

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH DAKOTA

**FILED**  
OCT 15 2012

*[Signature]*  
CLERK

CASIMIR L. LEBEAU, CLARENCE  
MORTENSON, RAYMOND CHARLES  
HANDBOY, SR., and FREDDIE LEBEAU,

on behalf of themselves and all other persons  
similarly situated,

Plaintiffs,

v.

UNITED STATES OF AMERICA,

Defendant.

CASE NO. 12-4178

**COMPLAINT FOR DECLARATORY AND EQUITABLE RELIEF**

Plaintiffs Casimir L. LeBeau, Clarence Mortenson, Raymond Charles Handboy, Sr., and Freddie Lebeau (collectively "Plaintiffs"), on behalf of themselves and the putative classes set forth below, bring this Complaint against the United States of America ("Defendant"), and bring this claim based upon an unlawful taking without just compensation of thousands of acres of land owned by Plaintiffs and other individuals. Plaintiffs seek declaratory relief ordering Defendant to perform its fiduciary duties as trustee of the individual Plaintiffs' trust monies pursuant to federal law and common law trust principles, including an accounting of the monies owed to Plaintiffs and the putative classes. Plaintiffs hereby allege as follows:

**PRELIMINARY STATEMENT**

1. Nearly seventy years ago, Congress enacted a law authorizing the Army Corps of Engineers to develop a number of water control projects. Among these projects was the Pick-

Sloan Missouri River Basin Project (the “Pick-Sloan Project”), which involved the construction of six hydroelectric dams in the upper Missouri river basin. One of these dams, the Oahe Dam, impounds Lake Oahe, an artificial reservoir stretching almost the entire distance from Pierre, South Dakota, to Bismarck, North Dakota.

2. In building the Oahe Dam and creating Lake Oahe, the United States flooded a vast area of North and South Dakota, including over 104,420 acres of land, some of which was owned by the Cheyenne River Sioux Tribe (the “Tribe”) and some of which was owned in allotments or in fee by individual members of the Tribe (the “Individual Landowners”). The Individual Landowners were required to evacuate their homes and abandon their land and its valuable resources to make way for an energy project benefiting only those downriver.

3. The Oahe Dam destroyed more Indian land than any other United States public works project. Over 180 families – 30% of the tribal population – were forced to leave their homes and sever the profound cultural connection that they had to the land.

4. The land used for the Pick-Sloan Project was taken by the United States in 1948 without compensation. Congress soon thereafter, in 1954, authorized payment of paltry sums to the Tribe and the Individual Landowners. In 2000, Congress recognized that the taking of the 104,420 acres of land was without just compensation and created a trust fund of nearly \$300,000,000 plus interest to provide just compensation for all the land taken by the building of the Oahe Dam, including not only the land owned by the Tribe but also the allotted and fee land owned by the Individual Landowners.

5. The trust fund was expressly intended to provide just compensation for the total 104,420 acres of land taken for the construction of the Oahe Dam, which included the 46,275 acres of land owned by the Individual Landowners. Yet, the legislation creating the trust fund,

the Cheyenne River Sioux Equitable Compensation Act (the "Act"), Pub. L. No. 106-511, 114 Stat. 2365, failed to expressly address the issue of compensation for Individual Landowners and their heirs whose allotted and fee lands were taken by the flooding.

6. In 2011, the Secretary of the Interior distributed the interest on the trust funds established by the Act to the Tribe alone, even though nearly half the flooded lands belonged to the Individual Landowners. This distribution, and the failure of the Defendant to compensate the Individual Landowners and their heirs, breached the government's fiduciary duty and trust obligations owed to the Individual Landowners and their heirs. Thus, the Individual Landowners remain unfairly compensated to this day despite express Congressional recognition that the previous compensation for this taking was grossly inadequate.

7. The Plaintiffs have brought suit to obtain a declaration that the Individual Landowners and their heirs are entitled to compensation for their land that was taken without just compensation, and an accounting to determine the amount of compensation owed to the Plaintiffs and the putative classes.

### **PARTIES**

8. Plaintiff Casimir L. LeBeau is 95 years old and a member of the Cheyenne River Sioux Tribe. He is one of the twenty-four surviving members of the Tribe who originally owned certain land taken by the United States for the construction of the Oahe Dam and Lake Oahe as part of the Pick-Sloan Project. Mr. LeBeau owned approximately 320 acres of land which was taken by the United States for the Pick-Sloan Project. Before his land was taken by the United States for the construction of the Oahe Dam and Lake Oahe, Mr. LeBeau used his land for ranching and farming. He and the other surviving original landowners have been denied just compensation for this taking for over seventy years.

