

## History of the Arkansas River

The Arkansas River follows a course nearly 1,400 miles long, from its headwaters in the Rocky Mountains near Leadville, Colorado, to Memphis, Tennessee, where it spills into the Mississippi River. In between, it crosses through Kansas, Oklahoma, and Arkansas.

Meandering across northeastern Oklahoma, the Arkansas River traverses the Cherokee Nation and forms part of the boundary between the Cherokee Nation, on the north, and the Choctaw Nation, on the south for a total of 96 miles.

Tribal ownership of the river dates to the Cherokee Treaty of New Echota, in 1835, and the Treaty of Dancing Rabbit Creek between the U.S. and the Choctaw Nation in 1830. Chickasaw participation in ownership dates to the Treaty of January 17, 1837.

Because the river was a navigable stream the land under it was not allotted, that is to say, it was not conveyed to individual owners when the Tribes were forced to break up their land bases in preparation for Oklahoma statehood.

Because ownership of the land over which the river flows were not conveyed, the tribes retain ownership pursuant to their original treaties. However, the State of Oklahoma claimed ownership, and for many years, the tribes were without resources to pursue their rights.

During the 1960s, as the federal government began work on the McClellan-Kerr Navigation Project, the Cherokees, Choctaws, and Chickasaws sued the State of Oklahoma to reclaim their ownership rights. After losing two lower court decisions, the tribes appealed their case to the United States Supreme Court. In a historic 1970 decision on the eve of completion of the inland waterway, in *Choctaw Nation v. Oklahoma*, 397 U.S. 620 (1970) the high court confirmed the tribes' ownership of the riverbed. This is a direct quote. "We thus conclude that the United States intended to and did convey title to the bed of the Arkansas River below its junction with the Grand River within in the present State of Oklahoma in the grants it made to petitioners. The judgments of the Court of Appeals are therefore reversed, and the cases are remanded for further proceedings consistent with this opinion. It is so ordered."

This decision furnishes a great deal of detail about the legal history of the Tribal ownership of this 96-mile section of the



**The Arkansas Riverbed Authority is an entity created jointly by the Chickasaw, Choctaw, and Cherokee Nations to administer the tribally owned stretch of the Arkansas River between Muskogee Oklahoma, and Ft. Smith, Arkansas.**

### **PURPOSE**

**The purpose of the Arkansas Riverbed Authority shall be to further Indian participation in the management of tribal interests in and to the Arkansas River, assist in the education and understanding of all people regarding such tribal interests, and further inter-tribal unity in the areas of resource development. The authority shall have no power to encumber or alienate tribal properties.**

Arkansas River, between the confluence of the Arkansas, Grand, and Verdigris rivers - the "Three Forks" area near Muskogee - and the Oklahoma-Arkansas boundary, near the Garrison Ave. A bridge between the Cherokee Nation and Fort Smith, Ark.

The Supreme Court remanded it back to U. S. District Court Eastern District for determination of the unresolved issues, etc. in Docket 6219, see Abstract of Case for detail information.

Judgment 73-332-Civil U.S. Dist. Ct, Eastern District of Oklahoma 4-15-1975, order that the south portion of the Arkansas River bed from the Canadian fork to the Arkansas-Oklahoma border belongs to the Choctaw Nation having an undivided 3/4 interest and the Chickasaw Nation having an undivided 1/4 interest; that the thread of the main channel of the said river shall be the dividing line of the river bed, and the Cherokee Nation has the north portion of the Arkansas River bed from the Canadian fork to the Arkansas-Oklahoma border in fee simple.

It was also determined that the portion of the bed of the Arkansas River from the confluence of the mouth of the Grand River to the confluence of the Canadian River is owned in fee simple by the Cherokee Nation.

The effective date of this judgment shall be the 16th day of November 1907, the date Oklahoma became a state and technically took possession of the Arkansas River, which possession was continued until the Supreme Court decision in *Choctaw v Oklahoma*, 397 U.S. 620 (1970). See Riverbed Ownership for more information. Also, see Associate Solicitor Opinion dated 8-16-1983.

After years of negotiation following the Supreme Court ruling, the tribes were able to reach a settlement agreement with the United States government over the use of the riverbed. Late in 2002 the Congress passed the Cherokee, Choctaw, and Chickasaw Nations Claims Settlement Act whereby the Tribes received payment for past damages and for the value of dry-bed claim areas in the lower reach of the river in exchange for a relinquishment of all claims to their dry bed claim areas that were occupied by third parties.

