

[DISCUSSION DRAFT]

114TH CONGRESS
2D SESSION

H. R. _____

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

IN THE HOUSE OF REPRESENTATIVES

M. _____ introduced the following bill; which was referred to the Committee on _____

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; TABLE OF CONTENTS.**

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

7 (b) TABLE OF CONTENTS.—The table of contents of
8 this 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. Expiration on failure of enforceability date.
- Sec. 13. Antideficiency.

1 **SEC. 2. PURPOSES.**

2 The purposes of this Act are—

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

7 (A) the Band; and

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

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

13 (3) to authorize, ratify, and confirm the
14 Pechanga Settlement Agreement to be entered into
15 by the Band, RCWD, and the United States;

16 (4) to authorize and direct the Secretary—

17 (A) to execute the Pechanga Settlement
18 Agreement; and

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

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

7 **SEC. 3. DEFINITIONS.**

8 In this Act:

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

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

1 (3) ALLOTTEE.—The term “Allottee” means an
2 individual who holds a beneficial real property inter-
3 est in an Indian allotment that is—

4 (A) located within the Reservation; and

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

6 (4) BAND.—The term “Band” means Pechanga
7 Band of Luiseño Mission Indians, a federally recog-
8 nized sovereign Indian tribe that functions as a cus-
9 tom and tradition Indian tribe, acting on behalf of
10 itself and its members, but not acting on behalf of
11 members in their capacities as Allottees.

12 (5) CLAIMS.—The term “claims” means rights,
13 claims, demands, actions, compensation, or causes of
14 action, whether known or unknown.

15 (6) EMWD.—The term “EMWD” means East-
16 ern Municipal Water District, a municipal water dis-
17 trict organized and existing in accordance with the
18 Municipal Water District Law of 1911, Division 20
19 of the Water Code of the State of California, as
20 amended.

21 (7) EMWD CONNECTION FEE.—The term
22 “EMWD Connection Fee” has the meaning set forth
23 in the Extension of Service Area Agreement.

24 (8) ENFORCEABILITY DATE.—The term “en-
25 forceability date” means the date on which the Sec-

1 retary publishes in the Federal Register the state-
2 ment of findings described in section 7(e).

3 (9) ESAA CAPACITY AGREEMENT.—The term
4 “ESAA Capacity Agreement” means the “ESAA
5 Capacity Agreement”, among the Band, RCWD and
6 the United States.

7 (10) ESAA WATER.—The term “ESAA Water”
8 means imported potable water that the Band re-
9 ceives from EMWD and MWD pursuant to the Ex-
10 tension of Service Area Agreement and delivered by
11 RCWD pursuant to the ESAA Water Delivery
12 Agreement.

13 (11) ESAA WATER DELIVERY AGREEMENT.—
14 The term “ESAA Water Delivery Agreement”
15 means the agreement among EMWD, RCWD, and
16 the Band, establishing the terms and conditions of
17 water service to the Band.

18 (12) EXTENSION OF SERVICE AREA AGREE-
19 MENT.—The term “Extension of Service Area
20 Agreement” means the “Extension of Service Area
21 Agreement”, among the Band, EMWD, and MWD,
22 for the provision of water service by EMWD to a
23 designated portion of the Reservation using water
24 supplied by MWD.

25 (13) FALLBROOK DECREE.—

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

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

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

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

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

22 (17) INTERIM CAPACITY.—The term “Interim
23 Capacity” has the meaning set forth in the ESAA
24 Capacity Agreement.

1 (18) INTERIM CAPACITY NOTICE.—The term
2 “Interim Capacity Notice” has the meaning set
3 forth in the ESAA Capacity Agreement.

4 (19) INTERLOCUTORY JUDGMENT NO. 41.—The
5 term “Interlocutory Judgment No. 41” means Inter-
6 locutory Judgment No. 41 issued in the Adjudica-
7 tion Proceeding on November 8, 1962, including all
8 court orders, judgments and decisions supplemental
9 to that interlocutory judgment.

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

16 (21) MWD CONNECTION FEE.—The term
17 “MWD Connection Fee” has the meaning set forth
18 in the Extension of Service Area Agreement.

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

23 (23) PECHANGA RECYCLED WATER INFRA-
24 STRUCTURE ACCOUNT.—The term “Pechanga Recy-

1 cled Water Infrastructure account” means the ac-
2 count established by section 9(c)(1).