9. Plaintiff Clarence Mortenson is 83 years old and a member of the Cheyenne River

Sioux Tribe. He is one of the twenty-four surviving members of the Tribe who originally owned certain of the allotted land taken by the United States for the construction of the Oahe Dam and Lake Oahe as part of the Pick-Sloan Project. Mr. Mortenson owned approximately 170 acres of allotted lands at the time of the taking. Mr. Mortenson's lands were located on the Cheyenne River. Mr. Mortenson had plans to develop the land for ranching because it had good timber cover and access to water. However, Mr. Mortenson was unable to develop the land before it was taken by the Defendant for the construction of the Oahe Dam and Lake Oahe. All but ten acres of this land was taken by the United States. He and the other surviving original landowners have been denied just compensation for this taking for over seventy years.

10. Plaintiff Freddie LeBeau is 90 years old and is a member of the Cheyenne River Sioux Tribe. He is one of the original living landowners whose land was taken by the United States government and used for the Oahe Dam Project. While fighting abroad for his country during World War II and using his paltry earnings from his military service, Mr. LeBeau purchased two tracts of deeded land, totaling approximately 200 acres, near the Missouri River in South Dakota. After returning to South Dakota, he cultivated the land and began raising his family on the land, only to have it taken by Defendant as part of the Pick-Sloan Project and the creation of Lake Oahe and the Oahe Dam. He and the other surviving original landowners have been denied just compensation for this taking for over seventy years.

11. Plaintiff Raymond Charles Handboy, Sr., is a member of the Cheyenne River Sioux Tribe. He is an heir of an original landowner of certain allotted land taken by the United States government for the construction of the Oahe Dam and Lake Oahe. Mr. Handboy's great-grandfather Abraham Black Chicken and grandmother Sophie Black Chicken Low Dog, mother Madeline Low Dog Handboy, were members of the Tribe who owned parcels of the land taken

by the Defendant. Combined these parcels contained approximately 220 acres of land along the Moreau River, which they used for farming. Madeline Low Dog Handboy died in 1984, and her estate passed to Mr. Handboy and his five siblings.

12. All Plaintiffs bring this action on behalf of themselves and on behalf of all persons similarly situated, as more fully set forth in the Section herein below entitled “Class Action Allegations.”

13. Defendant United States acts as trustee for the named Plaintiffs and all other members of the putative classes.

### **JURISDICTION AND VENUE**

14. This Court has jurisdiction under 28 U.S.C. § 1331, which provides for federal jurisdiction over all actions arising under the laws of the United States. This action arises under the United States’ fiduciary and trust obligations owed to the Individual Landowners and their heirs as established by the Act, Pub. L. No. 106-511, 114 Stat. 2365 (2000), and the general trust relationship recognized in *United States v. Mitchell*, 463 U.S. 206, 225 (1983).

15. Venue is proper in this district under 28 U.S.C. § 1391(e) because this is an action in which Defendant is the United States, and a substantial part of the events or omissions giving rise to the claims herein occurred within this District.

16. Defendant United States has waived its sovereign immunity under 5 U.S.C. § 702.

### **FACTUAL BACKGROUND**

#### **A. Land Belonging to the Tribe and the Individual Landowners Is Taken, and Congress Provides Grossly Inadequate Compensation.**

17. On December 22, 1944, Congress enacted the Flood Control Act of 1944, 16 U.S.C. §§ 460. The Flood Control Act authorized the Army Corps of Engineers to develop a number of flood control and other water-related projects, including the Pick-Sloan Project. The

Pick-Sloan Project involved the development of six hydroelectric dams in the upper Missouri River basin. One of these dams, the Oahe Dam, impounds what is now known as Lake Oahe, one of the largest artificial reservoirs in the United States, stretching nearly from Pierre, South Dakota to Bismarck, North Dakota.

18. Construction of the Oahe Dam required the Army Corps of Engineers to flood a vast amount of land, approximately 370,000 acres, in North and South Dakota. Over a quarter of this land, 104,492 acres, was owned by the Tribe and the Individual Landowners. Of that 104,492 acres, approximately 46,275 acres consisted of allotted and deeded land held by the Individual Landowners. The Corps began flooding all of this land in 1948.

