

1 Exhibit 2: State of Oklahoma, Choctaw Nation of Oklahoma, Chickasaw Nation, City of Oklahoma  
2 City Water Settlement  
3

4 An Act

5 This Act may be cited as

6 “The State of Oklahoma, Choctaw Nation of Oklahoma, Chickasaw Nation, City of Oklahoma City  
7 Water Settlement Act.”

8 SEC. 1. SHORT TITLE; TABLE OF CONTENTS

9 (a) SHORT TITLE.— This title may be cited as the “State of Oklahoma, Choctaw Nation of  
10 Oklahoma, Chickasaw Nation, City of Oklahoma City Water Settlement Act.”

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

12 Sec. 1. Short Title; Table of Contents

13 Sec. 2. Purposes

14 Sec. 3. Definitions

15 Sec. 4. Approval of the Settlement Agreement

16 Sec. 5. Approval of the Amended Storage Contract Transfer Agreement and 1974 Contract

17 Sec. 6. Settlement Area Waters

18 Sec. 7. City of Oklahoma City Permit for Appropriation of Stream Water from the Kiamichi  
19 River

20 Sec. 8. Settlement Commission

21 Sec. 9. Waivers and Releases of Claims

22 Sec. 10. Enforceability Date

23 Sec. 11. Jurisdiction; Waivers of Immunity for Interpretation and Enforcement

24 Sec. 12. Additional Provisions

25 Sec. 13 Disclaimer

26

1 SEC. 2. PURPOSES

2 The purposes of this Act are—

3 (1) to permanently resolve and settle those claims to Settlement Area Waters of the Choctaw  
4 Nation of Oklahoma and the Chickasaw Nation as set forth in the Settlement Agreement and this Act,  
5 including all claims or defenses in and to *Chickasaw Nation, Choctaw Nation v. Fallin et al.*, CIV 11-927  
6 (W.D. Ok.), *OWRB v. United States, et al.* CIV 12-275 (W.D. Ok.), or any future stream adjudication in  
7 the State of Oklahoma; and

8 (2) to approve, ratify, and confirm the State of Oklahoma, Choctaw Nation of Oklahoma,  
9 Chickasaw Nation, City of Oklahoma City Water Settlement (“Settlement Agreement”); and

10 (3) to authorize and direct the Secretary to execute the Settlement Agreement and to perform  
11 all obligations of the Secretary under the Settlement Agreement and this Act; and

12 (4) to approve, ratify, and confirm the Amended Storage Contract Transfer Agreement  
13 among the State of Oklahoma, the City of Oklahoma City, and the Oklahoma City Water Utilities Trust;  
14 and

15 (5) to authorize and direct the Secretary of the Army to approve the Amended Storage  
16 Contract Transfer Agreement and for the United States Army Corps of Engineers to perform all  
17 obligations under the 1974 Contract, the Amended Storage Contract Transfer Agreement, and this Act;  
18 and

19 (6) to authorize all actions necessary for the United States to meet its obligations under the  
20 Settlement Agreement, the Amended Storage Contract Transfer Agreement, and this Act.

21 SEC. 3. DEFINITIONS

22 In this Act—

23 (1) 1974 STORAGE CONTRACT.— means the contract approved by the Secretary of the  
24 United States Army on April 9, 1974, between the United States Army Corps of Engineers and the Water  
25 Conservation Storage Commission of the State of Oklahoma, predecessor to the Oklahoma Water

1 Resources Board, pursuant to the Water Supply Act of 1958 (Pub. L. No. 85-500, § 301, 72 Stat. 297,  
2 319), as amended, and other applicable federal law.

3 (2) ADMINISTRATIVE SET-ASIDE SUBCONTRACTS.— means the subcontracts the City  
4 will issue for the use of Conservation Storage Capacity in Sardis Lake as provided by Section 4 of the  
5 Amended Storage Contract Transfer Agreement.

6 (3) ALLOTMENT.— means that land within the Settlement Area held by an Allottee subject  
7 to a statutory restriction on alienation or held by the United States in trust for the benefit of an Allottee.

8 (4) ALLOTTEE.— means an enrolled member of the Choctaw Nation of Oklahoma or citizen  
9 of the Chickasaw Nation who, or whose estate, holds an interest in an Allotment.

10 (5) AMENDED PERMIT APPLICATION.— means the City’s permit application to the  
11 OWRB, No. 2007-017, as amended as provided by the Settlement Agreement.

12 (6) AMENDED STORAGE CONTRACT TRANSFER AGREEMENT.— means the 2010  
13 Storage Contract Transfer Agreement between the City, Trust, and OWRB, as amended, as provided by  
14 the Settlement Agreement and this Act.

15 (7) ATOKA AND SARDIS CONSERVATION PROJECTS FUND.— means that fund  
16 established, funded and managed as set forth in Section 6.5.2 of the Settlement Agreement.

17 (8) CHICKASAW NATION.— means the Chickasaw Nation, a federally recognized  
18 American Indian Tribe organized by a Constitution its citizens ratified in 1856 and subsequently modified  
19 and re-ratified in 1983 and subsequently amended.

20 (9) CHOCTAW NATION OF OKLAHOMA (“CHOCTAW NATION”).— means the  
21 Choctaw Nation of Oklahoma, a federally recognized American Indian Tribe organized by a Constitution  
22 its members ratified in 1830 and subsequently modified and re-ratified in 1983 and subsequently  
23 amended.

24 (10) CITY OF OKLAHOMA CITY (“CITY”).— means the City of Oklahoma City, an  
25 Oklahoma municipal corporation and a charter city organized and existing pursuant to Oklahoma  
26 Constitution Article XVIII, Section 3. References to “City” shall refer to the City or the City and the

1 Oklahoma City Water Utilities Trust acting jointly as applicable to the capacity set forth in the said  
2 reference.

3 (11) CITY PERMIT.— means any permit issued to the City by the OWRB pursuant to the  
4 Amended Permit Application and consistent with the Settlement Agreement.

