

Calendar No. 349

113TH CONGRESS
2D SESSION

S. 1219

To authorize the Pechanga Band of Luiseño Mission Indians Water Rights Settlement, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 25, 2013

Mrs. BOXER (for herself and Mrs. FEINSTEIN) introduced the following bill;
which was read twice and referred to the Committee on Indian Affairs

APRIL 3, 2014

Reported by Mr. TESTER, with an amendment

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

A BILL

To authorize the Pechanga Band of Luiseño Mission Indians
Water Rights Settlement, 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 (a) ~~SHORT TITLE.~~—This Act may be cited as the
5 “Pechanga Band of Luiseño Mission Indians Water
6 Rights Settlement Act”.

1 (b) TABLE OF CONTENTS.—The table of contents of
 2 this Act is as follows:

- See. 1: Short title.
- See. 2: Purposes.
- See. 3: Definitions.
- See. 4: Approval of the Pechanga Settlement Agreement.
- See. 5: Tribal Water Right.
- See. 6: Satisfaction of claims.
- See. 7: Waiver of claims.
- See. 8: Water facilities.
- See. 9: Pechanga Settlement Fund.
- See. 10: Miscellaneous provisions.
- See. 11: Authorization of appropriations.
- See. 12: Repeal on failure of enforceability date.
- See. 13: Antideficiency.

3 **SEC. 2. PURPOSES.**

4 The purposes of this Act are—

5 (1) to achieve a fair, equitable, and final settle-
 6 ment of claims to water rights and certain claims for
 7 injuries to water rights in the Santa Margarita
 8 River Watershed for—

9 (A) the Band; and

10 (B) the United States, acting in its capae-
 11 ity as trustee for the Band and allottees;

12 (2) to achieve a fair, equitable, and final settle-
 13 ment of certain claims by the Band and allottees
 14 against the United States;

15 (3) to authorize, ratify, and confirm the
 16 Pechanga Settlement Agreement to be entered into
 17 by the Band, RCWD, EMWD, and the United
 18 States;

19 (4) to authorize and direct the Secretary—

1 (A) to execute the Pechanga Settlement
2 Agreement; and

3 (B) to take any other action necessary to
4 carry out the Pechanga Settlement Agreement
5 in accordance with this Act; and

6 (5) to authorize the appropriation of amounts
7 necessary for the implementation of the Pechanga
8 Settlement Agreement and this Act.

9 **SEC. 3. DEFINITIONS.**

10 In this Act:

11 (1) **ADJUDICATION COURT.**—The term “Adju-
12 dication Court” means the United States District
13 Court for the Southern District of California, which
14 exercises continuing jurisdiction over the Adjudica-
15 tion Proceeding.

16 (2) **ADJUDICATION PROCEEDING.**—The term
17 “Adjudication Proceeding” means litigation initiated
18 by the United States regarding relative water rights
19 in the Santa Margarita River Watershed in United
20 States v. Fallbrook Public Utility District et al., Civ.
21 No. 3:51-cv-01247 (S.D.C.A.), including any litiga-
22 tion initiated to interpret or enforce the relative
23 water rights in the Santa Margarita River Water-
24 shed pursuant to the continuing jurisdiction of the
25 Adjudication Court over the Fallbrook Decree.

1 (3) **AFY.**—The term “AFY” means acre-feet
2 per year.

3 (4) **ALLOTTEE.**—The term “allottee” means a
4 member of a federally recognized Indian tribe who
5 holds a beneficial real property interest in an Indian
6 allotment that is—

7 (A) located within the Reservation; and

8 (B) held in trust by the United States.

9 (5) **BAND.**—

10 (A) **IN GENERAL.**—The term “Band”
11 means the Pechanga Band of Luiseño Mission
12 Indians, a federally recognized sovereign Indian
13 tribe that functions as a custom and tradition
14 Indian tribe, acting on behalf of itself and its
15 members.

16 (B) **EXCLUSION.**—The term “Band” does
17 not include an individual member of the Band
18 acting in the capacity of an allottee.

19 (6) **CLAIMS.**—The term “claims” means rights,
20 claims, demands, actions, compensation, or causes of
21 action, whether known or unknown, as of June 30,
22 2009.

23 (7) **EMWD.**—The term “EMWD” means East-
24 ern Municipal Water District, a municipal water dis-
25 trict organized and existing in accordance with the

1 Municipal Water District Law of 1911, Division 20
 2 of the Water Code of the State of California, as
 3 amended.

4 (8) EMWD CONNECTION FEE.—The term
 5 “EMWD Connection Fee” has the meaning set forth
 6 in section 2.3(b) of the Extension of Service Area
 7 Agreement.

8 (9) ENFORCEABILITY DATE.—The term “en-
 9 forceability date” means the date on which the Sec-
 10 retary publishes in the Federal Register the state-
 11 ment of findings described in section 7(e).

12 (10) ESAA CAPACITY AGREEMENT.—The term
 13 “ESAA Capacity Agreement” means the “Agree-
 14 ment to Provide Capacity for Delivery of ESAA
 15 Water” among the Band, RCWD, and the United
 16 States.

17 (11) ESAA WATER.—The term “ESAA Water”
 18 means imported potable water that the Band re-
 19 ceives from EMWD and MWD pursuant to the Ex-
 20 tension of Service Area Agreement.

21 (12) EXTENSION OF SERVICE AREA AGREE-
 22 MENT.—The term “Extension of Service Area
 23 Agreement” means the “Agreement for Extension of
 24 Existing Service Area”, among the Band, EMWD,
 25 the United States, and MWD, for the provision of

1 water service by EMWD to a designated portion of
2 the Reservation using water supplied by MWD.

3 (13) FALLBROOK DECREE.—

4 (A) IN GENERAL.—The term “Fallbrook
5 Decree” means the “Modified Final Judgment
6 And Decree”, entered in the Adjudication Pro-
7 ceeding on April 6, 1966.

8 (B) INCLUSIONS.—The term “Fallbrook
9 Decree” includes all court orders, interlocutory
10 judgments, and decisions supplemental to the
11 “Modified Final Judgment And Decree”, in-
12 cluding Interlocutory Judgment No. 30, Inter-
13 locutory Judgment No. 35, and Interlocutory
14 Judgment No. 41.

15 (14) FUND.—The term “Fund” means the
16 Pechanga Settlement Fund established by section 9.

17 (15) INDIAN TRIBE.—The term “Indian tribe”
18 has the meaning given the term in section 4 of the
19 Indian Self-Determination and Education Assistance
20 Act (25 U.S.C. 450b).

21 (16) INJURY TO WATER RIGHTS.—The term
22 “injury to water rights” means an interference with,
23 diminution of, or deprivation of water rights under
24 Federal or State law.

1 (17) INTERIM CAPACITY.—The term “Interim
2 Capacity” has the meaning set forth in section 1 of
3 the ESAA Capacity Agreement.

4 (18) INTERIM CAPACITY NOTICE.—The term
5 “Interim Capacity Notice” has the meaning set
6 forth in section 4(b) of the ESAA Capacity Agree-
7 ment.

8 (19) MWD.—The term “MWD” means the
9 Metropolitan Water District of Southern California,
10 a metropolitan water district organized and incor-
11 porated under the Metropolitan Water District Act
12 of the State of California (Stats. 1969, Chapter 209,
13 as amended).

14 (20) MWD CONNECTION FEE.—The term
15 “MWD Connection Fee” has the meaning set forth
16 in section 2.3(a) of the Extension of Service Area
17 Agreement.

18 (21) PECHANGA ESAA DELIVERY CAPACITY AC-
19 COUNT.—The term “Pechanga ESAA Delivery Ca-
20 pacity account” means the account established by
21 section 9(c)(2).

22 (22) PECHANGA RECYCLED WATER INFRA-
23 STRUCTURE ACCOUNT.—The term “Pechanga Recy-
24 cled Water Infrastructure account” means the ac-
25 count established by section 9(c)(1).

1 (23) PECHANGA SETTLEMENT AGREEMENT.—

2 The term “Pechanga Settlement Agreement” means
3 the Pechanga Settlement Agreement, together with
4 the exhibits to that agreement, entered into by the
5 Band, the United States on behalf of the Band, its
6 members and allottees, RCWD, and EMWD.

7 (24) PECHANGA WATER CODE.—The term
8 “Pechanga Water Code” means a water code to be
9 adopted by the Band in accordance with section 5(f).

10 (25) PECHANGA WATER FUND ACCOUNT.—The
11 term “Pechanga Water Fund account” means the
12 account established by section 9(c)(3).

13 (26) PECHANGA WATER QUALITY ACCOUNT.—
14 The term “Pechanga Water Quality account” means
15 the account established by section 9(c)(4).

16 (27) PERMANENT CAPACITY.—The term “Per-
17 manent Capacity” has the meaning set forth in sec-
18 tion 1 of the ESAA Capacity Agreement.

19 (28) PERMANENT CAPACITY NOTICE.—The
20 term “Permanent Capacity Notice” has the meaning
21 set forth in section 5(b) of the ESAA Capacity
22 Agreement.

23 (29) RCWD.—

24 (A) IN GENERAL.—The term “RCWD”
25 means the Rancho California Water District or-

1 organized pursuant to section 34000 et seq. of
2 the California Water Code.

3 (B) INCLUSIONS.—The term “RCWD” in-
4 cludes all real property owners for whom
5 RCWD acts as an agent pursuant to an agency
6 agreement.

7 (30) RECYCLED WATER INFRASTRUCTURE
8 AGREEMENT.—The term “Recycled Water Infra-
9 structure Agreement” means the “Agreement for
10 Recycled Water Infrastructure” among the Band,
11 RCWD, and the United States.

12 (31) RECYCLED WATER TRANSFER AGREE-
13 MENT.—The term “Recycled Water Transfer Agree-
14 ment” means the “Recycled Water Transfer Agree-
15 ment” between the Band and RCWD.

16 (32) RESERVATION.—

17 (A) IN GENERAL.—The term “Reserva-
18 tion” means the land depicted on the map at-
19 tached to the Pechanga Settlement Agreement
20 as exhibit I.

21 (B) APPLICABILITY OF TERM.—The term
22 “Reservation” shall be used solely for the pur-
23 poses of the Pechanga Settlement Agreement.

24 (33) SANTA MARGARITA RIVER WATERSHED.—

25 The term “Santa Margarita River Watershed”

1 means the watershed that is the subject of the Adju-
 2 dication Proceeding and the Fallbrook Decree.

3 (34) SECRETARY.—The term “Secretary”
 4 means the Secretary of the Interior.

5 (35) STATE.—The term “State” means the
 6 State of California.

7 (36) STORAGE POND.—The term “Storage
 8 Pond” has the meaning set forth in section 1 of the
 9 Recycled Water Infrastructure Agreement.

10 (37) TRIBAL WATER RIGHT.—The term “Tribal
 11 Water Right” means the water rights ratified, con-
 12 firmed, and declared to be valid for the benefit of
 13 the Band and allottees of the Band, as set forth and
 14 described in section 5.

15 **SEC. 4. APPROVAL OF THE PECHANGA SETTLEMENT**
 16 **AGREEMENT.**

17 (a) RATIFICATION OF PECHANGA SETTLEMENT
 18 AGREEMENT.—

19 (1) IN GENERAL.—Except as modified by this
 20 Act, and to the extent that the Pechanga Settlement
 21 Agreement does not conflict with this Act, the
 22 Pechanga Settlement Agreement is authorized, rati-
 23 fied, and confirmed.

24 (2) AMENDMENTS TO COMPACT.—Any amend-
 25 ment to the Pechanga Settlement Agreement is au-

1 thorized, ratified, and confirmed, to the extent that
2 the amendment is executed to make the Pechanga
3 Settlement Agreement consistent with this Act.

4 (b) EXECUTION OF PECHANGA SETTLEMENT AGREE-
5 MENT.—

6 (1) IN GENERAL.—To the extent that the
7 Pechanga Settlement Agreement does not conflict
8 with this Act, the Secretary is directed to and shall
9 promptly execute—

10 (A) the Pechanga Settlement Agreement
11 (including any exhibits to or part of the
12 Pechanga Settlement Agreement requiring the
13 signature of the Secretary); and

14 (B) any amendment to the Pechanga Set-
15 tlement Agreement necessary to make the
16 Pechanga Settlement Agreement consistent with
17 this Act.

18 (2) MODIFICATIONS.—Nothing in this Act pre-
19 cludes the Secretary from approving modifications to
20 exhibits to the Pechanga Settlement Agreement not
21 inconsistent with this Act, to the extent those modi-
22 fications do not otherwise require congressional ap-
23 proval pursuant to section 2116 of the Revised Stat-
24 utes (25 U.S.C. 177) or other applicable Federal
25 law.

1 (c) ENVIRONMENTAL COMPLIANCE.—

2 (1) IN GENERAL.—In implementing the
3 Pechanga Settlement Agreement, the Secretary shall
4 promptly comply with all applicable requirements
5 of—

6 (A) the National Environmental Policy Act
7 of 1969 (42 U.S.C. 4321 et seq.);

8 (B) the Endangered Species Act of 1973
9 (16 U.S.C. 1531 et seq.);

10 (C) all other applicable Federal environ-
11 mental laws; and

12 (D) all regulations promulgated under the
13 laws described in subparagraphs (A) through
14 (C).

15 (2) EXECUTION OF THE PECHANGA SETTLE-
16 MENT AGREEMENT.—

17 (A) IN GENERAL.—Execution of the
18 Pechanga Settlement Agreement by the Sec-
19 retary under this section shall not constitute a
20 major Federal action under the National Envi-
21 ronmental Policy Act of 1969 (42 U.S.C. 4321
22 et seq.).

