

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF OKLAHOMA

ALABAMA-QUASSARTE	)	
TRIBAL TOWN,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 6:06-cv-00558-RAW
	)	
S.M.R. JEWELL,	)	
Secretary of the Interior, <u>et al.</u> ,	)	
	)	
Defendants.	)	
_____	)	

**FEDERAL DEFENDANTS' RESPONSE TO  
MUSCOGEE (CREEK) NATION'S MOTION TO DISMISS**

Defendant Muscogee (Creek) Nation (“Muscogee”) filed a motion to dismiss Plaintiff Alabama-Quassarte Tribal Town’s amended complaint (ECF No. 174), on jurisdictional grounds, in this case. ECF Nos. 181 and 182. Specifically, Muscogee asserted that this Court should dismiss the case because Muscogee has not waived its sovereign immunity and thus cannot be sued in this case (ECF No. 182, at 4-10); Muscogee is a required party that cannot be joined as a defendant (id., at 10-12); and Plaintiff’s claims are barred by the statute of limitations and the preclusion doctrine (id., at 12-14).

This Court should grant Muscogee’s motion. Muscogee has sovereign immunity and thus cannot be sued, without its waiver or consent. Plaintiff has not demonstrated any such waiver or consent to suit by Muscogee. Further, to the extent that Plaintiff’s action relates to the Wetumka Project lands, which are part of Muscogee’s trust lands, Muscogee is a required party in the action under Rule 19 of the Federal Rules of Civil Procedure, for which joinder is not feasible. In any event, Plaintiff’s claims are barred by the statute of limitations, 28 U.S.C. § 2401; the Indian Claims Commission Act of August 13, 1946, 60 Stat. 1049, as amended (formerly 25 U.S.C. §§ 70 et seq.);

and the doctrines of estoppel or preclusion and of laches. Thus, the Court should dismiss the case.

Respectfully submitted this 6th day of July, 2015,

JOHN C. CRUDEN  
Assistant Attorney General

/s/ Anthony P. Hoang  
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**CERTIFICATE OF SERVICE**

I hereby certify that, on July 6, 2015, I caused the foregoing to be served electronically on the counsel in this case who are registered with the Court's ECF system by filing it electronically with the Court and to be served by first-class mail on any counsel who are not registered with the ECF system.

/s/ Anthony P. Hoang  
ANTHONY P. HOANG