Presently, the Department of the Interior, Bureau of Land Management, (BLM) has completed plats representing the ordinary high water mark (OHWM) of the 2003 left and right bank of the Arkansas River, as digitized from aerial photography, (identifying said riverbed as instructed by the Settlement Act Public Law No. 107-331, enacted December 13, 2002). Section 604 (1, 2 & 6) defines this area as (1) DISCLAIMED DRYBED LANDS- The term 'Disclaimed Dry bed Lands' means all Dry bed Lands along the Arkansas River that are located in Township 10 North in Range 24 East, Townships 9

and 10 North in Range 25 East, Township 10 North in Range 26 East, and Townships 10 and 11 North in Range 27 East, in the State of Oklahoma. (2) DRYBED LANDS- The term `Dry bed Lands' means those lands which, on the date of enactment of this title, lie above and contiguous to the mean high water mark of the Arkansas River in the State of Oklahoma. The term `Dry bed Lands' is intended to have the same meaning as the term `Upland Claim Area' as used by the Bureau of Land Management Cadastral Survey Geographic Team in its preliminary survey of the Arkansas River. The term `Dry bed Lands' includes any lands so identified in the `Holway Study. (6) WETBED LANDS- The term `Wet bed Lands' means those Riverbed lands which lie below the mean high water mark of the Arkansas River in the State of Oklahoma as of the date of the enactment of this title, exclusive of the Dry bed Lands. The term `Wet bed Lands' is intended to have the same meaning as the term `Present Channel Claim Areas' as utilized by the Bureau of Land Management Cadastral Survey Geographic Team in its preliminary survey of the Arkansas River.

The Nations will continue to own the wet bed of the river from bank to bank as well as their unallotted lands that remain in the dry-bed lands as defined in Section 604 (2) Special Provisions (C) The Indian Nations do not relinquish any right, title, or interest in any lands or minerals of certain unallotted tracts which are identified in the official records of the Eastern Oklahoma Regional Office, Bureau of Indian Affairs. The disclaimer to be filed by the Secretary of the Interior under section 605(b) (1) of this title shall reflect the legal description of the unallotted tracts retained by the Nations. This area is also defined as the **lower reach** of the river.

The Nations did not give up any claims to the wet bed of the Arkansas River or lands that laid in the old riverbed from 10n-23e to the Three Forks Area near Muskogee, Oklahoma. This area is further defined in Section 602 (17) In those resolutions, each Indian Nation expressly reserved all of its beneficial interest and title to all other Riverbed lands, including minerals, as determined by the Supreme Court in Choctaw Nation v. Oklahoma, 397 U.S. 620 (1970), and further reserved any and all right, title, or interest that each Nation may have in and to the water flowing in the Arkansas River and its tributaries. The area is also referred to as the **upper reach** of the Arkansas Riverbed. Survey on all of those tract has now been completed by BLM.

## BOARD OF DIRECTORS

The Board of Directors is made up of the Chief Executive of each of the member Tribes and his Appointee.

### Chickasaw Board Members

**Governor Bill Anoatubby**

**Wayne Scribner**

### Choctaw Board Members

**Chief Gary Batton**

**Brad Mallett**

### Cherokee Board Members

**Chief Chuck Hoskin, Jr**

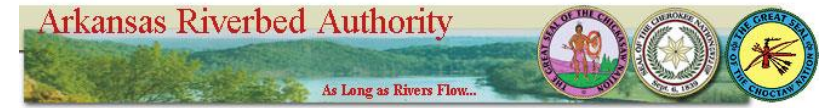
**Ginger Reeves**

### Director of the Arkansas Riverbed

**Charles E. Robertson**

### Contact Us

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### The Arkansas Riverbed Webpage.

[www.cherokee.org/riverbed](http://www.cherokee.org/riverbed)

This is one of the best tools we have at our disposal. Our website contains our **Home page**, with a brief description of our Authority, **Pictures**, various pictures I have taken while inspecting the river. **Ownership History**, complete break out of the riverbed history and good sources of information. **Board of Directors**, short bios and pictures of members, **Aerial Photo Maps of Riverbed**, this has 16 aerial maps that take us from the mouth of the Grand River to the Arkansas State Line. It shows ownership along the river and approved BLM plats where complete. **Oil and Gas**, which is a "how-to" and what we have available for leasing, **ROW & Easement**, which is also a "how-to" and where to go for help, **Links**, several interest links to supporting governmental agencies, as well as the three Nations, Settlement Act, the last Act of Congress to affect your Riverbed, Arkansas Riverbed Settlement Act Resolutions, copy of each Nation Tribal resolution and any amendments, can be found there, **Riverbed Ownership**, this is a database that contains a complete break out of the Arkansas Riverbed properties by Section, Township, and Range. Total acres both dry and Wetbed, whether or not the Survey has been completed. A listing of all known right of ways, business leases and oil and gas leases that have been approved. **BLM Survey Plats for ARKRB Lower Reach**, this contains all the Survey Plats that have been approved from 11N-27E to 10N-24E. This covers the Disclaim Area of the Riverbed. **BLM Survey Plats Upper Reach**, this covers approved BLM plats from 10N-23E to the mouth of the Grand River. **Frequently Asked Questions**, these are answers to some frequently asked questions. **Arkansas Riverbed Authority By-Law and Charter.**