

Statement exhibiting the balances of appropriations on account of the Interior Department, &c.—Continued.

Specific objects of appropriation.	Reference.	Balances of appro- priations for July 1, 1872.	Appropriations for the fiscal year end- ing June 30, 1873.	Repayments made in the fiscal year 1873, ending June 30.	Aggregate available for the fiscal year 1873, ending June 30.	Payments made in the fiscal year end- ing June 30, 1873.	Amounts carried to the surplus fund June 30, 1873.	Balances of appro- priations June 30, 1873.
Brought forward.....		\$878,945 72	\$7,480 00	\$116,434 16	\$3,002,868 68	\$1,894,206 96	\$30,210 57	\$1,049,451 35
Fulfilling treaties with Shoshones, Eastern, Western, Northern, and Goshute bands.....		39,124 63			30,124 63	12,611 05		96,513 58
Fulfilling treaties with Senecas.....		2,160 00		1,129 80	3,789 80	3,789 80		11,943 76
Fulfilling treaties with Senecas of New York.....		2,446 95			23,846 95	11,962 50		11,103 00
Fulfilling treaties with Senecas and Shawnees.....		2,825 00		1,129 80	3,354 80	3,354 80		12,947 71
Fulfilling treaties with Shawnees.....		12,370 29		2,576 88	14,947 71	2,600 00		149 55
Fulfilling treaties with Shoshones and Banuicks and other bands in Idaho and Southwestern Oregon.....		149 55			149 55			133,977 35
Fulfilling treaties with Shoshones and Banuicks.....		217,210 65		4 00	217,210 65	\$4,933 30		5,457 16
Fulfilling treaties with Six Nations of New York.....		9,745 16			9,749 16			
Fulfilling treaties with Sioux of Dakota, Blackfeet, Lower Brul, and other bands.....		2,676 65			2,676 65	2,676 65		
Fulfilling treaties with Sioux of different tribes, including Santee Sioux of Nebraska.....		2,676 65			2,676 65			
Fulfilling treaties with Sisseton, Wahpeton, and Santee Sioux of Lake Traverse and Devil's Lake.....	39	1,998,765 40	\$50,000 00	98,003 67	2,446,889 07	2,086,209 52		360,529 55
Fulfilling treaties with S'Kallains.....		86,870 09			86,870 09	71,318 29		12,371 80
Fulfilling treaties with Sioux, Yankton tribe.....		13,586 62		84 04	13,970 66	10,186 61		3,814 05
Fulfilling treaties with Snakes, Wolfpawee tribe.....		67,448 15		853 82	68,301 40	64,061 74		4,219 66
Fulfilling treaties with Stockbridges and Munsees.....		7,330 30		4 68	7,237 18	2,100 00		5,937 18
Fulfilling treaties with Senecas, Shawnees, Quapaws, Pottawattomies, Wyandottes, and others.....				30 96	30 96		30 96	
Fulfilling treaties with Tabequache, Minchico, Ca- pete, Weeminuche, Yampi, Grand River, and Umatilla tribes.....		4,507 29		44 27	5,011 66	2,154 93		2,856 73
Fulfilling treaties with Utrichs, Tabequache band.....		145,180 60			145,180 60	93,953 92		51,226 68
Fulfilling treaties with Utrichs, Chin Creek band.....		123,067 25			123,067 25	12,172 95		110,894 30
Fulfilling treaties with Utrichs and Calapooias of Umpqua Valley, Oregon.....		1,712 76			1,712 76	611 00		1,101 76
Fulfilling treaties with Walla Walla, Cayuse, and Umatilla tribes.....		17,127 63			17,127 63	4,454 04		12,673 59
Fulfilling treaties with Wyandottes.....		24,898 56			24,898 56	10,905 59		8,933 97
Fulfilling treaties with Yakamas.....		101,417 56			101,417 56	10,905 59		44,011 97
Fulfilling treaties with Yakamas.....		16,703 56			16,703 56	16,703 56		
Fulfilling treaties with Yakamas.....		35,465 02		3,957 08	36,422 10	36,422 10		
Managers (1872-74).....	40		64,700 00		64,700 00	5,647 43		63,052 57

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

(Electronically filed on September 28, 2015)

WYANDOT NATION OF KANSAS,)	
a/k/a/ WYANDOT TRIBE OF INDIANS,)	
)	No. 15-560L
Plaintiff,)	
)	Hon. Thomas C. Wheeler
)	
v.)	
)	
UNITED STATES OF AMERICA,)	
)	
Defendant.)	
_____)	

PLAINTIFF'S MEMORANDUM OF POINTS AND AUTHORITIES
IN OPPOSITION TO DEFENDANT'S MOTION TO DISMISS

Plaintiff Wyandot Nation of Kansas a/k/a Wyandotte Tribe of Indians (hereafter "Wyandot Nation of Kansas") hereby submits its Memorandum of Points and Authorities in Opposition to Defendant's Motion to Dismiss.

Dated: September 28, 2015

Respectfully submitted,

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I. INTRODUCTION

This case involves claims by the Plaintiff Wyandot Nation of Kansas a/k/a Wyandotte Tribe of Indians (hereafter “Wyandot Nation of Kansas”) that past and present federal agencies and officers of the United States breached their constitutional, treaty, statutory, and common law fiduciary duties. Contrary to the Government’s assertions, this Court has subject matter jurisdiction over the action. In addition, Plaintiff has stated a proper claim upon which relief can be granted.

II. QUESTIONS PRESENTED

1. Does the Court have subject matter jurisdiction over the present action?
2. Does the Complaint state a claim for which relief may be granted?

III. STANDARD OF REVIEW

A. Defendant’s Motion to Dismiss

The United States’ motion to dismiss is brought under Rules 12(b)(1) and (6) of the Rules of the United States Court of Federal Claims (“RCFC”). This Rule parallels Rule 12(b) of the Federal Rules of Civil Procedure. (*See* RCFC 12, Rules Committee Notes, 2008 Amendment).

A motion to dismiss under Rule 12(b)(1) challenges the court’s subject matter jurisdiction. If the motion makes a facial attack on jurisdiction, the court’s review is restricted to the face of the pleadings, and the Complaint is not subject to dismissal “unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief.” *Scheuer v. Rhodes*, 416 U.S. 232, 236, 94 S. Ct. 1683, 1686 (1974) (internal quotation marks omitted).

If, on the other hand, the Rule 12(b)(1) motion makes a factual attack upon the court’s jurisdiction, the court “may consider relevant evidence in order to resolve the factual dispute.” *Reynolds v. Army & Air Force Exch. Serv.*, 846 F.2d 746, 747 (Fed. Cir. 1988). In such cases, the plaintiff has the burden of proving by a preponderance of the evidence that subject matter jurisdiction exists. *Banks v. United States*, 741 F.3d 1268, 1277 (Fed. Cir. 2014).

Pursuant to Rule 12(b)(6), a Complaint may be dismissed, in whole or in part, for failure to state a claim upon which relief can be granted. A motion to dismiss under Rule 12(b)(6) tests the sufficiency of the allegations of the Complaint. *United States v. Ford Motor Co.*, 497 F.3d 1331, 1336 (Fed. Cir. 2007). When considering such a motion, the court must accept as true all well-pleaded factual allegations in the Complaint, and those allegations and the inferences arising therefrom must be viewed in the light most favorable to the party opposing the motion. *Id.*; *Gould, Inc. v. United States*, 935 F.2d 1271, 1274 (Fed. Cir. 1991). The court's role in ruling on a Rule 12(b)(6) motion is limited to determining whether the plaintiff is entitled to offer evidence in support of its claims. *Ford Motor Co.*, 497 F.3d at 1336.

Under Rule 12(b)(6), dismissal is appropriate only if, accepting as true all of the facts alleged in the Complaint, the plaintiff has failed to plead "enough facts to state a claim to relief that is plausible on its face." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570, 127 S. Ct. 1955, 1974 (2007). If the factual allegations are sufficient to "raise a reasonable expectation that discovery will reveal evidence of" each necessary element of the plaintiff's claim, dismissal is unwarranted. *Id.* at 556, 127 S. Ct. at 1965.

IV. FACTUAL ALLEGATIONS AND EVIDENTIARY SUPPORT

A. Historic Wyandott Nation Treaty of 1843 (9 Stat. 337)

In the 1843 Treaty, the Historic Wyandott Nation purchased 36 sections of trust land from the Delaware Nation located the confluence of the Missouri River and Kansas River in eastern Kansas. The Delaware Nation also donated and quitclaimed to the Wyandott Nation an additional 3 sections of trust land "lying and being situated at the point of the junction of the Missouri and Kansas Rivers." The 39 sections of land were held in trust for the Historic Wyandott Nation by the United States and became the Wyandot Nation Indian Reservation in Kansas. (1843 Treaty, Arts. 1 and 2); Verified Complaint (hereinafter "Compl."),¹ (Doc. 1), ¶¶ 10 and 11, and Ex. "A" (map of 1843 Wyandott Indian Reservation).

¹ Fed. R. Civ. P. provides in pertinent part that "[s]upporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that affiant is competent to testify to the matters stated therein. Sworn

B. Historic Wyandott Nation Treaty of 1855 (10 Stat. 1159)

In the 1855 Treaty, the Historic Wyandott Nation's organization and government-to-government relations with the United States was dissolved and terminated "except so far as the further and temporary continuance of the same may be necessary in the execution of some of the stipulations herein," and that every Wyandott Nation tribal member was declared to be a citizen of the United States. (1855 Treaty, Art. 1; Compl. ¶ 18).

Prior to the 1924 Indian Citizenship Act (43 Stat. 253, 8 U.S.C. 1401), it was incompatible to be a U.S. citizen and a tribal member at the same time. (Compl. ¶ 15). The 1855 Treaty also terminated the tribal membership of all the members of the Historic Wyandott Nation by declaring them to be U.S. citizens. (*Id.*).

The 1855 Treaty also provided that the Historic Wyandott Nation cede the 39 sections of trust land that it purchased from the Delaware Nation to the United States **except for "[t]he portion now enclosed and used as a public burying-ground, shall be permanently reserved and appropriated for that purpose; . . ."** (1855 Treaty, Art. 2; Compl. ¶ 19). The burying ground referred to in Article 2 of the 1855 Treaty is called the "Huron Cemetery" and is located in Kansas City, Kansas. (Compl. ¶ 19; Aff. of Kristen E. Zane, ¶¶ 2 and 3 and Exs. A and B).

A July 12, 1959 article in the *Kansas City Kansan* newspaper showed photos of two

to or certified copies of all papers or parts thereof referred to in an affidavit shall be attached thereto or served therewith." The conversion of a verified Complaint to an affidavit "is appropriate only with respect to the factual assertions in the Complaint that complied with the requirements for affidavits specified in Fed. R. Civ. P. 56, that is, the factual assertions that were made on personal knowledge and showed affirmatively that the affiant was competent to testify to the matters stated therein." *Szymankiewicz v. Picard, et al.*, Slip Op. No. 04-C-1886-C (W.D. Wisc., May 13, 2005) p. 3, *Citing Ford v. Wilson*, 90 F.3d 245 (7th Cir. 1996). Janith English executed the Verified Complaint before a notary public under oath. She also filed an Affidavit herewith in which she stated in Paragraph 1 that she was competent to testify to the facts contained in the affidavit, and in Paragraph 3 that [t]he affidavit is intended to supplement "facts that she verified under oath in the Verified Complaint." Thus, the Verified Complaint (Doc. 1) can be treated as an affidavit of Janith English in so far as the factual allegations contained therein are based on her personal knowledge. As Principal Chief, Janith English has personal knowledge of all the factual statements contained in the Verified Complaint, including those relating to the history of her tribe.

portions of Huron Cemetery that extended onto Minnesota Avenue and Seventh Street in Kansas City, Kansas. (Compl. ¶ 87 and Ex. B; Defendant's Memorandum of Points and Authorities (hereinafter "D. Memo") (Doc. 7), p. 22).

The City of Kansas City, Kansas has been using the two Huron Cemetery tracts for its streets without valid, federally approved easements for grants of rights-of-way from 1857 up to the filing date of this civil action without payment of any compensation to the Wyandot Nation of Kansas for their proportionate ownership interest in the cemetery. (Compl. ¶ 69, Exs. B and C; Aff. of Kristen E. Zane, Exs. A and B).

The Federal Government has a fiduciary duty under federal law to collect compensation from the City of Kansas City, Kansas on behalf of the Wyandot Nation of Kansas for easements for grant of rights of way across and over the two tracts of Huron Cemetery used for city streets, and to deposit the funds in U.S. Treasury trust accounts in the name of the Wyandot Nation of Kansas and to account for, and invest said funds after they are deposited. (25 U.S.C. §§ 177, 323, 325 and 4001 *et seq.*; *PROCEDURAL HANDBOOK, Grants of Easement for Right-of-Way on Indian lands*, March 6, 2006, Sec. 4, Step 3; *Shoshone Indian Tribe of the Wind River Reservation v. United States*, 364 F.3d 1339, 1350 (Fed. Cir. 2004)).