23 (B) COMPLIANCE.—The Secretary is di-
24 rected to carry out all Federal compliance nec-

1 essary to implement the Pechanga Settlement
2 Agreement.

3 ~~(3) LEAD AGENCY.~~—The Bureau of Reclama-
4 tion shall be designated as the lead agency with re-
5 spect to environmental compliance.

6 **SEC. 5. TRIBAL WATER RIGHT.**

7 (a) INTENT OF CONGRESS.—It is the intent of Con-
8 gress to provide to each allottee benefits that are equal
9 to or exceed the benefits allottees possess as of the date
10 of enactment of this Act, taking into consideration—

11 (1) the potential risks, cost, and time delay as-
12 sociated with litigation that would be resolved by the
13 Pechanga Settlement Agreement and this Act;

14 (2) the availability of funding under this Act;

15 (3) the availability of water from the Tribal
16 Water Right and other water sources as set forth in
17 the Pechanga Settlement Agreement; and

18 (4) the applicability of section 7 of the Act of
19 February 8, 1887 (25 U.S.C. 381), and this Act to
20 protect the interests of allottees.

21 (b) CONFIRMATION OF TRIBAL WATER RIGHT.—

22 (1) IN GENERAL.—The Tribal Water Right is
23 ratified, confirmed, and declared to be valid.

24 (2) CHARACTERISTICS OF TRIBAL WATER
25 RIGHT.—

1 (A) IN GENERAL.—The Tribal Water
2 Right shall be equal to 4,994 AFY of water
3 that is subject to the jurisdiction of the Adju-
4 dication Court.

5 (B) PRIORITY DATES.—The priority date
6 for—

7 (i) 3,019 AFY of the Tribal Water
8 Right shall be June 27, 1882;

9 (ii) 182 AFY of the Tribal Water
10 Right shall be August 29, 1893;

11 (iii) 729 AFY of the Tribal Water
12 Right shall be January 9, 1907;

13 (iv) 563 AFY of the Tribal Water
14 Right shall be March 11, 1907; and

15 (v) 501 AFY of the Tribal Water
16 Right shall be May 25, 1931.

17 (3) USE.—Subject to the terms of the
18 Pechanga Settlement Agreement, this Act, the
19 Fallbrook Decree, and applicable Federal law, the
20 Band may use the Tribal Water Right for any pur-
21 pose on the Reservation.

22 (c) HOLDING IN TRUST.—The Tribal Water Right—
23 (1) shall be held in trust by the United States
24 on behalf of the Band and the allottees in accord-
25 ance with this section; and

1 (2) shall not be subject to forfeiture or aban-
2 donment.

3 (d) ALLOTTEES.—

4 (1) APPLICABILITY OF ACT OF FEBRUARY 8,
5 1887.—The provisions of section 7 of the Act of Feb-
6 ruary 8, 1887 (25 U.S.C. 381), relating to the use
7 of water for irrigation purposes shall apply to the
8 Tribal Water Right.

9 (2) ENTITLEMENT TO WATER.—Any entitle-
10 ment to water of an allottee who has allotted land
11 that is located within the exterior boundaries of the
12 Reservation under Federal law shall be satisfied
13 from the Tribal Water Right.

14 (3) ALLOCATIONS.—Allotted land of an allottee
15 that is located within the exterior boundaries of the
16 Reservation shall be entitled to a just and equitable
17 allocation of water for irrigation purposes from the
18 water resources described in the Pechanga Settle-
19 ment Agreement.

20 (4) EXHAUSTION OF REMEDIES.—Before as-
21 serting any claim against the United States under
22 section 7 of the Act of February 8, 1887 (25 U.S.C.
23 381), or any other applicable law, an allottee shall
24 exhaust remedies available under the Pechanga
25 Water Code or other applicable tribal law.

1 (5) CLAIMS.—Following exhaustion of remedies
2 available under the Pechanga Water Code or other
3 applicable tribal law, an allottee may seek relief
4 under section 7 of the Act of February 8, 1887 (25
5 U.S.C. 381), or other applicable law.

6 (6) AUTHORITY.—The Secretary shall have the
7 authority to protect the rights of allottees as speci-
8 fied in this section.

9 (c) AUTHORITY OF BAND.—

10 (1) IN GENERAL.—Except as provided in para-
11 graph (2), the Band shall have authority to use, al-
12 locate, distribute, and lease the Tribal Water Right
13 in accordance with—

14 (A) the Pechanga Settlement Agreement;

15 and

16 (B) applicable Federal law.

17 (2) LEASES BY ALLOTTEES.—An allottee may
18 lease any interest in land held by the allottee, to-
19 gether with any water right determined to be appur-
20 tenant to that interest in land.

21 (f) PECHANGA WATER CODE.—

22 (1) IN GENERAL.—Not later than 18 months
23 after the enforceability date, the Band shall enact a
24 Pechanga Water Code, that provides for—

1 (A) the management, regulation, and gov-
2 ernance of all uses of the Tribal Water Right
3 in accordance with the Pechanga Settlement
4 Agreement; and

5 (B) establishment by the Band of condi-
6 tions, permit requirements, and other limita-
7 tions relating to the storage, recovery, and use
8 of the Tribal Water Right in accordance with
9 the Pechanga Settlement Agreement.

10 (2) INCLUSIONS.—The Pechanga Water Code
11 shall provide—

12 (A) that allocations of water to allottees
13 shall be satisfied with water from the Tribal
14 Water Right;

15 (B) that charges for delivery of water for
16 irrigation purposes for allottees shall be as-
17 sessed in accordance with section 7 of the Act
18 of February 8, 1887 (25 U.S.C. 381);

19 (C) a process by which an allottee or water
20 user on allotted land may request that the
21 Band provide water for irrigation use in accord-
22 ance with this Act;

23 (D) a due process system for the consider-
24 ation and determination by the Band of any re-
25 quest by an allottee, water user on allotted

1 land, or any successor in interest to an allottee,
2 for an allocation of such water for irrigation
3 purposes on allotted land, including a process
4 for—

5 (i) appeal and adjudication of any de-
6 nied or disputed distribution of water; and

7 (ii) resolution of any contested admin-
8 istrative decision; and

9 ~~(E)~~ a requirement that any allottee or
10 water user on allotted land with a claim relat-
11 ing to the enforcement of rights of the allottee
12 or water user under the Pechanga Water Code
13 or relating to the amount of water allocated to
14 land of the allottee shall first exhaust remedies
15 available to the allottee under tribal law and the
16 Pechanga Water Code before initiating an ac-
17 tion against the United States or petitioning
18 the Secretary pursuant to subsection (d)(4).

19 ~~(3) ACTION BY SECRETARY.—~~

20 ~~(A) IN GENERAL.—~~The Secretary shall ad-
21 minister the Tribal Water Right until the
22 Pechanga Water Code is enacted and approved
23 in accordance with this section.

24 ~~(B) APPROVAL.—~~Any provision of the
25 Pechanga Water Code and any amendment to

1 the Pechanga Water Code that affects the
2 rights of allottees shall—

3 (i) be subject to the approval of the
4 Secretary; and

5 (ii) not be valid until the date on
6 which the amendment is approved by the
7 Secretary.

8 (C) APPROVAL PERIOD.—The Secretary
9 shall approve or disapprove the Pechanga
10 Water Code within a reasonable period of time
11 after the date on which the Band submits the
12 Pechanga Water Code to the Secretary for ap-
13 proval.

14 (g) EFFECT.—Except as otherwise specifically pro-
15 vided in this section, nothing in this Act—

16 (1) authorizes any action by an allottee or
17 water user on allotted land against any individual or
18 entity, or against the Band, under Federal, State,
19 tribal, or local law; or

20 (2) alters or affects the status of any action
21 pursuant to section 1491(a) of title 28, United
22 States Code.

23 **SEC. 6. SATISFACTION OF CLAIMS.**

24 (a) IN GENERAL.—The benefits provided to the Band
25 and the allottees under the Pechanga Settlement Agree-

1 ment and this Act shall satisfy all claims of the Band and
 2 the allottees waived pursuant to section 7.

3 (b) NO RECOGNITION OF WATER RIGHTS.—Except
 4 as provided in section 5(d), nothing in this Act recognizes
 5 or establishes any right of a member of the Band or an
 6 allottee to water within the Reservation.

7 (c) CLAIMS RELATING TO DEVELOPMENT OF WATER
 8 FOR RESERVATION.—

9 (1) IN GENERAL.—The amounts authorized to
 10 be appropriated under section 11 shall be used to
 11 satisfy any claim of the allottees against the United
 12 States with respect to the development or protection
 13 of water resources for the Reservation.

14 (2) SATISFACTION OF CLAIMS.—On the com-
 15 plete appropriation of amounts authorized to be ap-
 16 propriated under section 11, any claim of the
 17 allottees against the United States with respect to
 18 the development or protection of water resources for
 19 the Reservation shall be deemed to have been satis-
 20 fied.

21 **SEC. 7. WAIVER OF CLAIMS.**

22 (a) IN GENERAL.—

23 (1) WAIVER OF CLAIMS BY THE BAND AND THE
 24 UNITED STATES.—

1 (A) IN GENERAL.—Subject to the retention
2 of rights set forth in subsection (c), notwith-
3 standing any provisions to the contrary in the
4 Pechanga Settlement Agreement, the Band, and
5 the United States on behalf of the Band and
6 allottees, are authorized to execute waivers for
7 any and all claims for water rights in the Santa
8 Margarita River Watershed—

9 (i) for land located within the Res-
10 ervation in the Santa Margarita River Wa-
11 tershed arising from time immemorial and,
12 thereafter, forever; and

13 (ii) that are based on aboriginal occu-
14 pancy for land overlying the Santa Mar-
15 garita River Watershed arising from time
16 immemorial and, thereafter, forever.

17 (B) CLAIMS AGAINST RCWD AND EMWD.—
18 Subject to the retention of rights set forth in
19 subsection (c), notwithstanding any provisions
20 to the contrary in the Pechanga Settlement
21 Agreement, the Band and the United States on
22 behalf of the Band and allottees fully release,
23 acquit, and discharge RCWD and EMWD
24 from—

1 (i) claims for injuries to water rights
2 in the Santa Margarita River Watershed
3 for land located within the Reservation in
4 that watershed arising or occurring at any
5 time up to and including June 30, 2009;

6 (ii) claims for injuries to water rights
7 in the Santa Margarita River Watershed
8 for land located within the Reservation in
9 that watershed arising or occurring at any
10 time after June 30, 2009, resulting from
11 the diversion or use of water in a manner
12 not in violation of the Pechanga Settle-
13 ment Agreement or this Act;

14 (iii) claims for subsidence damage to
15 land located within the Reservation arising
16 or occurring at any time up to and includ-
17 ing June 30, 2009;

18 (iv) claims for subsidence damage
19 arising or occurring after June 30, 2009,
20 to land located within the Reservation re-
21 sulting from the diversion of underground
22 water in a manner consistent with the
23 Pechanga Settlement Agreement or this
24 Act; and

1 (v) claims arising out of, or relating in
2 any manner to, the negotiation or execu-
3 tion of the Pechanga Settlement Agree-
4 ment or the negotiation or execution of
5 this Act.

6 (2) CLAIMS BY THE UNITED STATES AGAINST
7 THE BAND.—Subject to the retention of rights set
8 forth in subsection (c), to the extent consistent with
9 this Act, the United States, in all its capacities (ex-
10 cept as trustee for an Indian tribe other than the
11 Band), as part of the performance of obligations
12 under the Pechanga Settlement Agreement, is au-
13 thorized to execute a waiver and release of any and
14 all claims against the Band, including any agency,
15 official, or employee of the Band, under Federal,
16 State, or any other law for—

17 (A) claims for injuries to water rights in
18 the Santa Margarita River Watershed for land
19 located within the Reservation in that water-
20 shed arising or occurring at any time up to and
21 including June 30, 2009;

22 (B) claims for injuries to water rights in
23 the Santa Margarita River Watershed for land
24 located within the Reservation in that water-
25 shed arising or occurring at any time after

1 ~~June 30, 2009, resulting from the diversion or~~
 2 ~~use of water in a manner not in violation the~~
 3 ~~Pechanga Settlement Agreement or this Act;~~

4 ~~(C) claims for subsidence damage to land~~
 5 ~~located within the Reservation arising or occur-~~
 6 ~~ring at any time up to and including June 30,~~
 7 ~~2009;~~

8 ~~(D) claims for subsidence damage arising~~
 9 ~~or occurring after June 30, 2009, to land lo-~~
 10 ~~cated within the Reservation resulting from the~~
 11 ~~diversion of underground water in a manner not~~
 12 ~~in violation of the Pechanga Settlement Agree-~~
 13 ~~ment or this Act; and~~

14 ~~(E) claims arising out of, or relating in~~
 15 ~~any manner to, the negotiation or execution of~~
 16 ~~the Pechanga Settlement Agreement or the ne-~~
 17 ~~gotiation or execution of this Act.~~

18 ~~(3) CLAIMS BY THE BAND AGAINST THE~~
 19 ~~UNITED STATES.—Subject to the retention of rights~~
 20 ~~set forth in subsection (c), the Band, on behalf of~~
 21 ~~itself and its members, is authorized to execute a~~
 22 ~~waiver and release of—~~

23 (A) all claims against the United States,
 24 including the agencies and employees of the
 25 United States, relating to claims for water

1 rights in, or water of, the Santa Margarita
2 River Watershed that the United States, acting
3 in its capacity as trustee for the Band, as-
4 serted, or could have asserted, in any pro-
5 ceeding, including the Adjudication Proceeding;

6 (B) all claims against the United States,
7 including the agencies and employees of the
8 United States, relating to damages, losses, or
9 injuries to water, water rights, land, or natural
10 resources due to loss of water or water rights
11 (including damages, losses or injuries to hunt-
12 ing, fishing, gathering, or cultural rights due to
13 loss of water or water rights, claims relating to
14 interference with, diversion, or taking of water
15 or water rights, or claims relating to failure to
16 protect, acquire, replace, or develop water,
17 water rights, or water infrastructure) in the
18 Santa Margarita River Watershed that first ac-
19 curred at any time up to and including June 30,
20 2009;

21 (C) all claims against the United States,
22 including the agencies and employees of the
23 United States, relating to the pending litigation
24 of claims relating to the water rights of the
25 Band in the Adjudication Proceeding; and

1 (D) all claims against the United States,
 2 including the agencies and employees of the
 3 United States, relating to the negotiation or
 4 execution of the Pechanga Settlement Agree-
 5 ment or the negotiation or execution of this
 6 Act.

