



Council of the Cherokee Nation

Cherokee Nation Tribal
Council
17763 S. Muskogee Ave.
Tahlequah, OK 74464

Legislation Text

File #: 07-021, Version: 1

A RESOLUTION APPROVING THE RECOMMENDATIONS OF THE ATTORNEY GENERAL FOR PAYMENT OF ATTORNEY FEES FROM THE ARKANSAS RIVERBED SETTLEMENT FUND, AND AUTHORIZING THE PRINCIPAL CHEIF TO SUBMIT THE AMENDED AND FINAL PAYMENT PLAN TO THE BUREAU OF INDIAN AFFAIRS

WHEREAS, the Cherokee Nation since time immemorial has exercised the sovereign rights of self-government in behalf of the Cherokee people;

WHEREAS, the Cherokee Nation is a federally recognized Indian Nation with a historic and continual government to government relationship with the United States of America;

WHEREAS, the Cherokee Nation owns portions of the Arkansas Riverbed as recognized by the Supreme Court of the United States in *Choctaw v. United States*;

WHEREAS, the United States of America and the Cherokee Nation have agreed on a plan for compensation regarding the mismanagement of the Nation's property by the United States, including payment of attorney's fees associated with the Arkansas Riverbed litigation, pursuant to 25 U.S.C.A. § 1779(d) of the Cherokee, Choctaw, and Chickasaw Nations Claims Settlement Act;

WHEREAS, under this Act the Secretary shall pay to the attorneys those fees provided for in the individual attorney fee contracts as approved by the respective Indian Nations;

WHEREAS, the Act also provides that the total fees payable to attorneys under such contracts shall not exceed 10 percent of that Indian Nation's allocation of appropriated funds;

WHEREAS, the former General Counsel of the Cherokee Nation previously reviewed the attorney contracts, billings and previous payments associated with the Arkansas Riverbed litigation and made the specific finding that the Patton, Boggs firm was entitled to \$151,000, which was authorized to be paid by Resolution 29-05;

WHEREAS, the Patton, Boggs firm brought a complaint in U.S. Court of Federal Claims that they were owed an additional \$1,393,542.80 from the Cherokee Nation associated with the Arkansas Riverbed settlement;

WHEREAS, the U.S. Court of Federal Claims decided that the Patton, Boggs firm was not entitled to receive damages in that forum;

WHEREAS, the Patton, Boggs firm filed its intent to appeal in the United States Court of Appeals for the Federal Circuit;

WHEREAS, the Patton, Boggs law firm and the Nation have been engaged in settlement discussions to determine if further litigation can be avoided;

WHEREAS, the Attorney General for the Cherokee Nation has recommended approval of a settlement of the

Patton, Boggs claim for an additional \$200,000 to avoid further litigation in this matter;

WHEREAS, Principal Chief Chad Smith has approved this payment, and recommends such final payment for approval by this Council to be paid from the settlement funds proportionately as funds are appropriated in the federal budget, with any unpaid balances proportionately paid from the funds in succeeding years and to the extent that settlement funds are appropriated by the United States, not to exceed 10% of the Cherokee allocation of the settlement.

BE IT RESOLVED BY THE CHEROKEE NATION, that the Council endorses and approves the above recommendations of the Attorney General for disbursement of attorney fees in the amount of an additional \$200,000 for a total of \$351,000 to the Patton, Boggs firm for final settlement of their legal work for the Nation, and that the Principal Chief is hereby authorized to submit this final payment plan to the Bureau of Indian Affairs for approval for payment from Cherokee Nation trust funds as funds are appropriated by the Congress, and in accordance with the aforementioned legislation.

CERTIFICATION

The foregoing resolution was adopted by the Council of the Cherokee Nation at a duly called meeting on the ____ day of _____, 2007, having ____ members present, constituting a quorum, by the vote of _____ yea; _____ nay; _____ abstaining.