3 (24) PECHANGA SETTLEMENT AGREEMENT.—

4 The term “Pechanga Settlement Agreement” means
5 the Pechanga Settlement Agreement, dated April 8,
6 2016, together with the exhibits to that agreement,
7 entered into by the Band, the United States on be-
8 half of the Band, its members and Allottees, MWD,
9 EMWD, and RCWD, including—

10 (A) the Extension of Service Area Agree-
11 ment;

12 (B) the ESAA Capacity Agreement; and

13 (C) the ESAA Water Delivery Agreement.

14 (25) PECHANGA WATER CODE.—The term
15 “Pechanga Water Code” means a water code to be
16 adopted by the Band in accordance with section 5(f).

17 (26) PECHANGA WATER FUND ACCOUNT.—The
18 term “Pechanga Water Fund account” means the
19 account established by section 9(c)(3).

20 (27) PECHANGA WATER QUALITY ACCOUNT.—
21 The term “Pechanga Water Quality account” means
22 the account established by section 9(c)(4).

23 (28) PERMANENT CAPACITY.—The term “Per-
24 manent Capacity” has the meaning set forth in the
25 ESAA Capacity Agreement.

1 (29) PERMANENT CAPACITY NOTICE.—The
2 term “Permanent Capacity Notice” has the meaning
3 set forth in the ESAA Capacity Agreement.

4 (30) RCWD.—

5 (A) IN GENERAL.—The term “RCWD”
6 means the Rancho California Water District or-
7 ganized pursuant to section 34000 et seq. of
8 the California Water Code.

9 (B) INCLUSIONS.—The term “RCWD” in-
10 cludes all real property owners for whom
11 RCWD acts as an agent pursuant to an agency
12 agreement.

13 (31) RECYCLED WATER INFRASTRUCTURE
14 AGREEMENT.—The term “Recycled Water Infra-
15 structure Agreement” means the “Recycled Water
16 Infrastructure Agreement” among the Band,
17 RCWD, and the United States.

18 (32) RECYCLED WATER TRANSFER AGREE-
19 MENT.—The term “Recycled Water Transfer Agree-
20 ment” means the “Recycled Water Transfer Agree-
21 ment” between the Band and RCWD.

22 (33) RESERVATION.—

23 (A) IN GENERAL.—The term “Reserva-
24 tion” means the land depicted on the map at-

1 tached to the Pechanga Settlement Agreement
2 as Exhibit I.

3 (B) APPLICABILITY OF TERM.—The term
4 “Reservation” shall be used solely for the pur-
5 poses of the Pechanga Settlement Agreement,
6 this Act, and any judgment or decree issued by
7 the Adjudication Court approving the Pechanga
8 Settlement Agreement.

9 (34) SANTA MARGARITA RIVER WATERSHED.—
10 The term “Santa Margarita River Watershed”
11 means the watershed that is the subject of the Adju-
12 dication Proceeding and the Fallbrook Decree.

13 (35) SECRETARY.—The term “Secretary”
14 means the Secretary of the Interior.

15 (36) STATE.—The term “State” means the
16 State of California.

17 (37) STORAGE POND.—The term “Storage
18 Pond” has the meaning set forth in the Recycled
19 Water Infrastructure Agreement.

20 (38) TRIBAL WATER RIGHT.—The term “Tribal
21 Water Right” means the water rights ratified, con-
22 firmed, and declared to be valid for the benefit of
23 the Band and Allottees, as set forth and described
24 in section 5.

1 **SEC. 4. APPROVAL OF THE PECHANGA SETTLEMENT**
2 **AGREEMENT.**

3 (a) **RATIFICATION OF PECHANGA SETTLEMENT**
4 **AGREEMENT.—**

5 (1) **IN GENERAL.—**Except as modified by this
6 Act, and to the extent that the Pechanga Settlement
7 Agreement does not conflict with this Act, the
8 Pechanga Settlement Agreement is authorized, rati-
9 fied, and confirmed.

10 (2) **AMENDMENTS.—**Any amendment to the
11 Pechanga Settlement Agreement is authorized, rati-
12 fied, and confirmed, to the extent that the amend-
13 ment is executed to make the Pechanga Settlement
14 Agreement consistent with this Act.

15 (b) **EXECUTION OF PECHANGA SETTLEMENT AGREE-**
16 **MENT.—**

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

21 (A) the Pechanga Settlement Agreement
22 (including any exhibit to the Pechanga Settle-
23 ment Agreement requiring the signature of the
24 Secretary); and

25 (B) any amendment to the Pechanga Set-
26 tlement Agreement necessary to make the

1 Pechanga Settlement Agreement consistent with
2 this Act.

3 (2) MODIFICATIONS.—Nothing in this Act pre-
4 cludes the Secretary from approving modifications to
5 exhibits to the Pechanga Settlement Agreement not
6 inconsistent with this Act, to the extent those modi-
7 fications do not otherwise require congressional ap-
8 proval pursuant to section 2116 of the Revised Stat-
9 utes (25 U.S.C. 177) or other applicable Federal
10 law.