5 (12) CONSERVATION STORAGE CAPACITY.— means the total storage capacity as  
6 designated by the 1974 Contract in Sardis Lake between elevations 599.0 feet above mean sea level and  
7 542.0 feet above mean sea level, which is estimated to contain 297,200 acre-feet of water after adjustment  
8 for sediment deposits, and which may be used for municipal and industrial water supply, fish and wildlife,  
9 and recreation.

10 (13) ENACTMENT DATE.— means the date of enactment of this Act.

11 (14) ENFORCEABILITY DATE .— means the date on which the Secretary publishes notice in  
12 the Federal Register certifying that the conditions of section 10 of this Act have been satisfied.

13 (15) FUTURE USE STORAGE.— means that portion of the Conservation Storage Capacity  
14 that was designated by the 1974 Contract as being available for future use for municipal and industrial  
15 water supply, which portion equals 52.322 percent, or an estimated 155,500 acre-feet, of the total  
16 Conservation Storage Capacity in Sardis Lake.

17 (16) KIAMICHI BASIN HYDROLOGIC MODEL.— means the surface water hydrologic  
18 model for the Kiamichi Basin, inclusive of tributaries thereto, that the Nations, the State, and the City  
19 developed for purposes of the Settlement Agreement, documentation of which is to be made available by  
20 the OWRB at its offices in Oklahoma City.

21 (17) NATIONS.— means collectively the Choctaw Nation of Oklahoma and the Chickasaw  
22 Nation.

23 (18) OKLAHOMA CITY WATER UTILITIES TRUST (“TRUST”).— means the Oklahoma  
24 City Water Utilities Trust, and its successor entities, if any, formerly known as the Oklahoma City  
25 Municipal Improvement Authority, a public trust established pursuant to state law with the City of

1 Oklahoma City as its beneficiary. References to “Trust” shall refer to the Oklahoma City Water Utilities  
2 Trust acting severally in the said reference.

3 (19) OKLAHOMA WATER RESOURCES BOARD (“OWRB”).— means a body corporate  
4 and politic and an instrumentality, agency, and department of the State of Oklahoma, created by and  
5 existing pursuant to Oklahoma law, and its successor entities, if any.

6 (20) SARDIS LAKE.— means the reservoir, formerly known as Clayton Lake, whose dam is  
7 located in Section 19, Township 2 North, Range 19 East of the Indian Meridian in Pushmataha County,  
8 Oklahoma, the construction, operation, and maintenance of which was authorized by the Flood Control  
9 Act of 1962.

10 (21) SECRETARY.— means the Secretary of the United States Department of the Interior.

11 (22) SECRETARY OF THE ARMY.— means the Secretary of the United States Army.

12 (23) SETTLEMENT AGREEMENT.— means the settlement agreement as approved by the  
13 Choctaw Nation of Oklahoma, Chickasaw Nation, State of Oklahoma, City, and Trust effective August  
14 17, 2016, as revised to conform with this Act, as applicable.

15 (24) SETTLEMENT AREA.— means that area lying between the South Canadian River and  
16 Arkansas River and the Oklahoma and Texas state line, the Oklahoma and Arkansas state line, and the  
17 98th Meridian and which generally includes the following counties, or portions thereof, in the State of  
18 Oklahoma: Atoka, Bryan, Carter, Choctaw, Coal, Garvin, Grady, McClain, Murray, Haskell, Hughes,  
19 Jefferson, Johnston, Latimer, LeFlore, Love, Marshall, McCurtain, Pittsburgh, Pontotoc, Pushmataha, and  
20 Stephens, which area is depicted in Exhibit 1 to the Settlement Agreement.

21 (25) SETTLEMENT AREA WATERS.— means those waters which are located within the  
22 Settlement Area and any of the following basins, as denominated in the 2012 Update of the Oklahoma  
23 Comprehensive Water Plan: Beaver Creek (24, 25, and 26), Blue (11 and 12), Clear Boggy (9), Kiamichi  
24 (5 and 6), Lower Arkansas (46 and 47), Lower Canadian (48, 56, 57, and 58), Lower Little (2), Lower  
25 Washita (14), Mountain Fork (4), Middle Washita (15 and 16), Mud Creek (23), Muddy Boggy (7 and 8),

1 Poteau (44 and 45), Red River Mainstem (1, 10, 13, and 21), Upper Little (3), Walnut Bayou (22), which  
2 basins are illustrated in Exhibit 10 to the Settlement Agreement.

3 (26) STATE OF OKLAHOMA (“STATE”).— means the State of Oklahoma, a state of the  
4 United States of America, inclusive of its subsidiary agencies.

5 (27) STORAGE CONTRACT TRANSFER AGREEMENT (“2010 AGREEMENT”).— means  
6 the agreement entered into by the OWRB and the Trust, dated June 15, 2010, relating to the State’s  
7 assignment of the 1974 Contract and transfer of rights, title, interests, and obligations thereunder to the  
8 Trust, including the State’s interests in the Conservation Storage Capacity and associated repayment  
9 obligations to the United States.

10 (28) UNITED STATES.— means the United States of America acting in its capacity as trustee  
11 for the Nations, their respective members, citizens, and Allottees, or as specifically stated or limited in  
12 any given reference herein, in which case it shall mean the United States of America acting in the  
13 capacity as set forth in said reference.

#### 14 SEC. 4. APPROVAL OF THE SETTLEMENT AGREEMENT

15 (a) RATIFICATION.—

16 (1) IN GENERAL.— Except as modified by this Act, and to the extent the Settlement  
17 Agreement does not conflict with this Act, the Settlement Agreement is authorized, ratified, and  
18 confirmed.

19 (2) AMENDMENTS.— If amendments are executed to make the Settlement Agreement  
20 consistent with this Act, those amendments are also authorized, ratified, and confirmed to the extent such  
21 amendments are consistent with this Act.

22 (b) EXECUTION OF SETTLEMENT AGREEMENT.— To the extent the Settlement Agreement  
23 does not conflict with this Act, the Secretary is directed to and shall promptly execute the Settlement  
24 Agreement, including all exhibits to or parts of the Settlement Agreement requiring the signature of the  
25 Secretary and any amendments necessary to make the Settlement Agreement consistent with this Act.

