

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

FIRST BANK AND TRUST COMPANY,

Plaintiff/Appellee/Counter-Appellant,

v.

THE CHEYENNE AND ARAPAHO
TRIBES; JANICE PRAIRIE CHIEF-
BOSWELL, in her representative capacity, if
any, as the alleged Governor of the
CHEYENNE AND ARAPAHO TRIBES,

*Defendants/Appellants/Counter-
Appellees,*

and

LESLIE WANDRIE-HARJO, in her
representative capacity, if any, as the alleged
Governor of the CHEYENNE AND
ARAPAHO TRIBES,

Defendant.

Supreme Court Case No.: **IN-110909**

Trial Court Case No.: CV-2011-53

MOTION FOR LEAVE TO SUPPLEMENT THE APPEAL RECORD

Defendant/Appellant/Counter-Appellee the Cheyenne and Arapaho Tribes' Executive Branch ("Executive Branch") by and through its Governor Janice Prairie Chief-Boswell ("Governor Boswell"), hereby submits this *Motion for Leave to Supplement the Appeal Record*. In support thereof, the Defendant/Appellant/Counter-Appellee states as follows:

1. On October 27, 2012, Plaintiff filed a *Petition for Declaratory Relief and Determination of Party Authorized to Act on Behalf of Tribal Accounts* requesting the Court declare whether Governor Boswell should remain as the authorized signatory for the Tribal Accounts.

2. On June 21, 2012, this Court entered a decision taking jurisdiction of the tribal accounts at issue due to the dispute and rival of tribal governments as to who is the elected governor of the Tribes.

3. Trial occurred on June 8, 2012.

4. This action was appealed to the Supreme Court to which a decision is pending.

5. On February 7, 2013, in a matter pertaining to leases that encumber the Cheyenne and Arapaho Tribes' oil and gas assets, the Bureau of Indian Affairs ("BIA") again recognized Governor Janice Prairie Chief-Boswell as the tribal official with the authority to accept such mineral leases on the Tribes' behalf. *See Letter, Betty Tippeconnie, Superintendent, Concho Agency, Bureau of Indian Affairs to Janice Prairie Chief-Boswell (Feb. 7, 2013) ("Mineral Lease Recognition")*, attached hereto as **Exhibit 1**.

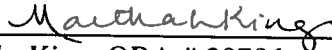
6. The Mineral Lease Recognition acknowledges that Governor Boswell has the gubernatorial authority to sign contracts on the Tribes' behalf and encumber Tribal assets for the benefit of the Tribes'.

7. The Mineral Lease Recognition is further evidence of Governor Boswell's gubernatorial authority to act on behalf of the Tribes' and of BIA's repeated recognition of Governor Boswell as the Tribes' Governor for government-to-government purposes.

Defendant/Appellant/Counter-Appellee moves this Court for an order supplementing the Appeal Record with a copy of the Mineral Recognition Letter, attached hereto as **Exhibit 1**.

Respectfully submitted this 13th day of February, 2013.

FREDERICKS PEEBLES & MORGAN LLP



Martha L. King, OBA # 30786

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Phone: (303) 673-9600

Facsimile: (303) 673-9155

*Attorney for Executive Branch of the
Cheyenne and Arapaho Tribes (captioned
below as Janice Prairie Chief-Boswell, in
her official capacity, if any),
Defendant/Appellant*

CERTIFICATE OF MAILING TO ALL PARTIES AND COURT CLERK

The undersigned certifies that on February 13, 2013, the original + 10 copies of the foregoing **MOTION FOR LEAVE TO SUPPLEMENT THE APPEAL RECORD** in this matter was mailed via U.S. Mail, postage pre-paid to the Office of the Court Clerk, Oklahoma Supreme Court, Oklahoma. Also on this day, a copy was mailed via U.S. Mail, postage pre-paid to:

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Concho, Oklahoma 73022
Attorney for Cheyenne and Arapaho Tribes, Defendant/Appellant

