

Union Calendar No. 418

104TH CONGRESS
2^D Session

H. R. 3640

[Report No. 104-777]

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.

SEPTEMBER 5, 1996

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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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

SEPTEMBER 5, 1996

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on June 13, 1996]

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,*

1 **SECTION 1. SHORT TITLE.**

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

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

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

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

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

17 (3) *In 1909 an additional 12,000 acres of land,*
18 *9,000 of which were then submerged under the Salton*
19 *Sea, were added to the reservation under a Secretar-*
20 *ial Order issued pursuant to a 1907 amendment of*
21 *the Mission Indian Relief Act. Due to receding water*
22 *levels in the Salton Sea through the process of evapo-*
23 *ration, at the time of the 1909 enlargement of the res-*
24 *ervation, there were some expectations that the Salton*
25 *Sea would recede within a period of 25 years.*

1 (4) *Through the present day, the majority of the*
2 *lands added to the reservation in 1909 remain inun-*
3 *dated due in part to the flowage of natural runoff and*
4 *drainage water from the irrigation systems of the Im-*
5 *perial, Coachella, and Mexicali Valleys into the*
6 *Salton Sea.*

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

12 (6) *In 1982, the United States brought an action*
13 *in trespass entitled “United States of America, in its*
14 *own right and on behalf of Torres-Martinez Band of*
15 *Mission Indians and the Allottees therein v. The Im-*
16 *perial Irrigation District and Coachella Valley Water*
17 *District”, Case No. 82–1790 K (M) (hereafter in this*
18 *section referred to as the “U.S. Suit”) on behalf of the*
19 *Torres-Martinez Indian Tribe and affected Indian*
20 *allottees against the two water districts seeking dam-*
21 *ages related to the inundation of tribal- and allottee-*
22 *owned lands and injunctive relief to prevent future*
23 *discharge of water on such lands.*

24 (7) *On August 20, 1992, the Federal District*
25 *Court for the Southern District of California entered*

1 *a judgment in the U.S. Suit requiring the Coachella*
2 *Valley Water District to pay \$212,908.41 in past and*
3 *future damages and the Imperial Irrigation District*
4 *to pay \$2,795,694.33 in past and future damages in*
5 *lieu of the United States' request for a permanent in-*
6 *junction against continued flooding of the submerged*
7 *lands.*

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

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

20 *(10) In 1991, the Tribe brought its own lawsuit,*
21 *Torres-Martinez Desert Cahuilla Indians, et al., v.*
22 *Imperial Irrigation District, et al., Case No. 91-1670*
23 *J (LSP) (hereafter in this section referred to as the*
24 *"Indian Suit") in the United States District Court,*
25 *Southern District of California, against the two water*

1 *districts, and amended the complaint to include as*
2 *a plaintiff, Mary Resvaloso, in her own right, and*
3 *as class representative of all other affected Indian al-*
4 *lotment owners.*

5 *(11) The Indian Suit has been stayed by the Dis-*
6 *trict Court to facilitate settlement negotiations.*

7 *(b) PURPOSE.—The purpose of this Act is to facilitate*
8 *and implement the settlement agreement negotiated and ex-*
9 *ecuted by the parties to the U.S. Suit and Indian Suit for*
10 *the purpose of resolving their conflicting claims to their mu-*
11 *tual satisfaction and in the public interest.*

12 **SEC. 3. DEFINITIONS.**

13 *For the purposes of this Act:*

14 *(1) The term “Tribe” means the Torres-Martinez*
15 *Desert Cahuilla Indians, a federally recognized In-*
16 *dian tribe with a reservation located in Riverside and*
17 *Imperial Counties, California.*

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

23 *(3) The term “Salton Sea” means the inland*
24 *body of water located in Riverside and Imperial*
25 *counties which serves as a drainage reservoir for*

1 *water from precipitation, natural runoff, irrigation*
2 *return flows, wastewater, floods, and other inflow*
3 *from within its watershed area.*

4 (4) *The term “Settlement Agreement” means the*
5 *Agreement of Compromise and Settlement Concerning*
6 *Claims to Lands of the United States Within and on*
7 *the Perimeter of the Salton Sea Drainage Reservoir*
8 *Held in Trust for the Torres-Martinez Indians exe-*
9 *cuted on June 18, 1996.*