C. Historic Wyandott Nation Treaty of 1867 (15 Stat. 513)

The Historic Wyandott Nation was not immediately dissolved and terminated as a federally recognized Indian tribe under Article 1 of the 1855 Treaty, and in fact, the Defendant, in two letters sent to Chief George Zane of the Wyandot Nation of Kansas, dated March 15, 1996 and June 3, 1996, by Bureau of Indian Affairs (hereafter "BIA") Director of Tribal Services Deborah J. Maddox, informed Chief Zane that the BIA conceded "1867 as the last date of unambiguous prior acknowledgment" of the Historic Wyandot Nation. (Compl. ¶ 24; Aff. of Janith K. English, ¶ 4 and Exs. B and C). In other words, according to BIA and Ms. Maddox, the members of the Wyandot Nation of Kansas descended from members of the Historic Wyandott Nation who were declared to be U.S. Citizens in the 1855 Treaty, and therefore as "Absentee Wyandots," they are barred from Federal Acknowledgement by the BIA. (Compl. ¶ 35; Aff. of

Janith K. English, ¶ 4 and Ex. C).

In the March 15, 1996 and June 3, 1996 letters, the BIA and Ms. Maddox totally misapprehended the fact that the 1867 Treaty: (1) created a new federally recognized Indian tribe called the “Wyandotte Tribe of Indians” that replaced the terminated historic Wyandott Nation, (2) established a new membership roll for the new tribe called a “Register,” (3) the Register included “the whole [Wyandott] people, **residence in Kansas** and elsewhere” and would contain the “names of all who declare their desire to be and remain Indians, and in a tribal condition . . . and **all such persons, and those only, shall hereafter constitute the tribe . . .**,” and (4) that the ancestors of all the current members of the Wyandot Nation of Kansas elected to become non-citizens and were listed on the Register as members of the newly created Wyandotte Tribe of Indians. (1867 Treaty, Art. 13; Compl. ¶¶ 26, 27 and 35; Aff. of Janith K English, ¶ 4 and Exs. B and C).

The name of the new 1867 Treaty tribe was the “Wyandotte Tribe of Indians” as acknowledged by the Secretary of the Interior and other BIA officials in the following documents and in Acts of Congress:

- The Letter of January 28, 1871 letter to Commissioner Parker that stated that “all Wyandotte, who were not classified as Citizens under provisions of the treaty of 1855-- as all who were classified as citizens, under said provisions, without their knowledge or consent, as appears by their testimony (See full report from this office 6/14/1870) should constitute the **Wyandotte tribe of Indians.**” (Compl. ¶ 30; Aff. of Louisa A. Libby, ¶ 4 and Ex, D);
- The Letter of March 30, 1872 from Secretary of the Interior C. Delano to Commissioner of Indian Affairs Francis A. Walker, which quoted a June 11, 1872 letter of BIA Agent Hoag regarding a list of 65 Wyandotte citizens “certified by the Agent, as being adopted to membership with the **Wyandotte tribe of Indians.**” (Compl. ¶ 33; Aff. Of Louisa A. Libby, ¶ 4 and Ex. D), and
- The Act of September 8, 1916 (39 Stat. 844) in which Congress appropriated

\$10,000 “for the preservation and improvement of **Huron Cemetery, a tract of land in the city of Kansas City, Kansas**, owned by the government of the United States, the use of which was conveyed by treaty to the **Wyandotte Tribe of Indians** as a cemetery for the members of the tribe . . .” (Compl. ¶ 56).

The tribe created under Article 13 of the 1867 Treaty, called the “Wyandotte Tribe of Indians,” changed its name in 1959 to the “Wyandot Nation of Kansas” to avoid confusing it with the “Wyandotte Tribe of Oklahoma,” which consisted of a band of the Wyandotte Tribe of Indians that splintered off from the tribe and reorganized as a separate tribe under Section 3 of the 1936 Oklahoma Indian Welfare Act (hereinafter “OIWA”) (49 Stat. 1967, 25 U.S.C. § 503. Compl. ¶ 38; Aff. of Janith K. English, ¶ 9). The new name of the OIWA tribe under its federally approved Constitution and Bylaws was the “Wyandotte Tribe of Oklahoma.” (*Id.*)²

Moreover, Defendant concede that the “newly-constituted tribe . . . was federally recognized.” (D. Memo, p. 7).

The Seneca Nation ceded 20,000 acres of their reservation in Oklahoma to the United States for \$20,000 in the 1867 Treaty. (1867 Treaty, Art. 1; Compl. ¶ 29), and the United States set it apart as a reservation for the Wyandotte Tribe of Indians “to be owned in common.” (1867 Treaty, Art. 13). However, the \$20,000 was deducted from trust funds owed by the Government to the Wyandotte Tribe of Indians. (1867 Treaty, Art. 14; Compl. ¶ 29). So the Wyandotte Tribe of Indians actually paid for the 20,000 acre reservation in Oklahoma.

The 1867 Treaty also provided that “the Secretary of the Interior is hereby authorized and required to appoint three persons whose duty it shall be to ascertain and report to the Department the amount of money, if any, by the United States to the Wyandott[e] Indians under existing treaty stipulations, and the items mentioned in Schedule A, appended to this treaty and the report of the persons so appointed, with the evidence taken, shall be submitted to Congress for action at its next session.” (1867 Treaty, Art. 13; Compl. ¶ 76).

² Article I of the Constitution and Bylaws of the Wyandotte Tribe of Oklahoma provides that “[t]he name of this organization shall be the Wyandotte Tribe of Oklahoma.” WTOO Const., Art. I, (Appendix, No. 14).

The 1867 Treaty also provided in pertinent part that “[w]henever the register . . . shall have been completed and returned to the Commissioner of Indian Affairs, the amount of money in such Article [13] acknowledged to be due to the Wyandottl[e]s [in Schedule A of the Treaty] shall be divided, and that portion equitable due to the citizens of said people shall be paid to them and their heirs . . . **and the balance . . . shall be paid to the Wyandotte[e] tribe per capita**” and that the sum of \$5,000.00 would be made available “to enable the Wyandott[e]s to establish themselves in their new home, shall be paid to the Wyandott[e] tribe per capita.” (1867 Treaty, Art. 14). The \$5,000.00 per capita fund became known as the “Immigrants Fund.” (*Id.*; Aff. Janith K. English, ¶ 8). The 1867 Treaty stated specifically, that all of the persons whose names were on the 1867 Treaty Register “**shall hereafter constitute the tribe.**” (*Id.*, Art. 13).

Schedule A of the 1867 Treaty is described as a “Schedule showing the several items embraced in the sum agreed to be paid to the Wyandottes by the thirteenth Article of the foregoing treaty.” (1867 Treaty, Schedule A; Compl. ¶ 77). Defendant has never made a full financial accounting of the funds described in Schedule A, or any accrued interest earned on said funds, from 1867 up to the filing date of this civil action. (Compl. ¶¶ 84 and 85).

D. Status of Enrolled Members of the Wyandot Nation of Kansas

The 1867 Treaty provided in pertinent that: “a **register** of the whole [Wyandott] people, **resident in Kansas** and elsewhere . . . **shall hereafter constitute the tribe . . .**” (1867 Treaty, Art. 13, Aff. of Louisa A. Libby, ¶4 and Ex. B (copy of 1867 Treaty Register). One hundred forty (140) new citizen Wyandots were added to the Register by a March 30, 1872 letter and a June 18, 1872 letter from Secretary of the Interior C. Delaney to Commissioner of Indian Affairs Francis A. Walker. (Compl. ¶¶ 32 and 33; Aff. of Louisa A. Libby ¶ 4, Ex. D). The names on the original Register, and the 140 names added to it, constituted the Wyandotte Tribe of Indians. (Compl. ¶¶ 34 and 35).

The Wyandotte Tribe of Indians, as established under the 1867 Treaty Register, still exists under the name, the “Wyandot Nation of Kansas,” and its organization and government-to-government relationship with the Federal Government has never been terminated by Treaty or

Act of Congress. The Wyandot Nation of Kansas governs its governmental affairs under a Tribal Constitution adopted by its enrolled members. (Compl. ¶ 37; Aff. of Louisa A. Libby, ¶ 4 and Ex. E). The splintering off and reorganization of the Oklahoma Band of the Wyandotte Tribe of Indians as a separate tribal entity under the 1936 OIWA did not terminate the continued existence of the Kansas Band of the Wyandotte Nation of Indians that constituted the remainder of the Tribe. (Compl. ¶¶ 25 and 67).

Moreover, the Wyandot Tribe of Indians, as the continuation of the Wyandotte Tribe of Indians, succeeded to the treaty rights of the Historic Wyandotte Nation and those treaty rights were reaffirmed by the Act of March 3, 1871 (RS 2079; 25 U.S.C. § 71) . (Compl. ¶ 41).³

The ancestors of **all** the current enrolled members of the Wyandot Nation of Kansas elected to become non-citizen Indians and were listed in the Register, and all of them became enrolled members of the newly created tribe called the Wyandotte Tribe of Indians. Their offspring today, constitute the enrolled membership of the Wyandot Nation of Kansas a/k/a Wyandotte Tribe of Indians. (Compl. ¶¶ 27, 30 and 34; Affidavit of Janith K. English, ¶ 6).

E. The Two Bands of the Wyandotte Tribe of Indians

After 1872, the Wyandotte Tribe of Indians gradually separated into two divisions and by 1896 were included on two separate federal census rolls:

- Those that moved to the 20,000 acre reservation in Oklahoma were included in the Quapaw Agency Census Rolls; and
- Those that remained in Kansas were included in the “1896 Olive Roll.”

(Compl. ¶ 36; Aff. of Janith K. English, ¶ 4 and 7, and Ex. A (the Olive Roll)). The two divisions are referred to herein as the “Kansas Band” and the “Oklahoma Band.” (Compl. ¶ 36).

³ Indian tribes retain their vested treaty rights regardless of whether the Federal Government recognizes them as federally or non-federally recognized tribes. *Greene v. Babbitt*, 64 F.3d 1266, 1270 (9th Cir. 1995) (“[n]onrecognition of tribe by the federal government . . . can have no impact on vested treaty rights”); *Timpanogos Tribe v. Conway*, 286 F.3d 1195, 1203 (10th Cir. 2002) (“the fact that a tribe is not administratively recognized does not affect that tribe's vested treaty rights”); (Compl. ¶ 67).

Together, the Kansas Band and the Oklahoma Band of the Wyandotte Tribe of Indians hold an undivided ownership interest in all the Historic Wyandott Nation's trust property in Kansas City, Kansas, including Huron Cemetery. (Compl. ¶ 41). This was acknowledged in the Act of June 21, 1906 (34 Stat. 325, 348-49) that authorized the Secretary of the Interior to sell Huron Cemetery and move the remains of deceased persons interred there to the Quindaro Cemetery, with appropriate monuments over their remains. The Act also authorized the Secretary of the Interior to deduct the costs of moving the remains of the deceased persons from the proceeds of the sale of the cemetery, and from the sale of the ferry, if the claims to the ferry were just and equitable. And any remaining money derived from the sale of the cemetery and ferry would be **paid per capita to members of the Wyandotte Indians that were parties to the 1855 Treaty**. The Kansas Band was a party to the 1855 Treaty, so its undivided ownership interest was acknowledged in the 1906 Act, which was repealed by the Act on February 13, 1913 (37 Stat. 668). (Compl. ¶¶ 51 and 54).

The Wyandot Nation of Kansas' undivided ownership interest in the Historic Wyandotte nation's trust properties was also acknowledged in the Act of December 20, 1982 (96 Stat. 1813) and Act of November 2, 1994 (108 Stat. 4791, that authorized per capita payments to the members, i.e., the Absentee Wyandots in Indian Claims Commission Docket 149 and Court of Claims Dockets 151, 212 and 213 (Compl. ¶ 41).

F. Congressional Recognition of Huron Cemetery as Tribal Trust Land

The status of Huron Cemetery as trust property stems from its original trust status as trust property under the 1834 Trade and Intercourse Act (25 U.S.C. § 177) and 1843 Treaty (9 Stat. 337, Art.1 and 2), and its reserved status as trust property under Article 2 of the 1855 Treaty (10 Stat. 1159, Art. 2). (Compl. ¶¶ 6 and 19).

The United States holds legal title to all trust land held by an Indian tribe or individual Indian allottees (or their heirs). The tribe and allottees (or their heirs) on the other hand hold beneficial or equitable title to trust land until such time as the Federal Government issues an unrestricted fee patent to them. After an unrestricted fee patent is issued them, they can alienate

the land to whomever they chose without the approval of the Federal Government. (Compl. ¶ 55).

In the Act of September 8, 1916 (39 Stat. 844) Congress appropriated \$10,000 “for the preservation and improvement of Huron Cemetery, a tract of land in the city of Kansas City, Kansas, **owned by the government of the United States, the use of which was conveyed by treaty to the Wyandotte Tribe of Indians** as a cemetery for the members of the tribe” The 1916 Act confirmed and acknowledged that Huron Cemetery was trust land in which the United States held legal title and the Wyandotte Tribe of Indians held equitable or beneficial title. Because the cemetery is trust land, the Board of Trustees of Haskell Institute (a Native American vocational school) located in Lawrence, Kansas, was assigned to administer the funds and assure the perpetual maintenance of the cemetery. (Compl. ¶ 56).

