

1 Exhibit 9: State of Oklahoma, Choctaw Nation of Oklahoma, Chickasaw Nation, City of Oklahoma  
2 City Water Settlement  
3

4 **IN THE UNITED STATES DISTRICT COURT**  
5 **FOR THE WESTERN DISTRICT OF OKLAHOMA**  
6

7 OKLAHOMA WATER RESOURCES )  
8 BOARD, )  
9 )  
10 Plaintiff, )  
11 )  
12 vs. )  
13 )  
14 UNITED STATES OF AMERICA, *et al.*, )  
15 )  
16 )  
17 Defendants. )  
18 \_\_\_\_\_ )  
19

Case No. CIV-12-275

20 **PLAINTIFF’S MOTION FOR DISMISSAL**

21 Pursuant to **[insert Settlement Act citation]** (hereinafter the “Settlement Act”),  
22 approving the State of Oklahoma, Choctaw Nation of Oklahoma, Chickasaw Nation, City of  
23 Oklahoma City Water Settlement (“Settlement Agreement”), and Fed. R. Civ. Pr. 41(a)(2), the  
24 Oklahoma Water Resources Board (“OWRB” or “Plaintiff”) respectfully moves this Court to  
25 order the dismissal of this action: (1) without prejudice as to the rights and claims of the United  
26 States as trustee for the Choctaw Nation of Oklahoma and the Chickasaw Nation (hereinafter  
27 “United States”), subject to the conditions set forth below and in the proposed order  
28 accompanying this Motion; and (2) without prejudice as to all other parties. Plaintiff requests the  
29 dismissal become effective on the Enforceability Date as defined in the Settlement Act and  
30 Settlement Agreement subject to the conditions set forth herein and in the proposed order unless  
31 the OWRB notifies the Court that the Enforceability Date has not occurred and moves to vacate  
32 the order of dismissal on that basis. Plaintiff shall provide notice to the Court of the occurrence

1 of the Enforceability Date within sixty (60) days of the Enforceability Date. As grounds for this  
2 Motion, the OWRB states as follows:

3 1. This case was stayed by order of the Court on March 27, 2012, along with a concurrent  
4 stay entered in *Choctaw Nation of Oklahoma and Chickasaw Nation v. Fallin et al.*, CIV  
5 11-927, to allow settlement negotiations to proceed as among the Choctaw Nation of  
6 Oklahoma, the Chickasaw Nation (collectively “the Nations”), the State of Oklahoma  
7 (Governor Mary Fallin and the OWRB) (collectively “State”), the City of Oklahoma City  
8 (“City”), and the United States to resolve the issues raised by the respective actions.

9 Settlement negotiations proceeded thereafter, and upon request of the State, the Nations,  
10 the City, and the United States, the Court has extended the stay in both cases multiple  
11 times to allow settlement discussions to progress.

12 2. After almost five years of negotiations, the State, the Nations, the United States, and the  
13 City reached a settlement that was executed by the State, the Nations and the City in  
14 August 2016, enacted into federal law on \_\_\_\_\_ as [insert Settlement Act citation], and  
15 executed by the United States on \_\_\_\_\_ 2017.

16 3. The Settlement Agreement and the Settlement Act settle and determine the water rights  
17 and rights to water of the Nations in the State of Oklahoma. The Settlement Agreement  
18 and the Settlement Act constitute a final determination of the Nations’ rights to water and  
19 water rights in the State of Oklahoma and are binding on the State, the United States, and  
20 the Nations. Accordingly, notwithstanding the dismissal of the instant action without  
21 prejudice as to the State and the United States, the Settlement Agreement shall be binding  
22 on the United States and the Nations in any future stream adjudication in the State of  
23 Oklahoma as to the water rights and rights to water of the Nations.

1 4. Dismissal of the instant action should be without prejudice as to all other parties.

2 WHEREFORE, for the reasons set for herein, OWRB requests dismissal of the instant  
3 action without prejudice as to the United States as trustee for the Choctaw Nation of Oklahoma  
4 and the Chickasaw Nation, subject to the conditions set forth herein; and without prejudice as to  
5 all other parties.