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

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

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

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

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

2 (a) *ESTABLISHMENT OF TRIBAL AND ALLOTTEES SET-*
3 *TLEMENT 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 *tinéz Allottees Settlement Account I”, and the*
9 *“Torres-Martinez Allottees Settlement Account II”, re-*
10 *spectively.*

11 (2) *AVAILABILITY.—Amounts held in the Torres-*
12 *Martinez Settlement Trust Funds Account, the*
13 *Torres-Martinez Allottees Settlement Account I, and*
14 *the Torres-Martinez Allottees Settlement Account II*
15 *shall be available to the Secretary for distribution to*
16 *the Tribe and affected allottees in accordance with*
17 *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 and*
23 *deposited in the trust accounts in the amounts deter-*
24 *mined by the tribal-allottee allocation provisions of*
25 *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 Agree-*
10 *ment, the Imperial Irrigation District shall pay the*
11 *sum of \$3,670,694.33 to the United States for the ben-*
12 *efit of the Tribe and any affected allottees.*

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

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

1 (B) \$6,000,000 shall be provided from mon-
2 eys appropriated by Congress for this specific
3 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 sev-*
16 *erally liable, but not jointly liable, for its respective*
17 *obligation to make the payments specified by this sub-*
18 *section.*

19 (c) *ADMINISTRATION OF SETTLEMENT TRUST*
20 *FUNDS.*—*The Secretary shall administer and distribute*
21 *funds held in the Torres-Martinez Settlement Trust Funds*
22 *Account, the Torres-Martinez Allottees Settlement Account*
23 *I, and the Torres-Martinez Allottees Settlement Account II*
24 *in accordance with the terms and conditions of the Settle-*
25 *ment 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, conditions,*
9 *criteria, and procedures set forth in the Settlement*
10 *Agreement and this Act. Subject to such terms, condi-*
11 *tions, criteria, and procedures, all lands purchased or*
12 *otherwise acquired by the Tribe and conveyed into*
13 *trust status for the benefit of the Tribe pursuant to*
14 *the Settlement Agreement and this Act shall be con-*
15 *sidered as if such lands were so acquired in trust sta-*
16 *tus in 1909 except as (i) to water rights as provided*
17 *in subsection (c), and (ii) to valid rights existing at*
18 *the time of acquisition pursuant to this Act.*

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

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

6 **(b) RESTRICTIONS ON GAMING.**—*The Tribe shall have*
7 *the right to conduct gaming on only one site within the*
8 *lands acquired pursuant to subsection (a)(1) as more par-*
9 *ticularly 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 *ssued under the laws of the State of California to com-*
16 *mence 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; 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 VAL-*
6 *LEY 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 to*
12 *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 ac-*
16 *cordance with the terms and conditions of the Settle-*
17 *ment 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 lands*
23 *(approximately 110,000 acres) located within and*
24 *below the minus 220-foot contour of the Salton Sink,*

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

3 (b) *CONVEYANCE OF EASEMENT TO IMPERIAL IRRIGA-*
4 *TION 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 and*
10 *convey to the Imperial Irrigation District a perma-*
11 *nent flowage easement as to all Indian trust lands*
12 *(approximately 11,800 acres) located within and*
13 *below the minus 220-foot contour of the Salton Sink,*
14 *in accordance with the terms and conditions of the*
15 *Settlement Agreement.*

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

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

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

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

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

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

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

5 (d) *AMENDMENT OF SETTLEMENT AGREEMENT.*—*The*
6 *Settlement Agreement may be amended from time to time*
7 *in accordance with its terms and conditions.*

8 **SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

9 *There are authorized to be appropriated such sums as*
10 *are necessary to carry out this Act.*

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

12 (a) *IN GENERAL.*—*Except as provided by subsection*
13 *(b), this Act shall take effect on the date of enactment of*
14 *this Act.*

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

18 (1) *The Tribe agrees to the Settlement Agreement*
19 *and the provisions of this Act and executes the re-*
20 *leases and waivers required by the Settlement Agree-*
21 *ment and this Act.*

22 (2) *The Coachella Valley Water District agrees to*
23 *the Settlement Agreement and to the provisions of this*
24 *Act.*

1 (3) *The Imperial Irrigation District agrees to the*
2 *Settlement Agreement and to the provisions of this*
3 *Act.*