An agreement with the City of Kansas City, Kansas for the carrying out the preservation and improvement of Huron Cemetery under the 1916 Act was signed on March 20, 1918. As part of the agreement the Government was to pay \$1,000 to the City, and the City in turn agreed:

To forever maintain, care for, preserve the lawns and trim the trees and give the grounds the same and usual attention that it gives to its city parks within the main part of the city, and particularly Huron Park adjoining the Cemetery; and that the City of Kansas City, Kansas, will furnish police protection equivalent to that furnished for the protection of Huron Park; and furnish all electrical energy free of charge for the maintaining of the electric lights, as provided for in the plans and specifications, maintaining and keeping in place all globes and fixtures, and give said Cemetery any and all care that a park of its nature in the heart of a city should demand.

The agreement was signed by Henry B. Peairs, Superintendent of Haskell Institute, for and in behalf of the Commissioner of Indian Affairs, and by H. A. Mendenhall, Mayor of Kansas City, Kansas. It was subsequently approved on April 17, 1918, by E. B. Merritt, Acting Commissioner of Indian Affairs. (Compl. ¶ 57).

In the Act of June 30, 1919 (41 Stat. 3) Congress provided that the Secretary of the Interior be, and he is hereby authorized to pay the authorities of Kansas City, Kansas, the sum of \$1,000 in consideration of the agreement of said authorities forever to maintain and care for the **Huron Cemetery, a tract of land in the city of Kansas City, Kansas , owned by the Government of the United States**, as provided in the contract for said purposes with the said city of Kansas City, Kansas, **the use of which was conveyed by treaty to the Wyandot tribe of Indians as a cemetery for members of said tribe**, such payment to be made from the \$10,000 appropriated for the preservation and improvement of said cemetery by the city of September 8, 1916 (thirty-ninth Statute at Large, page eight hundred and forty-four).

This language in the 1916 and 1919 Acts confirmed that the Huron Cemetery is trust land, the legal title of which is held by the Federal Government, and the beneficial or equitable title of which was held for the Wyandotte Tribe of Indians. (Compl. ¶¶ 56 and 58).

G. Status of Huron Cemetery as an Indian Reservation

The status of the Huron Cemetery as the Indian reservation of the Wyandot Nation of Kansas stems from its reservation status under the 1843 Treaty, and the 1923 Act. In the 1923 Act Congress reaffirmed that Huron Cemetery was an “**Indian reservation in Kansas City, Kansas.**” (42 Stat 185; Compl. ¶ 59).

The Huron Cemetery was part of the Historic Wyandott Reservation established by the 1843 Treaty. (1843 Treaty, Art. 1 and 2; Compl. 10 and 11). Its status as a reservation was reserved in the 1855 Treaty. (1855 Treaty, Art. 2, Compl. ¶ 19). It was later reaffirmed in the 1923 Act (42 Stat 185; Compl. ¶ 59).

Once an Indian reservation is established by Congress, only Congress can thereafter disestablish it. *United States v. Cletine*, 215 U.S. 278 (1909) (all tracts included within it remain a part of the reservation until separated therefrom by Congress).

H. Members of the Wyandot Nation of Kansas as Wards of the Federal Government

In the 1923 Act, Congress referred to Conley sisters as “wards” of the Government.” (42 Stat. 185; Compl. ¶ 59). This was congressional recognition that the Conley sisters were on the 1867 Treaty Register as enrolled members of the Wyandotte Tribe of Indians. (Aff. of Louisa A. Libby, ¶ 4 and Ex. B).

This status of the members of the Wyandot Nation of Kansas, as wards of the Government was reaffirmed in *United States of America on behalf of heirs to the Absentee Wyandotte allotment of Laura M. Van Pelt v. Weyerhaeuser Company*, 765 F.Supp. 643 (D. Ore., 1991). In upholding the Government’s responsibility to protect an “Absentee Wyandotte allotment on the public domain in Oregon under the 1904 Act, the *Van Pelt* court held that “the legislative history of the 1904 Act states ‘[i]t is the duty of Congress, **upon which devolves the care of its wards**, the Indians, by and through the honorable Secretary of the Interior, to afford him an opportunity to give relief to these unfortunate Wyandottes.’ H.R.Rep. No. 2681, 57th Cong., 1st Sess., at 2 (1902). **The Absentee Wyandotte Indians were not emancipated.**” *Id.* at 648-649. (Compl. ¶ 49).

The status of the members of the Wyandot Nation of Kansas, as wards of the Government, was also reaffirmed when some members, or their heirs, holding restricted fee allotments were paid for their share of the *Cobell* settlement through their IIM trust Accounts. (Aff. of Louisa A. Libby, ¶ 1 and Ex. A).

I. Current Status of the Kansas Band of the Wyandotte Tribe of Indians

Under the 1867 Treaty, the persons whose names were on the Register were the tribe. (1867 Treaty, Art. 13; Compl. ¶ 26). After 1867, the treaty allowed for citizens to become tribal members “with the free consent of the tribe after its incorporation.” (*Id.*). All the members of the Kansas Band and Oklahoma Band that were on the Register, and their off-spring, were the members of the Wyandotte Tribe of Indians after 1867. (*Id.*, Compl. ¶¶ 27, 46 and 59).

When the Oklahoma Band splintered off the Wyandotte Tribe of Indians and reorganized as a separate tribe under the 1937 OIWA, the remainder of the Wyandotte Tribe of Indians consisting of the Kansas Band continued to the existence of the Wyandotte Tribe of Indians.

(Compl. ¶ 37). The Wyandot Tribe of Indians changed its name in 1959 to the Wyandot Nation of Kansas to avoid confusing it with the Wyandotte Tribe of Oklahoma. (Compl. ¶¶ 2 and 71; Aff. of Janith K. English, ¶ 7).

No act of Congress has ever dissolved and terminated the Wyandotte Tribe of Indians (now the Wyandot Nation of Kansas) as a federally recognized Indian tribe. (Compl. ¶ 25).

J. Allotments in Severalty Issued to Members of the Wyandotte Tribe of Indians

Many members of the Kansas Band of the Wyandotte Tribe of Indians applied at Quapaw Agency for allotments on the 20,000 acre reservation in Oklahoma under the General Allotment Act of February 8, 1887 (24 Stat. 388; 25 U.S.C. §§ 331 *et seq.*) but were too late because all the available reservation lands were already allotted to tribal members. (Compl. ¶ 47). Congress responded by passing the Act of August 15, 1894 (2 Stat. 286) that allowed them to be allotted land elsewhere in “Indian territory” in Oklahoma. (*Id.*) And the Act of June 10, 1896 (29 Stat. 321) specified that they be allotted on the Choctaw and Chickasaw Nations land based on the 1896 Olive Roll. (*Id.*, Aff. of Janith K. English, ¶ 4 and Ex. A (attached copy of Olive Roll)).

When the Kansas Wyandots were unable to get allotments on the Choctaw or Chickasaw lands, Congress passed the Act of April 28, 1904 (33 Stat. 519), which provided that all living Absentee Wyandot Indians whose names appeared on the December 17, 1896 Olive Roll:

[M]ay select in person, under such rules and regulations as the Secretary of the Interior may prescribe, from the surveyed public non-mineral domain, eighty acres of agricultural land wherever there may be such lands subject to entry; and the heirs of any deceased Absentee Wyandotte Indians so enrolled may in like manner select a like quantify of land in the name of their deceased ancestor . . . and when lands shall have so selected by any person entitled to make such selection and such selection is approved by the Secretary of the Interior, he shall cause a patent to issue in the name of the enrolled Absentee Wyandotte . . . which patent shall

contain the condition that the lands covered thereby shall not be aliened without the consent of the Secretary of the Interior.

(Compl. ¶ 48).

Under the 1904 Act, members of the Kansas Band of the Wyandotte Tribe of Indians, i.e., the “Absentee Wyandots,” took restricted fee allotments on available public domain lands throughout several western states. Some of these allotments are still held in restricted fee status by the heirs of the original Absentee Wyandot allottees, who are still regarded as unemancipated wards of the Federal Government by the federal courts. (*United States of America on behalf of heirs to the Absentee Wyandotte allotment of Laura M. Van Pelt v. Weyerhaeuser Company, supra*; Compl. ¶ 49).

Many members of the Kansas Band of the Wyandotte Tribe of Indians did not move to 20,000 acre reservation in Oklahoma for different reasons, including the following: (1) the Wyandotte people were farmers and the Oklahoma reservation did not contain good farm land, (2) many were not provided with money from the \$5,000 “immigrant fund” and could not afford to move, and (3) 113 members ended up on the Seneca Reservation under the protection of the Confederate States of America during the Civil War while the those in Kansas were members of the Methodist Episcopal Church North and were anti- slavery and sided with the Union, which created political, philosophical and theological differences between them. (Aff. of Janith K. English, ¶¶ 4 and 8 and Exs. D, E and F).

K. The Sale of Huron Cemetery under the 1906 Act

In 1906, a dispute arose between the Kansas Band and the Oklahoma Band of the Wyandotte Tribe of Indians over the sale of Huron Cemetery. The Oklahoma Band wanted to remove the graves from the cemetery and sell it because of its high commercial value. The Kansas Band resisted the sale because it was their relatives that were buried in the cemetery and they regarded the cemetery as Sacred Ground. (Compl. ¶ 50).

The dispute began when the Oklahoma Band got Congress to pass the Act of June 21, 1906 (34 Stat. 325, 348-49) that authorized the Secretary of the Interior to sell Huron Cemetery

and move the remains of deceased persons interred there to the Quindaro Cemetery,⁴ with appropriate monuments over their remains. (Compl. ¶ 51).

Lyda Conley and her sisters opposed the sale of the Huron Cemetery and erected a structure on the cemetery, where they lived around the clock for several years, to protect it. They took turns standing guard with muskets, and put up “No trespassing” signs around it. Lyda attended law school and became a licensed Kansas attorney so she could challenge the 1906 Act in the federal courts. She eventually filed a lawsuit while the sale of the cemetery was pending, that she appealed all the way to the U.S. Supreme Court. (Compl. ¶ 52). *See Conley v. Ballinger*, 216 U.S. 84, 89 (1910). Lyda Conley became the first Native American woman to become a licensed Kansas attorney and the first to argue a case before the U.S. Supreme Court. (*Id.*)

In 1907, the Federal Government offered to sell Huron Cemetery to the City of Kansas City, Kansas \$75,000.00 pursuant to the 1904 Act. The Defendant is estopped from denying that the value of the Huron Cemetery was \$75,000 in 1907, since it offered to sell it for that amount in 1907. (Compl. ¶ 53).

As the *Conley* Supreme Court case gained national attention, the Conley sisters gained the support of Senator Curtis of Kansas, who got an Act passed to prevent the sale of the Huron Cemetery on February 13, 1913 (37 Stat. 668; Compl. ¶ 54).

L. Protection of Huron Cemetery as a cemetery under the 1997 Brownback Act

In 1997, Principal Chief Janith K. English and the Wyandot Nation of Kansas General Council had a bill drafted to protect the Huron Cemetery from commercial development, i.e., a proposal by the Wyandotte Tribe of Oklahoma to remove the human remains to Quindaro Cemetery and build a Class II and III casino on the two-acre tract of trust land that would be owned and operated by Oklahoma Tribe. They got Senator Sam Brownback of Kansas to

⁴ The Quindaro Cemetery is not the Huron Cemetery. The Methodist Episcopal Church ended up within a Town named “Quindaro,” which was named after the wife of Abelard Guthrie, a Wyandott woman. The Quindaro Cemetery was located on two acres of trust land assigned to the Methodist Episcopal Church (now part of Kansas City, Kansas) that was reserved under the 1855 Treaty. (1855 Treaty, Art. 2; Compl. ¶ 21).

introduced the bill in Congress. (Compl. ¶ 62). On November 14, 1997, Congress enacted the Brownback Bill into law as Public Law 105-83 (111 Stat. 1543). Section 125 (2) (A) and (B) of Public Law 105-83 provided that:

- (2) The lands of the Huron Cemetery shall be used only—
 - (A) for religious and cultural uses that are compatible with use of the lands as a cemetery; and
 - (B) as a burial ground.

Section 125 (3) of the Act also contained the following legal description of the cemetery based on the August 15, 1888 Williams Millor Survey. (Compl. ¶ 63).

The amount of acres described in Public Law 105-83 for Huron Cemetery is “2 acres or more.” It appears that the cemetery is “more” than two acres according to a November 9, 1859 letter to Commissioner of Indian Affairs A. B. Greenwood from J. C. McCoy. (Compl. ¶ 64, Aff. of Kristen E. Zane, ¶ 4).

M. Wyandot Nation of Kansas v. Norton case

On December 30, 2005, Plaintiff filed an action in the United States District Court for the District of Columbia against Federal Government representatives that involved many of the same claims that Plaintiff asserts in the instant case, including claims for declaratory and injunctive relief for failure to provide a proper accounting and corresponding monetary damages claims. This case was captioned *Wyandot Nation of Kansas v. Norton*, and contained docket number No. 1:05-cv-02491-TFH. (Complaint submitted in *Norton* (Doc. 1)).

In the *Norton* district court proceedings, the Federal Government engaged in protracted settlement negotiations with Plaintiff that began in 2006 and extended through April 2015. (Civil Docket for *Norton*, Case #1:05-cv-02491-TFH). In that case, the Federal Government repeatedly promised to provide an accounting of Plaintiff’s trust funds and non-monetary trust funds. (Defendants’ Memorandum in Support of Motion for Remand and Stay of Litigation, submitted in *Norton* (Doc. 42, pp. 16-36); Joint Status Report, filed in *Norton* (Doc. 80, pp. 1-3).

