

AMOUNT 10
DATE 3.29.21
NO. 214

TO: Taxation- (H)

FROM: Patrick Yawakie- Blackfeet Tribe- Lobbyist-email: yawakiework@gmail.com

DATE: 3/24/2021

RE: Testimony on SB 214

Good Morning,

My name is Patrick Yawakie, I am representing the Blackfeet Tribe today in opposition to HB 526. Along with my testimony, I will submit a resolution that was passed by Blackfeet Tribal Business Council, affirming a 1987 settlement agreement with the State of Montana, as it pertains to the lawsuit Blackfeet Tribe v Lafaver, which confirms and prohibits Glacier County and Pondera County from assessing and demanding payment for property taxes on Tribally owned fee land within the boundaries of the Blackfeet Reservation.

It is unfortunate that this bill has been introduced by Senator Hertz, who is again using partisan politics to push a bill that attacks tribal treaties and inherent sovereignty rights of tribes. It has already been decided through numerous federal lawsuits that taxation is an issue that is decided within the trust responsibilities of the federal government and tribes.

It is the United States and the Tribes who have supreme authority over these lands and make final determinations of reservation lands.

It is understood the Treaties signed between Tribal Nations and the United States are the supreme laws of the land. It should also be understood that the relationship of the federal government and tribal nations was first recognized with the 1790 Trade and Intercourse Act, that established Aboriginal title and the authority of the national government over Indian Affairs. It was the Supreme Court and then Chief Justice John Marshall who reaffirmed in Cherokee Nation v. Georgia that Tribal Nations were "Domestic Dependent Nations," under the plenary authority of the federal government. Then one year later in the Marshal Supreme Court case Worcester v Georgia, tribal nations are "sovereign", and the state had no authority in enforcing state laws on tribal lands.

From the signing of the federal homesteading act of 1862 to the Federal Dawes Act of 1887, or allotment, original tribal reservations were diminished and checkerboarded with state fee lands, by settlers who reaped the benefits in the destruction of tribal nations and their natural resources. It was the signing of the Federal Indian Reorganization Act of 1934 or the I.R.A. that ended allotment and aimed to lessen the control of the federal government over tribal affairs and gave tribes greater self-governance and responsibility.

Next in the supreme court case California v Cabazon Band of Mission Indians reaffirmed that states had only criminal and some civil jurisdiction over tribes regarding Public Law 280.

Finally, in Bryan v. Itasca County in 1976, the Supreme Court ruled that states had no authority to tax Indians "absent Congressional consent."

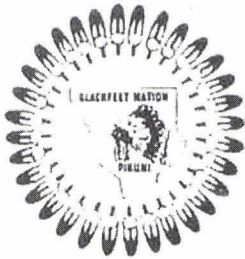
It is the effects of the Federal Dawes Act, or allotment, that we are dealing with today. Attempts at undermining tribal sovereignty are the repercussions of not finding remedy to the destruction of reservation lands. This bill does not only attack tribal sovereignty, but there has been no proper dialogue with MT Tribal Nations regarding this matter, as stated as guiding principles in MCA 2-15-142.

Please vote no on SB 214

Thank you for your time,

Patrick Yawakie

EXHIBIT 10
DATE 3-24-21
SS. 214



BLACKFEET NATION

P.O. BOX 850 BROWNING, MONTANA 59417
(406) 338-7521 FAX (406) 338-7530

EXECUTIVE COMMITTEE

Timothy Davis, Chairman
Iloff "Scott" Kipp, Vice-Chairman
Stacey Keller, Secretary
Tinsuwella Bird Rattler, Treasurer

BLACKFEET TRIBAL BUSINESS COUNCIL

Timothy Davis
Rodney Gervais
Mark Pollock
Vera Weaselhead
Terry J. Tatsey
Stacey Keller
Carl D. Kipp
Iloff "Scott" Kipp, Sr.
Roland Kennerly, Jr.

RESOLUTION

Affirming the Settlement Agreement with the State of Montana and Directing the Legal Department to Develop a Legal Strategy

No. 202-2020

- WHEREAS,** The Blackfeet Tribal Business Council is the governing body of the Blackfeet Indian Nation, pursuant to the Constitution and By-Laws of the Blackfeet Tribe, first approved on December 13, 1935, and
- WHEREAS,** The Blackfeet Tribal Business Council has been organized to represent, develop, protect and advance the views, interests, education, health, and resources of the Blackfeet Tribe, and
- WHEREAS,** The Blackfeet Tribal Business Council, under Article VI Section 1(e) of the Blackfeet Constitution is empowered to manage all economic affairs in an acceptable and businesslike manner and under Article VI Section 1(a) is empowered to negotiate with the federal, state and local governments on behalf of the Blackfeet Tribe, and
- WHEREAS,** The Blackfeet Tribal Business Council entered into a Settlement Agreement with the State of Montana, Glacier County and Pondera County to resolve litigation commenced by the Blackfeet Tribe in *Blackfeet Tribe v. Lafaver*, No. CV-86-023-GF challenging Glacier County and Pondera County's taxation of Tribally-owned fee lands within the exterior boundary of the Blackfeet Reservation; and
- WHEREAS,** The 1987 Settlement Agreement provided that:
- "Glacier County and Pondera County will promptly cancel in their records upon the Tribe's request any entries of property tax delinquencies or liens during the periods of time when the affected real property was owned by the Tribe..."