1 Execution of the Settlement Agreement by the Secretary under this section shall not constitute a major  
2 federal action under the National Environmental Policy Act of 1969 (42 U.S.C. § 4321 et seq.).

3 SEC. 5. APPROVAL OF THE AMENDED STORAGE CONTRACT TRANSFER AGREEMENT AND  
4 1974 CONTRACT

5 (a) RATIFICATION.— Except to the extent any provision of the Amended Storage Contract  
6 Transfer Agreement conflicts with any provision of this Act, the Amended Storage Contract Transfer  
7 Agreement is authorized, ratified, and confirmed. To the extent the Amended Storage Contract Transfer  
8 Agreement, as authorized, ratified, and confirmed, modifies or amends the 1974 Contract, such  
9 modifications or amendments to the 1974 Contract are also authorized, ratified, and confirmed.

10 (b) AMENDMENTS.— To the extent amendments are executed to make the Amended Storage  
11 Contract Transfer Agreement consistent with this Act, such amendments are also authorized, ratified, and  
12 confirmed.

13 (c) APPROVAL BY THE SECRETARY OF THE ARMY.— The Secretary of the Army shall  
14 approve the Amended Storage Contract Transfer Agreement after its execution by the State and the City.

15 (d) MODIFICATION OF SEPTEMBER 11, 2009 ORDER IN UNITED STATES V. OKLAHOMA  
16 WATER RESOURCES BOARD, CIV 98-00521 (N.D. OK.).— The Secretary of the Army, through  
17 counsel, shall cooperate and work with the State of Oklahoma to file any motion and proposed order to  
18 modify or amend the September 11, 2009, Order of the United States District Court for the Northern  
19 District of Oklahoma as may be necessary to conform the September 11, 2009, Order to the Amended  
20 Storage Contract Transfer Agreement, the Settlement Agreement, and this Act.

21 (e) CONSERVATION STORAGE CAPACITY.— The allocation of the use of the Conservation  
22 Storage Capacity in Sardis Lake for Administrative Set-Aside Subcontracts, City water supply, and fish  
23 and wildlife and recreation as provided by the Amended Storage Contract Transfer Agreement is  
24 authorized, ratified and approved.

1 (f) WAIVERS AND AUTHORIZATIONS.— Notwithstanding any requirement of the Water Supply  
2 Act of 1958 (Pub. L. No. 85-500, § 301, 72 Stat. 297, 319), the Flood Control Act of 1962 (Pub. L. No.  
3 87-874, § 203, 76 Stat. 1173, 1187), the 1974 Storage Contract, or any other provision of law, the entirety  
4 of any repayment obligations, inclusive of interest, relating to that portion of Conservation Storage  
5 Capacity allocated by the 1974 Contract to Future Use Storage in Sardis Lake is waived and shall be  
6 deemed non-reimbursable, and any obligation of the State and, upon execution and approval of the  
7 Amended Storage Contract Transfer Agreement, of the City and Trust under the 1974 Contract regarding  
8 capital costs and any operation, maintenance and replacement costs and interest otherwise attributable to  
9 Future Use Storage in Sardis Lake is waived and shall be non-reimbursable.

10 (g) CONSISTENT WITH AUTHORIZED PURPOSES; NO MAJOR OPERATIONAL  
11 CHANGE.— The Amended Storage Contract Transfer Agreement, the Secretary’s approval of the  
12 Amended Storage Contract Transfer Agreement pursuant to this Act, and the waiver of any Future Use  
13 Storage repayment obligation as provided by section 5(f) of this Act—

14 (1) are deemed consistent with the authorized purposes for Sardis Lake as contemplated by the  
15 Flood Control Act of 1962 (Pub. L. No. 87-874, § 203, 76 Stat. 1173, 1187), as amended;

16 (2) shall not constitute a reallocation of Sardis Lake storage, and to the extent the Amended  
17 Storage Contract Transfer Agreement, the Secretary of the Army’s approval thereof, or the waiver of any  
18 Future Use Storage repayment obligation could be so construed, any such reallocation is hereby  
19 authorized, ratified, and approved without any further action by the United States Army Corps of  
20 Engineers; and

21 (3) do not affect the purposes for which Sardis Lake was authorized, surveyed, planned, and  
22 constructed as contemplated by the Flood Control Act of 1962 (Pub. L. No. 87-874, § 203, 76 Stat. 1173,  
23 1187), as amended, and shall not constitute a “major structural or operational change” under 43 U.S.C. §  
24 390b(e), and to the extent the Amended Storage Contract Transfer Agreement, the Secretary of the  
25 Army’s approval thereof, or the waiver of any Future Use Storage Repayment obligation could be so  
26 construed, such change is authorized, ratified, and approved.



1 (h) NO FURTHER AUTHORIZATION REQUIRED.— This Act shall be deemed sufficient and  
2 complete authorization, without further study or analysis, for the Secretary of the Army to approve the  
3 Amended Storage Contract Transfer Agreement and, thereafter, for the United States Army Corps of  
4 Engineers to manage storage in Sardis Lake pursuant to and in accord with the 1974 Contract, the  
5 Amended Storage Contract Transfer Agreement, the Settlement Agreement, and this Act.

6 SEC. 6. SETTLEMENT AREA WATERS

7 (a) PERMITTING, ALLOCATION, AND ADMINISTRATION OF SETTLEMENT AREA  
8 WATERS PURSUANT TO THE SETTLEMENT AGREEMENT.— Upon the Enforceability Date and  
9 thereafter, Settlement Area Waters shall be permitted, allocated and administered by the OWRB in accord  
10 with the Settlement Agreement and this Act.

11 (b) SETTLEMENT AREA WATERS: CHOCTAW NATION AND CHICKASAW NATION.—  
12 Upon the Enforceability Date and thereafter, the Nations shall have the right to use and to develop the  
13 right to use Settlement Area Waters solely in accordance with the Settlement Agreement and this Act.