The parties were unable to reach a settlement. On May 8, 2015, Plaintiff voluntarily dismissed the *Norton* district court case. (Notice of Voluntary Dismissal, submitted in *Norton* (Doc. 82).

On June 1, 2015, Plaintiff filed its Complaint in the Court of Federal Claims. (Doc. 1). On August 28, 2015, Defendant filed its Motion to Dismiss and Memorandum of Points and Authorities. (Doc. 7).

V. ARGUMENT

A. Plaintiff's Claims Are Not Barred by the Statute of Limitations

Plaintiff's Complaint sets forth four causes of action against the United States: (1) an action for an accounting of Plaintiff's Category One (Schedule A) 1867 Treaty trust funds; (2) an audit of Plaintiff's Category Two Huron Cemetery rights-of-way trust funds; (3) monetary damages for mismanagement of Category One treaty trust funds and accounts; and (4) monetary damages for mismanagement of Category Two Huron Cemetery rights-of-way trust funds. The United States incorrectly contends that these causes of action are all barred by the statute of limitations.

1. Plaintiff's Trust Fund Mismanagement Claims

Plaintiff's first two causes of action request a full trust fund accounting from the United States. In the first cause of action, Plaintiff seeks an accounting of the funds paid to Plaintiff and managed by the Federal Government under the 1867 Treaty. In the second cause of action, Plaintiff requests an accounting of the funds paid to Plaintiff for easements for grants of rights-of-way over and across two tracts of the Huron Cemetery trust lands.

In moving for dismissal of these claims on statute of limitations grounds, the United States misapprehends the accrual date of Plaintiff's causes of action. Although the first cause of action dates back to the Treaty of 1867 and the payment of trust funds in the late 1880s, that is not when Plaintiff's claim began to accrue for statute of limitations purposes.

By the Act of December 22, 1987, Pub. L. 100-202, 101 Stat. 1329, Congress required the Federal Government to audit and reconcile tribal trust funds and to provide an accounting of

such funds. Congress reaffirmed these mandates in subsequent statutes, namely the Act of October 22, 1989, Pub. L. 101-121, 103 Stat. 701; the Act of November 5, 1990, Pub. L. 101-512, 104 Stat. 1915; and the Act of November 3, 1991, Pub. L. 101-154, 105 Stat. 990. These Acts require that the Federal Government certify, through an independent party, the results of the reconciliation of tribal trust funds as the most complete reconciliation possible of such funds.

To satisfy these requirements, the United States retained the accounting firm of Arthur Andersen LLP to prepare and issue reports to federally recognized Indian tribes. To date, Plaintiff has not received an Arthur Andersen Report or any other accounting of its trust fund accounts from the Federal Government.

The statute of limitations on a claim for losses to or mismanagement of Indian or tribal trust funds does not arise until the date that the affected tribe or individual Indian has been furnished with an Arthur Andersen Report, or other accounting of its trust accounts. *See* Act of November 5, 1990, Pub. L. 101-512, 104 Stat. 1915; Act of November 13, 1991, Pub. L. 102-154, 105 Stat. 990; Act of October 5, 1992, Pub. L. 102-381, 106 Stat. 1374; Act of November 11, 1993, Pub. L. 103-138, 107 Stat. 1379; Act of September 30, 1994, Pub. L. 103-332, 108 Stat. 2499; Act of April 26, 1996, Pub. L. 104-134, 110 Stat. 1341; Act of September 30, 1996, Pub. L. 104-208, 110 Stat. 3009; Act of November 14, 1997, Pub. L. 105-83, 111 Stat. 1543; Act of October 21, 1998, Pub. L. 105-227, 112 Stat. 2681; Act of November 29, 1999, Pub. L. 106-113, 113 Stat. 1501; Act of October 11, 2000, Pub. L. 106-291, 114 Stat. 922; Act of November 5, 2001, Pub. L. 107-63; Pub. L. 109-158 (December 30, 2005).

These appropriation acts, known as the Indian Trust Accounting Statute (“ITAS”) for the Department of the Interior “suspend accrual of the statute of limitations for certain tribal trust claims.” *The Shoshone Indian Tribe of the Wind River Reservation, Wyo. v. United States* (“*Shoshone I*”), 93 Fed. Cl. 449, 459 (2010), *vacated on other grounds*, 672 F.3d 1021 (Fed. Cir. 2012). Specifically, the ITAS applies to claims “concerning losses to or mismanagement of [tribal] trust funds.” *Goodeagle v. United States*, 111 Fed. Cl. 716, 721 (2013) (internal quotation marks omitted).

Under the ITAS, the statute of limitations “will not begin to run on a tribe’s claims until an accounting is completed.” *Shoshone Indian Tribe of the Wind River Reservation v. United States* (“*Shoshone II*”), 364 F.3d 1339, 1346 (Fed. Cir. 2004), *cert. denied*, 544 U.S. 973, and *cert. denied*, *E. Shoshone Tribe of Wind River Reservation v. United States*, 544 U.S. 973 (2005). In other words, the trust beneficiary must be provided with a meaningful accounting before the statute of limitations begins to accrue on a claim alleging mismanagement of trust funds by the Federal Government. *Id.* This is true even if the “operative facts “show the Federal Government’s mismanagement of tribal trust funds “began occurring decades ago[.]” *Quapaw Tribe of Okla. v. United States*, 111 Fed. Cl. 725, 732 (2013).

As explained above, Plaintiff has not yet received an Arthur Andersen Report or any meaningful accounting of the Federal Government’s management of its Category One or Category Two trust funds. The funds at issue are held in trust within the Federal Government’s possession. Hence, the ITAS applies by its express terms. It follows that the statute of limitations applicable to Plaintiff’s first two causes of action has not yet begun to accrue. *See Shoshone II*, 364 F.3d at 1346; *see also Osage Nation v. United States*, 57 Fed. Cl. 392, 397 (2003) (Arthur Andersen Report was the first reconciliation by United States that may have qualified as a reconciliation report that triggered the accrual of statute of limitations applicable to tribe’s claims regarding mismanagement of tribal trust funds). This necessarily means that these claims were timely filed.

In an effort to avoid this conclusion, the United States asserts that the Fiscal Year 2015 appropriations act did not expressly contain the language of the ITAS. According to the Government, the lack of this language in the 2015 appropriations act necessarily means that the ITAS does not apply to Plaintiff’s trust claims.

The Government’s position is fundamentally flawed. Contrary to the Government’s contentions, the ITAS did not substantively change existing law for one fiscal year. Rather, the ITAS corresponded with existing statutory law, specifically, the Trust Management Reform Act, 25 U.S.C. §§ 4001 *et seq.* Pursuant to that Act, the United States is required to prepare

reconciliation reports for each tribal trust account. 25 U.S.C. § 4044. The reconciliation requirements of § 4044 were adopted from appropriations bills that were in effect prior to 1994. (Defendants' Memorandum in Support of Motion for Remand and Stay of Litigation, submitted in *Wyandot Nation of Kansas v. Norton*, Case No. 1-05-cv-02491-TFH, in the United States District Court for the District of Columbia (Doc. 42, p. 8).

“The law strongly disfavors repeals by implication”. *Inter-Coastal Xpress, Inc. v. United States*, 296 F.3d 1357, 1369 (Fed. Cir. 2002). Thus, implied repeals of appropriation acts are disfavored. *Wolfchild v. United States*, 559 F.3d 1228, 1258 n. 13 (Fed. Cir. 2009), *cert. denied*, 559 U.S. 1086, and *cert. denied*, *Zephier v. United States*, 559 U.S. 1067 (2010). Similarly, “[c]onstruing a statute as a repeal by implication is generally disfavored[.]” *Xianli Zhang v. United States*, 640 F.3d 1358, 1368 (Fed. Cir. 2011), *cert. denied*, 132 S. Ct. 2375 (2012).

Because the ITAS did not change but rather corresponded with and supplemented existing statutory law, the ITAS could not be repealed by implication through the absence of certain language in the 2015 appropriations act. See *Wolfchild*, 559 F.3d at 1258 n. 13; *Inter-Coastal Xpress*, 296 F.3d at 1369. Instead, a repeal of the ITAS could only be accomplished through express language by Congress. No such express repeal has been made. Indeed, the accounting and reconciliation requirements set forth by the Trust Management Reform Act and 25 U.S.C. § 4044 currently stand as valid and enforceable law.

The evidence is undisputed that Plaintiff has never received a reconciliation report from the Federal Government. As a result, the statute of limitations pertaining to Plaintiff's first and second causes of action against the United States that seek an accounting of the Federal Government's management of Plaintiff's trust accounts cannot have expired. See *Osage Nation*, 57 Fed. Cl. at 397.

Moreover, even if the ITAS does not apply to Plaintiff's trust claims, those claims were still timely filed. Generally speaking, claims against the Federal Government are subject to the six-year statute of limitations set forth in 28 U.S.C. § 2501. Under this statute, a claim against

the United States must be brought within six years “after such claim first accrues.” 25 U.S.C. § 2501.

A claim for breach of trust accrues “when the trustee ‘repudiates’ the trust and the beneficiary has knowledge of that repudiation.” *Shoshone II*, 364 F.3d at 1348; *see also Hopland Band of Pomo Indians v. United States*, 855 F.2d 1573, 1578 (Fed. Cir. 1988). “A trustee may repudiate the trust by express words or by taking actions inconsistent with his responsibilities as trustee.” *Shoshone II*, 364 F.3d at 1348. Even so, it is common for a trust beneficiary to be unaware that a trustee has breached his or her fiduciary responsibilities in the management of the trust property. *Id.* As a result, the statute of limitations for breach of trust does not begin to accrue “until a final accounting has occurred that establishes the deficit of the trust.” *Id.*

In the present case, it is undisputed that no final accounting has been rendered to Plaintiff. Thus, the statute of limitations applicable to Plaintiff’s trust actions has not yet begun to accrue. *See id.*

To combat this conclusion, the United States incorrectly asserts that Plaintiff was on notice more than six years prior to the filing of the instant Complaint that a potential breach of fiduciary duty by the Government occurred. This assertion presents a question of material fact that cannot be determined on a legal motion.

“The question of when a claimant should know of its claim is a fact-bound inquiry that depends on the reasonableness of the claimant’s actions.” *Sikorsky Aircraft Corp. v. United States*, 105 Fed. Cl. 657, 672 (2012). No genuine issue of material fact exists here as to when Plaintiff was on notice of the United States’ alleged mismanagement of its trust accounts. This is particularly true given the fact that the Federal Government has never provided Plaintiff with any accounting of those trust accounts. *See ABB Turbo Sys. AG v. Turbousa, Inc.*, 774 F.3d 979, 986 (Fed. Cir. 2014) (whether party had actual or constructive notice of misappropriations by a specific date presented a factual issue that could not be appropriately resolved at the Complaint stage); *see also Puterman v. Lehman Bros., Inc.*, 332 Fed. Appx. 549, 552 n. 3 (11th Cir. 2009)

(“Inquiry notice [is] a fact question [that] generally is inappropriate for resolution on a Rule 12(b)(6) motion”); *Marks v. CDW Computer Ctrs., Inc.*, 122 F.3d 363, 367 (7th Cir. 1997) (“Whether a plaintiff had sufficient facts to place him on inquiry notice of a claim for securities fraud . . . is a question of fact, and as such is often inappropriate for resolution on a motion to dismiss under Rule 12(b)(6)”).

Moreover, the United States is estopped from claiming that Plaintiff’s action is time-barred. In a prior proceeding between the parties before the United States District Court for the District of Columbia, the Federal Government engaged in protracted settlement negotiations with Plaintiff in regard to Plaintiff’s request for a full accounting of Plaintiff’s tribal trust accounts. These negotiations began in 2006 and extended through April 2015.

During the course of these negotiations, the Federal Government repeatedly promised to provide a complete accounting of Plaintiff’s trust funds and non-monetary trust funds. (Defendants’ Memorandum in Support of Motion for Remand and Stay of Litigation, submitted in *Norton* (Doc. 42, pp. 16-36); Joint Status Report, filed in *Norton* (Doc. 80, pp. 1-3). However, no settlement was ultimately achieved, and Plaintiff voluntarily dismissed the district court action on May 8, 2015.

In cases where a defendant lulls the plaintiff into failing to take action or to adopt a disadvantageous legal position, the doctrine of equitable estoppel applies to prevent the defendant from asserting the statute of limitations as a defense against the action. *Smith v. City of Chicago Heights*, 951 F.2d 834, 840-41 (7th Cir. 1992); *McConnell v. Gen. Tel. Co. of Cal.*, 814 F.2d 1311, 1317 (9th Cir. 1987), *cert. denied*, *Gen. Tel. Co. of Cal. v. Addy*, 484 U.S. 1059 (1988); *Renz v. Beeman*, 589 F.2d 735, 750 (2nd Cir. 1978), *cert. denied*, 444 U.S. 834 (1979). By repeatedly assuring Plaintiff that the Federal Government would provide a complete accounting of Plaintiff’s trust funds, the Government gave Plaintiff a false sense of security and lulled Plaintiff into keeping the district court case alive for over nine years. Under the circumstances, the United States should be deemed equitably estopped from asserting the statute of limitations as a defense against Plaintiff’s action before this Court. *See Renz*, 589 F.2d at 750.