6  
7 Date: \_\_\_\_\_

Respectfully submitted,

8 OKLAHOMA OFFICE OF THE ATTORNEY  
9 GENERAL

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12 DRAFT

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26  
27 -and-

28  
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***Counsel for Governor Mary Fallin,  
State of Oklahoma and Counsel for OWRB***

**CERTIFICATE OF SERVICE**

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I hereby certify that on the \_\_\_ day of \_\_\_\_\_, 2017, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing. Based on the records currently on file, the Clerk of court will transmit a Notice of Electronic Filing to the following ECF registrants:

\_\_\_\_\_

1  
2 **IN THE UNITED STATES DISTRICT COURT**  
3 **FOR THE WESTERN DISTRICT OF OKLAHOMA**  
4

5 OKLAHOMA WATER RESOURCES )  
6 BOARD, )  
7 )  
8 Plaintiff, )  
9 )  
10 vs. )  
11 )  
12 UNITED STATES OF AMERICA, *et al.*, )  
13 )  
14 )  
15 Defendants. )  
16 \_\_\_\_\_ )  
17

Case No. CIV-12-275

18 **ORDER GRANTING PLAINTIFF’S MOTION FOR DISMISSAL**

19 Upon review of the record and consideration of the Plaintiff Oklahoma Water Resource  
20 Board’s Motion for Dismissal Pursuant to Fed. R. Civ. P. 41(a)(2), the Court FINDS as follows:

- 21 1. This case was stayed by order of the Court on March 27, 2012, along with a concurrent  
22 stay entered in *Choctaw Nation of Oklahoma and Chickasaw Nation v. Fallin et al.*, CIV  
23 11-927, to allow settlement negotiations to proceed as among the Choctaw Nation of  
24 Oklahoma, the Chickasaw Nation (collectively “the Nations”), the State of Oklahoma  
25 (Governor Mary Fallin and the OWRB) (collectively “State”), the City of Oklahoma City  
26 (“City”), and the United States to resolve the issues raised by the respective actions.  
27 Settlement negotiations proceeded thereafter and upon request of the State, the Nations,  
28 the City, and the United States, the Court has extended the stay in both cases multiple  
29 times to allow settlement discussions to progress.
- 30 2. After almost five years of negotiations, the State, the Nations, the United States, and the  
31 City entered in to State of Oklahoma, Choctaw Nation of Oklahoma, Chickasaw Nation,  
32 City of Oklahoma City Water Settlement (“Settlement Agreement”), which was approved

1 by Congress and enacted into federal law in [insert Settlement Act citation] (“Settlement  
2 Act”).

3 3. The Settlement Agreement and the Settlement Act settle and determine the water rights  
4 and rights to water of the Nations in the State of Oklahoma. The Settlement Agreement  
5 and the Settlement Act constitute a final determination of the Nations’ rights to water and  
6 water rights in the State of Oklahoma and are binding on the State, the United States, and  
7 the Nations. Accordingly, notwithstanding the dismissal of the instant action without  
8 prejudice as to the State and the United States, the Settlement Agreement shall be binding  
9 on the United States and the Nations in any future stream adjudication in the State of  
10 Oklahoma as to the water rights and rights to water of the Nations.

11 4. The dismissal of the instant action should be without prejudice as to all other parties.

12 5. Plaintiff requests that dismissal of the instant action shall be effective as of the  
13 Enforceability Date as defined in the Settlement Act and the Settlement Agreement  
14 unless the Plaintiff notifies the Court that the Enforceability Date has not occurred and  
15 moves to vacate the order of dismissal on that basis.

16 IT IS HEREBY ORDERED that the motion be and hereby is GRANTED pursuant to the  
17 terms of this ORDER:

18 1. Effective on the Enforceability Date as defined in the Settlement Act and Settlement  
19 Agreement, the above-captioned action is dismissed without prejudice as to the United  
20 States as trustee for the Nations, the Nations’ claims, and the State subject to the  
21 conditions set forth herein;

22 2. The Settlement Agreement and the Settlement Act settle and determine the water rights  
23 and rights to water of the Nations in the State of Oklahoma. The Settlement Agreement

1 and the Settlement Act constitute a final determination of the Nations' rights to water and  
2 water rights in the State of Oklahoma and are binding on the State, the United States, and  
3 the Nations. Accordingly, notwithstanding the dismissal of the instant action without  
4 prejudice as to the State and the United States, the Settlement Agreement shall be binding  
5 on the United States and the Nations in any future stream adjudication in the State of  
6 Oklahoma as to the water rights and rights to water of the Nations;

7 3. Effective on the Enforceability Date as defined in the Settlement Act and Settlement  
8 Agreement, the above-captioned action is dismissed without prejudice as to all other  
9 parties;

10 4. Dismissal shall be without further action of the Court or notice to the parties, unless the  
11 Plaintiff notifies the Court through a motion to vacate the order of dismissal that the  
12 Enforcement Date has not occurred; and

13 5. Within thirty (30) days of the Secretary of the United States Department of the Interior's  
14 publishing in the Federal Register a Certification stating that the conditions precedent to  
15 the Settlement Agreement's Enforceability Date, the OWRB shall file a notice with the  
16 Court that includes a copy of the Certification.

17 ENTERED this \_\_\_\_\_ day of\_\_\_\_, 2017

18  
19 DRAFT  
20 LEE R. WEST  
21 UNITED STATES DISTRICT JUDGE