19. Although Defendant took the land belonging to the Individual Landowners beginning in 1948, six years passed before any funds were appropriated to compensate for the land. In 1954, Congress authorized payments to the Tribe and to the Individual Landowners. The amount paid, however was long recognized as grossly disproportionate to the true value of the land taken.

**B. Congress Appropriates Funds for Just Compensation.**

20. In November of 2000, Congress passed the Cheyenne River Sioux Equitable Compensation Act, Pub. L. No. 106-511, 114 Stat. 2365. The Act expressly recognized that the compensation provided to the Tribe and the Individual Landowners in 1954 was neither just nor fair. To ostensibly remedy this wrong, the Act established the Cheyenne River Sioux Tribal Recovery Trust Fund (the "Trust Fund"), in the amount of \$290,722,958.00, to provide additional compensation for the full 104,492 acres of land taken in the construction of the Oahe Dam. It is without question that this 104,492 acres includes not only the land taken from the Tribe, but also all of the land that had been owned by the Individual Landowners. While the Act authorizes compensation for the entire 104,492 acres, it does not provide a mechanism for the



compensation of the Individual Landowners and their heirs, who owned approximately forty-four percent of that 104,492 acres of land. According to appraisals of the 104,492 acres of land taken by the government, approximately fifty-eight percent of the assessed value of that land is attributable to property that was held by the Individual Landowners, while forty-two percent of the assessed value of the lands is attributable to property that was held by the Tribe.

21. Both the text of the Act and its legislative history make clear that Congress intended for the Individual Members and their heirs to be compensated. For example, Section 102(a)(2)(C) of the Act specifically notes that “the Oahe Dam and Reservoir project . . . severely damaged the economy of the Tribe *and members of the Tribe* by inundating the fertile, wooded bottom lands of the Tribe along the Missouri River that constituted the most productive agricultural and pastoral lands of the Tribe and the homeland *of the members of the Tribe*.” (emphasis added).

22. Section 102(a)(3)(A) of the Act also demonstrates an intent to make the Individual Landowners and their heirs whole, as it explicitly refers to the “104,492 acres of land” taken by the government to build the Oahe Dam. As noted above, it is undisputed that roughly forty-four percent of this land belonged to the Individual Landowners, not the Tribe.

23. Similarly, the Senate committee report contains numerous references to the damages suffered by the Individual Landowners. It specifically notes that “181 families,” or thirty percent of the Tribe’s population, were forced to relocate when the Oahe Dam was built. S. Rep. No. 106-217, 1999 WL 1024199, at \*1 (1999). The Senate committee report also notes that “*members* lost 30,000 head of livestock,” and that this loss would not have happened if river bottom lands had been available to protect the animals. *Id.* (emphasis added). Finally, the report also states that neither the Tribe *nor its members* received the benefits of irrigation that others did

as a result of the dam-building project. *Id.* at \*2.

24. Beginning in 2011, the Act authorized distribution of the interest accrued on the Trust Fund in the previous year (or, in the case of the first disbursement, the previous ten years) for payment to the Tribe made pursuant to tribal resolution and in accordance with the requirements for a tribal plan set forth in the Act. To request disbursements, the Tribal Council had to develop a plan for use of the funds that would promote economic development; infrastructure development; educational, recreational, and social welfare objectives of the Tribe and its individual members; or any combination of these activities. *See generally* Pub. L. No. 106-511, §§ 103-04.

25. The Tribe finalized its resolution (the “Tribal Resolution”) on March 13th, 2011, for release of the payments, along with its required plan (the “Tribal Plan”) for use of the funds. The Tribal Plan provides absolutely no means for distributing any payments to the Individual Landowners whose land was taken without just compensation or their heirs. Ostensibly in accordance with the Act, which prohibits “per capita” payments to tribal members, the Tribal Plan contains no provision assuring that Individual Landowners will receive a single cent of the Trust Fund distribution, even though the Individual Landowners owned forty-four percent of the land that had been taken by the United States, which accounted for nearly fifty-eight percent of the value lost. The Tribal Resolution, similarly, contains no provision for payment to the Individual Landowners, despite repeated requests by the Individual Landowners that there be some provision for compensation to them and their heirs. Thus, the payment scheme imposed by the Act places Tribal and Individual Landowner interests in direct conflict, further exacerbating community fragmentation initially caused by the Oahe Dam Project over seventy years ago.