14 (c) SETTLEMENT AREA WATERS: ALLOTTEES.—

15 (1) IN GENERAL.— Pursuant to the Atoka Agreement as ratified by Congress, Act of June  
16 28, 1898, § 29, 30 Stat. 495, 505, and as amended by the act of July 1, 1902, ch. 1362, 32 Stat. 641, the  
17 Nations issued patents to their respective tribal members and citizens and thereby conveyed to individual  
18 Choctaws and Chickasaws, all right, title, and interest in and to land that was possessed by the Nations,  
19 excepting certain mineral rights.

20 (i) NO REGULATORY AUTHORITY.— When title passed from the Nations to  
21 their respective tribal members and citizens, the Nations did not convey and those individuals did not  
22 receive any right of regulatory or sovereign authority including with respect to water.

23 (ii) WAIVER AND DELEGATION BY NATIONS.— In addition to the waivers  
24 provided in the Settlement Agreement and authorized to be executed by section 9 of this Act, the Nations,  
25 on their own behalf, permanently delegate to the State any regulatory authority each may possess over

1 water rights on Allotments, which the State shall exercise in accord with the Settlement Agreement and  
2 this Act.

3 (2) RIGHT TO USE WATER.— Allottees may use water on an Allotment as set forth in the  
4 Settlement Agreement and this Act.

5 (i) SURFACE WATER USE.— Allottees may divert and use on his Allotment six  
6 acre-feet per year of surface water per 160 acres of their Allotment, to be used solely for domestic uses on  
7 an Allotment that constitutes riparian land under applicable state law as of the Enactment Date. Such use  
8 shall be subject to all rights and protections of state law as of the Enactment Date, including all  
9 protections against loss for non-use. An Allottee may divert water under this section without a permit or  
10 any other authorization from the OWRB.

11 (ii) GROUNDWATER USE. — Allottees may drill wells on their respective  
12 Allotments to take and use five acre-feet per year for domestic uses on their Allotment or any greater  
13 amount allowed under state law. Such use shall be subject to all rights and protections of state law as of  
14 the Enactment Date, including all protections against loss for non-use. An Allottee may drill wells and  
15 use water under this section without a permit or any other authorization from the OWRB.

16 (iii) FUTURE CHANGES IN STATE LAW.— If state law changes to limit use of  
17 water to an amount less than the amounts specified in sections 6(c)(2)(i) and 6(c)(2)(ii), an Allottee  
18 retains the rights to use water in accord with those sections subject to sections 6(c)(5) and 6(c)(6). Prior to  
19 taking any action to limit an individual’s use of water, the OWRB must give the individual an opportunity  
20 to demonstrate that he or she qualifies as an Allottee and that he or she is using water on his or her  
21 Allotment pursuant to and in accord with the Settlement Agreement and this Act.

22 (3) ALLOTTEE OPTIONS FOR ADDITIONAL WATER.— To use an amount of water in  
23 excess of the amounts provided in section 6(c)(2), an Allottee must either invoke the process set forth in  
24 section 6(c)(4) or apply to the OWRB for a permit pursuant to and in accord with state law.

25 (4) DETERMINATION IN FEDERAL DISTRICT COURT.— In lieu of applying to OWRB  
26 for a permit to use more water than allowed under section 6(c)(2) an Allottee may, after written notice to

1 the OWRB, file an action in the United States District Court for the Western District of Oklahoma for  
2 determination of the Allottee's right to water. For purposes of this section, jurisdiction shall lie in the  
3 United States District Court for the Western District of Oklahoma and the waivers of immunity provided  
4 in section 11(b)(1) and section 11(b)(2) shall apply. An Allottee filing an action pursuant to this section  
5 shall:

- 6 (i) join the OWRB as a party; and
- 7 (ii) publish notice in a newspaper of general circulation within the Settlement Area  
8 Hydrologic Basin for two consecutive weeks, with first publication appearing within thirty (30) days of  
9 the Allottee's having filed the action.

10 (5) DETERMINATION FINAL.— If an Allottee elects to have his or her rights determined  
11 pursuant to section 6(c)(4), such determination shall be final as to any rights under federal law and in lieu  
12 of any rights to use water on an Allotment as provided in section 6(c)(2). Nothing herein precludes an  
13 Allottee from applying to the OWRB for water rights pursuant to state law or utilize any rights allowed  
14 by state law that do not require a permit from the OWRB.

15 (6) OWRB ADMINISTRATION AND ENFORCEMENT.— Once an Allottee exercises any  
16 right under section 6(c)(2) or has rights determined under section 6(c)(4), the OWRB shall have  
17 jurisdiction to administer those rights. An Allottee may challenge OWRB administration of rights  
18 determined under section 6(c)(4), in the United States District Court for the Western District of  
19 Oklahoma.

20 (7) PRIOR EXISTING STATE-LAW RIGHTS.— Water rights held by an Allottee as of the  
21 Enforcement Date pursuant to a permit issued by the OWRB shall continue to be governed by the terms  
22 of that permit and applicable state law and regulation.

23

1 SEC. 7. CITY OF OKLAHOMA CITY PERMIT FOR APPROPRIATION OF STREAM WATER  
2 FROM THE KIAMICHI RIVER

3 (a) IN GENERAL.— The City Permit shall be processed, evaluated, issued, and administered  
4 consistent with and in accordance with the Settlement Agreement and this Act.

5 SEC. 8. SETTLEMENT COMMISSION

6 (a) ESTABLISHMENT.— There is hereby established the Settlement Commission.

7 (b) MEMBERS.— The Settlement Commission shall be comprised of five (5) members, appointed as  
8 follows: (i) one by the Governor of the State; (ii) one by the Attorney General of the State; (iii) one by  
9 the Chief of the Choctaw Nation; (iv) one by the Governor of the Chickasaw Nation; and (v) one by  
10 agreement of the aforementioned four members. In the event the four aforementioned members cannot  
11 agree on a single person, they shall jointly submit a list of no fewer than three (3) names to the Chief  
12 Judge for the United States District Court for the Eastern District of Oklahoma, who shall then make the  
13 appointment from that list. The initial appointments to the Settlement Commission shall be made within  
14 sixty (60) days of the Enforceability Date.

