

State of Oklahoma, Chickasaw Nation, Choctaw Nation of Oklahoma, City of Oklahoma City Water Settlement [“Tribal Water Settlement”]



Tribal Water Settlement

- Settles Litigation:

- *Chickasaw Nation, Choctaw Nation v. Fallin et al.*, CIV 11-927 (W.D. Ok.)
 - Resolves disputes related to ownership, regulatory control, and use of water by the Nations
 - State-wide and specifically w/in 22 county area historically claimed as “treaty territory” (“Settlement Area”)
- *OWRB v. United States, et al.*, CIV 12-275 (W.D. Ok.)
 - General stream adjudication



Tribal Water Settlement

- **State:**

- OWRB retains water permitting & administration state-wide
 - Including in Settlement Area
- Existing water rights protected
- State's debt obligations resolved

- **OKC:**

- Provide OKC w/ assured long-term water supply
 - Appropriation of 115,000 AFY from Kiamichi R. natural flow/stored releases from Sardis
 - Nations agree not to protest/object to OKC's Proposed Permit

- **Allottees:**

- Agreement provides for certain surface water and groundwater uses (administered by OWRB, but appealable to Federal Court)
- Additional water rights - may use State appropriation process or go to Federal Court to determine extent of Federal right

Tribal Water Settlement

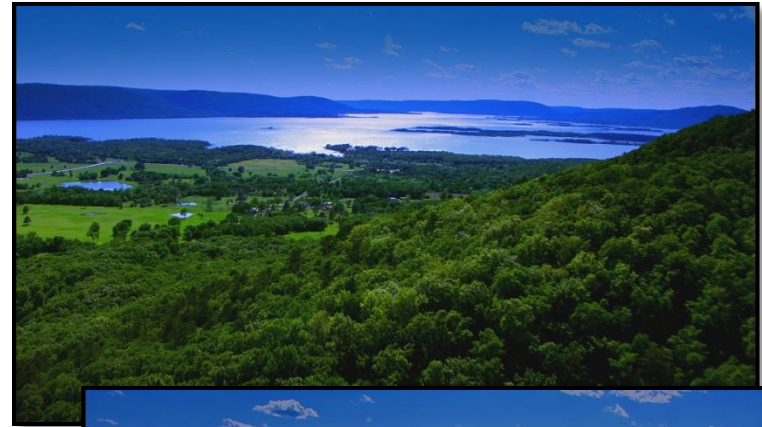
Nations:

- Long-term protection of Settlement Area water needs (including tourism & recreation)
- Role in technical evaluation of major water transfers prior to OWRB approval
 - If proposed transfer exceeds conferral threshold, OWRB must use Adequate Hydrologic Model to inform permitting decision (in addition to State statutes/rules)
 - If no Adequate Hydrologic Model exists, then Technical Committee (1 Tribal member/1 State member) helps develop a model
- Incorporates State law protections of springs/streams emanating from Arbuckle-Simpson
- Nations' concerns regarding proposed OKC permit addressed
 - OKC stipulated permit requirements -
 - Sardis Lake Level Management Plan
 - No diversion if flow is < 50 cfs
 - 20,000 AF administrative set-aside for local use
 - Additional OKC conservation measures
 - Atoka and Sardis Conservation Projects Fund

Tribal Water Settlement

Nations (Continued):

- Nations' Groundwater use
 - Existing GW uses
 - Recognized in Agreement
 - New or modified GW uses on Trust Lands
 - Process in Agreement applies
(notice to OWRB, well-spacing, EPS)
 - New or modified GW uses on Non-Trust Lands
 - State law applies
- Nations' Surface Water use
 - No existing SW uses
 - Future SW uses
 - 500 AF per basin in Settlement Area
w/o permit



Tribal Water Settlement

- **Out-of-state water use:**

- Legislative authorization required under existing State law
- Settlement Commission established to evaluate proposals and submit report to Legislature
 - Chickasaw Nation and Choctaw Nation of Oklahoma represented
- OWRB permit required
- Water Preservation Fund
 - Any money generated from out-of-state water transfers would go into a fund for public water infrastructure projects
 - OWRB ranks/approves project applications
 - Projects from Settlement Area receive priority

- **Remaining process:**

- Federal agency approval
- Congressional/Presidential approval (Federal legislation enacted)

QUESTIONS?

