUS PROVISIONS.**

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

23 (b) ELIGIBILITY FOR OTHER SERVICES NOT AF-
24 FECTED.—No payment pursuant to this Act shall result
25 in the reduction or denial of any Federal services or pro-

1 grams to the Tribe or to members of the Tribe, to which
2 they are entitled or eligible because of their status as a
3 federally recognized Indian tribe or member of the Tribe.

4 (c) PRESERVATION OF EXISTING RIGHTS.—Except
5 as provided in this Act or the Settlement Agreement, any
6 right to which the Tribe is entitled under existing law shall
7 not be affected or diminished.

8 (d) AMENDMENT OF SETTLEMENT AGREEMENT.—
9 The Settlement Agreement may be amended from time to
10 time in accordance with its terms and conditions.

11 **SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

12 There are authorized to be appropriated such sums
13 as are necessary to carry out this Act.

14 **SEC. 11. EFFECTIVE DATE.**

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

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

21 (1) The Tribe agrees to the Settlement Agree-
22 ment and the provisions of this Act and executes the
23 releases and waivers required by the Settlement
24 Agreement and this Act.

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

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

 Passed the House of Representatives September 10,
1996.

Attest:

ROBIN H. CARLE,
Clerk.