Glacier County and Pondera County will not assess or demand payment of property taxes which otherwise have become or would become payable under the laws of the State of Montana attributable to any real property solely owned by the Tribe...unless such taxation is expressly authorized by Congress...

This settlement agreement is the complete statement of the parties' mutual rights and may be modified only in writing and upon execution by all parties. This agreement shall further bind not only the parties but also their legal representatives, successors, assigns and privies."

WHEREAS, Based on the United States Supreme Court's decisions in *County of Yakima v. Confederated Tribes and Bands of Yakima Nation*, 502 U.S. 251 (1992) and *Cass County v. Leech Lake Band of Chippewa Indians*, 524 U.S. 103 (1998), the State of Montana unilaterally determined that the 1987 Settlement Agreement was null and void and both Glacier County and Pondera County began assessing property taxes on Tribally-owned fee lands within the exterior boundaries of the Blackfeet Reservation, and

WHEREAS, The Blackfeet Tribal Business Council disagrees that the 1987 Settlement Agreement is null and void, as the agreement has not been modified in writing and agreed to by the parties and taxation of Tribally-owned fee lands has not been "expressly authorized by Congress", therefore, the State of Montana, Glacier County and Pondera County are violating the terms of the Settlement Agreement by assessing property taxes on Tribally-owned fee land, and

WHEREAS, When this issue was raised before the United States Department of Interior, Rocky Mountain Regional Office, Regional Director Keith Beartusk wrote a letter to the Director of the Montana Department of Revenue, copying the Glacier County and Pondera County Commissioners, and stated:

"I am not aware of any law, resolution or notification from the United States Congress that expressly authorizes Glacier and Pondera Counties to assess or demand taxes on lands owned by the Blackfeet Tribe within the exterior boundaries of the Blackfeet Reservation..."

This office will continue to maintain title to these lands with a notation to the Settlement Agreement, signed by the State of Montana, the Blackfeet Tribe, Glacier County and Pondera County. I firmly believe the Settlement Agreement is still valid and Glacier and Pondera Counties have agreed that they will not assess or demand payment of property taxes on lands owned by the Blackfeet Tribe within the exterior boundaries of the Blackfeet Reservation."

WHEREAS, The United States Department of Interior, Rocky Mountain Regional Director made a decision that the United States Supreme Court cannot nullify or void the 1987 Settlement Agreement, as a law, resolution or notification from the United States Congress is required before the State of Montana, Glacier County and Pondera County is authorized to tax Tribally-owned fee land within the exterior

boundaries of the Blackfeet Reservation, and the State of Montana, Glacier County and Pondera County did not appeal this United States agency decision under 25 C.F.R. Part 2 and 43 C.F.R. Part 4, and

WHEREAS, The Blackfeet Tribal Business Council desires to have the Blackfeet Legal Department develop a strategy for the Blackfeet Tribe to address the issue of taxation of Tribally-owned fee land through the enforcement of the terms of the 1987 Settlement Agreement or otherwise, and to provide a recommendation to the Blackfeet Tribal Business Council prior to implementation of any strategy, now

THEREFORE BE IT RESOLVED AS FOLLOWS:

1. That the Blackfeet Tribal Business Council hereby confirms that the 1987 Settlement Agreement entered into by and between the Blackfeet Tribe, State of Montana, Glacier County and Pondera County in *Blackfeet Tribe v. Lafaver*, No. CV-86-023-GF prohibits Glacier County and Pondera County from assessing and demanding payment for property taxes on Tribally-owned fee land within the exterior boundaries of the Blackfeet Reservation, as such taxation has not been "expressly authorized by Congress".

2. That the Blackfeet Tribal Business Council hereby declares that the State of Montana, Glacier County and Pondera County are violating the terms of the 1987 Settlement Agreement by assessing and demanding payment for property taxes on Tribally-owned fee lands within the exterior boundaries of the Blackfeet Reservation and that state and county tax liens on Tribally-owned fee land are unlawful and unauthorized and are not recognized by the Tribe.

3. That the Blackfeet Tribal Business Council hereby directs the Blackfeet Legal Department to develop a strategy for the Blackfeet Tribe to address the issue of state and county taxation of Tribally-owned fee land through the enforcement of the terms of the 1987 Settlement Agreement or otherwise, and to provide a recommendation to the Blackfeet Tribal Business Council prior to the implementation of any strategy.

4. That the Chairman and Secretary of the Blackfeet Tribal Business Council are hereby authorized to sign this resolution on behalf of the Blackfeet Tribal Business Council.

ATTEST:



STACEY A. KELLER
Secretary

**THE BLACKFEET TRIBE OF THE
BLACKFEET INDIAN RESERVATION**



TIMOTHY F. DAVIS
Chairman

CERTIFICATION

I hereby certify that the foregoing Resolution was adopted by the Blackfeet Tribal Business Council in a duly called, noticed and convened a Special Session, conducted for business on the 30th day of April, 2020, with Seven (7) Members present to constitute a quorum, and with a vote of Seven (7) FOR and Zero (0) OPPOSED and Zero (0) ABSTAINED.