7 (b) EFFECTIVENESS OF WAIVERS AND RELEASES.—
 8 The waivers under subsection (a) shall take effect on the
 9 enforceability date.

10 (c) RESERVATION OF RIGHTS AND RETENTION OF
 11 CLAIMS.—Notwithstanding the waivers and releases au-
 12 thorized in this Act, the Band and the United States, act-
 13 ing in its capacity as trustee for the Band and allottees,
 14 retain—

15 (1) claims for enforcement of the Pechanga Set-
 16 tlement Agreement and this Act;

17 (2) claims against persons other than RCWD
 18 and EMWD;

19 (3) claims for water rights that are outside the
 20 jurisdiction of the Adjudication Court;

21 (4) claims for water rights for land within the
 22 Santa Margarita River Watershed that is outside the
 23 Reservation, subject to the condition that such
 24 claims are for water rights consistent with the water

1 rights recognized for such land in the Fallbrook De-
 2 cree;

3 ~~(5)~~ rights to use and protect water rights ac-
 4 quired on or after the enforceability date; and

5 ~~(6)~~ remedies, privileges, immunities, powers and
 6 claims, including claims for water rights, not specifi-
 7 cally waived and released pursuant to this Act and
 8 the Pechanga Settlement Agreement.

9 ~~(d)~~ EFFECT OF PECHANGA SETTLEMENT AGREE-
 10 MENT AND ACT.—Nothing in the Pechanga Settlement
 11 Agreement or this Act—

12 ~~(1)~~ affects the ability of the United States or
 13 the Band, acting as sovereign, to take actions au-
 14 thorized by law, including any laws relating to
 15 health, safety, or the environment, including—

16 ~~(A)~~ the Comprehensive Environmental Re-
 17 sponse, Compensation, and Liability Act of
 18 1980 (42 U.S.C. 9601 et seq.);

19 ~~(B)~~ the Safe Drinking Water Act (42
 20 U.S.C. 300f et seq.);

21 ~~(C)~~ the Federal Water Pollution Control
 22 Act (33 U.S.C. 1251 et seq.); and

23 ~~(D)~~ any regulations implementing the Acts
 24 described in subparagraphs ~~(A)~~ through ~~(C)~~;

1 (2) affects the ability of the United States to
2 take actions acting as trustee for any other Indian
3 tribe or an allottee of any other Indian tribe;

4 (3) confers jurisdiction on any State court—

5 (A) to interpret Federal law regarding
6 health, safety, or the environment;

7 (B) to determine the duties of the United
8 States or other parties pursuant to Federal law
9 regarding health, safety, or the environment; or

10 (C) to conduct judicial review of Federal
11 agency action; or

12 (4) waives any claim of a member of the Band
13 in an individual capacity that does not derive from
14 a right of the Band.

15 (c) ENFORCEABILITY DATE.—The enforceability date
16 shall be the date on which the Secretary publishes in the
17 Federal Register a statement of findings that—

18 (1) the Pechanga Settlement Agreement has
19 been approved by the Adjudication Court;

20 (2) all amounts authorized by this Act have
21 been deposited in the Fund;

22 (3) the waivers and releases authorized in sub-
23 section (a) have been executed by the Band and the
24 Secretary; and

25 (4) the Extension of Service Area Agreement—

1 (A) has been approved and executed by all
2 the parties to the Extension of Service Area
3 Agreement; and

4 (B) is effective and enforceable in accord-
5 ance with the terms of that Agreement.

6 (f) TOLLING OF CLAIMS.—

7 (1) IN GENERAL.—Each applicable period of
8 limitation and time-based equitable defense relating
9 to a claim described in this section shall be tolled for
10 the period beginning on the date of enactment of
11 this Act and ending on the earlier of—

12 (A) April 30, 2030;

13 (B) such alternate date as is agreed to by
14 the Band and the Secretary; and

15 (C) the enforceability date.

16 (2) EFFECTS OF SUBSECTION.—Nothing in this
17 subsection revives any claim or tolls any period of
18 limitation or time-based equitable defense that ex-
19 pired before the date of enactment of this Act.

20 (3) LIMITATION.—Nothing in this section pre-
21 cludes the tolling of any period of limitations or any
22 time-based equitable defense under any other appli-
23 cable law.

1 (g) RESTRICTION.—If the full amount of appropria-
2 tions authorized by this Act has not been made available
3 to the Secretary by April 30, 2030—

4 (1) the waivers authorized by this section shall
5 expire and no longer have any force or effect; and

6 (2) the statute of limitations for a claim waived
7 under this section shall be tolled until April 30,
8 2030.

9 (h) VOIDING OF WAIVERS.—If the waivers authorized
10 by this section are void under subsection (g)—

11 (1) the approval of the United States of the
12 Pechanga Settlement Agreement under section 4
13 shall no longer be effective;

14 (2) any unexpended Federal funds appropriated
15 or made available to carry out the activities author-
16 ized by this Act, together with any interest earned
17 on those funds; and any water right or contract to
18 use water and title to other property acquired or
19 constructed with Federal funds appropriated or
20 made available to carry out the activities authorized
21 in this Act shall be returned to the Federal Govern-
22 ment, unless otherwise agreed to by the Band and
23 the United States and approved by Congress; and

24 (3) except for Federal funds used to acquire or
25 develop property that is returned to the Federal

1 Government under paragraph (2), the United States
2 shall be entitled to set off any Federal funds appro-
3 priated or made available to carry out the activities
4 authorized by this Act that were expended or with-
5 drawn, together with any interest accrued, against
6 any claims against the United States relating to
7 water rights asserted by the Band or in any future
8 settlement of the water rights of the Band.

9 **SEC. 8. WATER FACILITIES.**

10 (a) **IN GENERAL.**—The Secretary shall, subject to the
11 availability of appropriations, using amounts from the des-
12 ignated accounts of the Fund, provide the amounts nec-
13 essary to fulfill the obligations of the Band under the Re-
14 cycled Water Infrastructure Agreement and the ESAA Ca-
15 pacity Agreement, in an amount not to exceed the
16 amounts deposited in the designated accounts for those
17 purposes, in accordance with this Act and the terms and
18 conditions of those agreements.

19 (b) **NONREIMBURSABILITY OF COSTS.**—All costs in-
20 curred by the Secretary in carrying out this section shall
21 be nonreimbursable.

22 (c) **RECYCLED WATER INFRASTRUCTURE.**—

23 (1) **IN GENERAL.**—The Secretary shall, using
24 amounts from the Pechanga Recycled Water Infra-

1 structure account, provide amounts for the Storage
2 Pond in accordance with this section.

3 ~~(2) STORAGE POND.—~~

4 ~~(A) IN GENERAL.—~~The Secretary shall,
5 subject to the availability of appropriations,
6 provide the amounts necessary to fulfill the ob-
7 ligations of the Band under the Recycled Water
8 Infrastructure Agreement for the design and
9 construction of the Storage Pond, in an amount
10 not to exceed \$2,500,000, adjusted for changes
11 since June 30, 2009, in construction costs as
12 indicated by engineering cost indices applicable
13 to types of construction required to design and
14 construct the Storage Pond.

15 ~~(B) PROCEDURE.—~~The procedure for the
16 Secretary to provide amounts pursuant to this
17 section shall be as set forth in the Recycled
18 Water Infrastructure Agreement.

19 ~~(C) LEAD AGENCY.—~~The Bureau of Rec-
20 lamation shall be the lead agency for purposes
21 of the implementation of this section.

22 ~~(D) LIABILITY.—~~The United States shall
23 have no responsibility or liability for the Stor-
24 age Pond to be designed and constructed by
25 RCWD.

1 (E) REVERSION.—If RCWD does not sub-
 2 mit the Storage Pond notice to the Band by the
 3 date that is 3 years after the enforceability
 4 date, the amounts remaining in the Pechanga
 5 Recycled Water Infrastructure account for pur-
 6 poses of the design and construction of the
 7 Storage Pond, including any interest that has
 8 accrued on those amounts, shall revert to the
 9 general fund of the Treasury.

10 (d) ESAA DELIVERY CAPACITY.—

11 (1) IN GENERAL.—The Secretary shall, using
 12 amounts from the Pechanga ESAA Delivery Capa-
 13 city account, provide amounts for Interim Capacity
 14 and Permanent Capacity in accordance with this
 15 section.

16 (2) INTERIM CAPACITY.—

17 (A) IN GENERAL.—The Secretary shall,
 18 subject to the availability of appropriations,
 19 using amounts from the ESAA Delivery Capa-
 20 city account, provide amounts necessary to fulfill
 21 the obligations of the Band under the ESAA
 22 Capacity Agreement for the provision by
 23 RCWD of Interim Capacity to the Band in an
 24 amount not to exceed \$1,000,000.

1 (B) ~~PROCEDURE.~~—The procedure for the
2 Secretary to provide amounts pursuant to this
3 section shall be as set forth in the ESAA Ca-
4 pacity Agreement.

5 (C) ~~LEAD AGENCY.~~—The Bureau of Ree-
6 lamation shall be the lead agency for purposes
7 of the implementation of this section.

8 (D) ~~LIABILITY.~~—The United States shall
9 have no responsibility or liability for the In-
10 terim Capacity to be provided by RCWD.

11 (E) ~~TRANSFER TO BAND.~~—If RCWD does
12 not provide the Interim Capacity Notice re-
13 quired pursuant to the ESAA Capacity Agree-
14 ment by the date that is 60 days after the date
15 required under the ESAA Capacity Agreement,
16 the amounts in the Pechanga ESAA Delivery
17 Capacity account for purposes of the provision
18 of Interim Capacity and Permanent Capacity,
19 including any interest that has accrued on those
20 amounts, shall be available for use by the Band
21 to provide alternative interim capacity in a
22 manner that is similar to the Interim Capacity
23 and Permanent Capacity that the Band would
24 have received had RCWD provided such Interim
25 Capacity and Permanent Capacity.

1 (3) PERMANENT CAPACITY.—

2 (A) IN GENERAL.—On receipt of the Per-
3 manent Capacity Notice pursuant to section
4 5(b) of the ESAA Capacity Agreement, the Sec-
5 retary, acting through the Bureau of Reclama-
6 tion, shall enter into negotiations with RCWD
7 and the Band to establish an agreement that
8 will allow for the disbursement of amounts from
9 the Pechanga ESAA Delivery Capacity account
10 in accordance with subparagraph (B).

11 (B) SCHEDULE OF DISBURSEMENT.—

12 (i) IN GENERAL.—Subject to clause
13 (ii), on execution of the ESAA Capacity
14 Agreement, the Secretary shall, subject to
15 the availability of appropriations and using
16 amounts from the ESAA Delivery Capacity
17 account, provide amounts necessary to ful-
18 fill the obligations of the Band under the
19 ESAA Capacity Agreement for the provi-
20 sion by RCWD of Permanent Capacity to
21 the Band in an amount not to exceed
22 \$22,000,000.

23 (ii) ADJUSTMENT.—The amount
24 under clause (i) shall be adjusted for
25 changes in construction costs since June

1 30, 2009, as indicated by engineering cost
2 indices applicable to types of construction
3 required to design and construct the Per-
4 manent Capacity.

5 (C) PROCEDURE.—The procedure for the
6 Secretary to provide funds pursuant to this sec-
7 tion shall be as set forth in the ESAA Capacity
8 Agreement.

9 (D) LEAD AGENCY.—The Bureau of Rec-
10 lamation shall be the lead agency for purposes
11 of the implementation of this section.

12 (E) LIABILITY.—The United States shall
13 have no responsibility or liability for the Perma-
14 nent Capacity to be provided by RCWD.

15 (F) TRANSFER TO BAND.—If RCWD does
16 not provide the Permanent Capacity Notice re-
17 quired pursuant to the ESAA Capacity Agree-
18 ment by the date that is 5 years after the en-
19 forceability date, the amounts in the Pechanga
20 ESAA Delivery Capacity account for purposes
21 of the provision of Permanent Capacity, includ-
22 ing any interest that has accrued on those
23 amounts, shall be available for use by the Band
24 to provide alternative permanent capacity in a
25 manner that is similar to the Permanent Ca-

1 capacity that the Band would have received had
2 RCWD provided such Permanent Capacity.

3 **SEC. 9. PECHANGA SETTLEMENT FUND.**

4 (a) **ESTABLISHMENT.**—There is established in the
5 Treasury of the United States a fund to be known as the
6 “Pechanga Settlement Fund”, to be administered by the
7 Secretary for the purpose of carrying out this Act.

