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Alabama-Coushatta Tribe of Texas Tribal Council
House Interior Appropriations Subcommittee
Testimony

On behalf of the Alabama-Coushatta Tribe of Texas, I wish to address a matter that our Tribe has been trying to resolve with the Bureau of Indian Affairs (“BIA”) and the United States Department of the Interior (“Interior”) since 2013. It is not a trivial matter because it involves our Tribe’s ability to receive federal funding for our Tribal Law enforcement activities.

Although I do not wish to dwell on the topic, it is useful to briefly review the history of our Tribe’s federal recognition. In the 1850s, the Texas legislature passed legislation authorizing the purchase of land in Deep East Texas to serve as the home for both the Alabama and Coushatta Tribes. Eventually, 1289 acres were secured in Polk County, Texas and those lands formed our original reservation that the Tribe occupies to this day. On May 29, 1928, Congress passed legislation granting our Tribe federal recognition and authorizing the purchase of an additional 3,000 acres adjoining our original reservation.

However, our Tribe’s federal recognition was short-lived, and on August 23, 1954, our federal recognition was terminated, and trust responsibility was transferred to the State of Texas. In 1983, the Attorney General for the State of Texas issued an opinion that stating that it was unconstitutional for Texas have a trust relationship with our Tribe and that the Tribe was “merely an unincorporated association under Texas law, with the same legal status as other private associations.” This opinion also impacted the Ysleta del Sol Pueblo in El Paso, Texas. In 1987, the federal recognition of both our Tribe and the Pueblo was restored with the passage of the Ysleta del Sur Pueblo and Alabama and Coushatta Tribes of Texas Restoration Act (the “Restoration Act”).

Now let me turn to the issue at hand. Prior to 2013, both our Tribe and the Pueblo were receiving 638 funding to support our law enforcement efforts. In that year, the then Regional Director for the Southern Plains BIA Office, Dan Deerinwater, informed our Tribe that it was his belief that there was no federal criminal jurisdiction on our reservation and, therefore, he concluded that our Tribe was ineligible to receive 638 funding to support our Tribal Police Force. Such a statement was all the more remarkable because at the time of the passage of the Restoration Act, both the BIA and the General Accounting Office (GAO) confirmed that the United States would maintain concurrent jurisdiction on the Alabama-Coushatta Tribe’s Reservation under Section 206(f) of the Restoration Act. At the Tribe’s request, Mr. Deerinwater asked for the Department’s Office of the Solicitor for an opinion regarding whether there was concurrent federal criminal jurisdiction on our Tribe’s lands and as I sit here today, over eleven years since Mr. Deerinwater made his request, the Office of the Solicitor has yet to issue an opinion.

In 1953, Congress passed Public Law 280, which mandatorily placed Indian tribes in six states (“Mandatory Public Law 280 States”) under the Act and granted those states criminal

jurisdiction for crimes occurring on tribal lands. Texas was not one of those states. In 1968, pursuant to legislation included under the Indian Civil Rights Act, Congress granted concurrent criminal jurisdiction between tribes, states, and the federal government to those tribes/states who opted in (“Optional Public Law 280 States”). For those tribes/states that decided to opt in to concurrent federal jurisdiction, they would be eligible to receive federal funding for Tribal law enforcement activities. Section 206(f) places our Tribe under the 1968 version of Public Law 280.

As directed by the Restoration Act, Texas assumed criminal jurisdiction over the Tribe’s reservation under the optional basis section of Public Law 280. As allowed under the 1968 version of Public Law 280, Congress specifically carved out civil and criminal jurisdiction over gaming matters in the Restoration Act, making such matters the exclusive jurisdiction of the federal government. Under these facts, the State of Texas’ assumption of civil and criminal jurisdiction over the Alabama-Coushatta Tribe’s trust lands does not preclude the United States from exercising concurrent criminal jurisdiction over crimes occurring on the reservation under either the General Crimes or Major Crimes Act. In fact, the United States Department of Justice formally recognizes this concurrent jurisdiction in the United States Attorney’s Manual (Title 9, Criminal Resource Manual § 668). It is worth noting that the Restoration Act also placed the Ysleta del Sur Pueblo under the 1968 version of Public Law 280, and the BIA Southwest Regional Office has deemed the Pueblo eligible for 638 law enforcement funding and the Pueblo is receiving such funding.

The Southern Plains regional office clearly erred back in 2013, but it is frustrating that all of these years later, this error has yet to be corrected by BIA. Last session our Tribe, with the assistance of our Congressman Morgan Luttrell and this subcommittee, was able to get language inserted into the Interior Appropriations bill to force the BIA to correct this error. Although the BIA did meet with us, the Solicitors Office still has not issued an opinion and the question of 638 funding for our Tribal law enforcement remain unresolved. We have grown weary of trying to resolve this matter with the BIA and the Solicitors Office, and we now ask Congress to take appropriate action to secure funding in support of our law enforcement efforts.

On behalf of the Alabama-Coushatta Tribe, I appreciate the opportunity to raise this issue with the Committee and appreciate your consideration of this request.