(SEAL)



STACEY A. KELLER, Secretary
Blackfeet Tribal Business Council

1 MAJEL M. RUSSELL
SAM S. PAINTER
2 Elk River Law Office, P.L.L.P.
3317 3rd Avenue North
3 Billings, Montana 59101
Telephone: (406) 259-8611
4 Facsimile: (406) 259-3251
Attorneys for the Blackfeet Tribe of the Blackfeet Indian Reservation
5

6
7 **IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MONTANA**
8 **HELENA DIVISION**

9 The Blackfeet Tribe of the Blackfeet Indian
10 Reservation,

11 Plaintiff,

12 vs,

13 Dan Bucks, Director, Montana Department
of Revenue; State of Montana; Glacier
County; Pondera County.

14 Defendants

Cause No. DV-2009-05

15 **COMPLAINT FOR BREACH OF**
16 **CONTRACT AND DAMAGES**

17
18 COMES NOW Plaintiff, by and through its Attorneys, Majel M. Russell and Sam S.
19 Painter, and Complains as follows:

20 **I. JURISDICTION**

21 1. This Court's jurisdiction is based on 28 U.S.C., Sections 1362, 1331, 2201 and
22 2202. Venue is based on 28 U.S.C. Section 1391.

23 **II. THE PARTIES**

24 2. Plaintiff Blackfeet Tribe of the Blackfeet Indian Reservation (hereinafter "Blackfeet
25 Tribe") is a federally recognized Indian Tribe, duly organized pursuant to the Indian

1 Reorganization Act of 1934, 25 U.S.C. Section 461, et. seq., whose governing body, its
2 Tribal Business Council, is duly recognized as such by the Secretary of Interior.

3 3. Defendant Dan Bucks is the duly appointed and qualified Director of the
4 Department of Revenue of the State of Montana and as such officer is the chief administrative
5 officer responsible for the assessment, levy and collection of taxes on property, including
6 property owned by the Blackfeet Tribe, in the State of Montana.

7 4. The State of Montana is a state of the United States of America created pursuant
8 to the Enabling Act of February 22, 1889 (25 Stat. 676).

9 5. Glacier County is a political body and corporate of the State of Montana, and as
10 such assesses, levies and collects taxes on property, including property owned by the
11 Blackfeet Tribe, located within the boundaries of Glacier County.

12 6. Pondera County is a political body and corporate of the State of Montana, and
13 as such, assesses, levies and collects taxes on property, including property owned by the
14 Blackfeet Tribe, located within the boundaries of Pondera County.

15 IV. FACTUAL ALLEGATIONS

16 7. The Blackfeet Tribe filed Civil Action No. CV-86-023-GF on January 29, 1986
17 in the United States District Court for the District of Montana against the Montana
18 Department of Revenue, the State of Montana, Glacier County and Pondera County for
19 declaratory judgment, injunctive relief and damages.

20 8. The Complaint challenged the assessment, levying, taxing, imposing liens, or in
21 any way collecting or attempting to collect taxes upon the Blackfeet Tribe's acquired real
22 property in non-trust status located within the exterior boundaries of the Blackfeet Indian
23 Reservation. Compl., p. 6-7. The Complaint further sought an accounting and a refund with
24 interest of such taxes. Id., p. 7-8.

25 9. The parties negotiated a Settlement Agreement in January 1987 whereby the
parties agreed that Pondera County and Glacier County would pay the Blackfeet Tribe
\$16,450 and \$105,934.08, respectively, in exchange for full discharge of all monetary and

1 other claims made in the case. See 1987 Settlement Agreement (hereinafter "Settlement
2 Agreement") attached hereto as Exhibit A and by this reference made a part hereof.

3 10. The parties further agreed that Glacier County and Pondera County would
4 cancel, upon the Tribe's request, any entries of delinquent property taxes or liens in their
5 records during the periods of time when the affected real property was owned by the
6 Blackfeet Tribe; provided the property is located within the exterior boundaries of the
7 Blackfeet Indian Reservation, as evidenced by a legal description of the affected property.
8 See Exhibit A, p.2.

9 11. The parties further agreed that Pondera County and Glacier County would not
10 assess or demand payment of property taxes on newly acquired tribally-owned fee lands
11 which otherwise have become or would become payable under Montana law attributable to
12 any real property solely owned by the Tribe "unless such taxation is expressly authorized by
13 Congress." See Exhibit A, p. 3.

14 12. The Settlement Agreement at paragraph six provides that the Settlement
15 Agreement is the "complete statement of the parties' mutual rights and responsibilities and
16 may be modified only in writing and upon execution by all parties." See Exhibit A, p. 4.

17 13. Following execution of the Settlement Agreement, the Defendants each filed
18 separately a *Stipulation of Dismissal With Prejudice*, after which time the action was
19 dismissed with prejudice as against Pondera County, Glacier County, John D. LaFaver,
20 Director, Montana Department of Revenue, and the State of Montana. See *Order of*
21 *Dismissal* as to Pondera County, John D. LaFaver, Director, Montana Department of
22 Revenue, and State of Montana, attached hereto as Exhibit B and by this reference made a
23 part hereof.

