

CHICKASAW TRIBAL LEGISLATURE

**Permanent Resolution Number 18-036
Approval of A Congressional Settlement
of the Arkansas Riverbed Claims
of the Chickasaw, Choctaw and Cherokee Nations**

Explanation: This resolution approves of a settlement with the United States of America contingent upon the U.S. Congress passing and the President signing federal legislation that is consistent with the terms expressed in this resolution.

The Chickasaw Nation in exchange for the mentioned monetary consideration, will dismiss, release and forever discharge its claims asserted against the United States in the United States Court of Federal Claims, Case No. 630-89-L, and disclaim any right, title, or interest of the Nation in approximately 7,750 acres of "dry bed" lands contiguous to and above the high water mark of the present channel of the Arkansas River. The Nation however, will retain all of its right, title and interest it may have in all "wetbeds" or land below the "high water mark" and to the water flowing in said river and its tributaries.

Requested By: Arkansas Riverbed Authority
Board of Directors

Presented By: Judy Goforth Parker, Chairman Pro Tempore
Legislative Committee

CHICKASAW TRIBAL LEGISLATURE

Permanent Resolution Number 18-036 Approval of A Congressional Settlement of the Arkansas Riverbed Claims of the Chickasaw, Choctaw, and Cherokee Nations

- WHEREAS,** in accordance with Article VII, Sections 4 and 7 of the Constitution of the Chickasaw Nation, the Chickasaw Tribal Legislature shall enact rules and regulations pertaining to the Chickasaw Nation, and shall make decisions pertaining to the acquisition, leasing, disposition and management of real property, subject to federal law, and
- WHEREAS,** in accordance with Article XI, Section 1 of the Constitution of the Chickasaw Nation, the Governor shall perform all duties appertaining to the Office of Chief Executive. He shall sign official papers on behalf of the Nation, and
- WHEREAS,** in 1970, the United States Supreme Court decided in the case of "Choctaw Nation vs. Oklahoma, 396 U.S. 620, (1970)" that the Chickasaw, Choctaw 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
- WHEREAS,** in 1989, the Chickasaw, Choctaw 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
- WHEREAS,** in 1990, the U.S. Bureau of Land Management began conducting a cadastral survey of the tribal lands which is now complete, and
- WHEREAS,** 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
- WHEREAS,** the Tribes have demanded that the U.S. Government exercise its trust responsibilities by removing the said third parties and extinguishing their claims in order that the Tribes may have the beneficial use of said premises, and
- WHEREAS,** 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.

NOW, THEREFORE, BE IT RESOLVED, that the Chickasaw Tribal Legislature hereby authorizes and approves the following settlement terms:

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A. Contingent upon the United States Congress passing and the President signing federal legislation that is consistent with the terms of this resolution, the Chickasaw Nation of Oklahoma will dismiss, release and forever discharge its claims asserted against the United States in the United States Court of Federal Claims, Case No. 630-89-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, Township 9 and 10 North, in Range 25 East, Township 10 North in Range 26 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 Chickasaw 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 Chickasaw Nation of Oklahoma, and shall be protected in accordance with the applicable law governing tribal trust lands.

C. The Chickasaw 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 Chickasaw Nation of Oklahoma, 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 Chickasaw Nation of Oklahoma shall be paid the sum of Five Million One Hundred Sixty One Thousand Six Hundred Fifty-five Dollars and Sixty-three Cents (\$5,161,655.63 reflecting 12.5% of \$41,293,245.00) to be deposited in a special trust fund account, said sum to be in full satisfaction of, and compensation for, all of the Chickasaw Nation's respective right, title and interest in and to the dry bed 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 One Million Dollars (\$1,000,000.00 reflecting 12.5% of \$8,000,000.00) 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.

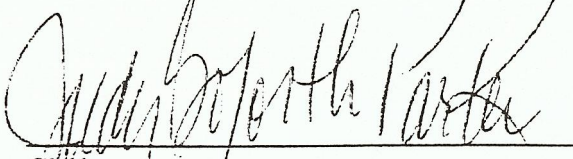
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G. The principal amounts of the foregoing funds shall be deposited into the accounts established, as aforesaid, and shall be invested by the U.S. Secretary of the Interior in accordance with current laws and regulations for the investment of tribal 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 Chickasaw Nation of Oklahoma 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, and land acquisition. The Secretary shall disburse the funds from said trust account established under the said agreement pursuant to a budget adopted by the Tribal Legislature of the Chickasaw Nation of Oklahoma setting forth the amount and the intended use of said funds.

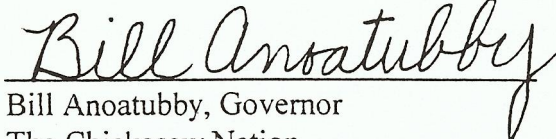
Executed in regular session of the Chickasaw Tribal Legislature, meeting at Ada, Oklahoma, on August 2, 2001, by a vote of 8 ayes, 4 nays, 1 abstentions.



Chairperson
Chickasaw Tribal Legislature



Secretary
Chickasaw Tribal Legislature

Concur:  Date: AUG 03 2001
Bill Anoatubby, Governor
The Chickasaw Nation