15 (c) MEMBER TERMS.— Each Settlement Commission member shall serve at the pleasure of his or  
16 her appointing entity. Appointing entities may reimburse their appointed members for costs associated  
17 with their service but otherwise members shall serve without compensation. In the event of a Settlement  
18 Commission member's removal or resignation, that member's original appointing entity shall name his or  
19 her replacement. The fifth member may be removed or replaced by a majority vote of the other members  
20 based on a failure of the member to carry out his or her duties as a member of the Commission.

21 (d) DUTIES.— The duties and authority of the Settlement Commission are specifically set forth in  
22 the Settlement Agreement, and the Settlement Commission shall not possess or exercise any duty or  
23 authority not stated therein.

24

1 SEC. 9. WAIVERS AND RELEASES OF CLAIMS

2 (a) CLAIMS BY THE NATIONS AND THE UNITED STATES AS TRUSTEE FOR EACH  
3 NATION.— Subject to the retention of rights and claims provided in section 9(e) and except to the extent  
4 that rights are recognized in the Settlement Agreement or Settlement Act, including recognition of each  
5 Nation’s water rights, the Chickasaw Nation and Choctaw Nation, each in its own right and on behalf of  
6 itself and its respective citizens and members (except in their capacities as Allottees), and the United  
7 States acting in its capacity as trustee for the Chickasaw Nation and Choctaw Nation and the respective  
8 citizens and members of each Nation (except in their capacities as Allottees), are authorized to execute a  
9 waiver and release of:

10 (1) all of the following claims the Chickasaw Nation, the Choctaw Nation, or the United States  
11 acting in its capacity as trustee for either Nation asserted or which could have asserted in any proceeding  
12 filed or which could have been filed up to or upon the Enforceability Date, including *Chickasaw Nation*,  
13 *Choctaw Nation v. Fallin et al.*, CIV 11-927 (W.D. Ok.) or *OWRB v. United States, et al.* CIV 12-275  
14 (W.D. Ok.), or any general stream adjudication:

- 15 (i) claims to the ownership of water in the State of Oklahoma;
- 16 (ii) claims to water rights and rights to use water diverted or taken from a location  
17 within the State of Oklahoma;
- 18 (iii) claims to authority over the allocation and management of water and  
19 administration of water rights, including authority over third-party ownership of or rights to use water  
20 diverted or taken from a location within the State of Oklahoma and ownership or use of water on  
21 Allotments by Allottees or anyone else using water on an Allotment with the Allottee’s permission;
- 22 (iv) claims that the State lacks authority over the allocation and management of water  
23 and administration of water rights, including authority over the ownership of or rights to use water  
24 diverted or taken from a location within the State of Oklahoma;

1 (v) any other claim relating to the ownership of water, regulation of water, or  
2 authorized diversion, storage, or use of water diverted or taken from a location within the State of  
3 Oklahoma, which claim is based on the Chickasaw Nation's or Choctaw Nation's particular status as a  
4 federally recognized American Indian tribe possessed of powers of sovereignty and self-government as  
5 defined by federal law and pursuant to those treaties to which either is a signatory;

6 (vi) claims or defenses asserted or which could have been asserted in *Chickasaw*  
7 *Nation, Choctaw Nation v. Fallin et al.*, CIV 11-927 (W.D. Ok.), *OWRB v. United States, et al.* CIV 12-  
8 275 (W.D. Ok.), or any general stream adjudication;

9 (2) all claims for damages, losses or injuries to water rights or water, or claims of interference  
10 with, diversion, storage, taking, or use of water (including claims for injury to land resulting from such  
11 damages, losses, injuries, interference with, diversion, storage, taking, or use of water) attributable to any  
12 action by the State of Oklahoma, the Oklahoma Water Resources Board, or any water user authorized  
13 pursuant to state law to take or use water in the State of Oklahoma, including but not limited to the City  
14 of Oklahoma City, that accrued at any time up to and including the Enforceability Date;

15 (3) all claims and objections relating to the City of Oklahoma City's Permit Application No.  
16 2007-017, as amended pursuant to the Settlement Agreement and the Settlement Act, and the City Permit,  
17 including but not limited to:

18 (i) all claims regarding regulatory control over or Oklahoma Water Resources Board  
19 jurisdiction relating to such permit application and permit; and

20 (ii) all claims for damages, losses or injuries to water rights or rights to use water, or  
21 claims of interference with, diversion, storage, taking, or use of water (including claims for injury to land  
22 resulting from such damages, losses, injuries, interference with, diversion, storage, taking, or use of  
23 water) attributable to the issuance and lawful exercise of the City Permit;

24 (4) all claims to regulatory control over the City of Oklahoma City's Permit Numbers P80-48  
25 and 54-613 for water rights from the Muddy Boggy River for Atoka Reservoir and P73-282D for water  
26 rights from the Muddy Boggy River, including McGee Creek, for McGee Creek Reservoir;

1 (5) all claims that the State lacks regulatory authority over or Oklahoma Water Resources  
2 Board jurisdiction relating to Permit Numbers P80-48 and 54-613 for water rights from the Muddy Boggy  
3 River for Atoka Reservoir and P73-282D for water rights from the Muddy Boggy River, including  
4 McGee Creek, for McGee Creek Reservoir;

5 (6) all claims to damages, losses or injuries to water rights or water, or claims of interference  
6 with, diversion, storage, taking, or use of water (including claims for injury to land resulting from such  
7 damages, losses, injuries, interference with, diversion, storage, taking, or use of water) attributable to the  
8 lawful exercise of Permit Numbers P80-48 and 54-613 for water rights from the Muddy Boggy River for  
9 Atoka Reservoir and P73-282D for water rights from the Muddy Boggy River, including McGee Creek,  
10 for McGee Creek Reservoir, that accrued at any time up to and including the Enforceability Date;

11 (7) all claims and objections relating to the approval by the U.S. Army Corps of Engineers of  
12 the assignment of the Storage Contract of 1974 pursuant to the Amended Storage Contract Transfer  
13 Agreement.