11 (c) ENVIRONMENTAL COMPLIANCE.—

12 (1) IN GENERAL.—In implementing the
13 Pechanga Settlement Agreement, the Secretary shall
14 promptly comply with all applicable requirements
15 of—

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

18 (B) the Endangered Species Act of 1973
19 (16 U.S.C. 1531 et seq.);

20 (C) all other applicable Federal environ-
21 mental laws; and

22 (D) all regulations promulgated under the
23 laws described in subparagraphs (A) through
24 (C).

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

3 (A) IN GENERAL.—Execution of the
4 Pechanga Settlement Agreement by the Sec-
5 retary under this section shall not constitute a
6 major Federal action under the National Envi-
7 ronmental Policy Act of 1969 (42 U.S.C. 4321
8 et seq.).

9 (B) COMPLIANCE.—The Secretary is di-
10 rected to carry out all Federal compliance nec-
11 essary to implement the Pechanga Settlement
12 Agreement.

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

16 **SEC. 5. TRIBAL WATER RIGHT.**

17 (a) INTENT OF CONGRESS.—It is the intent of Con-
18 gress to provide to each Allottee benefits that are equal
19 to or exceed the benefits Allottees possess as of the date
20 of enactment of this Act, taking into consideration—

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

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

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

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

7 (b) CONFIRMATION OF TRIBAL WATER RIGHT.—

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

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

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

22 (1) be held in trust by the United States on be-
23 half of the Band and the Allottees in accordance
24 with this section;

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

4 (3) not be subject to forfeiture or abandonment.

5 (d) ALLOTTEES.—

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

11 (2) ENTITLEMENT TO WATER.—Any entitle-
12 ment to water of an Allottee under Federal law shall
13 be satisfied from the Tribal Water Right.

14 (3) ALLOCATIONS.—Allotted land located within
15 the exterior boundaries of the Reservation shall be
16 entitled to a just and equitable allocation of water
17 for irrigation and domestic purposes from the Tribal
18 Water Right.

19 (4) EXHAUSTION OF REMEDIES.—Before as-
20 serting any claim against the United States under
21 section 7 of the Act of February 8, 1887 (25 U.S.C.
22 381), or any other applicable law, an Allottee shall
23 exhaust remedies available under the Pechanga
24 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 (e) 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 on the Reservation in accordance with—

14 (A) the Pechanga Settlement Agreement;
15 and

16 (B) applicable Federal law.

17 (2) LEASES BY ALLOTTEES.—

18 (A) IN GENERAL.—An Allottee may lease
19 any interest in land held by the Allottee, to-
20 gether with any water right determined to be
21 appurtenant to that interest in land.

22 (B) WATER RIGHT APPURTENANT.—Any
23 water right determined to be appurtenant to an
24 interest in land leased by an Allottee shall be
25 used on such land on the Reservation.

1 (f) PECHANGA WATER CODE.—

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

5 (A) the management, regulation, and gov-
6 ernance of all uses of the Tribal Water Right
7 in accordance with the Pechanga Settlement
8 Agreement; and

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

14 (2) INCLUSIONS.—Subject to the approval of
15 the Secretary, the Pechanga Water Code shall pro-
16 vide—

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

20 (B) that charges for delivery of water for
21 irrigation purposes for Allottees shall be as-
22 sessed on a just and equitable basis;

23 (C) a process by which an Allottee may re-
24 quest that the Band provide water for irrigation

1 or domestic purposes in accordance with this
2 Act;

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

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

11 (ii) resolution of any contested admin-
12 istrative decision; and

13 (E) a requirement that any Allottee with a
14 claim relating to the enforcement of rights of
15 the Allottee under the Pechanga Water Code or
16 relating to the amount of water allocated to
17 land of the Allottee must first exhaust remedies
18 available to the Allottee under tribal law and
19 the Pechanga Water Code before initiating an
20 action against the United States or petitioning
21 the Secretary pursuant to subsection (d)(4).