2. Effect of Indian Claims Commissions Act

The United States incorrectly alleges that the Indian Claims Commission Act (“ICCA”), Pub. L. No. 79-726, 60 Stat. 1049 (1946), is a statute of repose that bars the first two causes of action contained in Plaintiff’s Complaint. The ICCA bars a tribe from bringing a claim against the United States that existed as of August 13, 1946. 60 Stat. 1052; *Round Valley Indian Tribes v. United States*, 97 Fed. Cl. 500, 520 (2011).

The ITAS prevents the accrual of claims for losses to or mismanagement of tribal trust funds from August 14, 1946 forward. *Id.* However, in cases like the present one where a tribe has not received an accounting of trust funds from the United States, the ICCA is not applicable. *Osage Nation*, 57 Fed. Cl. at 398.

The Trust Fund Reform Act provides that the Federal Government’s reconciliation report concerning tribal trust funds must include “as full and complete accounting as possible of the account holder’s funds to the earliest possible date.” 25 U.S.C. § 4044. This language provides “further indication of the intent of Congress to allow Indian tribes to file tribal trust fund mismanagement claims within six years after an accounting of the trust fund is furnished to the Tribe no matter when the mismanagement may have occurred.” *Osage Nation*, 57 Fed. Cl. at 398. As the language of the Trust Fund Reform Act and corresponding case law demonstrates, the ICCA does not bar Plaintiff’s first and second causes of action.

3. Plaintiff’s Huron Cemetery Claims

The United States incorrectly alleges that Plaintiff’s second cause of action is time-barred because Plaintiff knew no later than 1996 that the United States did not recognize Plaintiff as having any beneficial ownership interest in the Huron Cemetery. Plaintiff, however, is not seeking a declaration of an ownership interest in the cemetery lands. Rather, Plaintiff contends that the United States has failed to provide a full and accurate accounting of the Category Two (easements for grants of rights-of-way) trust funds and has taken actions that deprive Plaintiff of the ability to determine whether and to what extent it has suffered a monetary loss. (Compl. ¶ 101).

As explained above, no statute of limitations accrues where a tribe has not received an accounting of trust funds from the United States. *See* 25 U.S.C. § 4044; *Osage Nation*, 57 Fed. Cl. at 398. The tribe is permitted to file trust fund mismanagement claims within six years after an accounting of the trust fund is finally furnished to the Tribe “no matter when the mismanagement may have occurred.” *Osage Nation*, 57 Fed. Cl. at 398. Hence, Plaintiff’s Huron Cemetery claims are not time-barred.

B. This Action Does Not Involve an Intra-Tribal Dispute

Contrary to the Government’s contentions, this case does not involve an intra-tribal dispute over which the Court lacks subject matter jurisdiction. Plaintiff’s claims are not, in fact, predicated on its exclusion from the Wyandotte Nation of Oklahoma. Rather, as detailed in the Statement of Undisputed Facts, the Oklahoma and Kansas Bands are wholly separate tribes. The interests of each tribe were completely bifurcated long ago.

The Act of March 3, 1871 (RS 2079; 25 U.S.C. § 71) provided:

No Indian nation or tribe within the territory of the United States shall be acknowledged or recognized as an independent nation, tribe, or power with whom the United States may contract by treaty; *but no obligation of any treaty lawfully made and ratified with any such Indian nation or tribe, prior to May 3, 1871, shall be hereby invalidated or impaired.*

(Emphasis added).

The 1871 Act also reaffirmed Plaintiff’s undivided ownership interest in the Huron Cemetery trust lands. The Oklahoma Band has a separate ownership interest in these lands. The instant case pertains only to Plaintiff’s claim that the United States has mismanaged Plaintiff’s proportionate share of the Huron Cemetery lands. The Oklahoma Band’s interest in these lands is not at issue.

The United States clouds the matter by making the specious claim that Plaintiff’s members “were effectively dis-enrolled” from the Wyandotte tribe when the Wyandotte Nation of Oklahoma was organized under the OIWA in 1937. (Def’s Mot. to Dismiss, p. 11). In so

doing, the United States incorrectly suggests that Plaintiff is a non-federally recognized entity and is not a separate tribe from the Oklahoma Band.

The facts, however, show that Plaintiff was created and organized under Articles 13 and 14 of the 1867 Treaty. Plaintiff's members have always continued and maintained the 1867 Treaty tribe and its membership rolls, as the off-spring of tribal members listed on the Register.

Articles 13 and 14 of the 1867 Treaty established a new tribe called the "Wyandotte Tribe of Indians." The members of the new tribe were those non-citizen Wyandots listed on a Register, plus 140 others added to the Register by Interior in 1872. The split in the Wyandotte Tribe of Indians came about in 1937 when the Oklahoma Band reorganized as a separate tribe under the 1936 OIWA. However, this action did not dissolve the remainder of the Wyandotte Tribe of Indians residing in Kansas. The Kansas Band still exists as the Wyandot Nation of Kansas, having changed the name of the Wyandotte Tribe of Indians to the Wyandot Nation of Kansas in 1959. A tribe does not need an OIWA constitution or bylaws, 25 U.S.C. § 503, or 1934 Indian Reorganization Act constitution and bylaws, 25 U.S.C. § 476, to be federally recognized.

The Wyandot Nation of Kansas is a tribe that is still recognized by Congress and meets the definition of an Indian tribe under the Trust Management Reform Act. This Act defines an "Indian tribe" as "any Indian tribe, band, nation, or other organized group or community . . . which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians." 25 U.S.C. § 4001(2).

The Wyandot Nation of Kansas and its members currently receive special services provided by the United States as a result of their status as Indians. These services include allowing its members to attend BIA schools as acknowledged in the March 15, 1996 letter to Chief George Zane from BIA Director of Tribal Services Deborah J. Maddox; entering into a maintenance agreement on behalf of the Wyandotte Tribe of Indians with the City of Kansas City, Kansas in 1918 to perpetually maintain, care for, and preserve the Huron Cemetery; paying for attorney fees resulting from the occupation of Huron Cemetery by the Conley sisters as

provided in the Act of March 2, 1923 (42 Stat. 185); creating IIM trust Accounts for ICC and Court of Claims Judgment Funds set aside by the BIA in special trust account for minor children until they reached their majority, some of whom recently received money from the *Cobell* Settlement, and providing title services for the Huron Cemetery and “Absentee Wyandotte” Indian allotments. (Aff. of Janith K. English, Ex. B. *See* 25 C.F.R. §.150.5 (d) (“The Bureau Central Office, Washington, D.C., provides title services for . . . the Absentee Wyandottes”).

Accordingly, the Wyandot Nation of Kansas qualifies as an “Indian “tribe ” within the meaning of Trust Management Reform Act. *See* 25 U.S.C. § 4001(2). The Kansas tribe is completely separate from the Wyandotte Tribe of Oklahoma and has legal and equitable interests in trust lands wholly distinct and apart from those of the Oklahoma tribe.

The undivided ownership interests of the Kansas and Oklahoma tribes in the trust lands at issue were bifurcated in prior proceedings before the Indian Claims Commission and Court of Claims. Specifically, in the Indian Claims Commission Docket 139 and Court of Claims Dockets 141, 212 and 213, awards were initially made under the 1982 Wyandot Distribution Act (96 Stat. 1813) based on the 1896 Olive Roll (for the Kansas tribe) and the Quapaw Roll (for the Oklahoma tribe). Plaintiff’s participation the Indian Claims Commission and Court of Claims awards conclusively established that it had and has an undivided ownership interest in the Huron Cemetery lands. The Government is estopped by the application of the doctrines of res judicata and/or collateral estoppel from now claiming that the interests of the two tribes cannot be separated. *See Martin v. United States*, 30 Fed. Cl. 542, 546-50, *aff’d*, 41 F.3d 1519 (Fed. Cir. 1994).

The Oklahoma tribe is not a party to and has no interest in the present litigation. Hence, principles associated with intra-tribal immunity are not applicable to this case. *See United States v. Wadena*, 152 F.3d 831, 846 (8th Cir. 1998), *cert. denied*, 526 U.S. 1050, *and cert. denied*, *Clark v. United States*, 526 U.S. 1050, *and cert. denied*, *Rawley v. United States*, 526 U.S. 1050 (1999) (intra-tribal immunity principles did not apply in case involving tribal council officials’ conspiracy to commit voter fraud).

To bring a suit for breach of trust within the scope of the Indian Tucker Act, a tribe only has to show that the statute or regulation in question “goes beyond a bare trust and permits a fair inference that the Government is subject to duties as trustee and liable in damages for breach.” *United States v. White Mountain Apache Tribe*, 537 U.S. 465, 474 (2003). The Federal Government’s control and management of Indian resources and land brings a claim for breach of trust squarely within the Indian Tucker Act’s Jurisdiction. *Id.*; *United States v. Mitchell*, 463 U.S. 206, 226 (1983).

The United States does not dispute that Plaintiff’s Complaint definitively establishes jurisdiction on these grounds. Hence, it must be concluded that this Court has subject-matter jurisdiction over Plaintiff’s claims.

C. Plaintiff Has Stated a Claim Upon Which Relief Can Be Granted

The Federal Government has a fiduciary duty under the Tucker Act and Indian Tucker Act to prudently invest tribal and individual Indian money trust funds. 25 U.S.C. § 162a; 28 U.S.C. §§ 1491 and 1505; *Cobell v. Norton*, 392 F.3d 461, 470-71 (D.C. Cir. 2004); *Goodeagle v. United States*, 122 Fed. Cl. 292, 295 (2015). The Federal Government may be held liable for breach of fiduciary duty for the mismanagement of the trust funds. *United States v. Navajo Nation (“Navajo Nation II”)*, 129 S. Ct. 1547, 1554 (2009).

In the present case, the Complaint details the myriad ways in which the Federal Government has grossly mismanaged, and continues to grossly mismanage, Plaintiff’s Category One and Category Two trust funds. (Compl. ¶¶ 102-117). These allegations sufficiently state viable causes of action against the United States. *See Cobell*, 392 F.3d at 470-71.

In an effort to avoid this conclusion, the United States contends that Plaintiff’s claims are speculative because they do not assert a specific amount of damages but rather are based on hypothetical trust income. At best, the Government’s allegations concern the quantum of relief to which Plaintiff is entitled once an accounting is made and not Plaintiff’s underlying right to relief. The fact that the amount of damages Plaintiff has sustained is unclear does not negate Plaintiff’s entire cause of action.

In this regard, it is well-settled that as long as a plaintiff establishes the fact that he or she has been damaged, any uncertainty as to the amount of damages sustained does not serve to defeat the cause of action. “If a reasonable probability of damage can be clearly established, uncertainty as to the amount will not preclude recovery.” *Ace-Federal Reporters, Inc. v. Barram*, 226 F.3d 1329, 1333 (Fed. Cir. 2000) (quoting *Locke v. United States*, 283 F.2d 521, 524 (Ct. Cl. 1960)); *see also Seaboard Lumber Co. v. United States*, 308 F.3d 1283, 1302 (Fed. Cir. 2002).

The facts alleged in the Complaint clearly show that Plaintiff has been damaged by the Federal Government’s gross mismanagement of tribal trust funds. The fact that uncertainty exists as to the actual amount of damages does not preclude Plaintiff’s legal right of recovery. *See Seaboard Lumber Co.*, 308 F.3d at 1302; *Ace-Federal Reporters*, 226 F.3d at 1333. Hence, the Government’s motion to dismiss should be denied.

VI. CONCLUSION

For the foregoing reasons, the United States’ motion to dismiss should be denied in its entirety and an order should be entered declaring that Court has subject matter jurisdiction over this matter under the Tucker Act, 28 U.S.C. § 1491, and Indian Tucker Act, 25 U.S.C. § 1505.

Dated: September 28, 2015

Respectfully submitted,

/s/ Brian J. Leinbach

Brian J. Leinbach, Esq.

California State Bar No. 161739

bleinbach@ellaw.com

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#404826

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

WYANDOT NATION OF KANSAS,)	
a/k/a WYANDOTTE TRIBE OF INDIANS)	No. 15-5601
)	
V.)	Hon. Thomas C. Wheeler
)	
UNITED STATES OF AMERICA)	

AFFIDAVIT OF LOUISA A. LIBBY
IN OPPOSITION TO DEFENDANT'S MOTION TO DISMISS

Louisa A. Libby, being duly sworn upon oath, deposes and states as follows:

1. She is an adult person who resides at 212 NW North Shore Dr., Lake Waukomis, Missouri 64151, and is competent to testify to the facts contained in this affidavit.
2. She is an enrolled member of the Wyandot Nation of Kansas a/k/a Wyandotte Tribe of Indians, and currently serves as the Digital Data Coordinator of the Plaintiff Wyandot Nation of Kansas a/k/a the Wyandotte Tribe of Indians.
3. Like other members of Indian tribes across the United States, some members of the Wyandot Nation of Kansas a/k/a Wyandotte Tribe of Indians have IIM Accounts in which they received *Cobell v. Jewell* class action settlement monies. My great-aunt Florence M. Schaub (deceased) was an enrolled member of the Wyandot Nation of Kansas a/k/a Wyandotte Tribe of Indians and owned a restricted fee Absentee Wyandot allotment when she passed away. Her Estate received a check (No. 00655151), dated September 24, 2014, in the amount of \$869.00 through her IIM Account to pay her Estate for her Trust Administration Class claim in the *Cobell v. Jewell* Class Action Settlement case. See copy of the Notice from Indian Trust Settlement Notice and

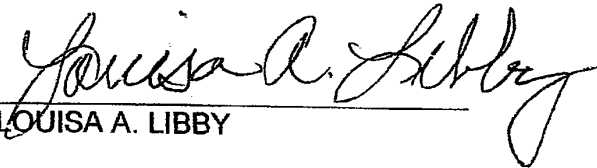
\$869.00 check sent to my great-aunt's estate that is attached hereto as **Exhibit "A"** and incorporated herein by reference.

