Council of the Cherokee Nation

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

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Title:	A RESOLUTION OBJECTING TO THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY GRANT OF ENVIRONMENTAL REGULATORY JURISDICTION TO THE STATE OF OKLAHOMA				
Sponsors:	Joe Deere, Julia Coates, Mary Baker Shaw, Harley Buzzard, Daryl Legg, Victoria Vazquez, Mike Shambaugh				
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11/16/2020	1	TRIBAL COUNCIL	Approved	Pass
10/29/2020	1	RULES COMMITTEE	Approved and Forwarded to Council	Pass

A RESOLUTION OBJECTING TO THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY GRANT OF ENVIRONMENTAL REGULATORY JURISDICTION TO THE STATE OF OKLAHOMA

WHEREAS, the Cherokee Nation, since time immemorial, has exercised the sovereign rights of self-government on 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, Article VI, Section 7, the Constitution of the Cherokee Nation provides the Council the power to establish laws it shall deem necessary and proper for the good of the Nation;

WHEREAS, the United States Supreme Court reaffirmed the Cherokee Nation's treaty reservation boundaries in *McGirt v. Oklahoma*, 591 U.S. __ (2020);

WHEREAS, the United States Environmental Protection Agency ("EPA") is charged with enforcing certain regulatory programs to protect human health and the environment in the United States, including on lands within the Cherokee Nation reservation;

WHEREAS, on November 8, 1984, the EPA adopted a formal Policy for Administration of Environmental Programs on Indian Reservations ("EPA Indian Policy"), as most recently affirmed by the EPA Administrator on April 5, 2019, which requires the EPA to support Tribal primacy and jurisdiction over environmental programs on reservation lands;

WHEREAS, Section 10211(a) of the *Safe, Accountable, Flexible, Efficient Transportation Equity Act*, 119

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Stat. 1144 (2005) ("SAFETEA") purports to authorize the State of Oklahoma's assumption of regulatory jurisdiction over environmental programs on Cherokee Nation reservation lands, which wholly departs from the EPA Indian Policy and treats the Cherokee Nation inequitably as compared to other reservation Tribes across the United States;

WHEREAS, the State of Oklahoma has requested to activate SAFETEA on Cherokee Nation reservation lands, which the EPA approved on October 1, 2020;

WHEREAS, the Cherokee Nation objected to the State of Oklahoma's request to assume jurisdiction under SAFETEA and was denied meaningful consultation by the EPA to evaluate the impacts of the same on Cherokee reservation lands, based on the 1984 EPA Indian Policy and federal law; and

WHEREAS, the Cherokee Nation's objection to the EPA's approval of the State of Oklahoma's request to assume jurisdiction of environmental programs on Cherokee reservation lands has not been properly addressed and additional consultation and collaboration with the EPA is required to fulfill the United States' historic treaty and trust obligations owed to the Cherokee Nation.

BE IT RESOLVED BY THE COUNCIL OF THE CHEROKEE NATION, that the Tribal Council of the Cherokee Nation hereby objects to the activation of SAFETEA and demands that the EPA rescind its approval of the same, as required by EPA Indian Policy, and in accordance with existing federal law and obligations owed to the Cherokee Nation. Furthermore, the Cherokee Nation demands additional consultation with the EPA to engage in a good-faith evaluation of the impacts on reservation lands and tribal self-governance.

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