District Court, Custer County, Oklahoma
603 B St.
P.O. Box D
Arapaho, Oklahoma 73620-0240

The undersigned certifies that the following parties identified below are not direct parties to this appeal but appeared for a party in a prior trial:

Thomas S. Ivester, Esq.
IVESTER, IVESTER & IVESTER
115 West Main
P.O. Box 160
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Attorney for the "Cheyenne and Arapaho Legislative Branch"

John E. Parris, Esq.
Cheyenne and Arapaho Tribes
P.O. Box 38
Concho, Oklahoma 73022
Attorney for the Fourth Legislature of the Cheyenne and Arapaho Tribes



Kelly H. Basinger
Litigation Legal Secretary



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

Concho Agency
P.O. Box 68

El Reno, Oklahoma 73036

IN REPLY REFER TO:
Executive Direction

CERTIFIED MAIL-RETURN RECEIPT REQUESTED, RECEIPT # 7011 0470 0002 0988 5507
February 7, 2013

Ms. Janice Prairie Chief-Boswell
P. O. Box 167
Concho, Oklahoma 73022

RECEIVED
FEB 11 2013

Cheyenne & Arapaho
EXECUTIVE OFFICE

Dear Ms. Boswell:

This responds to your letter of January 30, 2013, wherein you requested the Concho Agency, Bureau of Indian Affairs, to consider accepting your signature on the Acceptance Forms for pending offers to lease eleven (11) tribal mineral tracts, pursuant to Tribal Council Resolution number 100612ATC-009, passed during the constitutionally-mandated annual Cheyenne and Arapaho Tribal Council meeting held on October 6, 2012, by a vote of 138 for, 25 opposed, and 8 abstentions.

It is the decision of the Concho Agency, Bureau of Indian Affairs, to accept your signature as the duly authorized signatory on the Acceptance Forms wherein you would accept, on behalf of the Cheyenne and Arapaho Tribes, the pending offers to lease eleven tribal mineral tracts.

Upon the Concho Agency's receipt of your signed Acceptance Forms for all eleven tribal mineral tracts, the Agency will proceed with the leasing and processing of the subject mineral tracts.

By accepting your signature the Agency is attempting to ensure the Cheyenne and Arapaho Tribes do not suffer an economic loss which would be detrimental to the tribal membership.

This decision may be appealed to the Regional Director, Bureau of Indian Affairs, Southern Plains Regional Office, Post Office Box 368, Anadarko, Oklahoma 73005, in accordance with the regulations in 25 CFR Part 2 (copy attached).

Your Notice of Appeal must be filed in this office within thirty (30) days of the date you receive this decision. The date of filing your Notice of Appeal is the date it is postmarked or the date it is personally delivered to this office. Your Notice of Appeal must include your name, address, and telephone number. It should clearly identify the decision being appealed. If possible, attach a copy of the decision. The notice and the envelope in which it is mailed should be clearly labeled "Notice of Appeal." Your Notice of Appeal must list the names and addresses of the interested parties known to you and certify that you have sent them copies of the notice. You must also send a copy of your Notice of Appeal to the Regional Director at the address provided above.

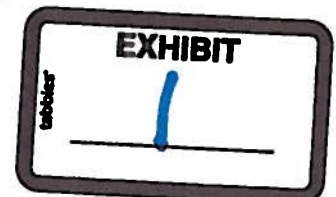
If no appeal is timely filed, this decision will become final for the Department of the Interior at the expiration of the appeal period. No extension of time may be granted for filing a Notice of Appeal.

Sincerely,

Ben B. [Signature]
Superintendent

Enclosure

cc: Interested Parties Listed



Letter to Janice Prairie Chief Boswell, dated February 7, 2013

INTERESTED PARTIES

Leslie Wandrie Harjo
2601 S. Lawn Place
El Reno, Okla 73036

c/o Jane Nightwalker
Members, Cheyenne and Arapaho Tribes' Legislature
211 E. Russell
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c/o Patrick Spottedwolf
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041L11221685



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