8 (b) **TRANSFERS TO FUND.**—The Fund shall consist
9 of such amounts as are deposited in the Fund under sec-
10 tion 11(a).

11 (c) **ACCOUNTS OF PECHANGA SETTLEMENT FUND.**—
12 The Secretary shall establish in the Fund the following
13 accounts:

14 (1) Pechanga Recycled Water Infrastructure ac-
15 count, consisting of amounts authorized to be appro-
16 priated under section 11(a)(1).

17 (2) Pechanga ESAA Delivery Capacity account,
18 consisting of amounts authorized to be appropriated
19 under section 11(a)(2).

20 (3) Pechanga Water Fund account, consisting
21 of amounts authorized to be appropriated under sec-
22 tion 11(a)(3).

23 (4) Pechanga Water Quality account, consisting
24 of amounts authorized to be appropriated under sec-
25 tion 11(a)(4).

1 (d) DEPOSITS TO FUND.—

2 (1) IN GENERAL.—The Secretary of the Treas-
3 ury shall promptly deposit in the Fund any amounts
4 appropriated to the Fund.

5 (2) DEPOSITS TO ACCOUNTS.—The Secretary of
6 the Treasury shall deposit amounts in the accounts
7 of the Fund established under subsection (c).

8 (e) MANAGEMENT.—

9 (1) IN GENERAL.—The Secretary shall manage
10 the Fund; make investments from the Fund; and
11 make amounts available from the Fund for distribu-
12 tion to the Band consistent with the American In-
13 dian Trust Fund Management Reform Act of 1994
14 (25 U.S.C. 4001 et seq.).

15 (2) INVESTMENT OF PECHANGA SETTLEMENT
16 FUND.—The Secretary shall invest amounts in the
17 Fund in accordance with—

18 (A) the Act of April 1, 1880 (25 U.S.C.
19 161);

20 (B) the first section of the Act of June 24,
21 1938 (25 U.S.C. 162a); and

22 (C) the obligations of Federal corporations
23 and Federal Government-sponsored entities, the
24 charter documents of which provide that the ob-

1 ligations of the entities are lawful investments
2 for federally managed funds, including—

3 (i) the obligations of the United
4 States Postal Service described in section
5 2005 of title 39, United States Code;

6 (ii) bonds and other obligations of the
7 Tennessee Valley Authority described in
8 section 15d of the Tennessee Valley Au-
9 thority Act of 1933 (16 U.S.C. 831n-4);

10 (iii) mortgages, obligations, and other
11 securities of the Federal Home Loan Mort-
12 gage Corporation described in section 303
13 of the Federal Home Loan Mortgage Cor-
14 poration Act (12 U.S.C. 1452); and

15 (iv) bonds, notes, and debentures of
16 the Commodity Credit Corporation de-
17 scribed in section 4 of the Act of March 8,
18 1938 (15 U.S.C. 713a-4).

19 ~~(3) DISTRIBUTIONS FROM PECHANGA SETTLE-~~
20 ~~MENT FUND.—~~

21 (A) IN GENERAL.—Amounts from the
22 Fund shall be used in accordance with subpara-
23 graphs (B) through (E).

24 (B) PECHANGA RECYCLED WATER INFRA-
25 STRUCTURE ACCOUNT.—The Pechanga Recy-

1 eled Water Infrastructure account shall be used
2 for expenditures by the Band in accordance
3 with section 8(e).

4 (C) PECHANGA ESAA DELIVERY CAPACITY
5 ACCOUNT.—The Pechanga ESAA Delivery Ca-
6 pacity account shall be used for expenditures by
7 the Band in accordance with section 8(d).

8 (D) PECHANGA WATER FUND ACCOUNT.—
9 The Pechanga Water Fund account shall be
10 used for—

11 (i) payment of the EMWD Connection
12 Fee;

13 (ii) payment of the MWD Connection
14 Fee; and

15 (iii) any expenses, charges, or fees in-
16 curred by the Band in connection with the
17 delivery or use of water pursuant to the
18 Pechanga Settlement Agreement.

19 (E) PECHANGA WATER QUALITY AC-
20 COUNT.—The Pechanga Water Quality account
21 shall be used by the Band to fund groundwater
22 desalination activities within the Wolf Valley
23 Basin.

24 (4) WITHDRAWALS BY BAND.—

1 (A) IN GENERAL.—The Band may with-
2 draw any portion of amounts in the Fund on
3 approval by the Secretary of a tribal manage-
4 ment plan in accordance with the American In-
5 dian Trust Fund Management Reform Act of
6 1994 (25 U.S.C. 4001 et seq.).

7 (B) REQUIREMENTS.—

8 (i) IN GENERAL.—In addition to the
9 requirements under the American Indian
10 Trust Fund Management Reform Act of
11 1994 (25 U.S.C. 4001 et seq.), the tribal
12 management plan of the Band under sub-
13 paragraph (A) shall require that the Band
14 spend any amounts withdrawn from the
15 Fund in accordance with this Act.

16 (ii) ENFORCEMENT.—The Secretary
17 may carry out such judicial or administra-
18 tive actions as the Secretary determines to
19 be necessary to enforce a tribal manage-
20 ment plan to ensure that amounts with-
21 drawn by the Band from the Fund under
22 this paragraph are used in accordance with
23 this Act.

24 (C) LIABILITY.—The Secretary and the
25 Secretary of the Treasury shall not be liable for

1 the expenditure or investment of amounts with-
 2 drawn from the Fund by the Band under this
 3 paragraph.

4 ~~(D)~~ EXPENDITURE PLAN.—

5 (i) IN GENERAL.—For each fiscal
 6 year, the Band shall submit to the Sec-
 7 retary for approval an expenditure plan for
 8 any portion of the amounts described in
 9 subparagraph (A) that the Band elects not
 10 to withdraw under this paragraph during
 11 the fiscal year.

12 (ii) INCLUSION.—An expenditure plan
 13 under clause (i) shall include a description
 14 of the manner in which, and the purposes
 15 for which, funds of the Band remaining in
 16 the Fund will be used during subsequent
 17 fiscal years.

18 (iii) APPROVAL.—On receipt of an ex-
 19 penditure plan under clause (i), the Sec-
 20 retary shall approve the plan if the Sec-
 21 retary determines that the plan is—

22 (I) reasonable; and

23 (II) consistent with this Act.

24 ~~(5)~~ ANNUAL REPORTS.—The Band shall submit
 25 to the Secretary annual reports describing each ex-

1 penditure by the Band of amounts in the Fund dur-
2 ing the preceding calendar year.

3 (6) CERTAIN PER CAPITA DISTRIBUTIONS PRO-
4 HIBITED.—No amounts in the Fund shall be distrib-
5 uted to any member of the Band on a per capita
6 basis.

7 (f) AVAILABILITY.—Amounts in the Fund shall be
8 available for use by the Secretary and withdrawal by the
9 Band beginning on the enforceability date.

10 **SEC. 10. MISCELLANEOUS PROVISIONS.**

11 (a) WAIVER OF SOVEREIGN IMMUNITY BY THE
12 UNITED STATES.—Except as provided in subsections (a)
13 through (c) of section 208 of the Department of Justice
14 Appropriation Act, 1953 (43 U.S.C. 666), nothing in this
15 Act waives the sovereign immunity of the United States.

16 (b) OTHER TRIBES NOT ADVERSELY AFFECTED.—
17 Nothing in this Act quantifies or diminishes any land or
18 water right, or any claim or entitlement to land or water,
19 of an Indian tribe, band, or community other than the
20 Band.

21 (c) LIMITATION ON CLAIMS FOR REIMBURSEMENT.—

22 With respect to Indian land within the Reservation—

23 (1) the United States shall not submit against
24 any Indian-owned land located within the Reserva-
25 tion any claim for reimbursement of the cost to the

1 United States of carrying out this Act and the
2 Pechanga Settlement Agreement; and

3 ~~(2) no assessment of any Indian-owned land lo-~~
4 ~~cated within the Reservation shall be made regard-~~
5 ~~ing that cost.~~

6 ~~(d) EFFECT ON CURRENT LAW.—Nothing in this~~
7 ~~section affects any provision of law (including regulations)~~
8 ~~in effect on the day before the date of enactment of this~~
9 ~~Act with respect to preenforcement review of any Federal~~
10 ~~environmental enforcement action.~~

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

12 ~~(a) AUTHORIZATION OF APPROPRIATIONS.—~~

13 ~~(1) PECHANGA RECYCLED WATER INFRASTRUC-~~
14 ~~TURE ACCOUNT.—There is authorized to be appro-~~
15 ~~priated \$2,500,000, for deposit in the Pechanga Re-~~
16 ~~cycled Water Infrastructure account, adjusted for~~
17 ~~changes in construction costs since June 30, 2009,~~
18 ~~in engineering cost indices applicable to types of~~
19 ~~construction required to design and construct the~~
20 ~~Storage Pond, to carry out the activities described in~~
21 ~~section 8(c).~~

22 ~~(2) PECHANGA ESAA DELIVERY CAPACITY AC-~~
23 ~~COUNT.—There is authorized to be appropriated~~
24 ~~\$23,000,000, for deposit in the Pechanga ESAA De-~~
25 ~~livery Capacity account, adjusted for changes in con-~~

1 construction costs since June 30, 2009, in engineering
2 cost indices applicable to types of construction re-
3 quired to provide the Interim Capacity and the Per-
4 manent Capacity, to carry out the activities de-
5 scribed in paragraphs (2) and (3) of section 8(d).

6 (3) PECHANGA WATER FUND ACCOUNT.—There
7 is authorized to be appropriated \$12,232,000 for de-
8 posit in the Pechanga Water Fund account, adjusted
9 to reflect changes in appropriate cost indices during
10 the period beginning on the date of enactment and
11 ending on the date of appropriation, for the pur-
12 poses set forth in section 9(c)(3)(D).

13 (4) PECHANGA WATER QUALITY ACCOUNT.—
14 There is authorized to be appropriated \$2,460,000
15 for deposit in the Pechanga Water Quality account,
16 adjusted to reflect changes in appropriate cost indi-
17 ces during the period beginning on the date of enact-
18 ment and ending on the date of appropriation, for
19 the purposes set forth in section 9(c)(3)(E).

20 **SEC. 12. REPEAL ON FAILURE OF ENFORCEABILITY DATE.**

21 If the Secretary does not publish a statement of find-
22 ings under section 7(e) by April 30, 2030, or such alter-
23 native later date as is agreed to by the Band and the Sec-
24 retary, as applicable—

1 (1) this Act is repealed effective on the later of
2 May 1, 2030, or the day after the alternative date
3 agreed to by the Band and the Secretary;

4 (2) any action taken by the Secretary and any
5 contract or agreement pursuant to the authority pro-
6 vided under any provision of this Act shall be void;

7 (3) any amounts appropriated under section 11,
8 together with any interest on those amounts, shall
9 immediately revert to the general fund of the Treas-
10 ury; and

11 (4) any amounts made available under section
12 11 that remain unexpended shall immediately revert
13 to the general fund of the Treasury.

14 **SEC. 13. ANTIDEFICIENCY.**

15 The United States shall not be liable for any failure
16 to carry out any obligation or activity authorized to be
17 carried out by this Act (including any obligation or activity
18 under the Pechanga Settlement Agreement) if adequate
19 appropriations are not provided expressly by Congress to
20 carry out the purposes of this Act or there are not enough
21 monies available to carry out the purposes of this Act in—

22 (1) the Reclamation Water Settlements Fund
23 established under section 10501(a) of the Omnibus
24 Public Land Management Act of 2009 (43 U.S.C.
25 407(a)); or

1 (2) the Emergency Fund for Indian Safety and
 2 Health established by section 601(a) of the Tom
 3 Lantos and Henry J. Hyde United States Global
 4 Leadership Against HIV/AIDS, Tuberculosis, and
 5 Malaria Reauthorization Act of 2008 (25 U.S.C.
 6 443e(a)).

7 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

8 (a) *SHORT TITLE.*—*This Act may be cited as the*
 9 *“Pechanga Band of Luiseño Mission Indians Water Rights*
 10 *Settlement Act”.*

11 (b) *TABLE OF CONTENTS.*—*The table of contents of this*
 12 *Act is as follows:*

- Sec. 1. Short title; table of contents.*
- Sec. 2. Purposes.*
- Sec. 3. Definitions.*
- Sec. 4. Approval of the Pechanga Settlement Agreement.*
- Sec. 5. Tribal Water Right.*
- Sec. 6. Satisfaction of claims.*
- Sec. 7. Waiver of claims.*
- Sec. 8. Water facilities.*
- Sec. 9. Pechanga Settlement Fund.*
- Sec. 10. Miscellaneous provisions.*
- Sec. 11. Authorization of appropriations.*
- Sec. 12. Repeal on failure of enforceability date.*
- Sec. 13. Antideficiency.*

13 **SEC. 2. PURPOSES.**

14 *The purposes of this Act are—*

15 (1) *to achieve a fair, equitable, and final settle-*
 16 *ment of claims to water rights and certain claims for*
 17 *injuries to water rights in the Santa Margarita River*
 18 *Watershed for—*

19 (A) *the Band; and*

1 (B) the United States, acting in its capac-
2 ity as trustee for the Band and Allottees;

3 (2) to achieve a fair, equitable, and final settle-
4 ment of certain claims by the Band and Allottees
5 against the United States;

6 (3) to authorize, ratify, and confirm the
7 Pechanga Settlement Agreement to be entered into by
8 the Band, RCWD, and the United States;

9 (4) to authorize and direct the Secretary—

10 (A) to execute the Pechanga Settlement
11 Agreement; and

12 (B) to take any other action necessary to
13 carry out the Pechanga Settlement Agreement in
14 accordance with this Act; and

15 (5) to authorize the appropriation of amounts
16 necessary for the implementation of the Pechanga Set-
17 tlement Agreement and this Act.