22 (3) ACTION BY SECRETARY.—

23 (A) IN GENERAL.—The Secretary shall ad-
24 minister the Tribal Water Right until the

1 Pechanga Water Code is enacted and approved
2 under this section.

3 (B) APPROVAL.—Any provision of the
4 Pechanga Water Code and any amendment to
5 the Pechanga Water Code that affects the
6 rights of Allottees—

7 (i) shall be subject to the approval of
8 the Secretary; and

9 (ii) shall not be valid until approved
10 by the Secretary.

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

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 against
20 any individual or entity, or against the Band, under
21 Federal, State, tribal, or local law; or

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

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

2 (a) IN GENERAL.—The benefits provided to the Band
3 under the Pechanga Settlement Agreement and this Act
4 shall be in complete replacement of, complete substitution
5 for, and full satisfaction of all claims of the Band against
6 the United States that are waived and released pursuant
7 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
15 asserted that are similar in nature to any claim de-
16 scribed in section 7.

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

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

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

1 United States with respect to the development or
2 protection 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
7 protection of water resources for the Reservation
8 shall be 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 TRUST-
13 EE FOR THE BAND.—

14 (A) IN GENERAL.—Subject to the retention
15 of rights set forth in subsection (c), in return
16 for recognition of the Tribal Water Right and
17 other benefits as set forth in the Pechanga Set-
18 tlement Agreement and this Act, the Band, and
19 the United States, acting as trustee for the
20 Band, are authorized and directed to execute a
21 waiver and release of all claims for water rights
22 within the Santa Margarita River Watershed
23 that the Band, or the United States acting as
24 trustee for the Band, asserted or could have as-
25 serted in any proceeding, including the Adju-

1 dication Proceeding, except to the extent that
2 such rights are recognized in the Pechanga Set-
3 tlement Agreement and this Act.

4 (B) CLAIMS AGAINST RCWD.—Subject to
5 the retention of rights set forth in subsection
6 (c) and notwithstanding any provisions to the
7 contrary in the Pechanga Settlement Agree-
8 ment, the Band and the United States, on be-
9 half of the Band and Allottees, fully release, ac-
10 quit, and discharge RCWD from—

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

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

24 (iii) claims for subsidence damage to
25 land located within the Reservation arising

1 or occurring at any time up to and includ-
2 ing June 30, 2009;

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

10 (v) claims arising out of, or relating in
11 any manner to, the negotiation or execu-
12 tion of the Pechanga Settlement Agree-
13 ment or the negotiation or execution of
14 this Act.

15 (2) CLAIMS BY THE UNITED STATES ACTING IN
16 ITS CAPACITY AS TRUSTEE FOR ALLOTTEES.—Sub-
17 ject to the retention of claims set forth in subsection
18 (c), in return for recognition of the Tribal Water
19 Right and other benefits as set forth in the
20 Pechanga Settlement Agreement and this Act, the
21 United States, acting as trustee for Allottees, is au-
22 thorized and directed to execute a waiver and release
23 of all claims for water rights within the Santa Mar-
24 garita River Watershed that the United States, act-
25 ing as trustee for the Allottees, asserted or could

1 have asserted in any proceeding, including the Adju-
2 dication Proceeding, except to the extent such rights
3 are recognized in the Pechanga Settlement Agree-
4 ment and this Act.

5 (3) CLAIMS BY THE BAND AGAINST THE
6 UNITED STATES.—Subject to the retention of rights
7 set forth in subsection (c), the Band, is authorized
8 to execute a waiver and release 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
12 rights in, or water of, the Santa Margarita
13 River Watershed that the United States, acting
14 in its capacity as trustee for the Band, as-
15 serted, or could have asserted, in any pro-
16 ceeding, including the Adjudication Proceeding,
17 except to the extent that those rights are recog-
18 nized in the Pechanga Settlement Agreement
19 and this Act;

20 (B) all claims against the United States
21 (including the agencies and employees of the
22 United States) relating to damages, losses, or
23 injuries to water, water rights, land, or natural
24 resources due to loss of water or water rights
25 (including damages, losses or injuries to hunt-

1 ing, fishing, gathering, or cultural rights due to
2 loss of water or water rights, claims relating to
3 interference with, diversion, or taking of water
4 or water rights, or claims relating to failure to
5 protect, acquire, replace, or develop water,
6 water rights, or water infrastructure) in the
7 Santa Margarita River Watershed that first ac-
8 crued at any time up to and including the en-
9 forceability date;

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

15 (D) all claims against the United States
16 (including the agencies and employees of the
17 United States) relating to the negotiation or
18 execution of the Pechanga Settlement Agree-
19 ment or the negotiation or execution of this
20 Act.