14 (8) all claims for damages, losses or injuries to water rights or water, or claims of interference  
15 with, diversion, storage, taking, or use of water (including claims for injury to land resulting from such  
16 damages, losses, injuries, interference with, diversion, storage, taking, or use of water) attributable to the  
17 lawful exercise of rights pursuant to the Amended Storage Contract Transfer Agreement.

18 (b) WAIVERS AND RELEASES OF CLAIMS BY THE CHICKASAW NATION AND THE  
19 CHOCTAW NATION OF OKLAHOMA AGAINST THE UNITED STATES – Subject to the retention  
20 of rights and claims provided in section 9(e) and except to the extent that rights are recognized in the  
21 Settlement Agreement or Settlement Act, the Chickasaw Nation and Choctaw Nation of Oklahoma, each  
22 acting on behalf of itself and its respective citizens and members (except in their capacity as Allottees), is  
23 authorized to execute a waiver and release of all claims against the United States (including any agency or  
24 employee of the United States) relating to:

25 (1) All of the following claims the United States acting in its capacity as trustee for either  
26 Nation asserted or could have asserted in any proceeding filed or which could have been filed up to or

1 upon the Enforceability Date, including *Chickasaw Nation, Choctaw Nation v. Fallin et al.*, CIV 11-927  
2 (W.D. Ok.) or *OWRB v. United States, et al.* CIV 12-275 (W.D. Ok.), or any general stream adjudication:

3 (i) claims to the ownership of water in the State of Oklahoma;

4 (ii) claims to water rights and rights to use water diverted or taken from a location within the  
5 State of Oklahoma;

6 (iii) claims to authority over the allocation and management of water and administration of  
7 water rights, including authority over third-party ownership of or rights to use water diverted or taken  
8 from a location within the State of Oklahoma and ownership or use of water on Allotments by Allottees  
9 or anyone else using water on an Allotment with the Allottee's permission;

10 (iv) claims that the State lacks authority over the allocation and management of water and  
11 administration of water rights, including authority over the ownership of or rights to use water diverted or  
12 taken from a location within the State of Oklahoma;

13 (v) any other claim relating to the ownership of water, regulation of water, or authorized  
14 diversion, storage, or use of water diverted or taken from a location within the State of Oklahoma, which  
15 claim is based on the Chickasaw Nation's or Choctaw Nation's particular status as a federally recognized  
16 American Indian tribe possessed of powers of sovereignty and self-government as defined by federal law  
17 and pursuant to those treaties to which either is a signatory;

18 (vi) claims or defenses asserted or which could have been asserted in *Chickasaw Nation,*  
19 *Choctaw Nation v. Fallin et al.*, CIV 11-927 (W.D. Ok.), *OWRB v. United States, et al.* CIV 12-275  
20 (W.D. Ok.), or any general stream adjudication;

21 (2) claims for damages, losses or injuries to water rights or water, or claims of interference  
22 with, diversion, storage, taking, or use of water (including claims for injury to land resulting from such  
23 damages, losses, injuries, interference with, diversion, storage, taking, or use of water) attributable to any  
24 action by the State of Oklahoma, the Oklahoma Water Resources Board, or any water user authorized  
25 pursuant to state law to take or use water in the State of Oklahoma, including but not limited to the City  
26 of Oklahoma City, that accrued at any time up to and including the Enforceability Date;



1           (3) claims and objections relating to the City of Oklahoma City’s Permit Application No.  
2 2007-017, as amended pursuant to the Settlement Agreement and the Settlement Act, and the City Permit,  
3 including but not limited to:

- 4           i. claims regarding regulatory control over or Oklahoma Water Resources Board jurisdiction
- 5 relating to such permit application and permit; and
- 6           ii. claims for damages, losses or injuries to water rights or rights to use water, or claims of
- 7 interference with, diversion, storage, taking, or use of water (including claims for injury to land resulting
- 8 from such damages, losses, injuries, interference with, diversion, storage, taking, or use of water)
- 9 attributable to the issuance and lawful exercise of the City Permit;

10           (4) all claims to regulatory control over the City of Oklahoma City’s Permit Numbers P80-48  
11 and 54-613 for water rights from the Muddy Boggy River for Atoka Reservoir and P73-282D for water  
12 rights from the Muddy Boggy River, including McGee Creek, for McGee Creek Reservoir;

13           (5) all claims that the State lacks regulatory authority over or Oklahoma Water Resources  
14 Board jurisdiction relating to Permit Numbers P80-48 and 54-613 for water rights from the Muddy Boggy  
15 River for Atoka Reservoir and P73-282D for water rights from the Muddy Boggy River, including  
16 McGee Creek, for McGee Creek Reservoir;

17           (6) all claims to damages, losses or injuries to water rights or water, or claims of interference  
18 with, diversion, storage, taking, or use of water (including claims for injury to land resulting from such  
19 damages, losses, injuries, interference with, diversion, storage, taking, or use of water) attributable to the  
20 lawful exercise of Permit Numbers P80-48 and 54-613 for water rights from the Muddy Boggy River for  
21 Atoka Reservoir and P73-282D for water rights from the Muddy Boggy River, including McGee Creek,  
22 for McGee Creek Reservoir, that accrued at any time up to and including the Enforceability Date;

23           (7) all claims and objections relating to the approval by the U.S. Army Corps of Engineers of  
24 the assignment of the Storage Contract of 1974 pursuant to the Amended Storage Contract Transfer  
25 Agreement;

1 (8) all claims relating to the United States' litigation, prior to the Enforceability Date, of the  
2 Nations' water rights in the State of Oklahoma; and

3 (9) all claims relating to the negotiation, execution, or adoption of the Settlement Agreement  
4 (including exhibits) or this Act.

5 (c) Tolling of Claims

6 (1) In General – Each applicable period of limitation and time-based equitable defense relating  
7 to a claim described in this Section 9 shall be tolled during the period beginning on the Enactment Date  
8 and ending on the occurrence of either the Enforceability Date or the Expiration Date.

9 (2) Effect – Nothing in this section 9(c) revives any claim or tolls any period of limitation or  
10 time-based equitable defense that expired before the Enactment Date.