18 **SEC. 3. DEFINITIONS.**

19 In this Act:

20 (1) **ADJUDICATION COURT.**—The term “Adju-
21 dication Court” means the United States District
22 Court for the Southern District of California, which
23 exercises continuing jurisdiction over the Adjudica-
24 tion Proceeding.

1 (2) *ADJUDICATION PROCEEDING.*—*The term*
2 *“Adjudication Proceeding” means litigation initiated*
3 *by the United States regarding relative water rights*
4 *in the Santa Margarita River Watershed in United*
5 *States v. Fallbrook Public Utility District et al., Civ.*
6 *No. 3:51-cv-01247 (S.D.C.A.), including any litiga-*
7 *tion initiated to interpret or enforce the relative*
8 *water rights in the Santa Margarita River Watershed*
9 *pursuant to the continuing jurisdiction of the Adju-*
10 *dications Court over the Fallbrook Decree.*

11 (3) *AFY.*—*The term “AFY” means acre-feet per*
12 *year.*

13 (4) *ALLOTTEE.*—*The term “Allottee” means an*
14 *individual who holds a beneficial real property inter-*
15 *est in an Indian allotment that is—*

16 (A) *located within the Reservation; and*

17 (B) *held in trust by the United States.*

18 (5) *BAND.*—*The term “Band” means Pechanga*
19 *Band of Luiseño Mission Indians, a federally recog-*
20 *nized sovereign Indian tribe that functions as a cus-*
21 *tom and tradition Indian tribe, acting on behalf of*
22 *itself and its members, but not members in their ca-*
23 *pacities as Allottees.*

1 (6) *CLAIMS.*—*The term “claims” means rights,*
2 *claims, demands, actions, compensation, or causes of*
3 *action, whether known or unknown.*

4 (7) *EMWD.*—*The term “EMWD” means East-*
5 *ern Municipal Water District, a municipal water dis-*
6 *trict organized and existing in accordance with the*
7 *Municipal Water District Law of 1911, Division 20*
8 *of the Water Code of the State of California, as*
9 *amended.*

10 (8) *EMWD CONNECTION FEE.*—*The term*
11 *“EMWD Connection Fee” has the meaning set forth*
12 *in the Extension of Service Area Agreement.*

13 (9) *ENFORCEABILITY DATE.*—*The term “enforce-*
14 *ability date” means the date on which the Secretary*
15 *publishes in the Federal Register the statement of*
16 *findings described in section 7(e).*

17 (10) *ESAA CAPACITY AGREEMENT.*—*The term*
18 *“ESAA Capacity Agreement” means the “Agreement*
19 *to Provide Capacity for Delivery of ESAA Water”,*
20 *among the Band, RCWD and the United States.*

21 (11) *ESAA WATER.*—*The term “ESAA Water”*
22 *means imported potable water that the Band receives*
23 *from EMWD and MWD pursuant to the Extension of*
24 *Service Area Agreement and delivered by RCWD pur-*
25 *suant to the ESAA Water Delivery Agreement.*

1 (12) *ESAA WATER DELIVERY AGREEMENT.*—*The*
2 *term “ESAA Water Delivery Agreement” means the*
3 *agreement among EMWD, RCWD, and the Band, es-*
4 *tablishing the terms and conditions of water service*
5 *to the Band.*

6 (13) *EXTENSION OF SERVICE AREA AGREE-*
7 *MENT.*—*The term “Extension of Service Area Agree-*
8 *ment” means the “Agreement for Extension of Exist-*
9 *ing Service Area”, among the Band, EMWD, and*
10 *MWD, for the provision of water service by EMWD*
11 *to a designated portion of the Reservation using*
12 *water supplied by MWD.*

13 (14) *FALLBROOK DECREE.*—

14 (A) *IN GENERAL.*—*The term “Fallbrook De-*
15 *creed” means the “Modified Final Judgment And*
16 *Decree”, entered in the Adjudication Proceeding*
17 *on April 6, 1966.*

18 (B) *INCLUSIONS.*—*The term “Fallbrook De-*
19 *creed” includes all court orders, interlocutory*
20 *judgments, and decisions supplemental to the*
21 *“Modified Final Judgment And Decree”, includ-*
22 *ing Interlocutory Judgment No. 30, Interlocutory*
23 *Judgment No. 35, and Interlocutory Judgment*
24 *No. 41.*

1 (15) *FUND.*—*The term “Fund” means the*
2 *Pechanga Settlement Fund established by section 9 of*
3 *this Act.*

4 (16) *INDIAN TRIBE.*—*The term “Indian tribe”*
5 *has the meaning given the term in section 4 of the In-*
6 *Indian Self-Determination and Education Assistance*
7 *Act (25 U.S.C. 450b).*

8 (17) *INJURY TO WATER RIGHTS.*—*The term “in-*
9 *jury to water rights” means an interference with,*
10 *diminution of, or deprivation of water rights under*
11 *Federal or State law.*

12 (18) *INTERIM CAPACITY.*—*The term “Interim*
13 *Capacity” has the meaning set forth in the ESAA Ca-*
14 *capacity Agreement.*

15 (19) *INTERIM CAPACITY NOTICE.*—*The term “In-*
16 *terim Capacity Notice” has the meaning set forth in*
17 *the ESAA Capacity Agreement.*

18 (20) *INTERLOCUTORY JUDGMENT NO. 41.*—*The*
19 *term “Interlocutory Judgment No. 41” means Inter-*
20 *locutory Judgment No. 41 issued in the Adjudication*
21 *Proceeding on November 8, 1962, including all court*
22 *orders, judgments, and decisions supplemental to that*
23 *interlocutory judgment.*

24 (21) *MWD.*—*The term “MWD” means the Met-*
25 *ropolitan Water District of Southern California, a*

1 *metropolitan water district organized and incor-*
2 *porated under the Metropolitan Water District Act of*
3 *the State of California (Stats. 1969, Chapter 209, as*
4 *amended).*

5 (22) *MWD CONNECTION FEE.*—*The term “MWD*
6 *Connection Fee” has the meaning set forth in the Ex-*
7 *tension of Service Area Agreement.*

8 (23) *PECHANGA ESAA DELIVERY CAPACITY AC-*
9 *COUNT.*—*The term “Pechanga ESAA Delivery Capac-*
10 *ity account” means the account established by section*
11 *9(c)(2) of this Act.*

12 (24) *PECHANGA RECYCLED WATER INFRASTRUC-*
13 *TURE ACCOUNT.*—*The term “Pechanga Recycled*
14 *Water Infrastructure account” means the account es-*
15 *tablished by section 9(c)(1) of this Act.*

16 (25) *PECHANGA SETTLEMENT AGREEMENT.*—*The*
17 *term “Pechanga Settlement Agreement” means the*
18 *Pechanga Settlement Agreement, together with the ex-*
19 *hibits to that agreement, entered into by the Band,*
20 *the United States on behalf of the Band, its members*
21 *and Allottees, and RCWD.*

22 (26) *PECHANGA WATER CODE.*—*The term*
23 *“Pechanga Water Code” means a water code to be*
24 *adopted by the Band in accordance with section 5(f)*
25 *of this Act.*

1 (27) *PECHANGA WATER FUND ACCOUNT.*—*The*
 2 *term “Pechanga Water Fund account” means the ac-*
 3 *count established by section 9(c)(3) of this Act.*

4 (28) *PECHANGA WATER QUALITY ACCOUNT.*—*The*
 5 *term “Pechanga Water Quality account” means the*
 6 *account established by section 9(c)(4) of this Act.*

7 (29) *PERMANENT CAPACITY.*—*The term “Perma-*
 8 *nent Capacity” has the meaning set forth in the*
 9 *ESAA Capacity Agreement.*

10 (30) *PERMANENT CAPACITY NOTICE.*—*The term*
 11 *“Permanent Capacity Notice” has the meaning set*
 12 *forth in the ESAA Capacity Agreement.*

13 (31) *RCWD.*—

14 (A) *IN GENERAL.*—*The term “RCWD”*
 15 *means the Rancho California Water District or-*
 16 *ganized pursuant to section 34000 et seq. of the*
 17 *California Water Code.*

18 (B) *INCLUSIONS.*—*The term “RCWD” in-*
 19 *cludes all real property owners for whom RCWD*
 20 *acts as an agent pursuant to an agency agree-*
 21 *ment.*

22 (32) *RECYCLED WATER INFRASTRUCTURE*
 23 *AGREEMENT.*—*The term “Recycled Water Infrastruc-*
 24 *ture Agreement” means the “Agreement for Recycled*

1 *Water Infrastructure” among the Band, RCWD, and*
2 *the United States.*

3 (33) *RECYCLED WATER TRANSFER AGREE-*
4 *MENT.—The term “Recycled Water Transfer Agree-*
5 *ment” means the “Recycled Water Transfer Agree-*
6 *ment” between the Band and RCWD.*

7 (34) *RESERVATION.—*

8 (A) *IN GENERAL.—The term “Reservation”*
9 *means the land depicted on the map attached to*
10 *the Pechanga Settlement Agreement as Exhibit I.*

11 (B) *APPLICABILITY OF TERM.—The term*
12 *“Reservation” shall be used solely for the pur-*
13 *poses of the Pechanga Settlement Agreement, this*
14 *Act, and any judgment or decree issued by the*
15 *Adjudication Court approving the Pechanga Set-*
16 *tlement Agreement, and not for any of the exhib-*
17 *its to such agreement or for any other purpose.*

18 (35) *SANTA MARGARITA RIVER WATERSHED.—*
19 *The term “Santa Margarita River Watershed” means*
20 *the watershed that is the subject of the Adjudication*
21 *Proceeding and the Fallbrook Decree.*

22 (36) *SECRETARY.—The term “Secretary” means*
23 *the Secretary of the Interior.*

24 (37) *STATE.—The term “State” means the State*
25 *of California.*

1 (38) *STORAGE POND.*—*The term “Storage Pond”*
 2 *has the meaning set forth in the Recycled Water In-*
 3 *frastructure Agreement.*

4 (39) *TRIBAL WATER RIGHT.*—*The term “Tribal*
 5 *Water Right” means the water rights ratified, con-*
 6 *firmed, and declared to be valid for the benefit of the*
 7 *Band and Allottees, as set forth and described in sec-*
 8 *tion 5 of this Act.*

9 **SEC. 4. APPROVAL OF THE PECHANGA SETTLEMENT AGREE-**
 10 **MENT.**

11 (a) *RATIFICATION OF PECHANGA SETTLEMENT*
 12 *AGREEMENT.*—

13 (1) *IN GENERAL.*—*Except as modified by this*
 14 *Act, and to the extent that the Pechanga Settlement*
 15 *Agreement does not conflict with this Act, the*
 16 *Pechanga Settlement Agreement is authorized, rati-*
 17 *fied, and confirmed.*

18 (2) *AMENDMENTS.*—*Any amendment to the*
 19 *Pechanga Settlement Agreement is authorized, rati-*
 20 *fied, and confirmed, to the extent that such an*
 21 *amendment is executed to make the Pechanga Settle-*
 22 *ment Agreement consistent with this Act.*

23 (b) *EXECUTION OF PECHANGA SETTLEMENT AGREE-*
 24 *MENT.*—

1 (1) *IN GENERAL.*—*To the extent that the*
2 *Pechanga Settlement Agreement does not conflict with*
3 *this Act, the Secretary is directed to and promptly*
4 *shall execute—*

5 (A) *the Pechanga Settlement Agreement (in-*
6 *cluding any exhibit to the Pechanga Settlement*
7 *Agreement requiring the signature of the Sec-*
8 *retary); and*

9 (B) *any amendment to the Pechanga Settle-*
10 *ment Agreement necessary to make the Pechanga*
11 *Settlement Agreement consistent with this Act.*

12 (2) *MODIFICATIONS.*—*Nothing in this Act pre-*
13 *cludes the Secretary from approving modifications to*
14 *exhibits to the Pechanga Settlement Agreement not in-*
15 *consistent with this Act, to the extent such modifica-*
16 *tions do not otherwise require congressional approval*
17 *pursuant to section 2116 of the Revised Statutes (25*
18 *U.S.C. 177) or other applicable Federal law.*

19 (c) *ENVIRONMENTAL COMPLIANCE.*—

20 (1) *IN GENERAL.*—*In implementing the*
21 *Pechanga Settlement Agreement, the Secretary shall*
22 *promptly comply with all applicable requirements*
23 *of—*

24 (A) *the National Environmental Policy Act*
25 *of 1969 (42 U.S.C. 4321 et seq.);*

1 (B) *the Endangered Species Act of 1973 (16*
2 *U.S.C. 1531 et seq.)*;

3 (C) *all other applicable Federal environ-*
4 *mental laws; and*

5 (D) *all regulations promulgated under the*
6 *laws described in subparagraphs (A) through*
7 *(C).*

8 (2) *EXECUTION OF THE PECHANGA SETTLEMENT*
9 *AGREEMENT.—*

10 (A) *IN GENERAL.—Execution of the*
11 *Pechanga Settlement Agreement by the Secretary*
12 *under this section shall not constitute a major*
13 *Federal action under the National Environ-*
14 *mental Policy Act of 1969 (42 U.S.C. 4321 et*
15 *seq.).*