24 14. Historically, the Blackfeet Tribe has, and continues today—pursuant to its
25 inherent sovereign powers—to acquire real property in fee status which the Blackfeet Tribe
once had aboriginal title, and transfer said property into trust status. Among other reasons,

1 such practice is implemented by the Blackfeet Tribe in order to prevent further erosion of its
2 land base, to stimulate economic development and to increase tribal jurisdiction.

3 15. After 1987, in direct reliance on the Settlement Agreement, the Blackfeet Tribe
4 aggressively pursued its land acquisition program through purchase from private property
5 owners fee lands located within the exterior boundaries of the Blackfeet Reservation. In fact,
6 the majority of the approximately 42,000 acres of fee land currently owned by the Blackfeet
7 Tribe were purchased subsequent to the Settlement Agreement (and prior to such time as
8 Defendants began once again assessing property taxes on Blackfeet tribally-owned fee lands)
9 with the Blackfeet Tribe's explicit understanding that absent written agreement by the parties,
10 Defendants had expressly agreed to refrain from assessing or demanding payment of property
11 taxes with respect to said parcels of fee land.

12 16. On August 4, 1998, the Montana Department of Revenue provided a letter to
13 the then Blackfeet Tribal Chairman, Mr. William Old Chief, indicating the State's unilateral
14 determination that it had met the terms of the Settlement Agreement and once again intended
15 to levy property tax on the fee lands owned by the Blackfeet Tribe that are located within the
16 exterior boundaries of the Reservation. See August 4, 1998 letter, attached hereto as Exhibit
17 C and by this reference made a part hereof.

18 17. The Montana Department of Revenue further asserted that the Settlement
19 Agreement was null and void as of 1992, based on, inter alia, the United States Supreme
20 Court's decisions in *County of Yakima v. Confederated Tribes and Bands of Yakima Nation*,
21 502 U.S. 251 (1992) and *Cass County v. Leech Lake Band*, 524 U.S. 103 (1998). Exhibit C,
22 p. 2.

23 18. The Montana Department of Revenue further asserted that it "believe[d] the
24 requirement of the settlement agreement ha[d] been fulfilled that indicates when Congress
25 expressly authorizes taxation of fee lands owned by Indian tribes, the State of Montana can
begin to assess and demand payment of taxes on those lands." Exhibit C, p. 2.

1 19. Beginning in 1999 and continuing today, Defendants unilaterally began
2 assessing and imposing property taxes on Blackfeet Tribally-owned fee land, without the
3 written (or verbal) agreement of the Blackfeet Tribe in direct violation of the Settlement
4 Agreement.

5 20. Additionally, since 1999, Defendants have unilaterally assigned several of the
6 Blackfeet Tribe's tax liens to a third party purchaser through a tax lien sale, a procedure
7 Defendants ostensibly believe is legally applicable to the Blackfeet Tribe, despite the
8 Settlement Agreement's failure to reference such procedures, and despite an Act of Congress
9 authorizing such procedures.

10 21. As a result of Defendants' actions in assigning Pondera and Glacier Counties'
11 interest in the Blackfeet Tribe's tax liens to a third party purchaser, the Blackfeet Tribe has
12 been forced to reallocate scarce tribal funds in order to redeem such fee lands, thereby
13 preventing the Defendants from issuing a tax deed to a third party purchaser; but at the same
14 time depriving tribal members of such funds that are critical in providing tribal governmental
15 services.

16 22. Importantly, the Blackfeet Tribe has never consented to imposition of property
17 taxes, tax lien sales or assignments. Nor has Congress authorized Defendants to avail itself
18 of such proceedings with respect to tribally owned fee land located within the exterior
19 boundaries of the Blackfeet Reservation.

20 22. Prior to 2005, the Blackfeet Tribe believed that such tax liens would stall the
21 Blackfeet Tribe's fee to trust land acquisition efforts. However, in 2005, the Bureau of
22 Indian Affairs, via Rocky Mountain Regional Director, Keith Beartusk, notified the State of
23 Montana Department of Revenue that it recorded the 1987 Settlement Agreement,
24 acknowledged its validity, and as such, stated it did not "recognize a Supreme Court decision
25 as an action by the United States Congress expressly authorizing Glacier and Pondera
Counties to tax the Blackfeet Tribal lands and would question this interpretation." See

1 October 28, 2005 letter, attached hereto as Exhibit D and by this reference made a part
2 hereof.

3 23. Defendants' actions in imposing tax liens have not only caused harm to the
4 Blackfeet Tribe, but to its tribal members as well. For example, Browning Public School
5 District No. 9, located in Glacier County, has been prevented from obtaining approximately
6 \$228,000-\$300,000 in PL 874 federal Impact Aid funding; which would have been available
7 had Defendants complied with their obligations under the Settlement Agreement, and taken
8 said parcels of fee land off of its tax rolls. See July 16, 2010 letter from Mary Johnson,
9 Superintendent, School District No.9, attached hereto as Exhibit E and by this reference made
10 a part hereof.

11 **COUNT I—BREACH OF CONTRACT**

12 24. Plaintiff, Blackfeet Tribe, adopts, realleges and incorporates its allegations set
13 forth in Paragraphs 1-23 of this Complaint.

