

An Act

Legislative Act 29-01

**A LEGISLATIVE ACT APPROVING A FEDERAL LEGISLATION SETTling
THE ARKANSAS RIVERBED CLAIMS OF THE CHOCTAW, CHICKASAW
AND CHEROKEE NATIONS; AND DECLARING AN EMERGENCY**

BE IT ENACTED BY THE CHEROKEE NATION:

SECTION 1. FINDINGS.

- A. In 1970, the United States Supreme Court decided in the case of *Choctaw Nation vs. Oklahoma*, 396 U.S. 620 (1970), that the Choctaw, Chickasaw and Cherokee Nations owned the Arkansas Riverbed from the confluence of the Arkansas River and the Canadian River eastward to the Arkansas state line; and
- B. In 1989, the Choctaw, Chickasaw, and Cherokee Nations filed lawsuits against the United States in the United States Court of Federal Claims seeking damages for the Government's use and mismanagement of tribal trust resources along the Arkansas River and these actions are still pending; and
- C. In 1990, the U.S. Bureau of Land Management began conducting a cadastral survey of the tribal lands along the Arkansas River which is now complete; and
- D. Third parties are wrongfully occupying and claiming the said surveyed lands to the detriment of the said tribes in that the Tribes have been and continue to be deprived of the use and benefits of said lands; and
- E. The Tribes have demanded that the U.S. Government exercise its trust responsibilities by removing the said third parties from Tribal lands and extinguishing their claims in order that the Tribes may have the beneficial use of said premises; and
- F. From time to time over the past several years the Tribes and the U.S. Government have engaged in settlement negotiations with a view toward eliminating the necessity for the removal of the third party claimants from the tribal lands and payment to the Tribes for the value of said resources together with compensation for past mismanagement of said tribal resources by the U.S. Government; and
- G. Any settlement of the Arkansas Riverbed litigation with the United States requires the approval of the Tribal Council of the Cherokee Nation and legislation by the United States Congress.

Section 2. APPROVAL AND ACCEPTANCE OF SETTLEMENT.

This Legislative Act shall be cited as approval and acceptance of the following settlement terms for resolving the Tribes' claims against the United States and third parties occupying Tribal trust lands along the Arkansas River:

- A. Contingent upon the United States Congress passing and the President signing federal legislation that is consistent with the terms of this Legislative Act, the Cherokee Nation will dismiss, release and forever discharge its claims asserted against the United States in the United States Court of Federal Claims, Case No.

218-89-L, and disclaim any right, title, or interest of the Nation in the approximately 7,750 acres of dry bed lands contiguous to and above the high water mark of the present channel of the Arkansas River within, but only within, Townships 9 and 10 North, in Range 25 East, and Townships 10 and 11 North in Range 27 East, all east of the Indian Base and Meridian in the State of Oklahoma.