**C. Attempts Are Made to Remedy the Improper Omission of Mechanics to Compensate Individual Landowners, and the Bureau of Indian Affairs Is**



**Reminded of Its Trust Obligations.**

26. The Department of Interior and its Secretary Ken Salazar, through the Bureau of Indian Affairs (collectively referred hereinafter as the “Bureau”), were made aware of the interests of the Individual Landowners and their heirs, and the Bureau’s trust obligations to these individuals, at least as early as 2002, when the Tribe submitted Resolution No. 142-02-CR to the Aberdeen Area Office. This resolution acknowledged that nearly half of the land inundated by the construction of the Oahe Dam was owned by the Individual Landowners, and that, as a result, those Individual Landowners and their heirs were entitled to share in the funds disbursed under the Act.

27. In 2003, the Tribe, by Resolution No. 85-03-CR, created the Landowners Association, a “non-profit, non-governmental entity” whose purpose is “to protect and promote the interests of individual tribal members or their heirs who lost their lands” as a result of the Oahe Dam project “by providing an entity through which the individual landowners and their heirs can address land loss and compensation issues.” Since its founding, the Landowners Association has sought help from the Bureau to ensure just compensation to the Individual Landowners and their heirs.

28. An attempt to expressly allow the Individual Landowners and their heirs to share in disbursements of the Trust Fund’s proceeds was made in 2005, with a bill that passed both houses of Congress but was not signed by then-President Bush. A similar bill was introduced in 2007 but did not advance. In light of these attempted legislative fixes, and the Bureau’s receipt of Resolution No. 142-02-CR, the Bureau was aware and on notice that the Individual Landowners and their heirs were entitled to disbursements under the Act.

Prior to the release by Defendant of the first distribution of interest from the Trust Fund, the Landowners Association, on behalf of its constituents, asked the Tribe in 2010 to share with the Individual Landowners and their heirs the payments that the Tribe would receive as a

result of the 2000 Act. The Tribe expressed concern that a distribution of the interest on the Trust Fund to individual landowners and heirs of landowners based on proportional appraised value of the land at the time of the original taking ("Appraisal Distribution") would violate the Act, which forbids distribution to individual members of the Tribe on a per capita basis. As a result, in September 2011, the Tribe and the Landowners Association wrote separate letters to the Bureau, seeking an opinion of the Bureau's Solicitor that an Appraisal Distribution would be legal.

30. The Landowners Association subsequently sent another letter explaining the legality of an Appraisal Distribution to the Great Plains Regional Office of the Bureau and noting that "payment to the Landowners based on the assessed values of their lands is clearly not a prohibited per capita payment. The term per capita means 'equally to each individual.' Payments to the Landowners would not be an equal payment to all members of the tribe, nor even to all members of a subgroup of the Tribe. Rather, payments would be made based on the appraised value of the lands taken from the Landowners. Such payments would not be prohibited per capita payments under the Act."

31. The Bureau responded to the Tribe's inquiry on or about October 27, 2011, indicating that an Appraisal Distribution would violate the Act and that compensation should be made solely to the Tribe.

32. The Bureau never responded to the Landowner Association's correspondence, despite its fiduciary duties owed to the Individual Landowners.

33. In 2011, the Bureau made an initial distribution of the proceeds from the Trust to the Tribe. No portion of the funds was withheld for compensation for lands held by the Individual Landowners. No monies were distributed to the Individual Landowners by the

Bureau, by the United States or by the Tribe.

34. Simply put, in the late 1940s, Defendant took almost 50,000 acres of land owned on an individual basis by the Individual Landowners. In 2000, the United States concluded that there was no just compensation for this taking. The 2000 Act evinces an unmistakable intent to compensate the Individual Landowners and their heirs. The Individual Landowners and their heirs, through the Landowners Association, have repeatedly sought assistance from Defendant regarding compensation of the Individual Landowners. Defendant, however, has shirked its trust responsibilities to the Individual Landowners, has failed to provide an accounting of the monies owed to the Individual Landowners and their heirs, much less to provide just compensation to these persons whose land was unjustly taken.