14 25. Under Montana law, a settlement agreement is a contract. *Harrison v. Liberty*
15 *N.W. Ins. Corp.* 2008 MT 102, ¶24.

16 26. The Blackfeet Tribe and Defendants had a valid and binding contract, in part,
17 for the Defendants' agreement to cease assessing or demanding payment of property taxes on
18 Blackfeet tribally-owned fee land to "unless such taxation is expressly authorized by
19 Congress" in exchange for the Blackfeet Tribe's full discharge of all monetary and other
20 claims made in the Complaint. See generally, Exhibit A.

21 27. Absent written agreement by the parties to modify the Settlement Agreement, or
22 an Order by the Court re-opening the Settlement Agreement and authorizing taxation of fee
23 lands owned by the Blackfeet Tribe, the Settlement Agreement is valid and enforceable. As
24 such, the Defendants are required to comply with the bargained-for term which prohibits
25 "Glacier County and Pondera County [from] assess[ing] or demand[ing] payment of property
taxes which otherwise have become or would become payable." Exhibit A, p. 3.

1 28. The Defendants' unilateral action in assessing and demanding payment of
2 property taxes on fee land owned by the Blackfeet Tribe located within the exterior
3 boundaries of the Blackfeet Reservation is in breach of the Settlement Agreement's express
4 language allowing modification of a parties' mutual rights and responsibilities by written
5 agreement of the parties.

6 29. The Defendants breached the Settlement Agreement by unilaterally assessing
7 and demanding payment of property taxes, on fee land owned by the Blackfeet Tribe located
8 within the exterior boundaries of the Blackfeet Reservation, without any authority by the
9 Court, and in total disregard of its available remedy under federal law, allowing a party to
10 file a motion to reopen a settlement agreement via Fed. R. Civ. P 60(b). As such, any action
11 by the Defendants to assess and demand payment of property taxes on fee land owned by the
12 Blackfeet Tribe located within the exterior boundaries of the Blackfeet Reservations is in
13 breach of the Settlement Agreement and federal law.

14 30. The Defendants breached the Settlement Agreement by unilaterally assessing
15 and demanding payment of property taxes, on fee land owned by the Blackfeet Tribe located
16 within the exterior boundaries of the Blackfeet Reservation, in total disregard of its remedy
17 available under Montana law, allowing the re-opening of a settlement agreement, if, when
18 analyzed under contract law, such re-opening is determined appropriate. *Harrison v. Liberty*
19 *N.W. Ins. Corp.*, 2008 MT 102, ¶¶24-26. As such, any action by Defendants to assess and
20 demand payment of property taxes on fee land owned by the Blackfeet Tribe is in breach of
21 the Settlement Agreement and State law.

22 31. Defendants are liable to the Blackfeet Tribe for breaching the Settlement
23 Agreement and owe the Blackfeet Tribe damages in an amount to be determined at trial.

24 **COUNT TWO—BREACH OF CONTRACT**

25 32. Plaintiff, Blackfeet Tribe, adopts, realleges and incorporates its allegations set
forth in Paragraphs 1-31 of this Complaint.

1 32. Even if the State's unilateral action in taxing fee lands owned by the Blackfoot
2 Tribe was determined not to be a breach of contract, the Settlement Agreement does not
3 contemplate, nor did the parties bargain for the Defendants' ability to enforce any
4 proceedings which go beyond assessing and demanding payment of an ad valorem property
5 tax on fee land owned by the Blackfoot Tribe located within the exterior boundaries of the
6 Blackfoot Reservation. Specifically, the Settlement Agreement is silent as to Defendants'
7 ability to purchase or allow a third party to purchase its tax lien, to assign Defendants' tax
8 lien to a third party purchaser, or to foreclose on Blackfoot Tribally owned-fee land by
9 issuing the assignee a tax deed when the Blackfoot Tribe fails to redeem the assignment.

10 33. Additionally, federal law expressly prohibits, by virtue of a Tribe's sovereign
11 immunity, a State from taking any action beyond simply imposing an ad valorem tax on fee
12 land owned by a Tribe. *Oneida v. Madison County*, 605 F. 3d 149, 159 (2nd Circuit 2010).
13 Defendants are therefore prohibited from collecting unpaid taxes and penalties, issuing a tax
14 lien, conducting a tax lien sale, assigning a tax lien, issuing a tax deed, and any other
15 proceedings which go beyond merely assessing and demanding payment of the Blackfoot
16 tribally owned fee lands located within the exterior boundaries of the Blackfoot Reservation.

17 33. Defendants' unilateral actions that have gone beyond assessing and demanding
18 payment of an ad valorem property tax (i.e. Defendants' actions in purchasing or selling tax
19 liens; assigning its interest in tax liens to a third party purchaser; and allowing a third party
20 purchaser the opportunity to obtain a tax deed for failure to redeem with respect to Blackfoot
21 tribally owned fee land located within the exterior boundaries of the Blackfoot Reservation)
22 were not bargained for or agreed to; and are therefore in breach of the Settlement Agreement
23 and in violation of State law.

