

Responses to Questions for the Record from Chairman Bruce Westerman at the House Natural
Resources Committee hearing on H.R. 1451
The Honorable Wena Supernaw, Chair of the Quapaw Nation

1. H.R. 1451 would establish an account through the Bureau of Trust Funds Administration to pay settlement funds to your tribal members.

- a. How long has your tribe been fighting for this settlement?
- b. What would receiving this settlement mean for your tribe?

Our tribe has been fighting for our health, our rights and our land since the first Quapaw Member was declared “incompetent” and the mines were placed on our land without proper consent. That was more than 100 years ago, now.

The *Bear* case, and the settlement this legislation seeks to authorize, is the work of generations of our community to receive justice from the United States, which failed in its obligations to our people. We have been fighting for this specific settlement since January 9, 2020 when the U.S. Court of Federal Claims entered its final judgement that it would be “fair, just, and equitable to pay Claimants a total sum of \$137,500,000.” That settlement though was the product of nearly 20 years of litigation, including enactment of the Congressional Reference legislation by Congressman Tom Cole in 2012.

Enactment of this legislation and settlement of this case would finally close one of the darkest chapters in the history of the Quapaw people. We could begin to heal from the damage to our land, and provide real help to the people who were poisoned by the toxic mining waste that is still present all across our lands.

2. Who are the other parties that would be impacted by H.R. 1451?

- a. Have all parties involved come to an agreement regarding this resolution?

Parties to the *Bear* case include the individual landowners (allottees) and the tribe on behalf of its nearly 4,000 citizens who descend from those impacted by the mines, the waste, and their resulting health impacts.

The tribe has worked extensively and collaboratively with our counterpart parties to the case. Those individuals are citizens of our nation or descendants of Quapaw Tribal citizens, and they have been represented by Mr. Terry J. Barker, esq. of Barker Woltz & Lawrence in Tulsa, Oklahoma. I believe that Mr. Barker has submitted a letter of support for this bill on behalf of his clients into the Committee record for this hearing.

3. Why did Quapaw Nation initially seek the assistance of Congress regarding the payment of the respected settlement funds?

In the January 2020 final settlement in the Bear case, the Court issued the following finding of fact, explaining our predicament:

“The Quapaw Tribe filed suit on its own behalf on September 11, 2012, in a case captioned Quapaw Tribe of Oklahoma (O-Gah-Pah) v. United States, No. 1:12-cv-00592. The Tribe asserted breach-of-trust legal claims against the United States under the Tucker Act, 28 U.S.C. § 1491 and the Indian Tucker Act, 28 U.S.C. § 1505. As in *Goodeagle*, the Government moved to dismiss many of the Tribe’s claims on statute of limitations grounds. In an opinion reported at Quapaw Tribe of Oklahoma v. United States, 111 Fed. Cl. 725 (2013), the Court dismissed several of the Tribe’s claims. The Court held that the Tribe’s claim that the Government breached its fiduciary duty by transferring the tribal lands known as the Catholic Forty to Catholic Church was untimely because the initial transfer, which triggered the statute of limitations, occurred in 1908. The Court also held that the statute limitations barred the Tribe from seeking damages for the environmental contamination of its land caused by the Government’s alleged mismanagement of the Tribe’s natural resources.”

When the Court denied justice to the Quapaw people, we looked to our Representatives for help. We knew that with perseverance, we would prevail, because we knew our great nation would not turn its back on us. Anyone who walked onto our land could see it. The damage was just too obvious to ignore.

Congressman Cole’s legislation directed the U.S. Court of Federal Claims to report to the House of Representatives on the “findings of fact and conclusions of law that are sufficient to inform the Congress of the nature, extent, and character of the Indian trust-related claims of the Quapaw Tribe of Oklahoma and its tribal members for compensation as legal or equitable claims against the United States other than the legal claims that are pending in the Court of Federal Claims on the date of enactment of this resolution; and the amount, if any, legally or equitably due from the United States to the claimants.”

Once this legislation passed in 2012, we knew it was only [a](#) matter of time until the truth would become clear: the United States hurt our people and destroyed our land, and we deserved compensation for that damage.

As you know, once Congress opened the door to a fair assessment of our case, the Court did in fact acknowledge the damage and recommend Congress provide compensation for our losses.