4. I personally obtained certified copies of the following documents from the National Archives at Kansas City, Missouri:

- The REGISTER created under Article 13 of the 1867 Treaty, a copy of which is attached in **Exhibit "B"** (and continued in **Exhibit "C"**) and incorporated herein by reference. The Register was attached to the August 22, 1870 letter to BIA Commissioner Ely J. Parker and BIA Superintendent Enoch Hoag from A.C. Farnham mentioned below in Exhibit "C." The Register itself is referenced on page 13, Para. 26 of the Complaint (Doc. 1) in this civil action.
- The August 22, 1870 letter to BIA Commissioner Ely J. Parker and BIA Superintendent Enoch Hoag from BIA Clerk A. C. Farnham, a copy of which is attached in **Exhibit "C"** and incorporated herein by reference. The letter is referenced on page 15, Para. 30 of the Complaint (Doc. 1) in this civil action.
- The November 9, 1859 letter to BIA Commissioner A. B. Greenwood from J. C. McCoy, a copy of which is attached in **Exhibit "D"** and incorporated herein by reference. The letter is referenced on page 33, Para.64 of the Complaint (Doc. 1) in this civil action.
- The January 28, 1871 letter to Commissioner Parker from Superintendent Hoag, a copy of which is attached hereto in **Exhibit "D"** and incorporated herein by reference. The letter is referenced on page 15, Para. 30 of the Complaint (Doc. 1) in this civil action.

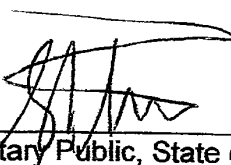
- The April 10, 1871 letter to Agent George Mitchell from BIA Superintendent Hoag, a copy of which is attached as **Exhibit "B"** and incorporated herein by reference. The letter is referenced on page 16, Para. 31 of the Complaint (Doc. 1) in this civil action.
- The March 30, 1872 letter to BIA Commissioner Francis A. Walker from Secretary of the Interior Columbus Delano, a copy of which is attached hereto as **Exhibit "D"** and incorporated herein by reference. The letter is referenced on page 17, Para. 32 of the Complaint (Doc. 1) in this civil action.
- The June 18, 1872 to BIA Commissioner Francis A. Walker from C. Delano, a copy of which is attached as **Exhibit "D"** and incorporated herein by reference. The letter is referenced on page 17, Para. 33 of the Complaint (Doc. 1) in this civil action.

4. The Wyandot Nation of Kansas a/k/a Wyandotte Tribe of Indians also conducts its governmental affairs under a Tribal Constitution duly adopted by the members of the Tribe, a copy of which is attached hereto as **Exhibit "E"** and incorporated herein by reference.


LOUISA A. LIBBY

State of Missouri)
) SS.
County of Platte)

Taken, sworn to and subscribed before me on this 22nd day of September, 2015, at
Kansas City, Missouri.


Notary Public, State of Missouri

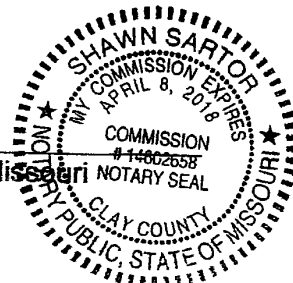


EXHIBIT “A”

Indian Trust Settlement
Disbursement Account
P.O. Box 9577
Dublin, OH 43017-4877

Claim Number: 02104085
Check Number: 00655151
Check Date: 09/24/14
Check Amount: \$869.00

FLORENCE M SCHAUB ESTATE
C/O LOUSIA BROWN LIBBY
SUCCESSOR
212 NW NORTH SHORE DR
LAKE WAKOMIS, MO 64151

Class Member: FLORENCE M SCHAUB ESTATE

The United States District Court for the District of Columbia approved the Stage 2 Distribution of settlement funds to members of the Trust Administration Class in the *Cobell v. Jewell* Class Action Settlement. As outlined in the Settlement Agreement, this check represents the Trust Administration Class payment using the formula described in Section E. 4. B, as amended and ratified by Congress in the Claims Resolution Act of 2010, Public Law 111-291, 111th Cong. (2010). The minimum payment to Trust Administration Class Members is \$869. You can review the Settlement Agreement at www.IndianTrust.com for further details.

The Estate referenced above is an eligible Class Member of the Trust Administration Class. This check is the Estate's Trust Administration Class payment in full. You are receiving this check in your capacity as the personal representative of the Estate. As such, you have duties to distribute these funds to lawful heirs of the estate and to satisfy claims against it according with your state's probate law.

Please cash or deposit this check within 90 days from the issue date. If this check is lost or mutilated, you must contact us in writing for a replacement.

Your settlement money will not be subject to federal income taxes, nor will it affect your eligibility for federal government benefits. Congress passed the Claims Resolution Act of 2010 which specifically prohibits these Settlement awards from being treated as gross income or a resource for determining eligibility or benefits under any federal or federally-assisted program. See Public Law 111-291, Sec. 101 (f).

If you have any questions, please contact the Indian Trust Settlement Claims Administrator by phone at 1-800-961-6109, by email at Info@IndianTrust.com, or in writing at Indian Trust Settlement, P.O. Box 9577, Dublin, OH 43017-4877.

PLEASE DO NOT CONTACT THE COURT REGARDING THE SETTLEMENT.

Indian Trust Settlement
Disbursement Account
P.O. Box 9577
Dublin, OH 43017-4877

JPMorgan Chase Bank, N.A.
Syracuse, NY

50-937/213

CHECK NUMBER: 00655151
CHECK DATE: 09/24/14

Eight hundred sixty nine and 00/100 Dollars


*****\$869.00

PAY
TO
THE
ORDER
OF

FLORENCE M SCHAUB ESTATE
C/O LOUSIA BROWN LIBBY
SUCCESSOR
212 NW NORTH SHORE DR
LAKE WAKOMIS, MO 64151

Void After 90 Days

BY



AUTHORIZED SIGNATURE

⑈0655151⑈ ⑆021309379⑆

103900980⑈

EXHIBIT “B”

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

To all to whom these presents shall come. Greeting:

By virtue of the authority vested in me by the Archivist of the United States, I certify on his behalf, under the seal of the National Archives and Records Administration, that the attached reproduction(s) is a true and correct copy of documents in his custody.



SIGNATURE <i>Lori Cox-Paul</i>	
NAME Lori Cox-Paul	DATE <i>9-22-2015</i>
TITLE Director of Archival Operations	
NAME AND ADDRESS OF DEPOSITORY National Archives at Kansas City 400 West Pershing Road Kansas City, MO 64108	

NA FORM 13040 (10-86)

No	List of Persons	Age	1850-1860	Circumstances	Residence
X	Hickrich Eugene	1		Orphan and in competent - list - Maiden name Drim	Indian Territory
X	Hickrich James L	1		Orphan and in competent - list - son of Caroline Loughlin	"
X	Hayrales Mary	5	1	Moderate	Kansas
X	Hayrales John	12	1	"	"
X	Hayrales John	12	1	Wife of John Hayrales - 5 - son of "	"
X	Hayrales John	12	1	"	"
X	Hayrales John	12	1	"	"
X	Hayrales John	12	1	See affidavit - Orphan in competent - list - Temporary Suspension list -	Indian Territory
X	Lewis Mary S	8	1	Orphan and in competent - Maiden name Mary S Williams Wife of "	Indian Territory
X	Lewis William F	2	1	Orphan children of John Lewis deceased the children are entirely neglected and living with their brother William F Lewis	"
X	Lewis Noah	12	1	Orphan and in competent - Maiden name "	"
X	Lewis Sarah	12	1	Orphan and in competent - Maiden name "	"
X	Loughlin Caroline	12	1	Orphan and in competent - Maiden name "	"
X	Loughlin Lewis	12	1	Orphan and in competent - Maiden name "	"

List - Continued

	Age in 1855	Rank	Disposition	Remarks	Residence
X Long Irwin P	38	1	Moderate	Advent at the time of the adoption of the Treaty of 1855 - see Affidavit	Indian Territory
X Long Jerepa	35	1	"	Wife of Irwin P Long she was the wife of Tall Charles who died during the time of the carrying out of the Treaty of 1855 - but neither he nor his wife made choice to become citizens	"
U Long Noah M.		1	"	Orphan child of Jerepa Tall Charles who was 11 years old in 1855 & care of Irwin P Long	"
X Long Isaac	26	1	"	never consented to become a citizen see his affidavit	House
X Long Catharine		1	"	Wife of Isaac Long	"
X Long Frederick		1	"	Son of " "	"
X Long William		1	"	Son of " "	"
X Long Lydia		1	"	Daughter of " "	"
X Long Mariak E.		1	Destitute	Orphan Daughter of Mary P. Blaker Indian Territory born since the treaty of 1855 - her mother never made choice to become a citizen all of her other children (five in number) were were placed upon the orphan and incompetent list - she was born and now lives in the Indian country speaks no English	Indian Territory

List - Continued

No	Age	1855 Male Female	Dispositions	Remarks	Residence
✓ Long James	24	1	Moderate	Never made choice to become a citizen was absent at the time of the signing out of the treaty of 1855. See his affidavit.	Indian Territory
✓ Long Young		1	"	Wife of James Long	"
✓ Long		1	"	Child of "	"
✓ Long Henry	31	1	"	Never consented to become a citizen approved to the treaty of 1855 violates his and family. Name placed on tribal list.	Kanaw
✓ Long Martha		1	"	Wife of Henry Long	"
✓ Long William	17	1	"	Captain and in competent	"
✓ Long Catherine		1	"	Wife of William Long	"
✓ Long Nancy		1	"	Daughter of "	"
✓ Long Charles		1	"	Son of "	"
✓ Littlechief Hannah		1	Destitute	Her Mother is dead her father Frank Williams is on the Indian list.	Indian Territory
✓ Miller Jane	15	1	"	Maiden name Jane White See affidavit - of the mother person white - son - wife her name and family on tribal list.	"
✓ Miller John		1	"	Head of Jane Miller.	"

Case	1:15-cv-00560-TCW	Document	8-3	Filed	09/28/15	Page	6 of 15
C	Mr. Allen	22	1	"	1	1	1
C	Mr. Allen	22	1	"	1	1	1
C	Mr. Allen	22	1	"	1	1	1
C	Mr. Allen	22	1	"	1	1	1
C	Mr. Allen	22	1	"	1	1	1
C	Mr. Allen	22	1	"	1	1	1
C	Mr. Allen	22	1	"	1	1	1
C	Mr. Allen	22	1	"	1	1	1
C	Mr. Allen	22	1	"	1	1	1
C	Mr. Allen	22	1	"	1	1	1
C	Mr. Allen	22	1	"	1	1	1
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C	Mr. Allen	22	1	"	1	1	1
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C	Mr. Allen	22	1	"	1	1	1

List - Continued				Residence	
No	Names	Ages in 1850	Residence	Residence	Residence
1	Moore, Mary, C.	18	Prostrate	Daughter of Sarah Bigbee See her father's Affidavit - with her name and family placed on tribal list -	Kenns
2	Moore, Charles, P.		"	Husband of Mary C. Moore	"
3	Moore, William		"	Son of " " "	"
4	Muchater, Mathew	35	Prostrate	See Affidavit - with his and family's name placed on tribal list -	Indiantown
5	Muchater, Mary	37	"	Wife of Mathew Muchater	"
6	Muchater, Dawson	12	"	Son of " " " - his name on tribal list -	"
7	Muchater, Grinda	10	"	Daughter of Mathew Muchater	"
8	Muchater, Benin	5	"	Son of " " "	"
9	Muchater, Benjamin	4	"	Son of " " "	"
10	Muchater, Alfred	2	"	Son of " " "	"
11	Muchater, John		"	Daughter of " " "	"
12	Monnere, Thomas	30	"	See Affidavit - was at first in the temporary suspension list - but without his knowledge a consent was placed upon the tribal list -	"
13	Monnere, Eliza		"	See her father's affidavit -	"
14	Monnere, Ruth		"	Daughter of Eliza Monnere	"
15	Monnere, Phillip	24	Prostrate	Never made choice to become a tribal list -	Indiantown
16	Monnere, Mary	25	"	See her deposition Wife of Phillip Monnere	"

No	List Name	Age	Residence	Circumstances	Remarks
X	Nichols Smith	24	1	Died	Made choice to become a citizen Indian territory See affidavit
✓	Nichols William	1	1	"	Son of Smith Nichols "
X	Nichols Mary	7	1	"	Daughter of John Nichols was Indian country appeared to the treaty of 1865 and made choice to become a citizen she wishes her name and family placed on the tribal list
-	Nichols George	1	1	"	Wife of Mary Nichols
X	Nichols Kate	1	1	"	Daughter of "
X	Nichols Helen	1	1	"	Daughter of "
X	Payne Sarah	19	1	"	Maiden name Sarah Driver Made choice to become a citizen wishes her and family name placed on tribal list Wife of Sarah Payne
✓	Payne William	1	1	"	"
X	Beacock George	30	1	"	Made choice to become a citizen See the affidavit
X	Beacock Eliza	35	1	"	Wife of George Beacock in 1865 she was the wife of Agnes Beacock and both were absent during the time of the saying out of the treaty and were made choice to become a citizen