24 34. Defendants' unilateral actions that have gone beyond assessing and demanding
25 payment of property taxes were taken without any authority apart from the Settlement
Agreement, including an express Act of Congress specifically authorizing Defendants to take
action beyond assessing an ad valorem tax on Blackfoot tribally-owned fee land located within

1 the exterior boundaries of the Blackfeet Reservation, and are therefore in breach of the
2 Settlement Agreement and in violation of federal law.

3 35. Defendants' unilateral actions that have gone beyond assessing and demanding
4 payment of property taxes were taken without the Blackfeet Tribe's consent, and without the
5 Blackfeet Tribe's or Congress' implied or express waiver of the Blackfeet Tribe's sovereign
6 immunity, and are therefore in breach of the Settlement Agreement and federal law.

7 36. Defendants are liable to the Blackfeet Tribe for breaching the Settlement
8 Agreement and owe the Blackfeet Tribe damages in an amount to be determined at trial.

9
10 **PRAYER FOR RELIEF**

11 WHEREFORE, Plaintiff prays:

12 1. That this Court enter a judgment declaring the 1987 Settlement Agreement is
13 valid and enforceable as to all Defendants, with respect to fee lands owned by the Blackfeet
14 Tribe located within the exterior boundaries of the Blackfeet Reservation, until modified
15 pursuant to law.

16 2. That this Court enter an Order, pursuant to the Settlement Agreement, enjoining
17 Defendants from assessing, levying, taxing, imposing liens, selling tax liens, assigning tax
18 liens, issuing tax deeds, or in any way collecting or attempting to collect taxes upon the fee
19 lands owned by the Blackfeet Tribe located within the exterior boundaries of the Reservation.

20 3. That this Court enter an Order requiring Defendants to render to the Blackfeet
21 Tribe an accounting of any and all payments made by the Blackfeet Tribe to Defendants since
22 1987 with respect to fee lands owned by the Blackfeet Tribe located within the exterior
23 boundaries of the Reservation, including, but not limited to payment of taxes, penalties and
24 redemption payments.

25 4. That this Court render a judgment for the Blackfeet Tribe for the amount of any
and all payments collected by Defendants since 1987 with respect to any fee land owned by

1 the Blackfoot Tribe located within the exterior boundaries of the Reservation, together with
2 pre-judgment interest.

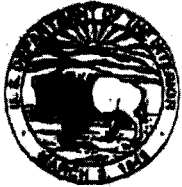
3 5. That this Court grant the Blackfoot Tribe such other and further relief as may be
4 just and proper.

5
6 DATED this ____ day of _____, 2010.

7 ELK RIVER LAW OFFICE, P.L.L.P.

8 _____
9 Majel M. Russell

10
11 _____
12 Sam S. Painter
13 Attorneys for Plaintiff, the Blackfoot Tribe of the Blackfoot Indian Reservation
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Regional Director
Code 101

United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Rocky Mountain Regional Office
316 North 26th St.
Billings, Montana 59101

OCT 28 2005

RECEIVED
MONTANA
DIRECTIONS OFFICE

Mr. Dan Bucks, Director
Montana Department of Revenue
P.O. Box 7701
Helena, Montana 59604

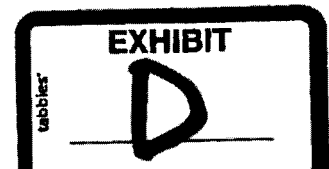
Dear Mr. Bucks:

This letter is to advise you that the Bureau of Indian Affairs, Rocky Mountain Regional Office has recorded the Settlement Agreement between the Blackfeet Tribe, the Montana Department of Revenue, Glacier County and Pondera County. This Settlement Agreement was recorded in the Billings Land, Titles and Records Office pursuant to Title 25, Code of Federal Regulations, Parts § 150.2 (h) and §150.6 (a).

My office has been aware of this Settlement Agreement since it was signed in 1987 and has acknowledged and honored the legitimacy of the terms outlined within the agreement. Within the Settlement Agreement, Glacier and Pondera County agreed that they would not assess or demand payment of property taxes on lands owned by the Blackfeet Tribe within the exterior boundaries of the Blackfeet Indian Reservation until they were expressly authorized by the United States Congress to do so.

We were recently notified by the Tribe that Glacier and Pondera Counties have been assessing taxes on the lands included in the Settlement Agreement. The Tribe has provided my office a copy of a letter dated August 4, 1998, in which the Director of the Department of Revenue, Mary Bryson, informed the Blackfeet Tribal Chairman that the State of Montana "believed" that the Settlement Agreement was null and void pursuant to the United States Supreme Court's decision in the County of Yakima v. Confederated Tribes and Bands of Yakima Nation (502 U.S. 251):

I am not aware of any law, resolution or notification from the United States Congress that expressly authorizes Glacier and Pondera Counties to assess or demand taxes on lands owned by the Blackfeet Tribe within the exterior boundaries of the Blackfeet Indian Reservation. I do not agree with the State of Montana's position that the Settlement Agreement is null and void. I also do not recognize a Supreme Court decision as an action by the United States Congress expressly authorizing Glacier and Pondera Counties to tax the Blackfeet Tribal lands and would question this interpretation.