16 (B) *COMPLIANCE.—The Secretary is di-*
17 *rected to carry out all Federal compliance nec-*
18 *essary to implement the Pechanga Settlement*
19 *Agreement.*

20 (3) *LEAD AGENCY.—The Bureau of Reclamation*
21 *shall be designated as the lead agency with respect to*
22 *environmental compliance.*

23 **SEC. 5. TRIBAL WATER RIGHT.**

24 (a) *INTENT OF CONGRESS.—It is the intent of Con-*
25 *gress to provide to each Allottee benefits that are equal to*

1 *or exceed the benefits Allottees possess as of the date of enact-*
 2 *ment of this Act, taking into consideration—*

3 *(1) the potential risks, cost, and time delay asso-*
 4 *ciated with litigation that would be resolved by the*
 5 *Pechanga Settlement Agreement and this Act;*

6 *(2) the availability of funding under this Act;*

7 *(3) the availability of water from the Tribal*
 8 *Water Right and other water sources as set forth in*
 9 *the Pechanga Settlement Agreement; and*

10 *(4) the applicability of section 7 of the Act of*
 11 *February 8, 1887 (25 U.S.C. 381), and this Act to*
 12 *protect the interests of Allottees.*

13 *(b) CONFIRMATION OF TRIBAL WATER RIGHT.—*

14 *(1) IN GENERAL.—A Tribal Water Right of up*
 15 *to 4,994 acre-feet of water per year that, under nat-*
 16 *ural conditions, is physically available on the Res-*
 17 *ervation is confirmed in accordance with the Find-*
 18 *ings of Fact and Conclusions of Law set forth in In-*
 19 *terlocutory Judgment No. 41, as affirmed by the*
 20 *Fallbrook Decree.*

21 *(2) USE.—Subject to the terms of the Pechanga*
 22 *Settlement Agreement, this Act, the Fallbrook Decree,*
 23 *and applicable Federal law, the Band may use the*
 24 *Tribal Water Right for any purpose on the Reserva-*
 25 *tion.*

1 (c) *HOLDING IN TRUST.*—*The Tribal Water Right, as*
2 *set forth in subsection (b), shall—*

3 (1) *be held in trust by the United States on be-*
4 *half of the Band and the Allottees in accordance with*
5 *this section;*

6 (2) *include the priority dates described in Inter-*
7 *locutory Judgment No. 41, as affirmed by the*
8 *Fallbrook Decree; and*

9 (3) *not be subject to forfeiture or abandonment.*

10 (d) *ALLOTTEES.*—

11 (1) *APPLICABILITY OF ACT OF FEBRUARY 8,*
12 *1887.*—*The provisions of section 7 of the Act of Feb-*
13 *ruary 8, 1887 (25 U.S.C. 381), relating to the use of*
14 *water for irrigation purposes shall apply to the Trib-*
15 *al Water Right.*

16 (2) *ENTITLEMENT TO WATER.*—*Any entitlement*
17 *to water of allotted land located within the exterior*
18 *boundaries of the Reservation under Federal law shall*
19 *be satisfied from the Tribal Water Right.*

20 (3) *ALLOCATIONS.*—*Allotted land located within*
21 *the exterior boundaries of the Reservation shall be en-*
22 *titled to a just and equitable allocation of water for*
23 *irrigation and domestic purposes from the Tribal*
24 *Water Right.*

1 (4) *EXHAUSTION OF REMEDIES.*—*Before assert-*
2 *ing any claim against the United States under sec-*
3 *tion 7 of the Act of February 8, 1887 (25 U.S.C. 381),*
4 *or any other applicable law, an Allottee shall exhaust*
5 *remedies available under the Pechanga Water Code or*
6 *other applicable tribal law.*

7 (5) *CLAIMS.*—*Following exhaustion of remedies*
8 *available under the Pechanga Water Code or other ap-*
9 *plicable tribal law, an Allottee may seek relief under*
10 *section 7 of the Act of February 8, 1887 (25 U.S.C.*
11 *381), or other applicable law.*

12 (6) *AUTHORITY.*—*The Secretary shall have the*
13 *authority to protect the rights of Allottees as specified*
14 *in this section.*

15 (e) *AUTHORITY OF BAND.*—

16 (1) *IN GENERAL.*—*Except as provided in para-*
17 *graph (2), the Band shall have authority to use, allo-*
18 *cate, distribute, and lease the Tribal Water Right in*
19 *accordance with—*

20 (A) *the Pechanga Settlement Agreement;*

21 *and*

22 (B) *applicable Federal law.*

23 (2) *LEASES BY ALLOTTEES.*—*An Allottee may*
24 *lease any interest in land held by the Allottee, to-*

1 *gether with any water right determined to be appur-*
2 *tenant to such interest in land.*

3 *(f) PECHANGA WATER CODE.—*

4 *(1) IN GENERAL.—Not later than 18 months*
5 *after the enforceability date, the Band shall enact a*
6 *Pechanga Water Code, that provides for—*

7 *(A) the management, regulation, and gov-*
8 *ernance of all uses of the Tribal Water Right in*
9 *accordance with the Pechanga Settlement Agree-*
10 *ment; and*

11 *(B) establishment by the Band of condi-*
12 *tions, permit requirements, and other limitations*
13 *relating to the storage, recovery, and use of the*
14 *Tribal Water Right in accordance with the*
15 *Pechanga Settlement Agreement.*

16 *(2) INCLUSIONS.—The Pechanga Water Code*
17 *shall provide—*

18 *(A) that allocations of water to Allottees*
19 *shall be satisfied with water from the Tribal*
20 *Water Right;*

21 *(B) that charges for delivery of water for ir-*
22 *rigation purposes for Allottees shall be assessed*
23 *in accordance with section 7 of the Act of Feb-*
24 *ruary 8, 1887 (25 U.S.C. 381);*

1 (C) a process by which an Allottee (or any
2 successor in interest to an Allottee) may request
3 that the Band provide water for irrigation or do-
4 mestic purposes in accordance with this Act;

5 (D) a due process system for the consider-
6 ation and determination by the Band of any re-
7 quest by an Allottee (or any successor in interest
8 to an Allottee) for an allocation of such water for
9 irrigation or domestic purposes on allotted land,
10 including a process for—

11 (i) appeal and adjudication of any de-
12 nied or disputed distribution of water; and

13 (ii) resolution of any contested admin-
14 istrative decision; and

15 (E) a requirement that any Allottee (or any
16 successor in interest to an Allottee) with a claim
17 relating to the enforcement of rights of the Allot-
18 tee (or any successor in interest to an Allottee)
19 under the Pechanga Water Code or relating to
20 the amount of water allocated to land of the Al-
21 lottee must first exhaust remedies available to the
22 Allottee under tribal law and the Pechanga
23 Water Code before initiating an action against
24 the United States or petitioning the Secretary
25 pursuant to subsection (d)(4).

1 (3) *ACTION BY SECRETARY.*—

2 (A) *IN GENERAL.*—*The Secretary shall ad-*
3 *minister the Tribal Water Right until the*
4 *Pechanga Water Code is enacted and approved*
5 *under this section.*

6 (B) *APPROVAL.*—*Any provision of the*
7 *Pechanga Water Code and any amendment to*
8 *the Pechanga Water Code that affects the rights*
9 *of Allottees shall be subject to the approval of the*
10 *Secretary, and no such provision or amendment*
11 *shall be valid until approved by the Secretary.*

12 (C) *APPROVAL PERIOD.*—*The Secretary*
13 *shall approve or disapprove the Pechanga Water*
14 *Code within a reasonable period of time after the*
15 *date on which the Band submits the Pechanga*
16 *Water Code to the Secretary for approval.*

17 (g) *EFFECT.*—*Except as otherwise specifically pro-*
18 *vided in this section, nothing in this Act—*

19 (1) *authorizes any action by an Allottee (or any*
20 *successor in interest to an Allottee) against any indi-*
21 *vidual or entity, or against the Band, under Federal,*
22 *State, tribal, or local law; or*

23 (2) *alters or affects the status of any action pur-*
24 *suant to section 1491(a) of title 28, United States*
25 *Code.*

1 **SEC. 6. SATISFACTION OF CLAIMS.**

2 (a) *IN GENERAL.*—*The benefits provided to the Band*
3 *and Allottees under the Pechanga Settlement Agreement*
4 *and this Act shall be in complete replacement of, complete*
5 *substitution for, and full satisfaction of all claims of the*
6 *Band against the United States that are waived and re-*
7 *leased pursuant to section 7.*

8 (b) *ALLOTTEE CLAIMS.*—*The benefits realized by the*
9 *Allottees under this Act shall be in complete replacement*
10 *of, complete substitution for, and full satisfaction of—*

11 (1) *all claims that are waived and released pur-*
12 *suant to section 7; and*

13 (2) *any claims of the Allottees against the*
14 *United States that the Allottees have or could have as-*
15 *serted that are similar in nature to any claim de-*
16 *scribed in section 7.*

17 (c) *NO RECOGNITION OF WATER RIGHTS.*—*Except as*
18 *provided in section 5(d), nothing in this Act recognizes or*
19 *establishes any right of a member of the Band or an Allottee*
20 *to water within the Reservation.*

21 (d) *CLAIMS RELATING TO DEVELOPMENT OF WATER*
22 *FOR RESERVATION.*—

23 (1) *IN GENERAL.*—*The amounts authorized to be*
24 *appropriated pursuant to section 11 shall be used to*
25 *satisfy any claim of the Allottees against the United*

1 *States with respect to the development or protection*
2 *of water resources for the Reservation.*

3 (2) *SATISFACTION OF CLAIMS.*—*Upon the com-*
4 *plete appropriation of amounts authorized pursuant*
5 *to section 11, any claim of the Allottees against the*
6 *United States with respect to the development or pro-*
7 *tection of water resources for the Reservation shall be*
8 *deemed to have been satisfied.*

9 **SEC. 7. WAIVER OF CLAIMS.**

10 (a) *IN GENERAL.*—

11 (1) *WAIVER OF CLAIMS BY THE BAND AND THE*
12 *UNITED STATES ACTING IN ITS CAPACITY AS TRUSTEE*
13 *FOR THE BAND.*—

14 (A) *IN GENERAL.*—*Subject to the retention*
15 *of rights set forth in subsection (c), in return for*
16 *recognition of the Tribal Water Right and other*
17 *benefits as set forth in the Pechanga Settlement*
18 *Agreement and this Act, the Band, on behalf of*
19 *itself and the members of the Band (but not trib-*
20 *al members in their capacities as Allottees), and*
21 *the United States, acting as trustee for the Band,*
22 *are authorized and directed to execute a waiver*
23 *and release of all claims for water rights within*
24 *the Santa Margarita River Watershed that the*
25 *Band, or the United States acting as trustee for*

1 *the Band, asserted or could have asserted in any*
2 *proceeding, including the Adjudication Pro-*
3 *ceeding, except to the extent that such rights are*
4 *recognized in the Pechanga Settlement Agree-*
5 *ment and this Act.*

6 *(B) CLAIMS AGAINST RCWD.—Subject to the*
7 *retention of rights set forth in subsection (c) and*
8 *notwithstanding any provisions to the contrary*
9 *in the Pechanga Settlement Agreement, the Band*
10 *and the United States, on behalf of the Band and*
11 *Allottees, fully release, acquit, and discharge*
12 *RCWD from—*

13 *(i) claims for injuries to water rights*
14 *in the Santa Margarita River Watershed*
15 *for land located within the Reservation*
16 *arising or occurring at any time up to and*
17 *including June 30, 2009;*

18 *(ii) claims for injuries to water rights*
19 *in the Santa Margarita River Watershed*
20 *for land located within the Reservation*
21 *arising or occurring at any time after June*
22 *30, 2009, resulting from the diversion or use*
23 *of water in a manner not in violation of the*
24 *Pechanga Settlement Agreement or this Act;*

1 (iii) claims for subsidence damage to
2 land located within the Reservation arising
3 or occurring at any time up to and includ-
4 ing June 30, 2009;

5 (iv) claims for subsidence damage aris-
6 ing or occurring after June 30, 2009, to
7 land located within the Reservation result-
8 ing from the diversion of underground
9 water in a manner consistent with the
10 Pechanga Settlement Agreement or this Act;
11 and

12 (v) claims arising out of, or relating in
13 any manner to, the negotiation or execution
14 of the Pechanga Settlement Agreement or
15 the negotiation or execution of this Act.