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

24 (c) RESERVATION OF RIGHTS AND RETENTION OF
25 CLAIMS.—Notwithstanding the waivers and releases au-

1 thORIZED in this Act, the Band, on behalf of itself and the
2 members of the Band, and the United States, acting in
3 its capacity as trustee for the Band and Allottees, retain—

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

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

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

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

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

17 (d) EFFECT OF PECHANGA SETTLEMENT AGREE-
18 MENT AND ACT.—Nothing in the Pechanga Settlement
19 Agreement or this Act—

20 (1) affects the ability of the United States, act-
21 ing as a sovereign, to take actions authorized by law,
22 including any laws relating to health, safety, or the
23 environment, including—

1 (A) the Comprehensive Environmental Re-
2 sponse, Compensation, and Liability Act of
3 1980 (42 U.S.C. 9601 et seq.);

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

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

8 (D) any regulations implementing the Acts
9 described in subparagraphs (A) through (C);

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

13 (3) confers jurisdiction on any State court—

14 (A) to interpret Federal law regarding
15 health, safety, or the environment;

16 (B) to determine the duties of the United
17 States or other parties pursuant to Federal law
18 regarding health, safety, or the environment; or

19 (C) to conduct judicial review of Federal
20 agency action;

21 (4) waives any claim of a member of the Band
22 in an individual capacity that does not derive from
23 a right of the Band;

24 (5) limits any funding that RCWD would other-
25 wise be authorized to receive under any Federal law,

1 including, the Reclamation Wastewater and Ground-
2 water Study and Facilities Act (43 U.S.C. 390h et
3 seq.) as that Act applies to permanent facilities for
4 water recycling, demineralization, and desalination,
5 and distribution of nonpotable water supplies in
6 Southern Riverside County, California;

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

12 (7) affects the requirement of any party to the
13 Pechanga Settlement Agreement or any of the exhib-
14 its to the Pechanga Settlement Agreement to comply
15 with the National Environmental Policy Act of 1969
16 (42 U.S.C. 4321 et seq.) or the California Environ-
17 mental Quality Act (Cal. Pub. Res. Code 21000 et
18 seq.) prior to performing the respective obligations
19 of that party under the Pechanga Settlement Agree-
20 ment or any of the exhibits to the Pechanga Settle-
21 ment Agreement.

22 (e) ENFORCEABILITY DATE.—The enforceability date
23 shall be the date on which the Secretary publishes in the
24 Federal Register a statement of findings that—

1 (1) the Adjudication Court has approved and
2 entered a judgment and decree approving the
3 Pechanga Settlement Agreement in substantially the
4 same form as Appendix 2 to the Pechanga Settle-
5 ment Agreement;

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

8 (3) the waivers and releases authorized in sub-
9 section (a) have been executed by the Band and the
10 Secretary;

11 (4) the Extension of Service Area Agreement—

12 (A) has been approved and executed by all
13 the parties to the Extension of Service Area
14 Agreement; and

15 (B) is effective and enforceable in accord-
16 ance with the terms of the Extension of Service
17 Area Agreement; and

18 (5) the ESAA Water Delivery Agreement—

19 (A) has been approved and executed by all
20 the parties to the ESAA Water Delivery Agree-
21 ment; and

22 (B) is effective and enforceable in accord-
23 ance with the terms of the ESAA Water Deliv-
24 ery Agreement.

25 (f) TOLLING OF CLAIMS.—

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

6 (A) April 30, 2030, or such alternate date
7 after April 30, 2030, as is agreed to by the
8 Band and the Secretary; or

9 (B) the enforceability date.

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

14 (3) LIMITATION.—Nothing in this section pre-
15 cludes the tolling of any period of limitations or any
16 time-based equitable defense under any other appli-
17 cable law.

18 (g) TERMINATION.—

19 (1) IN GENERAL.—If all of the amounts author-
20 ized to be appropriated to the Secretary pursuant to
21 this Act have not been made available to the Sec-
22 retary by April 30, 2030—

23 (A) the waivers authorized by this section
24 shall expire and have no force or effect; and

1 (B) all statutes of limitations applicable to
2 any claim otherwise waived under this section
3 shall be tolled until April 30, 2030.