700 444 3030-0000 1.00

This office will continue to maintain title to these lands with a notation to the Settlement Agreement, signed by the State of Montana, the Blackfeet Tribe, Glacier County and Pondera County. I firmly believe the Settlement Agreement is still valid and that Glacier and Pondera Counties have agreed that they will not assess or demand payment of property taxes on lands owned by the Blackfeet Tribe within the exterior boundaries of the Blackfeet Reservation.

The Bureau of Indian Affairs and the Blackfeet Tribe are presently working together to return title to lands subject to this agreement back to the United States in trust, for the benefit of the Blackfeet Tribe.

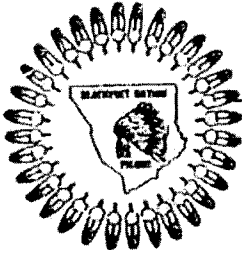
If you have any questions regarding this matter, contact me at (406) 247-7943.

Sincerely,



Regional Director

cc: Glacier County Commissioners
Pondera County Commissioners
Pat Thomas, Chairman, Blackfeet Tribe



BLACKFEET NATION

P.O. BOX 850 BROWNING, MONTANA 59417
Telephone (406) 338-7521 Fax (406) 338-7530

EXECUTIVE COMMITTEE
WILLIE A. SHARP, JR. - CHAIRMAN
PETER D. TATSEY - VICE CHAIRMAN
T.J. SHOW - SECRETARY
KENNETH AUGARE - TREASURER

BLACKFEET TRIBAL BUSINESS COUNCIL
WILLIE A. SHARP, JR.
PETER D. TATSEY
T.J. SHOW
HENRY BUTTERFLY
PAUL MCEVERS
REIS FISHER
JESSE "JAY" ST. GODDARD
SHANNON J. AUGARE
WOODROW "JAY" WELLS

RESOLUTION

No. 327-2010

- WHEREAS, The Blackfeet Tribal Business Council is the duly constituted governing body within the exterior boundaries of the Blackfeet Indian Reservation, and;
- WHEREAS, The Blackfeet Tribal Business Council has been organized to represent, develop, protect and advance the views, interests, education and resources of the Blackfeet Indian Reservation, and;
- WHEREAS, The Blackfeet Tribal Business Council is empowered to negotiate with federal, state, and local governments on behalf of the Tribe and to advise and consult with representatives of the Interior Department on all activities of the Department that may affect the Blackfeet Tribe by Article VI, Section 1(a) of the Constitution of the Blackfeet Tribe, and;
- WHEREAS, The Blackfeet Indian Reservation underwent allotment of Tribal lands to individual Blackfeet Indians in accordance with the General Allotment Act resulting in the ultimate loss of these allotted lands from the Blackfeet Reservation land base.
- WHEREAS, The Blackfeet Tribe has acquired approximately 42,000 acres of fee lands within the exterior boundaries of the Blackfeet Indian Reservation that were originally trust lands held by the United States for the benefit of the Blackfeet Tribe, and;
- WHEREAS, The Blackfeet Tribe entered into a settlement agreement with the State of Montana in 1987 that all fee lands owned by the Blackfeet Tribe would be not be assessed property taxes by the State of Montana, and;
- WHEREAS, The State of Montana has unilaterally violated the settlement agreement through the imposition of liens for non-payment of assessed taxes on the Blackfeet Tribally owned fee lands, and;
- WHEREAS, The Blackfeet Tribe is desirous of the Department of Interior, Bureau of Indian Affairs acquiring these lands in trust for the benefit of the Blackfeet Nation for the

purposes of tribal self-determination, economic development and housing and to resolve conflict with the State of Montana, and;

WHEREAS, The Blackfeet Tribe is committed to allocating necessary resources and staff to coordinate with the Bureau of Indian Affairs to satisfy the criteria at 25 CFR 151 for the acquisition of fee lands into trust status by the United States; now;

THEREFORE BE IT RESOLVED, The Blackfeet Tribal Business Council hereby formally expresses its commitment to coordinate with the Bureau of Indian Affairs for the acquisition of Blackfeet Tribally owned fee lands into trust status in accordance with the regulations at 25 CFR part 151, and;

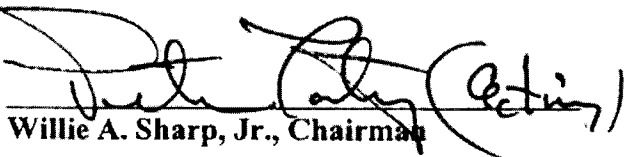
BE IT FINALLY RESOLVED, The Chairman/Vice-Chairman and Secretary of the Blackfeet Tribal Business Council are hereby authorized to sign this resolution on behalf of the Blackfeet Tribal Business Council.

ATTEST:

THE BLACKFEET TRIBE OF THE
BLACKFEET INDIAN NATION



T.J. Show, Secretary



Willie A. Sharp, Jr., Chairman

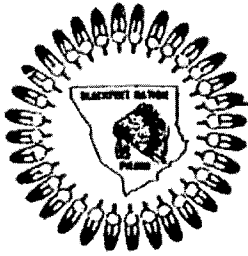
CERTIFICATION

I hereby certify that the foregoing Resolution was adopted by the Blackfeet Tribal Business Council in a duly called, noticed and convened ~~Spec.~~ Session assembled the 26th. day of July, 2010, with Nine (9) members present to constitute a quorum and with a vote of Nine (9) members **FOR** and Zero (0) **OPPOSED**, and Zero (0) member **ABSTAINING**.