No	Names	Age in 1850	Birthdate	Sex	Residence
1	Beauregard, Elizabeth	15	1	Female	Indian country
2	Beauregard, Isaac	21	1	Male	"
3	Beauregard, Andrew	1	1	Male	"
4	Beauregard, Isaac	3	1	Male	"
5	Piper, Margaret	35	1	Female	"
6	Piper, Hannah	1	1	Female	"
7	Piper, Noah	1	1	Male	"
8	Piper, Matilda	10	1	Female	"
9	Piper, Mary	10	1	Female	"
10	Piper, Susan	10	1	Female	"
11	Piper, Hannah	8	1	Female	"
12	Piper, Mary	10	1	Female	"
13	Piper, Susan	10	1	Female	"
14	Piper, Anne	10	1	Female	"

Residence

On Indian list -
Daughter of Elizabeth BeauregardThen her bond
Boyd Beauregard was placed on the
incompetent list - but died during
the time of the breaking carried out -
Isaac Beauregard speaks no English
and has lived in the Indian country
since 1835

Son of Isaac Beauregard

Daughter of

See her affidavit and also
John W. Briggs as to her husband
Thomas Piper, speaks no English

Daughter of Thomas Piper

Son of

Daughter of Margaret Piper

Daughter of Thomas Piper

Daughter of Mary Piper

Daughter of

See her affidavit - speaks no
English wishes his name on tribal list -
Wife of William Piper and daughter of
Isaac and Elizabeth Beauregard. Her affidavit
Daughter of Isaac Piper

List - Continued		Age in	1855 Prob French Circumstances	Residence
X	Punch Margaret - son -	23	1	Indian Country
X	Punch Margaret - jr -	9	1	"
X	Punch Elliot -	3	1	"
X	Punch Susan	1	1	"
X	Punch James	1	1	"
X	Punch Silas	1	1	"
X	Punch Thomas	7	1	"
X	Punch Mary K	12	1	"
X	Punch John	19	1	"
X	Punch Susan M	18	1	"
X	Punch Jefferson	1	1	"
0	Parcupine Betty	50	1	"
0	Parcupine John	16	1	"

List - Continued		Age		Residence		Circumstances		Residence	
No									
✓	Rankens Elizabeth	58	1	1	1	1	1	1	1
✓	Rankens Samuel	29	1	1	1	1	1	1	1
✓	Rankens Elizabeth	13	1	1	1	1	1	1	1
✓	Rankens Liddie		1	1	1	1	1	1	1
✓	Rankens Isaac		1	1	1	1	1	1	1
✓	Rankens Sarah		1	1	1	1	1	1	1
✓	Rankens Hannah		1	1	1	1	1	1	1
✓	Robertalle Robert	50	1	1	1	1	1	1	1
✓	Robertalle Woodford	17	1	1	1	1	1	1	1
✓	Robertalle Samuel	32	1	1	1	1	1	1	1
✓	Robertalle Elizabeth	13	1	1	1	1	1	1	1
✓	Robertalle Napoleon		1	1	1	1	1	1	1
✓	Robertalle Alice		1	1	1	1	1	1	1
✓	Robertalle James		1	1	1	1	1	1	1
✓	Robertalle Julia		1	1	1	1	1	1	1
✓	Robertalle Rosanna		1	1	1	1	1	1	1
✓	Robertalle Napoleon		1	1	1	1	1	1	1

List - Continued		Age in		1835		Date of Birth		Name		Status	
No											
X	Spynuck	Elizabann	12	1	1	1	1	1	1	1	1
X	Spynuck	James L									
✓	Spynuck	George	38	1	1	1	1	1	1	1	1
X	Spynuck	Mary	28	1	1	1	1	1	1	1	1
X	Spynuck	Virginia	2	1	1	1	1	1	1	1	1
	Spynuck	Margaret	6	1	1	1	1	1	1	1	1
	Spynuck	William									
X	Solomon	John	45	1	1	1	1	1	1	1	1
X	Solomon	Margaret B	34	1	1	1	1	1	1	1	1
X	Solomon	Margaret D	50	1	1	1	1	1	1	1	1
	Solomon	Jersey	14	1	1	1	1	1	1	1	1
	Solomon	Joseph									
	Solomon	Isaac									
	Solomon	Henry									
	Solomon	John D	12	1	1	1	1	1	1	1	1
	Solomon	William	6	1	1	1	1	1	1	1	1
	Solomon	Catharine	6	1	1	1	1	1	1	1	1

List - Continued

No	Names in	Age	Sex	Relationship	Residence
X	Steel Mary	24	1	Daughter of Robert - Robertella	See Affidavit - speaks no English - San Antonio
C	Swartz Roselee	15	1	Daughter of Robert - Robertella	Chicago
C	Swartz Herman			See his Affidavit -	
C	Swartz Frederick			Husband of Roselee Swartz	"
C	Swartz Francis			Son of "	"
C	Swartz Alapander			Son of "	"
C	Shaffenburg Catharine	12	1	Daughter of Elias Shaffenburg who made choice to be com. a citizen for his Daughter is now married and has a family and wishes their names on the Tribal List -	Colorado
C	Shaffenburg Mark			Husband of Catharine Shaffenburg	"
C	Shaffenburg Florence			Daughter of "	"
C	Shaffenburg Mary			Son of "	"
X	Shiffback Gene	18	1	Daughter - James White says see his Affidavit -	Kansas
C	Shiffback Joseph			Husband of Gene Shiffback	"
C	Splitthorns Mathias	35	1	Man made choice to become a citizen wishes his name and family's on Tribal List -	"
C	Splitthorns Eliza	35	1	Wife of Mathias Splitthorns	"
C	Splitthorns Richard	6	1	Son of "	"
C	Splitthorns Sarah	3	1	Daughter of "	"
C	Splitthorns Henry			Son of "	"
C	Splitthorns Joseph			Son of "	"
C	Splitthorns Thomas			Son of "	"

List - Continued		Age	1835 Male/Female	Circumstances	Place of Birth
✓	Spilith logs	Margaret	1	Moderate	Daughter of Mathias Spilith logs
✓	Spilith logs	Sam J	1	"	Daughter of " "
✓	Spilith logs	Lucinda	30	"	See Affidavit - Son of Lucinda Spilith logs
✓	Spilith logs	Mathias	4	"	Daughter of " "
✓	Spilith logs	Catharine	1	"	Daughter of " "
✓	Spilith logs	Margaret	8	"	Daughter of " "
✓	Spilith logs	Mary	8	"	Daughter of " "
✓	Spilith logs	Radicea	1	"	Daughter of " "
✓	Spilith logs	Thomas	13	"	Son of " "
✓	Spilith logs	Mary	6	"	Wife of Thomas Spilith logs her maiden name Mary of Relling the daughter of Catharine Spilith logs was on the Indian list -
✓	Spilith logs	John	38	"	See his affidavit - Wife of John Spilith logs maiden name Jane Hyscho on temporary suspension list -
✓	Spilith logs	Sam	25	"	Daughter of John Spilith logs
✓	Spilith logs	Sam	1	"	Son of " "
✓	Spilith logs	Thomas	9	"	Son of " "
✓	Spilith logs	Michael	4	"	Daughter of " "
✓	Spilith logs	Lucy	4	"	Son of " "
✓	Spilith logs	Richard	3	"	Daughter of " "
✓	Spilith logs	Sam	1	"	Son of " "
✓	Spilith logs	Elmer	1	"	Son of " "

List - Continued		Age		1855 Male Female US censuses		Residence	
✓	Vanmeter Sarah			20	1	Deeble	Widow of Thomas Vanmeter with name Thomas Vanmeter made choice to become a citizen of England is at head of 1855 Sarah Apples no English has lived in the nation country since 1857
C	Vanmeter Hannah			2	1	"	Daughter of Sarah Vanmeter
C	Vanmeter Catherine				1	"	Daughter of "
C	Vanmofan Caroline			18	1	Produce	Maiden name Armstrong name made choice to become a citizen with her name and family placed on tribal list - grandson of Caroline Vanmofan
C	Vanmofan Charles				1	"	Daughter of "
C	Vanmofan Eliza				1	"	son of "
C	Vanmofan Lewis				1	"	son of "
C	Vanmofan Thomas				1	"	son of "
C	Vanmofan Francis				1	"	son of "
C	Vedder Josetta			21	1	See title	Never made choice to become a citizen is a widow with to have her name and daughter placed upon tribal list - maiden name christening
C	Vedder Caroline				1	"	Daughter of Josetta Vedder

EXHIBIT “B”

No	List	Names	Age in	1955 Health Card (In circumstances)	Residence
X	Walker	William	55	1	Made choice to become a citizen but wishes to resume his tribal relations and have his name placed on the tribal list - see Affidavit - Kansas
	Walker	Mary	34	1	Her husband made choice to become a citizen but died while the wife of 1955 was being carried out - she now nothing about the temporary suspension and at that time she is a widow and with her and family's names placed on the tribal list - son of Mary Walker - "
	Walker	Justin	6	1	son of " - "
	Walker	Ernest	2	1	son of " - "
	Walker	Lydia B	38	1	Victor of Matthew B Walker who made choice to become a citizen but son of his died and the widow together with her family wishes to have their names placed on the tribal list - Daughter of Lydia B Walker - Indian country - "
X	Walker	Sarah L	12	1	son of " - "
X	Walker	Thomas	10	1	son of " - "
X	Walker	Malcom	8	1	son of " - "
X	Walker	Betsy L	6	1	son of " - "
X	Walker	Plance P	4	1	son of " - "
X	Walker	Lillian		1	Daughter of " - "
X	Walker	Sarah P	29	1	Made choice to become a citizen with her and family's names placed on tribal list - "
	Walker	Mary	25	1	Wife of Isaac P Walker - "
	Walker	Emma C	2	1	Daughter of " - "
	Walker	Ellen R		1	Daughter of " - "

No	Last Name	Age in 1855	Sex	Relationship	Residence
X	Walker	Blanche A		Daughter of Isaac P Walker	Kansas
X	Walker	Thomas G		Son of " " "	"
X	Walker	Lily		Daughter of " " "	"
X	Walker	Isaac S		Son of " " "	"
	Walker	Burton		Son of " " "	"
	Warpole	James		Son of John Warpole who was placed in Indian territory on the original compact - later - later - was afterward changed to the citizen list - without his knowledge or consent - he never made choice to become a citizen James speaks no English wishes his name placed on the Indian list -	"
X	Whitewing	Mary		Daughter of John Whitewing who was absent at the time of the signing and of the treaty of 1855 - never made choice to become a citizen speaks no English is an orphan living in the Bird's Gap family	"
X	Whitewing	Francis		See affidavit - his mother Catherine Warpole was placed on the temporary suspension list - but was changed without authority - son of Sarah Whitewing	"
X	Whitewing	Mary		Daughter of James Whitewing was absent at the time of the signing and of the treaty of 1855 - never made choice to become a citizen Mary speaks no English	"

List - Continued

Age	1853-1860	Residence	Destitute	Ex circumstances
W. Williams Mary	3	Daughter of David Williams whom made choice to become a widow	1	Destitute
W. Wright George	1	Wishes to remain with the wife and be an Indian and have his and family names placed on the tribal list -	1	Modest
W. Wright - Catharine	1	Wife of George Wright -	1	"
W. Wright - James	1	Son of "	1	"
W. Wright - Nancy	1	Sister of "	1	"
W. Wright - Ardona	13	Daughter of David Dawson	1	"
W. Wright - Thomas J	1	Husband of Ardona Wright	1	"
W. Williams Joseph	38	An Affidavit	1	Destitute
W. Williams Mary Jane	5	An affidavit	1	"
W. Williams Mary D	14	Impotent - list	1	"
W. Williams Jane	1	Daughter of Mary D Williams	1	"
W. Williams William	1	Son of "	1	"
W. Williams David - 2d -	18	Son of David Williams - see - see his affidavit -	1	Modest
W. Williams Malinda	1	Wife of David Williams - see -	1	"
W. Williams infant -	1	Child of "	1	"

No	List to be insured	Age	Not Paid 3 mos (Discontinued)	Residence
	Whitecrow Joseph		8	Son of Jacob & Littlecrow - see his Affidavit - Indian country
	Whitecrow Caroline		3	Wife of Joseph Whitecrow married name Keyrakah and on Indian side
	Whitecrow Jacob - sen -		42	See Affidavit and also one of the contracting parties to the treaty of 1857
	Whitecrow Joseph		40	Wife of Jacob Whitecrow -
	Whitecrow Lumola		4	Daughter of " "
	Whitecrow Sarah		4	Daughter of " "
	Whitecrow Susan - sen -		50	See Affidavit -
	Whitecrow Susan - juv -		23	Daughter of Susan juv - see Affidavit -
X	Young Catherine		21	Never made application to become a citizen wishes her name on list - Indian Territory
X	Young Adam		4	Son of Jacob Young who never amounted to become a citizen and died while the treaty of 1855 was being carried out - Adam Young was made an orphan by the Wyandotte council but - for some reason was never sent to the Department -
✓	Young William J		8	Brother of Adam who were treated alike - Kansas
✓	Young Caroline		4	Wife of William J Young - and Daughter of South Nichols see his Affidavit -
✓	Young Henry		1	Son of William J Young -