11 (d) EFFECTIVENESS OF WAIVER AND RELEASES.— The waivers and releases of this section  
12 shall become effective on the Enforceability Date.

13 (e) RETENTION AND RESERVATION OF CLAIMS.—

14 (1) RESERVATION OF RIGHTS AND RETENTION OF CLAIMS BY NATIONS AND  
15 THE UNITED STATES.—

16 (i) IN GENERAL.— Notwithstanding the waiver and releases of claims authorized  
17 under section 9(a) and 9(b), the Nations on behalf of themselves and their respective members and  
18 citizens (except in their capacities as Allottees), and the United States, acting as trustee for the Nations  
19 and their respective citizens and members, shall retain the following —

20 (A) all claims for enforcement of the Settlement Agreement and Settlement  
21 Act;

22 (B) all rights to use and protect any Nation water right recognized by or  
23 established pursuant the Settlement Agreement, including the right to assert claims for injuries relating to  
24 such rights and the right to participate in any stream adjudication, including any *inter se* proceeding;

25 (C) all claims relating to activities affecting the quality of water that are not  
26 waived at section 9(a)(v) or 9(b)(v) including any claims the Nations may have under—

1 (I) the Comprehensive Environmental Response, Compensation,  
2 and Liability Act of 1980 (42 U.S.C. § 9601 et seq.), including for damages to natural resources;

3 (II) the Safe Drinking Water Act (42 U.S.C. § 300f et seq.);

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

6 (IV) any regulations implementing the Acts described in this section;

7 (D) all claims relating to damage, loss, or injury resulting from a person's  
8 unauthorized diversion, use, or storage of water, including damages, losses, or injuries to land or non-  
9 water natural resources associated with any hunting, fishing, gathering, or cultural right;

10 (E) all rights, remedies, privileges, immunities, and powers not specifically  
11 waived and released pursuant to this Act or the Settlement Agreement.

## 12 SEC. 10. ENFORCEABILITY DATE

13 (a) IN GENERAL.—The Settlement Agreement shall take effect and be enforceable on the date on  
14 which the Secretary publishes in the Federal Register a certification that—

15 (1) to the extent the Settlement Agreement conflicts with this Act, the Settlement Agreement  
16 has been revised to conform with this Act; and

17 (2) the Settlement Agreement, as so revised, has been executed by the Secretary, the Nations,  
18 the State of Oklahoma, the City and the Trust; and

19 (3) to the extent the Amended Storage Contract Transfer Agreement conflicts with this Act, the  
20 Amended Storage Contract Transfer Agreement has been revised to conform with this Act; and

21 (4) the Amended Storage Contract Transfer Agreement, as revised to conform with this Act,  
22 has been—

23 (i) executed by the State, the City and the Trust; and

24 (ii) approved by the Secretary of the Army; and

1 (5) an order has been entered in *United States v. Oklahoma Water Resources Board*, Civ. 98-C-  
2 521-E with any necessary modifications to the September 11, 2009, Order entered in that case, as  
3 provided in the Settlement Agreement; and

4 (6) orders of dismissal have been entered in *Chickasaw Nation, Choctaw Nation v. Fallin et*  
5 *al.*, Civ 11-297 (W.D. Ok.) and *OWRB v. United States, et al.* Civ 12-275 (W.D. Ok.) as provided in the  
6 Settlement Agreement; and

7 (7) the OWRB has issued the City Permit; and

8 (8) the final documentation of the Kiamichi Basin Hydrologic model is on file at the OWRB's  
9 Oklahoma City offices; and

10 (9) the Atoka and Sardis Conservation Projects Fund has been funded as provided in the  
11 Settlement Agreement.

12 (b) EXPIRATION DATE.— If the Secretary fails to publish a statement of findings under paragraph  
13 (a) by not later than September 30, 2020, or such alternative later date as is agreed to by the Secretary, the  
14 Nations, the State, the City, and the Trust, the following shall apply—

15 (1) This Act, except for this section and any provisions of this Act that are necessary to  
16 effectuate this section (but only for purposes of effectuating this section) are repealed effective September  
17 30, 2020, or the extended date;

18 (2) The waivers and releases of claims shall not become effective;

19 (3) The limited waivers of sovereign immunity shall not become effective;

20 (4) The Settlement Agreement shall be null and void, except for Section 13 and any provisions  
21 of the Settlement Agreement that are necessary to effectuate Section 13 and, except with respect to  
22 Section 13, the State, the Nations, the City, the Trust, and the United States shall not be bound by any  
23 obligations or benefit from any rights recognized thereunder;

24 (5) If the City Permit has been issued, it shall be null and void. The City may re-submit to the  
25 OWRB, and the OWRB shall be deemed to have accepted, the OWRB Permit Application No. 2007-017  
26 without having waived its original application priority date and appropriate amounts.

1 (6) If the Amended Storage Contract Transfer Agreement has been executed or approved, it  
2 shall be null and void, and the Storage Contract Transfer Agreement shall be deemed to be in full force  
3 and effect as between the State and the Trust.

4 (7) If the Atoka and Sardis Conservation Projects Fund has been established and funded, the  
5 funds shall be returned to the respective funding parties with accrued interest if any.

6 (c) NO PREJUDICE.— The occurrence of the Expiration Date shall not in any way prejudice—

7 (1) any argument or suit that the Nations’ may bring to contest the City’s pursuit of OWRB  
8 Permit Application No. 2007-017 or any modified version thereof or to contest the 2010 Storage Contract  
9 Transfer Agreement;

10 (2) any argument, defense, or suit the State may bring or assert with regard to the Nations’  
11 claims to water or over water in the Settlement Area; or

12 (3) any argument, defense or suit the City may bring or assert with regard to the Nations’  
13 claims to water or over water in the Settlement Area relating to OWRB Permit Application No. 2007-017  
14 or any modified version thereof or to contest the 2010 Storage Contract Transfer Agreement.

15 (d) EXTENSION.— The Expiration Date may be extended in writing if the Nations, the State, the  
16 United States and the City all agree that an extension is warranted.