16 (2) CLAIMS BY THE UNITED STATES ACTING IN
17 ITS CAPACITY AS TRUSTEE FOR ALLOTTEES.—Subject
18 to the retention of claims set forth in subsection (c),
19 in return for recognition of the water rights of the
20 Band and other benefits as set forth in the Pechanga
21 Settlement Agreement and this Act, the United States,
22 acting as trustee for Allottees, is authorized and di-
23 rected to execute a waiver and release of all claims for
24 water rights within the Santa Margarita River Wa-
25 tershed that the United States, acting as trustee for

1 *the Allottees, asserted or could have asserted in any*
2 *proceeding, including the Adjudication Proceeding.*

3 (3) *CLAIMS BY THE BAND AGAINST THE UNITED*
4 *STATES.—Subject to the retention of rights set forth*
5 *in subsection (c), the Band, on behalf of itself and its*
6 *members (but not tribal members in their capacity as*
7 *Allottees), is authorized to execute a waiver and re-*
8 *lease of—*

9 (A) *all claims against the United States*
10 *(including the agencies and employees of the*
11 *United States) relating to claims for water rights*
12 *in, or water of, the Santa Margarita River Wa-*
13 *tershed that the United States, acting in its ca-*
14 *pacuity as trustee for the Band, asserted, or could*
15 *have asserted, in any proceeding, including the*
16 *Adjudication Proceeding, except to the extent*
17 *that such rights are recognized in the Pechanga*
18 *Settlement Agreement and this Act;*

19 (B) *all claims against the United States*
20 *(including the agencies and employees of the*
21 *United States) relating to damages, losses, or in-*
22 *juries to water, water rights, land, or natural re-*
23 *sources due to loss of water or water rights (in-*
24 *cluding damages, losses or injuries to hunting,*
25 *fishing, gathering, or cultural rights due to loss*

1 *of water or water rights, claims relating to inter-*
2 *ference with, diversion, or taking of water or*
3 *water rights, or claims relating to failure to pro-*
4 *tect, acquire, replace, or develop water, water*
5 *rights, or water infrastructure) in the Santa*
6 *Margarita River Watershed that first accrued at*
7 *any time up to and including the enforceability*
8 *date;*

9 *(C) all claims against the United States*
10 *(including the agencies and employees of the*
11 *United States) relating to the pending litigation*
12 *of claims relating to the water rights of the Band*
13 *in the Adjudication Proceeding; and*

14 *(D) all claims against the United States*
15 *(including the agencies and employees of the*
16 *United States) relating to the negotiation or exe-*
17 *cution of the Pechanga Settlement Agreement or*
18 *the negotiation or execution of this Act.*

19 ***(b) EFFECTIVENESS OF WAIVERS AND RELEASES.—***
20 *The waivers under subsection (a) shall take effect on the*
21 *enforceability date.*

22 ***(c) RESERVATION OF RIGHTS AND RETENTION OF***
23 ***CLAIMS.—****Notwithstanding the waivers and releases author-*
24 *ized in this Act, the Band, on behalf of itself and the mem-*

1 *bers of the Band, and the United States, acting in its capac-*
 2 *ity as trustee for the Band and Allottees, retain—*

3 *(1) all claims for enforcement of the Pechanga*
 4 *Settlement Agreement and this Act;*

5 *(2) all claims against any person or entity other*
 6 *than the United States and RCWD, including claims*
 7 *for monetary damages;*

8 *(3) all claims for water rights that are outside*
 9 *the jurisdiction of the Adjudication Court;*

10 *(4) all rights to use and protect water rights ac-*
 11 *quired on or after the enforceability date; and*

12 *(5) all remedies, privileges, immunities, powers*
 13 *and claims, including claims for water rights, not*
 14 *specifically waived and released pursuant to this Act*
 15 *and the Pechanga Settlement Agreement.*

16 *(d) EFFECT OF PECHANGA SETTLEMENT AGREEMENT*
 17 *AND ACT.—Nothing in the Pechanga Settlement Agreement*
 18 *or this Act—*

19 *(1) affects the ability of the United States, acting*
 20 *as sovereign, to take actions authorized by law, in-*
 21 *cluding any laws relating to health, safety, or the en-*
 22 *vironment, including—*

23 *(A) the Comprehensive Environmental Re-*
 24 *sponse, Compensation, and Liability Act of 1980*

25 *(42 U.S.C. 9601 et seq.);*

1 (B) the Safe Drinking Water Act (42 U.S.C.
2 300f et seq.);

3 (C) the Federal Water Pollution Control Act
4 (33 U.S.C. 1251 et seq.); and

5 (D) any regulations implementing the Acts
6 described in subparagraphs (A) through (C);

7 (2) affects the ability of the United States to take
8 actions acting as trustee for any other Indian tribe
9 or an Allottee of any other Indian tribe;

10 (3) confers jurisdiction on any State court—

11 (A) to interpret Federal law regarding
12 health, safety, or the environment;

13 (B) to determine the duties of the United
14 States or other parties pursuant to Federal law
15 regarding health, safety, or the environment; or

16 (C) to conduct judicial review of Federal
17 agency action;

18 (4) waives any claim of a member of the Band
19 in an individual capacity that does not derive from
20 a right of the Band;

21 (5) limits any funding that RCWD would other-
22 wise be authorized to receive under any Federal law,
23 including the Reclamation Wastewater and Ground-
24 water Study and Facilities Act (43 U.S.C. 390h et
25 seq.) as that Act applies to permanent facilities for

1 *water recycling, demineralization, and desalination,*
2 *and distribution of nonpotable water supplies in*
3 *Southern Riverside County, California;*

4 (6) *characterizes any amounts received by*
5 *RCWD under the Pechanga Settlement Agreement or*
6 *this Act as Federal for purposes of section 1649 of the*
7 *Reclamation Wastewater and Groundwater Study*
8 *and Facilities Act (43 U.S.C. 390h-32); or*

9 (7) *affects the requirement of any party to the*
10 *Pechanga Settlement Agreement or any of the exhibits*
11 *to the Pechanga Settlement Agreement to comply with*
12 *the National Environmental Policy Act of 1969 (42*
13 *U.S.C. 4321 et seq.) or the California Environmental*
14 *Quality Act prior to performing the respective obliga-*
15 *tions of that party under the Pechanga Settlement*
16 *Agreement or any of the exhibits to the Pechanga Set-*
17 *tlement Agreement.*

18 (e) *ENFORCEABILITY DATE.*—*The enforceability date*
19 *shall be the date on which the Secretary publishes in the*
20 *Federal Register a statement of findings that—*

21 (1) *the Adjudication Court has approved and en-*
22 *tered a judgment and decree approving the Pechanga*
23 *Settlement Agreement in substantially the same form*
24 *as Appendix 2 to the Pechanga Settlement Agreement;*

1 (2) *all amounts authorized by this Act have been*
2 *deposited in the Fund;*

3 (3) *the waivers and releases authorized in sub-*
4 *section (a) have been executed by the Band and the*
5 *Secretary;*

6 (4) *the Extension of Service Area Agreement—*

7 (A) *has been approved and executed by all*
8 *the parties to the Extension of Service Area*
9 *Agreement; and*

10 (B) *is effective and enforceable in accord-*
11 *ance with the terms of that Agreement; and*

12 (5) *the ESAA Water Delivery Agreement—*

13 (A) *has been approved and executed by all*
14 *the parties to the ESAA Water Delivery Agree-*
15 *ment; and*

16 (B) *is effective and enforceable in accord-*
17 *ance with the terms of that agreement.*

18 (f) *TOLLING OF CLAIMS.—*

19 (1) *IN GENERAL.—Each applicable period of*
20 *limitation and time-based equitable defense relating*
21 *to a claim described in this section shall be tolled for*
22 *the period beginning on the date of enactment of this*
23 *Act and ending on the earlier of—*

1 (A) *April 30, 2030, or such alternate later*
2 *date as is agreed to be the Band and the Sec-*
3 *retary; or*

4 (B) *the enforceability date.*

5 (2) *EFFECTS OF SUBSECTION.—Nothing in this*
6 *subsection revives any claim or tolls any period of*
7 *limitation or time-based equitable defense that ex-*
8 *pired before the date of enactment of this Act.*

9 (3) *LIMITATION.—Nothing in this section pre-*
10 *cludes the tolling of any period of limitations or any*
11 *time-based equitable defense under any other applica-*
12 *ble law.*

13 (g) *TERMINATION.—*

14 (1) *IN GENERAL.—If all of the amounts author-*
15 *ized to be appropriated to the Secretary under this*
16 *Act have not been made available to the Secretary by*
17 *April 30, 2030—*

18 (A) *the waivers authorized in this section*
19 *shall expire and be of no further force or effect;*
20 *and*

21 (B) *all statutes of limitations applicable to*
22 *any claim otherwise waived shall be tolled until*
23 *April 30, 2030.*

24 (2) *VOIDING OF WAIVERS.—If the waivers pursu-*
25 *ant to this section are void under paragraph (1)—*

1 (A) the approval of the United States of the
2 *Pechanga Settlement Agreement* under section 4
3 of this Act shall be void and have no further
4 force or effect;

5 (B) any unexpended Federal amounts ap-
6 propriated or made available to carry out this
7 Act, together with any interest earned on those
8 amounts, and any water rights or contracts to
9 use water and title to other property acquired or
10 constructed with Federal amounts appropriated
11 or made available to carry out this Act shall be
12 returned to the Federal Government, unless oth-
13 erwise agreed to by the Band and the United
14 States and approved by Congress; and

15 (C) except for Federal amounts used to ac-
16 quire or develop property that is returned to the
17 Federal Government under subparagraph (B),
18 the United States shall be entitled to set off any
19 Federal amounts appropriated or made available
20 to carry out this Act that were expended or with-
21 drawn, together with any interest accrued,
22 against any claims against the United States re-
23 lating to water rights asserted by the Band or
24 Allottees in any future settlement of the water
25 rights of the Band or Allottees.

1 **SEC. 8. WATER FACILITIES.**

2 (a) *IN GENERAL.*—*The Secretary shall, subject to the*
3 *availability of appropriations, using amounts from the des-*
4 *ignated accounts of the Fund, provide the amounts nec-*
5 *essary to fulfill the obligations of the Band under the Recy-*
6 *clad Water Infrastructure Agreement and the ESAA Capac-*
7 *ity Agreement, in an amount not to exceed the amounts*
8 *deposited in the designated accounts for such purposes, in*
9 *accordance with this Act and the terms and conditions of*
10 *such agreements.*

11 (b) *NONREIMBURSABILITY OF COSTS.*—*All costs in-*
12 *curred by the Secretary in carrying out this section shall*
13 *be nonreimbursable.*

14 (c) *RECYCLED WATER INFRASTRUCTURE.*—

15 (1) *IN GENERAL.*—*The Secretary shall, using*
16 *amounts from the Pechanga Recycled Water Infra-*
17 *structure account, provide amounts for the Storage*
18 *Pond in accordance with this section.*

19 (2) *STORAGE POND.*—

20 (A) *IN GENERAL.*—*The Secretary shall, sub-*
21 *ject to the availability of appropriations, provide*
22 *the amounts necessary to fulfill the obligations of*
23 *the Band under the Recycled Water Infrastruc-*
24 *ture Agreement for the design and construction*
25 *of the Storage Pond, in an amount not to exceed*
26 *\$2,656,374.*

1 (B) *PROCEDURE.*—*The procedure for the*
2 *Secretary to provide amounts pursuant to this*
3 *section shall be as set forth in the Recycled*
4 *Water Infrastructure Agreement.*

5 (C) *LEAD AGENCY.*—*The Bureau of Rec-*
6 *lamation shall be the lead agency for purposes of*
7 *the implementation of this section.*

8 (D) *LIABILITY.*—*The United States shall*
9 *have no responsibility or liability for the Storage*
10 *Pond.*

11 (d) *ESAA DELIVERY CAPACITY.*—

12 (1) *IN GENERAL.*—*The Secretary shall, using*
13 *amounts from the Pechanga ESAA Delivery Capacity*
14 *account, provide amounts for Interim Capacity and*
15 *Permanent Capacity in accordance with this section.*

16 (2) *INTERIM CAPACITY.*—

17 (A) *IN GENERAL.*—*The Secretary shall, sub-*
18 *ject to the availability of appropriations, using*
19 *amounts from the ESAA Delivery Capacity ac-*
20 *count, provide amounts necessary to fulfill the*
21 *obligations of the Band under the ESAA Capac-*
22 *ity Agreement for the provision by RCWD of In-*
23 *terim Capacity to the Band in an amount not*
24 *to exceed \$1,000,000.*

1 (B) *PROCEDURE.*—*The procedure for the*
2 *Secretary to provide amounts pursuant to this*
3 *section shall be as set forth in the ESAA Capac-*
4 *ity Agreement.*

5 (C) *LEAD AGENCY.*—*The Bureau of Rec-*
6 *lamation shall be the lead agency for purposes of*
7 *the implementation of this section.*

8 (D) *LIABILITY.*—*The United States shall*
9 *have no responsibility or liability for the Interim*
10 *Capacity to be provided by RCWD.*

11 (E) *TRANSFER TO BAND.*—*If RCWD does*
12 *not provide the Interim Capacity Notice required*
13 *pursuant to the ESAA Capacity Agreement by*
14 *the date that is 60 days after the date required*
15 *under the ESAA Capacity Agreement, the*
16 *amounts in the Pechanga ESAA Delivery Capac-*
17 *ity account for purposes of the provision of In-*
18 *terim Capacity and Permanent Capacity, in-*
19 *cluding any interest that has accrued on those*
20 *amounts, shall be available for use by the Band*
21 *to provide alternative interim capacity in a*
22 *manner that is similar to the Interim Capacity*
23 *and Permanent Capacity that the Band would*
24 *have received had RCWD provided such Interim*
25 *Capacity and Permanent Capacity.*

1 (3) *PERMANENT CAPACITY.*—

2 (A) *IN GENERAL.*—On receipt of the Perma-
3 nent Capacity Notice pursuant to section 5(b) of
4 the ESAA Capacity Agreement, the Secretary,
5 acting through the Bureau of Reclamation, shall
6 enter into negotiations with RCWD and the
7 Band to establish an agreement that will allow
8 for the disbursement of amounts from the
9 Pechanga ESAA Delivery Capacity account in
10 accordance with subparagraph (B).

11 (B) *SCHEDULE OF DISBURSEMENT.*—

12 (i) *IN GENERAL.*—Subject to clause
13 (ii), on execution of the ESAA Capacity
14 Agreement, the Secretary shall, subject to
15 the availability of appropriations and using
16 amounts from the ESAA Delivery Capacity
17 account, provide amounts necessary to ful-
18 fill the obligations of the Band under the
19 ESAA Capacity Agreement for the provi-
20 sion by RCWD of Permanent Capacity to
21 the Band in an amount not to exceed
22 \$16,900,000.