### **CLASS ACTION ALLEGATIONS**

35. Plaintiffs bring this action as a class action under Rules 23(a), (b)(1)(B), and (b)(3) of the Federal Rules of Civil Procedure on behalf of classes consisting of (1) the original owners of land that was taken by the federal government to construct the Oahe Dam and Lake Oahe and (2) the heirs of the original owners of land that was taken by the federal government to construct the Oahe Dam and Lake Oahe.

36. A class action is the appropriate method to determine the Individual Landowners rights to damages, including interest, as set forth in Counts I-III. In support of this claim, they allege:

- a. The class is so numerous that joinder of all members is impractical. Upon information and belief, the class is composed of 4000 to 5000 individuals.
- b. There are questions of law and fact common to the class. Questions of law and fact that are common to the class include, but are not limited to, the legal standard

applying to the Defendant's trust and fiduciary obligations to the Individual Landowners and their heirs; what accounting is required to fulfill those obligations; the action to be taken to remedy Defendant's breaches of trust, accounting and fiduciary obligations.

- c. The claims or defenses of the representative Plaintiffs are typical of the claims or defenses of the class. The claims asserted by the representative Plaintiffs and members of the class arise from the same circumstances and course of conduct of the Defendant. These claims are founded in the same legal theory.
- d. The Plaintiffs, as representatives of the class, will fairly and adequately protect the interests of the class. The representative Plaintiffs are all beneficiaries of the trust described herein, as they are all Individual Landowners of land taken by the federal government to construct the Oahe Dam and Lake Oahe or heirs of Individual Landowners. All representative Plaintiffs are beneficiaries to the trust relationship and fiduciary duty implicit in the Act, as evidenced by its purpose and description of the land taken, which expressly included the land owned by the Individual Landowners. The representative Plaintiffs share these traits with the class, and in turn, the representative Plaintiffs share the class's interests.
- e. A class action is the most efficient method to avoid multiple claims and longer delays. The Defendant owes the same trust obligations and the same fiduciary duties to the Individual Landowners and their heirs as beneficiaries of the Trust Fund. The corpus of the trust to which Plaintiffs are beneficiaries is pooled into one common Trust Fund. The exact duties and obligations owed by Defendant to the beneficiaries need to be determined, and multiple claims could lead to

conflicting determinations by different courts. This would likely create multiple decrees requiring incompatible conduct from Defendant. Accordingly, the prosecution of separate actions by individual members of the class would create a risk of adjudication with respect to individual members of the class that, as a practical matter, would be dispositive of the interests of the other members not parties to the adjudication or substantially impair their ability to protect their interests.

37. Plaintiffs allege that questions of law or fact common to the class predominate over any questions affecting only individual members and that a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

### **CLAIMS FOR RELIEF**

#### **Count I**

#### **Breach of Trust Obligations**

38. Plaintiffs restate and reincorporate Paragraphs 1-37 above as though fully set forth herein.

39. Through the Act, the United States holds monies in trust for the benefit of individual tribal members. Implicit within the Act is the establishment of a trust relationship between Defendant and the Individual Landowners and their heirs. This trust is implied based on the intent to distribute the Trust Fund monies to the Individual Landowners exhibited by the Act's explicit reference to (1) the Tribe "*and members of the Tribe*" and (2) the acreage of land for which compensation is to be provided, forty-four percent of which was indisputably owned by the Individual Landowners.

40. By failing in 2011 to distribute proceeds of the Trust Fund to the Individual Landowners, Defendant is in violation of its common law and statutory trust obligations to the

Individual Landowners and their heirs.

41. This failure is contrary to federal law.

42. The representative Plaintiffs, and all other members of the putative classes, will be irreparably harmed by Defendant's failure to safeguard tribal members' resources, as this failure will deprive the Individual Landowners of a means to receive just compensation from the United States for the taking of the Individual Landowners' property.

**Count II**  
**Breach of Fiduciary Duty**

43. Plaintiffs restate and reincorporate Paragraphs 1-42 above as though fully set forth herein.

44. Defendant owes a fiduciary duty to the Individual Landowners and their heirs because the Trust Fund, created by the Act, contains monies held in trust for the purpose of compensating for taking 104,492 acres in 1948, of which forty-four percent of the total acres, and approximately fifty-eight percent of the value was held by the Individual Landowners. This duty involves "moral obligations of the highest responsibility and trust" and "should therefore be judged by the most exacting fiduciary standards." *See Cobell v. Norton*, 240 F.3d 1081, 1099 (D.C. Cir. 2001); *Seminole Nation v. United States*, 316 U.S. 286, 297 (1942).