17 SEC. 11. JURISDICTION; WAIVERS OF IMMUNITY FOR INTERPRETATION AND  
18 ENFORCEMENT

19 (a) JURISDICTION.—

20 (1) IN GENERAL.— The United States District Court for the Western District of Oklahoma  
21 shall have exclusive jurisdiction for all purposes and for all causes of action relating to the interpretation  
22 or enforcement of the Settlement Agreement, the Amended Storage Contract Transfer Agreement, or  
23 interpretation or enforcement of this Act including all actions filed by an Allottee pursuant to section  
24 6(c)(4). The Choctaw Nation, the Chickasaw Nation, the State of Oklahoma, the City, the Trust, and the  
25 United States shall each have the right to bring an action pursuant to this section for the purposes set forth

1 herein. No action may be brought in any other state, tribal or federal court or administrative forum for any  
2 purpose relating to the Settlement Agreement, Amended Storage Contract Transfer Agreement, or this  
3 Act. Nothing in this Act authorizes any money judgment or otherwise allows the payment of monies by  
4 the United States, Nations, State, City, or Trust.

5 (2) NOTICE AND CONFERENCE.— It shall be a prerequisite to the jurisdiction provided for  
6 in this section that any party seeking to interpret or enforce the Settlement Agreement shall comply with  
7 the following:

8 (3) Any party asserting noncompliance or seeking interpretation of the Settlement Agreement  
9 or this Act shall first serve written notice on the party or parties alleged to be in breach of the Settlement  
10 Agreement or violation of this Act;

11 (4) The notice shall identify the specific Settlement Agreement or statutory provision alleged  
12 to have been violated or in dispute and shall specify in detail the asserting party's contention and any  
13 factual basis for the claim;

14 (5) Representatives of the party alleging a breach or violation and the party or parties alleged to  
15 be in breach or violation shall meet within thirty (30) days of receipt of notice in an effort to resolve the  
16 dispute. If the matter is not resolved to the satisfaction of the party alleging breach within ninety (90)  
17 days of the original notice, such party may take any appropriate action for interpretation or enforcement  
18 consistent with the Settlement Agreement and this section.

19 (b) LIMITED WAIVERS OF SOVEREIGN IMMUNITY

20 (1) IN GENERAL.— The United States, the Nations, or all may be joined in an action, for  
21 which their immunity has been waived below, filed in the United States District Court for the Western  
22 District of Oklahoma.

23 (2) UNITED STATES IMMUNITY.— Any claim by the United States to sovereign immunity  
24 from suit is irrevocably waived for any action brought by the State, the Chickasaw Nation, the Choctaw  
25 Nation, the City, the Trust, or (solely for purposes of actions brought pursuant to section 6(c)(4)) an  
26 Allottee in the Western District of Oklahoma relating to interpretation or enforcement of the Settlement

1 Agreement or this Act, inclusive of the appellate jurisdiction of the United States Court of Appeals for the  
2 Tenth Circuit and the United States Supreme Court.

3 (3) CHICKASAW NATION IMMUNITY.— For the exclusive benefit of the State (inclusive  
4 of the OWRB), the City, the Trust, the Choctaw Nation, and the United States, the Chickasaw Nation’s  
5 sovereign immunity from suit is waived solely for any action brought in the Western District of  
6 Oklahoma relating to interpretation or enforcement of the Settlement Agreement or this Act, which action  
7 is brought by the State or the OWRB, the City, the Trust, the Choctaw Nation, or the United States,  
8 inclusive of the appellate jurisdiction of the United States Court of Appeals for the Tenth Circuit and the  
9 United States Supreme Court.

10 (4) CHOCTAW NATION IMMUNITY.— For the exclusive benefit of the State (inclusive of  
11 the OWRB), the City, the Trust, the Chickasaw Nation, and the United States, the Choctaw Nation  
12 expressly and irrevocably consents to suit and waives its sovereign immunity from suit solely for any  
13 action brought in the Western District of Oklahoma relating to interpretation or enforcement of the  
14 Settlement Agreement or this Act, which action is brought by the State or the OWRB, the City, the Trust,  
15 the Chickasaw Nation, or the United States, inclusive of the appellate jurisdiction of the United States  
16 Court of Appeals for the Tenth Circuit and the United States Supreme Court.

17 SEC. 12 ADDITIONAL PROVISIONS

18 (a) AGREEMENT.— As provided in the Settlement Agreement, the Chickasaw Nation agrees to  
19 convey an easement to the City, which easement shall be as depicted in Exhibit 15 to the Settlement  
20 Agreement, and the Chickasaw Nation and City shall cooperate and coordinate on the submission of an  
21 application for approval of such conveyance by the Department of the Interior, in accord with federal law  
22 and process. Upon approval by the Department of the Interior, the City shall duly record the easement. In  
23 exchange for such conveyance, the City shall pay to the Chickasaw Nation the value of past unauthorized  
24 use and consideration for future use of the lands burdened by such easement, which value shall be based

1 on an appraisal secured by the City and Nations and approved by the United States Bureau of Indian  
2 Affairs.

3 (b) LIMITATION ON LIABILITY.— With respect to the Atoka and Sardis Conservation Projects  
4 Fund and the Water Preservation Infrastructure Fund of the Settlement Agreement established pursuant to  
5 Section 6.5.2.1.2 of the Settlement Agreement, the United States has no right or trust or other obligation:  
6 (i) to monitor, administer, or account for, in any manner, any of the proceeds contributed to such funds by  
7 either Nation, any other party to the Settlement Agreement, or any other person; (ii) to review or approve  
8 any expenditure from the fund; or (iii) to contribute to such funds.

9 SEC. 13. DISCLAIMER

10 This Settlement Agreement applies only to the claims and rights of the Nations, and nothing in  
11 this Act or the Settlement Agreement shall be construed in any way to quantify, establish, or in any way  
12 serve as precedent regarding the land and water rights, claims or entitlements to water of any American  
13 Indian tribe other than the Nations, including any other American Indian tribe in the State of Oklahoma.