(corporate seal)



T.J. SHOW, SECRETARY



BLACKFEET NATION

P.O. BOX 850 BROWNING, MONTANA 59417
Telephone (406) 338-7521 Fax (406) 338-7530

EXECUTIVE COMMITTEE
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SHANNON J. AUGARE
WOODROW "JAY" WELLS

RESOLUTION

No. 325-2010

- WHEREAS, The Blackfeet Tribal Business Council is the duly constituted governing body within the exterior boundaries of the Blackfeet Indian Reservation, and;
- WHEREAS, The Blackfeet Tribal Business Council has been organized to represent, develop, protect and advance the views, interests, education and resources of the Blackfeet Indian Reservation, and;
- WHEREAS, The Blackfeet Tribal Business Council is empowered to negotiate with federal, state, and local governments on behalf of the Tribe and to advise and consult with representatives of the Interior Department on all activities of the Department that may affect the Blackfeet Tribe by Article VI, Section 1(a) of the Constitution of the Blackfeet Tribe, and;
- WHEREAS, The Blackfeet Indian Reservation underwent allotment of Tribal lands to individual Blackfeet Indians in accordance with the General Allotment Act resulting in the ultimate loss of these allotted lands from the Blackfeet Reservation land base when individual landowners were granted fee patents allowing alienation of the lands to non-members, and;
- WHEREAS, The Blackfeet Tribe, in an effort to reverse the negative effects of the allotment process and to restore its land base, has acquired approximately 42,000 acres of fee lands within the exterior boundaries of the Blackfeet Indian Reservation that were originally trust lands held by the United States for the benefit of the Blackfeet Tribe, and;
- WHEREAS, The Blackfeet Tribe entered into a settlement agreement with the State of Montana in 1987 to resolve pending litigation that provides that all fee lands owned by the Blackfeet Tribe would not be assessed property taxes by the State of Montana, and;

WHEREAS, The State of Montana has unilaterally violated the settlement agreement through the imposition of liens for non-payment of assessed taxes on the Blackfeet Tribally owned fee lands thereby creating a legal dispute between the Blackfeet Tribe and the State of Montana, and;

WHEREAS, The Blackfeet Tribe owns 12,411 acres of the approximately 42,000 acres of Tribally-owned fee lands, in undivided fractionated fee interests in trust tracts that are specifically identified in the attachment to this resolution, and;

WHEREAS, The Bureau of Indian Affairs is without authority to manage the undivided fee interests, including advertisement, negotiation, and collection of rental rates for the undivided fee interest in a trust tract, resulting in a loss of revenue for the Blackfeet Tribe, and;

WHEREAS, Congress has recognized the devastation of the General Allotment Act that has created fractional fee and trust ownership interests in Indian reservation lands and has mandated the Secretary of Interior acquire undivided fee interests upon the request by a recognized Tribal government at 25 United States Code 2216(c), which states:

“An Indian, or the recognized tribal government of a reservation, in possession of an interest in trust or restricted lands, at least a portion of which is in trust or restricted status on November 7, 2000 and located within a reservation, may request that the interest be taken into trust by the Secretary. Upon such request, the Secretary shall forthwith take such interest into trust.”

WHEREAS, The Blackfeet Tribe believes that acquisition of Tribally-owned undivided fee interests will serve the best interests of the Blackfeet Tribe, be consistent with the mandates of Congress and the BIA's trust responsibility, further land consolidation efforts on the Blackfeet Reservation, result in consistent management of trust tracts, prevent a loss of revenue to the Blackfeet Tribe and minimize conflict with the State of Montana; now;

THEREFORE BE IT RESOLVED, The Blackfeet Tribal Business Council hereby formally requests that the Secretary forthwith acquire the undivided fractionated interests owned by the Blackfeet Tribe within the exterior boundaries of the Blackfeet Reservation, as specifically identified in the attachment to this resolution, in accordance with 25 U.S.C. 2216(c); and,

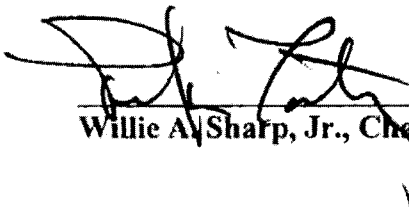
BE IT FURTHER RESOLVED, That the Chairman/Vice-Chairman of the Blackfeet Tribal Business Council are hereby authorized to sign this Resolution on behalf of the Blackfeet Tribal Business Council.

ATTEST:

**THE BLACKFEET TRIBE OF THE
BLACKFEET INDIAN NATION**



T.J. Show, Secretary



Willie A. Sharp, Jr., Chairman

CERTIFICATION

I hereby certify that the foregoing Resolution was adopted by the Blackfeet Tribal Business Council in a duly called, noticed and convened Spec. Session assembled the 26th. day of July, 2010, with Eight (8) members present to constitute a quorum and with a vote of Eight (8) members **FOR** and Zero (0) **OPPOSED**, and Zero (0) member **ABSTAINING**.

(corporate seal)



T.J. SHOW, SECRETARY