4 (2) VOIDING OF WAIVERS.—If a waiver author-
5 ized by this section is void under paragraph (1)—

6 (A) the approval of the United States of
7 the Pechanga Settlement Agreement under sec-
8 tion 4 shall be void and have no further force
9 or effect;

10 (B) any unexpended Federal amounts ap-
11 propriated or made available to carry out this
12 Act, together with any interest earned on those
13 amounts, and any water rights or contracts to
14 use water and title to other property acquired
15 or constructed with Federal amounts appro-
16 priated or made available to carry out this Act
17 shall be returned to the Federal Government,
18 unless otherwise agreed to by the Band and the
19 United States and approved by Congress; and

20 (C) except for Federal amounts used to ac-
21 quire or develop property that is returned to the
22 Federal Government under subparagraph (B),
23 the United States shall be entitled to set off
24 any Federal amounts appropriated or made
25 available to carry out this Act that were ex-

1 pended or withdrawn, together with any interest
2 accrued, against any claims against the United
3 States relating to water rights asserted by the
4 Band or Allottees in any future settlement of
5 the water rights of the Band or Allottees.

6 **SEC. 8. WATER FACILITIES.**

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

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

21 (c) RECYCLED WATER INFRASTRUCTURE.—

22 (1) IN GENERAL.—The Secretary shall, using
23 amounts from the Pechanga Recycled Water Infra-
24 structure account, provide amounts for the Storage
25 Pond in accordance with this section.

1 (2) STORAGE POND.—

2 (A) IN GENERAL.—The Secretary shall,
3 subject to the availability of appropriations,
4 using amounts from the Pechanga Recycled
5 Water Infrastructure account provide the
6 amounts necessary for a Storage Pond in ac-
7 cordance with the Recycled Water Infrastruc-
8 ture Agreement, in an amount not to exceed
9 \$2,656,374.

10 (B) PROCEDURE.—The procedure for the
11 Secretary to provide amounts pursuant to this
12 section shall be as set forth in the Recycled
13 Water Infrastructure Agreement.

14 (C) LIABILITY.—The United States shall
15 have no responsibility or liability for the Stor-
16 age Pond.

17 (d) ESAA DELIVERY CAPACITY.—

18 (1) IN GENERAL.—The Secretary shall, using
19 amounts from the Pechanga ESAA Delivery Capac-
20 ity account, provide amounts for Interim Capacity
21 and Permanent Capacity in accordance with this
22 section.

23 (2) INTERIM CAPACITY.—

24 (A) IN GENERAL.—The Secretary shall,
25 subject to the availability of appropriations,

1 using amounts from the ESAA Delivery Capac-
2 ity account, provide amounts necessary for the
3 provision of Interim Capacity in accordance
4 with the ESAA Capacity Agreement in an
5 amount not to exceed \$1,000,000.

6 (B) PROCEDURE.—The procedure for the
7 Secretary to provide amounts pursuant to this
8 section shall be as set forth in the ESAA Ca-
9 pacity Agreement.

10 (C) LIABILITY.—The United States shall
11 have no responsibility or liability for the In-
12 terim Capacity to be provided by RCWD or by
13 the Band.

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

1 and Permanent Capacity that the Band would
2 have received had RCWD provided such Interim
3 Capacity and Permanent Capacity.

4 (3) PERMANENT CAPACITY.—

5 (A) IN GENERAL.—The Secretary shall,
6 subject to the availability of appropriations,
7 using amounts from the ESAA Delivery Capac-
8 ity account, provide amounts necessary for the
9 provision of Permanent Capacity in accordance
10 with the ESAA Capacity Agreement.

11 (B) PROCEDURE.—The procedure for the
12 Secretary to provide funds pursuant to this sec-
13 tion shall be as set forth in the ESAA Capacity
14 Agreement.

15 (C) LIABILITY.—The United States shall
16 have no responsibility or liability for the Perma-
17 nent Capacity to be provided by RCWD or by
18 the Band.

19 (D) TRANSFER TO BAND.—If RCWD does
20 not provide the Permanent Capacity Notice re-
21 quired pursuant to the ESAA Capacity Agree-
22 ment by the date that is 5 years after the en-
23 forceability date, the amounts in the Pechanga
24 ESAA Delivery Capacity account for purposes
25 of the provision of Permanent Capacity, includ-

1 ing any interest that has accrued on those
2 amounts, shall be available for use by the Band
3 to provide alternative Permanent Capacity in a
4 manner that is similar to the Permanent Ca-
5 pacity that the Band would have received had
6 RCWD provided such Permanent Capacity.

7 **SEC. 9. PECHANGA SETTLEMENT FUND.**

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

15 (b) TRANSFERS TO FUND.—The Fund shall consist
16 of such amounts as are deposited in the Fund under sec-
17 tion 11(a) of this Act, together with any interest earned
18 on those amounts, which shall be available in accordance
19 with subsection (e).