23 (ii) *ADJUSTMENT.*—The amount under
24 clause (i) shall be adjusted for changes in
25 construction costs since June 30, 2009, as

1 *indicated by engineering cost indices appli-*
2 *cable to types of construction required to de-*
3 *sign and construct the Permanent Capacity,*
4 *until the date on which all amounts author-*
5 *ized to be appropriated under this Act have*
6 *been made available.*

7 (C) *PROCEDURE.*—*The procedure for the*
8 *Secretary to provide funds pursuant to this sec-*
9 *tion shall be as set forth in the ESAA Capacity*
10 *Agreement.*

11 (D) *LEAD AGENCY.*—*The Bureau of Rec-*
12 *lamation shall be the lead agency for purposes of*
13 *the implementation of this section.*

14 (E) *LIABILITY.*—*The United States shall*
15 *have no responsibility or liability for the Perma-*
16 *nent Capacity to be provided by RCWD.*

17 (F) *TRANSFER TO BAND.*—*If RCWD does*
18 *not provide the Permanent Capacity Notice re-*
19 *quired pursuant to the ESAA Capacity Agree-*
20 *ment by the date that is 5 years after the en-*
21 *forceability date, the amounts in the Pechanga*
22 *ESAA Delivery Capacity account for purposes of*
23 *the provision of Permanent Capacity, including*
24 *any interest that has accrued on those amounts,*
25 *shall be available for use by the Band to provide*

1 *alternative permanent capacity in a manner*
2 *that is similar to the Permanent Capacity that*
3 *the Band would have received had RCWD pro-*
4 *vided such Permanent Capacity.*

5 **SEC. 9. PECHANGA SETTLEMENT FUND.**

6 (a) *ESTABLISHMENT.*—*There is established in the*
7 *Treasury of the United States a fund to be known as the*
8 *“Pechanga Settlement Fund”, to be managed, invested, and*
9 *distributed by the Secretary and to be available until ex-*
10 *pended, together with any interest earned on those amounts,*
11 *to be used solely for the purpose of carrying out this Act.*

12 (b) *TRANSFERS TO FUND.*—*The Fund shall consist of*
13 *such amounts as are deposited in the Fund under section*
14 *11(a) of this Act, together with any interest earned on those*
15 *amounts.*

16 (c) *ACCOUNTS OF PECHANGA SETTLEMENT FUND.*—
17 *The Secretary shall establish in the Fund the following ac-*
18 *counts:*

19 (1) *Pechanga Recycled Water Infrastructure ac-*
20 *count, consisting of amounts authorized pursuant to*
21 *section 11(a)(1) of this Act.*

22 (2) *Pechanga ESAA Delivery Capacity account,*
23 *consisting of amounts authorized pursuant to section*
24 *11(a)(2) of this Act.*

1 (3) *Pechanga Water Fund account, consisting of*
2 *amounts authorized pursuant to section 11(a)(3) of*
3 *this Act.*

4 (4) *Pechanga Water Quality account, consisting*
5 *of amounts authorized pursuant to section 11(a)(4) of*
6 *this Act.*

7 (d) *MANAGEMENT OF FUND.—The Secretary shall*
8 *manage, invest, and distribute all amounts in the Fund in*
9 *a manner that is consistent with the investment authority*
10 *of the Secretary under—*

11 (1) *the first section of the Act of June 24, 1938*
12 *(25 U.S.C. 162a);*

13 (2) *the American Indian Trust Fund Manage-*
14 *ment Reform Act of 1994 (25 U.S.C. 4001 et seq.);*
15 *and*

16 (3) *this section.*

17 (e) *AVAILABILITY OF AMOUNTS.—Amounts appro-*
18 *riated to, and deposited in, the Fund, including any in-*
19 *vestment earnings, shall be made available to the Band by*
20 *the Secretary beginning on the enforceability date.*

21 (f) *WITHDRAWALS BY BAND PURSUANT TO THE AMER-*
22 *ICAN INDIAN TRUST FUND MANAGEMENT REFORM ACT.—*

23 (1) *IN GENERAL.—The Band may withdraw all*
24 *or part of the amounts in the Fund upon approval*
25 *by the Secretary of a tribal management plan sub-*

1 *mited by the Band in accordance with the American*
2 *Indian Trust Fund Management Reform Act of 1994*
3 *(25 U.S.C. 4001 et seq.).*

4 (2) *REQUIREMENTS.—*

5 (A) *IN GENERAL.—**In addition to the re-*
6 *quirements under the American Indian Trust*
7 *Fund Management Reform Act of 1994 (25*
8 *U.S.C. 4001 et seq.), the tribal management plan*
9 *under paragraph (1) shall require that the Band*
10 *shall spend all amounts withdrawn from the*
11 *Fund in accordance with this Act.*

12 (B) *ENFORCEMENT.—**The Secretary may*
13 *carry out such judicial or administrative actions*
14 *as the Secretary determines to be necessary to*
15 *enforce the tribal management plan to ensure*
16 *that amounts withdrawn by the Band from the*
17 *Fund under this subsection are used in accord-*
18 *ance with this Act.*

19 (g) *WITHDRAWALS BY BAND PURSUANT TO AN EX-*
20 *PENDITURE PLAN.—*

21 (1) *IN GENERAL.—**The Band may request that*
22 *all or part of the amounts in the Fund be disbursed*
23 *on approval by the Secretary of an expenditure plan.*

24 (2) *REQUIREMENTS.—**The expenditure plan*
25 *under paragraph (1) shall include a description of the*

1 *manner and purpose for which the amounts proposed*
2 *to be disbursed from the Fund will be used, in accord-*
3 *ance with subsection (h).*

4 (3) *APPROVAL.—On receipt of an expenditure*
5 *plan under this subsection, the Secretary shall ap-*
6 *prove the plan, if the Secretary determines that the*
7 *plan is consistent with the purposes of this Act.*

8 (4) *ENFORCEMENT.—The Secretary may carry*
9 *out such judicial or administrative actions as the Sec-*
10 *retary determines to be necessary to enforce an ex-*
11 *penditure plan to ensure that amounts disbursed*
12 *under this subsection are used in accordance with this*
13 *Act.*

14 (h) *USES.—Amounts from the Fund shall be used by*
15 *the Band for the following purposes:*

16 (1) *PECHANGA RECYCLED WATER INFRASTRUC-*
17 *TURE ACCOUNT.—The Pechanga Recycled Water In-*
18 *frastructure account shall be used for expenditures by*
19 *the Band in accordance with section 8(c).*

20 (2) *PECHANGA ESAA DELIVERY CAPACITY AC-*
21 *COUNT.—The Pechanga ESAA Delivery Capacity ac-*
22 *count shall be used for expenditures by the Band in*
23 *accordance with section 8(d).*

24 (3) *PECHANGA WATER FUND ACCOUNT.—The*
25 *Pechanga Water Fund account shall be used for—*

1 (A) *payment of the EMWD Connection Fee;*

2 (B) *payment of the MWD Connection Fee;*

3 *and*

4 (C) *any expenses, charges, or fees incurred*
 5 *by the Band in connection with the delivery or*
 6 *use of water pursuant to the Pechanga Settle-*
 7 *ment Agreement.*

8 (4) *PECHANGA WATER QUALITY ACCOUNT.—The*
 9 *Pechanga Water Quality account shall be used by the*
 10 *Band to fund groundwater desalination activities*
 11 *within the Wolf Valley Basin.*

12 (i) *LIABILITY.—The Secretary and the Secretary of the*
 13 *Treasury shall not be liable for the expenditure of, or the*
 14 *investment of any amounts withdrawn from, the Fund by*
 15 *the Band under subsection (f) or (g).*

16 (j) *NO PER CAPITA DISTRIBUTIONS.—No portion of*
 17 *the Fund shall be distributed on a per capita basis to any*
 18 *member of the Band.*

19 **SEC. 10. MISCELLANEOUS PROVISIONS.**

20 (a) *WAIVER OF SOVEREIGN IMMUNITY BY THE UNITED*
 21 *STATES.—Except as provided in subsections (a) through (c)*
 22 *of section 208 of the Department of Justice Appropriation*
 23 *Act, 1953 (43 U.S.C. 666), nothing in this Act waives the*
 24 *sovereign immunity of the United States.*

1 (b) *OTHER TRIBES NOT ADVERSELY AFFECTED.*—
2 *Nothing in this Act quantifies or diminishes any land or*
3 *water right, or any claim or entitlement to land or water,*
4 *of an Indian tribe, band, or community other than the*
5 *Band.*

6 (c) *LIMITATION ON CLAIMS FOR REIMBURSEMENT.*—
7 *With respect to Indian land within the Reservation—*

8 (1) *the United States shall not submit against*
9 *any Indian-owned land located within the Reserva-*
10 *tion any claim for reimbursement of the cost to the*
11 *United States of carrying out this Act and the*
12 *Pechanga Settlement Agreement; and*

13 (2) *no assessment of any Indian-owned land lo-*
14 *cated within the Reservation shall be made regarding*
15 *that cost.*

16 (d) *EFFECT ON CURRENT LAW.*—*Nothing in this sec-*
17 *tion affects any provision of law (including regulations) in*
18 *effect on the day before the date of enactment of this Act*
19 *with respect to preenforcement review of any Federal envi-*
20 *ronmental enforcement action.*

21 **SEC. 11. AUTHORIZATION OF APPROPRIATIONS.**

22 (a) *AUTHORIZATION OF APPROPRIATIONS.*—

23 (1) *PECHANGA RECYCLED WATER INFRASTRUC-*
24 *TURE ACCOUNT.*—*There is authorized to be appro-*
25 *priated \$2,656,374, for deposit in the Pechanga Recy-*

1 *pled Water Infrastructure account, to carry out the*
2 *activities described in section 8(c).*

3 (2) *PECHANGA ESAA DELIVERY CAPACITY AC-*
4 *COUNT.—There is authorized to be appropriated*
5 *\$17,900,000, for deposit in the Pechanga ESAA De-*
6 *livery Capacity account, which amount shall be ad-*
7 *justed for changes in construction costs since June 30,*
8 *2009, as is indicated by ENR Construction Cost*
9 *Index, 20-City Average, as applicable to types of con-*
10 *struction required to provide the Interim Capacity*
11 *and the Permanent Capacity, to carry out the activi-*
12 *ties described in paragraphs (2) and (3) of section*
13 *8(d), with such adjustment ending on the date on*
14 *which all amounts authorized to be appropriated*
15 *under this section have been made available.*

16 (3) *PECHANGA WATER FUND ACCOUNT.—There is*
17 *authorized to be appropriated \$5,483,653, for deposit*
18 *in the Pechanga Water Fund account, which amount*
19 *shall be adjusted for changes in construction costs in*
20 *the Consumer Price Index since June 30, 2009, with*
21 *such adjustment ending on the date on which all*
22 *amounts authorized to be appropriated under this sec-*
23 *tion have been made available, for the purposes set*
24 *forth in section 9(h)(3).*

1 (4) *PECHANGA WATER QUALITY ACCOUNT.*—
2 *There is authorized to be appropriated \$2,460,000, for*
3 *deposit in the Pechanga Water Quality account,*
4 *which amount shall be adjusted for changes in con-*
5 *struction costs in the Consumer Price Index since*
6 *June 30, 2009, with such adjustment ending on the*
7 *date on which all amounts authorized to be appro-*
8 *priated under this section have been made available,*
9 *for the purposes set forth in section 9(e)(4).*

10 **SEC. 12. REPEAL ON FAILURE OF ENFORCEABILITY DATE.**

11 *If the Secretary does not publish a statement of find-*
12 *ings under section 7(e) by April 30, 2021, or such alter-*
13 *native later date as is agreed to by the Band and the Sec-*
14 *retary, as applicable—*

15 (1) *this Act is repealed effective on the later of*
16 *May 1, 2021, or the day after the alternative date*
17 *agreed to by the Band and the Secretary;*

18 (2) *any action taken by the Secretary and any*
19 *contract or agreement pursuant to the authority pro-*
20 *vided under any provision of this Act shall be void;*

21 (3) *any amounts appropriated under section 11,*
22 *together with any interest on those amounts, shall im-*
23 *mediately revert to the general fund of the Treasury;*
24 *and*

1 (4) *any amounts made available under section*
2 *11 that remain unexpended shall immediately revert*
3 *to the general fund of the Treasury.*

4 **SEC. 13. ANTIDEFICIENCY.**

5 *The United States shall not be liable for failure to*
6 *carry out any obligation or activity authorized to be carried*
7 *out under this Act (including any such obligation or activ-*
8 *ity under the Pechanga Settlement Agreement) if adequate*
9 *appropriations are not provided expressly to carry out the*
10 *purposes of this Act by Congress or there are not enough*
11 *monies available to carry out the purposes of this Act in—*

12 (1) *the Reclamation Water Settlements Fund es-*
13 *tablished under section 10501 of Public Law 111–11;*
14 *or*

15 (2) *the “Emergency Fund for Indian Safety and*
16 *Health” established by section 601(a) of the Tom*
17 *Lantos and Henry J. Hyde United States Global*
18 *Leadership Against HIV/AIDS, Tuberculosis, and*
19 *Malaria Reauthorization Act of 2008 (22 U.S.C. 7601*
20 *et seq.).*

Calendar No. 349

113TH CONGRESS
2^D SESSION

S. 1219

A BILL

To authorize the Pechanga Band of Luiseño Mission Indians Water Rights Settlement, and for other purposes.

APRIL 3, 2014

Reported with an amendment