- B. All of the Cherokee Nation's interest and title to lands, including minerals, remaining within and below the "high water mark" (wetbed lands) of the Arkansas River from its confluence with the Canadian River to the Arkansas state line and all dry bed lands located outside the townships hereinabove described in paragraph (A) shall continue to be held by the United States in Trust for the Cherokee Nation, and shall be protected in accordance with the applicable law governing tribal trust lands.
- C. The Cherokee Nation shall retain all of its right, title and interest it may have in and to the water flowing in said river and its tributaries.
- D. In exchange for the foregoing agreement by the Cherokee Nation, the United States of America agrees that to the extent the United States Corp of Engineers determines it is able to effectively maintain the Kerr-McClellan Navigation Way on said river without retaining title to dry lands above the high water mark of the Arkansas River, said lands, after being declared surplus, shall be promptly conveyed by the United States in Trust to the Tribe or Tribes within whose boundary the land is located.
- E. The Cherokee Nation shall be paid the sum of twenty million six hundred forty six thousand six hundred and twenty-two dollars and fifty cents (\$20,646,622.50), to be deposited in a special trust fund account, said sum to be in full satisfaction of, and compensation for, all of the Cherokee Nation's respective right, title and interest in and to the dry bad lands located in the Townships hereinabove set forth in paragraph (A) and all alleged damages in the litigation pending in the United States Court of Federal Claims.
- F. In addition to the sum hereinabove set forth in the immediate preceding paragraph, the United States shall pay to and deposit in the aforementioned special trust fund the further sum of four million dollars (\$4,000,000), representing the present value of the fair market rentals for the location and future operation in perpetuity of the two hydro-generation and related facilities at the Webber Falls Lock and Dam and the Kerr Lock and Dam on the Arkansas River.
- G. The principal amounts of the foregoing funds shall be deposited into the accounts established, as aforesaid, and shall be invested by the U.S. Secretary of the Interior in accordance with current laws and regulations for the investment of tribal trust funds. There shall be no per capita payments, but the principal amounts of said funds and any amounts earned thereon shall be made available to the Cherokee Nation from said account for expenditure on purposes which may include, but not be limited to, construction or repair of health care facilities, law enforcement, cultural or other education activities, economic development, social services, trust land and land acquisition in accordance with the Secretary's regulations for accepting land into trust for Indian tribes. Provided that the federal legislation authorizing and approving such settlement must expressly authorize mandatory trust acquisitions on behalf of the Cherokee Nation if the lands to be acquired are located anywhere within Township 12 North, Range 21 East, in Sequoyah County, Township 11 North, Range 18 East, in McIntosh County, Townships 11 and 12 North, Range 19 East, or Township 12 North, Range 20 East, in Muskogee County, State of Oklahoma and not, within the limits of any incorporated municipality as of January 1, 2001, provided that the land to be acquired meets the Department of Interior's minimum environmental standards for real estate acquisitions as in effect on January 1, 2001.

- H. The Secretary shall disburse the funds from said trust account established under the said agreement pursuant to a budget adopted by the Tribal Council of the Cherokee Nation setting forth the amount and the intended use of said funds.
- I. Any settlement funds received by the Cherokee Nation that are attributable to the Nation's disclaimer as to disputed lands shall be used for land acquisition purposes only.


SECTION 3. SEVERABILITY

The provisions of this Act are severable and if any part or provision hereof shall be held void the decision of the court so holding shall not affect or impair any of the remaining parts or provisions of this Act.

SECTION 4. EFFECTIVE DATE: EMERGENCY

It being immediately necessary for the welfare of the Cherokee Nation, the Council hereby declares that an emergency exists, by reason whereof this Act shall take effect immediately upon its approval and signatures.

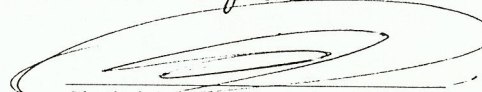
Passed by the Cherokee Nation Tribal Council on the _____ day of _____, 2001.


 Hastings Shade, President
 Council of the Cherokee Nation

ATTEST:

 Stephanie Wickliffe-Shepherd, Secretary
 Council of the Cherokee Nation

Approved and signed by the Principal Chief this 9th day of August, 2001.


 Chadwick Smith, Principal Chief
 Cherokee Nation

ATTEST:

 Jay Hannah, Secretary-Treasurer
 Cherokee Nation

YEAS AND NAYS AS RECORDED:

John Ketcher	<u>YEA</u>	Melvina Shotpouch	<u>ABSENT</u>
Don Crittenden	<u>ABSENT</u>	Stephanie Wickliffe-Shepherd	<u>YEA</u>
Harold "Jiggs" Phillips	<u>ABSENT</u>	John Keener	<u>YEA</u>
Jackie Bob Martin	<u>YEA</u>	Harold DeMoss	<u>YEA</u>
Mary Flute-Cooksey	<u>YEA</u>	Dorothy McIntosh	<u>YEA</u>
David Thornton, Sr.	<u>YEA</u>	Nick Lay	<u>YEA</u>
Don Garvin	<u>YEA</u>	Charles "Chuck" Hoskin	<u>YEA</u>
Barbara Starr-Scott	<u>YEA</u>		