20 (c) ACCOUNTS OF PECHANGA SETTLEMENT FUND.—
21 The Secretary shall establish in the Fund the following
22 accounts:

23 (1) Pechanga Recycled Water Infrastructure ac-
24 count, consisting of amounts authorized pursuant to
25 section 11(a)(1).

1 (2) Pechanga ESAA Delivery Capacity account,
2 consisting of amounts authorized pursuant to section
3 11(a)(2).

4 (3) Pechanga Water Fund account, consisting
5 of amounts authorized pursuant to section 11(a)(3).

6 (4) Pechanga Water Quality account, consisting
7 of amounts authorized pursuant to section 11(a)(4).

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

12 (1) the first section of the Act of June 24,
13 1938 (25 U.S.C. 162a);

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

17 (3) this section.

18 (e) AVAILABILITY OF AMOUNTS.—Amounts appro-
19 priated to, and deposited in, the Fund, including any in-
20 vestment earnings accrued from the date of deposit in the
21 Fund through the date of disbursement from the Fund,
22 shall be made available to the Band by the Secretary be-
23 ginning on the enforceability date.

1 (f) WITHDRAWALS BY BAND PURSUANT TO THE
2 AMERICAN INDIAN TRUST FUND MANAGEMENT REFORM
3 ACT.—

4 (1) IN GENERAL.—The Band may withdraw all
5 or part of the amounts in the Fund on approval by
6 the Secretary of a tribal management plan sub-
7 mitted by the Band in accordance with the American
8 Indian Trust Fund Management Reform Act of
9 1994 (25 U.S.C. 4001 et seq.).

10 (2) REQUIREMENTS.—

11 (A) IN GENERAL.—In addition to the re-
12 quirements under the American Indian Trust
13 Fund Management Reform Act of 1994 (25
14 U.S.C. 4001 et seq.), the tribal management
15 plan under paragraph (1) shall require that the
16 Band shall spend all amounts withdrawn from
17 the Fund in accordance with this Act.

18 (B) ENFORCEMENT.—The Secretary may
19 carry out such judicial or administrative actions
20 as the Secretary determines to be necessary to
21 enforce the tribal management plan to ensure
22 that amounts withdrawn by the Band from the
23 Fund under this subsection are used in accord-
24 ance with this Act.

1 (g) WITHDRAWALS BY BAND PURSUANT TO AN EX-
2 PENDITURE PLAN.—

3 (1) IN GENERAL.—The Band may submit an
4 expenditure plan for approval by the Secretary re-
5 questing that all or part of the amounts in the Fund
6 be disbursed in accordance with the plan.

7 (2) REQUIREMENTS.—The expenditure plan
8 under paragraph (1) shall include a description of
9 the manner and purpose for which the amounts pro-
10 posed to be disbursed from the Fund will be used,
11 in accordance with subsection (h).

12 (3) APPROVAL.—If the Secretary determines
13 that an expenditure plan submitted under this sub-
14 section is consistent with the purposes of this Act,
15 the Secretary shall approve the plan.

16 (4) ENFORCEMENT.—The Secretary may carry
17 out such judicial or administrative actions as the
18 Secretary determines necessary to enforce an ex-
19 penditure plan to ensure that amounts disbursed
20 under this subsection are used in accordance with
21 this Act.

22 (h) USES.—Amounts from the Fund shall be used by
23 the Band for the following purposes:

24 (1) PECHANGA RECYCLED WATER INFRASTRUC-
25 TURE ACCOUNT.—The Pechanga Recycled Water In-

1 frastructure account shall be used for expenditures
2 by the Band in accordance with section 8(c).

3 (2) PECHANGA ESAA DELIVERY CAPACITY AC-
4 COUNT.—The Pechanga ESAA Delivery Capacity
5 account shall be used for expenditures by the Band
6 in accordance with section 8(d).

7 (3) PECHANGA WATER FUND ACCOUNT.—The
8 Pechanga Water Fund account shall be used for—

9 (A) payment of the EMWD Connection
10 Fee;

11 (B) payment of the MWD Connection Fee;
12 and

13 (C) any expenses, charges, or fees incurred
14 by the Band in connection with the delivery or
15 use of water pursuant to the Pechanga Settle-
16 ment Agreement.

17 (4) PECHANGA WATER QUALITY ACCOUNT.—
18 The Pechanga Water Quality account shall be used
19 by the Band to fund groundwater desalination ac-
20 tivities within the Wolf Valley Basin.