45. The United States also has a fiduciary relationship with the Individual Landowners and their heirs because it has exercised "elaborate control" over monies belonging to the Individual Landowners as Indian allottees. *See United States v. Mitchell*, 463 U.S. 206, 225 (1983) (stating that "a fiduciary relationship necessarily arises when the Government assumes such elaborate control over . . . property belonging to Indians[,] and further explaining that when the government takes on supervision of monies, a fiduciary relationship exists with respect to those monies).



46. Because of the control exercised by the United States over the Trust, common law trust elements apply. Those elements are met here. The United States serves as trustee to the Individual Landowners, who are beneficiaries to a corpus: the Trust Fund monies. *Mitchell*, 463 U.S. at 204 (“All of the necessary elements of a common-law trust are present: a trustee (the United States), a beneficiary (the Indian allottees), and a trust corpus (Indian . . . funds).”).

47. The distribution scheme used by Defendant is contrary to the common-law trust obligation it owes to the Individual Landowners and their heirs. By disbursing Trust Fund monies only to the Tribe and failing to ensure disbursement of proceeds of the Trust Fund to Individual Landowners despite their ownership of forty-four percent of the lands expressly considered by the Act, Defendant has violated its fiduciary duty to the Individual Landowners and their heirs.

48. This failure is contrary to federal law.

49. The representative Plaintiffs, and all other members of the class, will be irreparably harmed by Defendant’s failure to safeguard the resources of the Individual Landowners and their heirs, as this failure will deprive the Individual Landowners and their heirs of just compensation for the taking of the Individual Landowners’ property.

**Count III**  
**Accounting – Declaratory Judgment**

50. Plaintiffs restate and reincorporate Paragraphs 1-49 above as though fully set forth herein.

51. Pursuant to the Indian Trust Accounting Statute (“ITAS”), Defendant’s common law trust and fiduciary duties arising from the Act include the obligation to provide Plaintiffs, and the putative class members, with a full and complete accounting of their trust funds. *See* Indian Trust Accounting Statute, Act of Nov. 10, 2003, Pub. L. No. 108-108, Tit. I, 117 Stat.

1263, 25 U.S.C. § 4011.

52. The scheme used by Defendant in 2011 to distribute Trust Fund monies was a mismanagement of the Individual Landowners' trust funds. *See generally Shoshone Indian Tribe of the Wind River Reservation v. United States*, 364 F.3d 1339 (Fed. Cir. 2004) (explaining that the statute of limitations only on claims regarding mismanagement of Indian trust funds is tolled until the government provides beneficiaries with an accounting of those funds).

53. Defendant has failed to provide Plaintiffs and the putative class members with an accounting of their trust funds. This is a breach of federal law.

54. Plaintiffs are entitled to equitable and declaratory relief requiring Defendant to provide Plaintiffs with a full and complete accounting of their trust funds, as well as that of the putative class members.

#### **PRAYER FOR RELIEF**

WHEREFORE, the Plaintiffs pray for the following relief:

A. An order certifying the named Plaintiffs as representatives of classes consisting of (1) the original owners of land that was taken by the federal government to construct the Oahe Dam and Lake Oahe and (2) the heirs of the original owners of land that was taken by the federal government to construct the Oahe Dam and Lake Oahe;

B. A decree construing Defendant's trust obligations to Plaintiffs and the members of the various classes, declaring that Defendant has breached its trust obligations to the named Plaintiffs and the class, and directing practices in conformity with Defendant's obligations;

C. A declaration that Defendant's failure to distribute monies from the Trust Fund to the Individual Landowners and their heirs is a breach of its common law fiduciary duty to distribute monies from the Trust to the Individual Landowners as part of the intended just compensation to owners of the 104,420 acres of taken land;

- D. A declaration that Defendant has not provided Plaintiffs and members of the class with a full and complete accounting of their trust funds;
- E. A decree ordering an accounting of the trust funds owed to the Individual Landowners and their heirs;
- G. Plaintiffs' attorneys' fees and costs, to the extent allowed by applicable law; and
- H. Any such further relief the Court deems just and equitable.

Respectfully submitted,

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