21 (i) LIABILITY.—The Secretary and the Secretary of
22 the Treasury shall not be liable for the expenditure of,
23 or the investment of any amounts withdrawn from, the
24 Fund by the Band under subsection (f) or (g).

1 (j) NO PER CAPITA DISTRIBUTIONS.—No portion of
2 the Fund shall be distributed on a per capita basis to any
3 member of the Band.

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

5 (a) WAIVER OF SOVEREIGN IMMUNITY BY THE
6 UNITED STATES.—Except as provided in subsections (a)
7 through (e) of section 208 of the Department of Justice
8 Appropriation Act, 1953 (43 U.S.C. 666), nothing in this
9 Act waives the sovereign immunity of the United States.

10 (b) OTHER TRIBES NOT ADVERSELY AFFECTED.—
11 Nothing in this Act quantifies or diminishes any land or
12 water right, or any claim or entitlement to land or water,
13 of an Indian tribe, band, or community other than the
14 Band.

15 (c) LIMITATION ON CLAIMS FOR REIMBURSEMENT.—
16 With respect to Indian land within the Reservation—

17 (1) the United States shall not submit against
18 any Indian-owned land located within the Reserva-
19 tion any claim for reimbursement of the cost to the
20 United States of carrying out this Act and the
21 Pechanga Settlement Agreement; and

22 (2) no assessment of any Indian-owned land lo-
23 cated within the Reservation shall be made regard-
24 ing that cost.

1 (d) EFFECT ON CURRENT LAW.—Nothing in this
2 section affects any provision of law (including regulations)
3 in effect on the day before the date of enactment of this
4 Act with respect to preenforcement review of any Federal
5 environmental enforcement action.

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

7 (a) AUTHORIZATION OF APPROPRIATIONS.—

8 (1) PECHANGA RECYCLED WATER INFRASTRUC-
9 TURE ACCOUNT.—There is authorized to be appro-
10 priated \$2,656,374, for deposit in the Pechanga Re-
11 cycled Water Infrastructure account, to carry out
12 the activities described in section 8(c).

13 (2) PECHANGA ESAA DELIVERY CAPACITY AC-
14 COUNT.—There is authorized to be appropriated
15 \$17,900,000, for deposit in the Pechanga ESAA De-
16 livery Capacity account, which amount shall be ad-
17 justed for changes in construction costs since June
18 30, 2009, as is indicated by ENR Construction Cost
19 Index, 20-City Average, as applicable to the types of
20 construction required for the Band to provide the in-
21 frastructure necessary for the Band to provide the
22 Interim Capacity and Permanent Capacity in the
23 event that RCWD elects not to provide the Interim
24 Capacity or Permanent Capacity as set forth in the
25 ESAA Capacity Agreement and contemplated in sec-

1 tions 8(d)(2)(D) and 8(d)(3)(E) of this Act, with
2 such adjustment ending on the date on which funds
3 authorized to be appropriated under this section
4 have been deposited in the Fund.

5 (3) PECHANGA WATER FUND ACCOUNT.—There
6 is authorized to be appropriated \$5,483,653, for de-
7 posit in the Pechanga Water Fund account, which
8 amount shall be adjusted for changes in appropriate
9 cost indices since June 30, 2009, with such adjust-
10 ment ending on the date of deposit in the Fund, for
11 the purposes set forth in section 9(h)(3).

12 (4) PECHANGA WATER QUALITY ACCOUNT.—
13 There is authorized to be appropriated \$2,460,000,
14 for deposit in the Pechanga Water Quality account,
15 which amount shall be adjusted for changes in ap-
16 propriate cost indices since June 30, 2009, with
17 such adjustment ending on the date of deposit in the
18 Fund, for the purposes set forth in section 9(h)(4).

19 **SEC. 12. EXPIRATION ON FAILURE OF ENFORCEABILITY**
20 **DATE.**

21 If the Secretary does not publish a statement of find-
22 ings under section 7(e) by April 30, 2021, 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 expires effective on the later of
2 May 1, 2021, 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 (a) **IN GENERAL.**—Notwithstanding any authoriza-
16 tion of appropriations to carry out this Act, the expendi-
17 ture or advance of any funds, and the performance of any
18 obligation by the Department in any capacity, pursuant
19 to this Act shall be contingent on the appropriation of
20 funds for that expenditure, advance, or performance.

21 (b) **LIABILITY.**—The Department of the Interior
22 shall not be liable for the failure to carry out any obliga-
23 tion or activity authorized by this Act if adequate appro-
24 priations are not provided to carry out this Act.