No	Age	1834 Prob 3. mai	Residence
1	28	1	Widow of Noah Lane who never consented to become a citizen & wishes the name and family placed on tribal list-
2	7	1	Son of Tobias Lane
3	5	1	Daughter of "
4	8	1	Son of "
5	1	1	Son of "
6	35	1	Never consented to become a citizen
7	5	1	Son of Ebenezer Lane who went to California in 1852 and never returned
8	5	1	Orphan list-
9	60	1	A widow since 1848 never consented to become a citizen
10	13	1	Son of Hannah Lane wishes Indian country his and family's name on tribal list-
11	12	1	Wife of William Lane and Daughter of John Sirichops all his offspring & Daughter of William Lane
12	29	1	Never made choice to become a citizen wishes his name and family placed on tribal list-
13		1	Daughter of Isaac R Lane

No	Age in	1935 Photo Book Description	Notes	Residence
X	29	Male	was a widow in 1855 never married to become a citizen same at that time Mary born Barrett wishes her name and family placed on tribal list - son of Mary Ann Lane	Residence
X	1	Male	son of " " "	"
X	1	Male	son of " " "	"
X	1	Male	Daughter of " " "	"
X	1	Male	son of " " "	"
X	31	Male	never consented to become a citizen wishes his and family's name placed on tribal list - wife of Edwinger O. Lane	"
X	28	Male	Daughter of " " "	"
X	2	Male	son of " " "	"
X	7	Male	son of " " "	"
X	5	Male	son of " " "	"
X	3	Male	son of " " "	"
X	1	Male	Daughter of " " "	"
X	1	Male	Daughter of " " "	"
X	1	Male	Daughter of " " "	"
X	1	Male	son of " " "	"
X	1	Male	Daughter of " " "	"
X	12	Male	Prophet list - wife of Jefferson Lane	Prophet list
X	39	Male	Blind since 1850 never consented to become a citizen	"
X	43	Male	Prophet list -	"

Office of the Indian Affairs,

Lawrence, Kansas, Nov. 3rd, 1870.

Wm. D. Barker.

Commissioner,

Sir:

Herewith please find a communication of the 2nd volume, from Hon. Walker, and David Harrell, acting for the Wyandotte tribe of Indians, complaining that their tribe has been neglected by the Department, and asking for relief. - Also complaining of the sale of Cheyenne and Arapaho "claiming to act as agent for the Wyandotte people at Washington."

The Wyandottes are very unhappy situated, and would respectfully recommend that the Department take such immediate action as will extricate them from the difficulties by which they are surrounded. Very respectfully,
 Your Obedt. Servt.
 A. O. Frankham,
 Chief Clerk.

To the Hon
 Myamoto Hume Nov 27, '90.
 Dear Sir, The undersigned a Committee
 appointed by the Myamoto People, for the want of a regu-
 larly, constitutional Council to attend to their business
 Affairs of a public nature especially with the U.S. Govern-
 ment that the Government of Indian Affairs, would
 respectfully invite the attention of the Commissioner
 of Indian Affairs to the fulfillment of the Treaty con-
 cluded at Washington Feb 23rd 1867, with the My-
 amots, sinceas, Disputes of cty, especially that part
 involved in the 13th & 14th Articles, in which the
 Myamoto People are deeply interested. The Services
 equally involved to whom \$20.00 is due under the
 provisions of this Treaty.
 Our people complain of ill and undervalued treat-
 ment from the government. A threat will show
 that the Myamoto were the chief sufferers in bring-
 ing about the Treaty of pacification concluded with
 Gen. Wayne in 1795, when hostilities ceased.
 That Government of peace and unity the Myamoto
 have not waited to this day, and have always
 and respectfully stand by the U.S. government in their words
 both

both foreign and domestic— have given the government but little trouble and expense as compared with other tribes.

When Superintendent Hoag entered upon the duties of his office, finding that Mr John G. Pratt, Agent for the Delaware Indians had, from some cause failed to make a Register of the Wyandott people as instructed by your Department, directed this unfinished business to be completed as soon as practicable. This was done through the aid of one of our Committee— Carefully examined and corrected and certified to by Agent Pratt, and delivered to the Superintendent, who, no doubt promptly forwarded it to your Department; and that is the last we have heard of it. Probably ensconced in some Pigeonhole good for Moles and Bats.

This Register we expected to use as a basis in the re-organization of our tribal relations— to determine who are legal voters when an election may be held for principal Chief and Councilors. Our people are without a government, without a responsible head— no medium of communication except — thro'

This Committee acting temporarily, anxiously waiting the action of your Department on this Register in order to go into an election for principal chief & Councillors.

We were in hopes the Five thousand Dollars, (emigrant fund) provided in the above named treaty, would at least, have been sent to enable the poorer portion of our people to move to their new homes; but no! not even this poor pittance could be vouchsafed to them; and here they are, (having sold their homes) lingering here for the last three years for the want of this fund so unjustly - and we might add, cruelly withheld by the late head of your Department

There is a man connected with the Wyandott people by marriage, named Abelard Guthrie, well known, (or ought to be) for he has annoyed your office for the last fifteen years, a man of infamous character, falsely claiming to act as agent for the Wyandott people at Washington.

This man has given our people a vast amount of trouble. Without going into detail we would refer you to, Superintendent Hoag's and Gen. Hazen's report, and the depositions taken here

we on the advice of an intelligent friend
 will inform our families with our business
 matters. We deem it unnecessary to make
 any remarks upon these documents - they speak
 for themselves. But the late death of your Depart-
 ment treated them with cold neglect.
 This man, Justice, notwithstanding the dam-
 ging evidence against him on file in your Depart-
 ment seems to have been treated with peculiar con-
 sideration by the late head of the Interior Department
 On the appointment of Commissioners to investigate
 got fraudulent land titles among the Mayanols
 was given, I believe to appoint Mr Justice, then
 pay \$1000.
 We have not an itching doubt but this appoint-
 ment was on the nomination, (the) somewhat in-
 directly) of Mr Justice in order, if possible, to escape
 the demands of even honest judges; having perhaps
 to more friends than all the others aggregated, and in
 the final will go Scot free. And though nominally a
 member of the Mayanols tribe, yet has done his business
 outside and independently of this Department, can
 carry to speaking regulations.
 It does not require the power of divination to perceive
 the cause of this deviation of Justice.
 Now, Justice is an office which that, in they
 operation

the execution of the above named treaty, the business, as far as can be, will be run in the interest of Mr Guthrie. If their suspicions are well founded they wish to know it.

Last Spring Tauronee, late principal chief, deceased, applied thro' the Superintendent Hoag for a patent to issue from the Gen. Land Office to Nancy Garrett, a Wyandott woman, widow of George Garrett, a white man, and one of the grantees named in the 14th Article of the treaty of March 17th 1842; no patent having, as yet, been issued.

We renew the Request for this woman.

In Conclusion, the Wyandott people ask for a fulfillment of the above named treaty. Nearly four years since its conclusion and ratification by the treaty making power and still unexecuted.

There it lies unexecuted, stamped with a protest.

If other tribes have suffered as much neglect as the Wyandotts have, then may God in his infinite mercy keep them in their troubles.

Respectfully Submitted

Wm Wacker

Russel Garrett

Committee

Our associate, John W Gray Eyes, is absent down South on the business of the tribes.

copy

Office Supt. Ind. Affairs.
Lawrence, Kansas Apr. 10. 1871.

George Mitchell
U. S. Agent

I transmit copy of a
letter from the Secretary of Interior date
March 14. 1871. relative to the organiza-
-tion of the Indiantes. Said letter in-
-closed four lists - "to wit."

1st That class of Indiantes who applied
for temporary exemption from citizenship.

2nd List of Incompetents.

3rd " " " Orphaned.

4th " " " Competents.

The "Hon." Secretary in said letter rules
that the first three lists or classes are

now members of The Wyandotte tribe proper
 together with their offspring - and to
 them shall be added all persons placed
 upon the competent list, who, at the date
 of the Treaty, were of non-age - or incom-
 petent, or orphaned with their offspring.

Under these instructions, the Agent, after
 preparing a carefully priced list, will
 cause a reorganization of the tribe, using
 all laudable means in his power to induce
 said Indians, to select a chief of temperate
 and moral habits, and who will be influential
 in the advancement of said tribe in edu-
 cation, industrial labor, and civilization,
 after which the Nation may admit all
 Citizen Wyandottes, provided the Superinten-
 dant and Agent, find they can so return
 under Treaty provisions.

Respectfully,

(Signed) Enoch Hraf.

Sup. Ind. Affs.

EXHIBIT “C”

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

To whom these presents shall come. Greeting:

By virtue of the authority vested in me by the Archivist of the United States, I certify on his behalf, under the seal of the National Archives and Records Administration, that the attached reproduction(s) is a true and correct copy of documents in his custody.



SIGNATURE	
<i>Lori Cox-Paul</i>	
NAME	DATE
Lori Cox-Paul	9-22-2015
TITLE	
Director of Archival Operations	
NAME AND ADDRESS OF DEPOSITORY	
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NA FORM 13040 (10-86)

H 1383 - no way out
 Ave, rolling top
 and all the
 in Kansas and
 elsewhere
 H 1383

H 1283



0209

Office Sup't Indian Affairs,

Lawrence, Kansas, August 22nd 1870.

Hon. E. S. Parker,
Commissioner,

Sir:

*see document 1176 '70.
and letter from 11/17/70.*

Referring to a communication from this Office, - dated 14th Jan^y last, reporting upon the Wyandotte tribe of Indians, and inclosing certain papers in the matter, - I have the honor to transmit herewith, a Roll of the members of said tribe, in Kansas, and where; showing respectively the age, sex, color, of residence, &c., and intended to form a part of Report above referred to,

Very Respectfully,

Your Obedient Servt.
A. B. Farham,
Chief Clerk.

0210

Myanotte H 1383-70

List Continued

No	Names	Age in	1855	Male	Female
X	Gane Eldrige B	10		1	
	Gane Sarah R				1
X	Gane Kenaphan			1	
	Gane Julia				
	Gane Charles A. G.			1	
X	Gane Leslie	15		1	
	Gane Hannah - jr -	19			1
	Gane Ebenezer	23		1	

52/Name

Susanma Gane a widow
who never consented to
become a citizen

of Susanma Gane

daughter of Noah E. Gane who was
at the time that the treaty
was being carried out -
never consented to become a citizen

" Daughter of Noah E. Gane
" son of Julia

" son of Hannah Gane - son - Indian

" Daughter of Hannah Gane - son
never consented to become a citizen

Ben absent - and not heard from
since 1852

I hereby certify that I have examined the
foregoing Roll of all the Wyandotte people
and believe it be correct.

John L. [Signature]
[Signature]

<p>See of the Wyandotte A register of the whole people residing in 1855 made to the Commission</p>	<p>Book of Indians " 13th Decr 1867 J. R. R. R.</p>				
<p>Arms, Elizabeth</p>	<p>Her father died during the time of the carrying out of the Treaty of 1855. Speaks no English wishes to remain with the tribe</p>	<p>2</p>	<p>Destitute</p>	<p>Indian Territory</p>	
<p>Arms, Schfield</p>	<p>Known as Elizabeth Arms</p>	<p>"</p>	<p>"</p>	<p>"</p>	
<p>Armstrong, Hannah</p>	<p>Speaks no English</p>	<p>51</p>	<p>Moderate</p>	<p>Known</p>	
<p>Armstrong, Martha</p>	<p>Her parents both died before the adoption of the treaty of 1855. She should have been placed on the orphan list - wishes for name on Tribal list - This father made choice to become a citizen but has since died but - Winfield never wished to become a citizen but - having no choice could not avoid it - he wishes his name together with the name of placed on the Tribal list</p>	<p>12</p>	<p>Indigent</p>	<p>"</p>	
<p>Armstrong, Winfield S</p>	<p>Wife of Winfield S. Armstrong and Daughter of Matthew Armstrong see his Affidavit - Son of Winfield S. Armstrong</p>	<p>13</p>	<p>"</p>	<p>"</p>	
<p>Armstrong, Mary</p>	<p>"</p>	<p>8</p>	<p>"</p>	<p>"</p>	
<p>Armstrong, Frederick</p>	<p>"</p>	<p>"</p>	<p>"</p>	<p>"</p>	

List - Continued

No	Age in 1855	Male	Female	His own	His own	His own
✓ Armstrong, Silas	13	1		Indigent	His father made choice to become a citizen and was one of the first to be placed on the list - was powerful to prevent it - the law makes his own name together with his family placed on the list.	Residence
✓ Armstrong, Mariah						
✓ Armstrong, Robert - P						
✓ Armstrong, Lucy B	34	1		Indigent	A. Byrdow at the adoption of the treaty of 1855 made choice to become a citizen wishes her name together with her family placed on the list.	"
✓ Armstrong, Mary J	9	1		"	Son of Lucy B. Armstrong wishes his name placed on list.	"
✓ Armstrong, Ellen C G	7	1		"	Daughter of Lucy B. Armstrong	"
✓ Armstrong, Nathan	15	1		Indigent	Son of Lucy B. Armstrong wishes his name on list.	"
✓ Armstrong, Rufel B	12	1		"	Son of Lucy B. Armstrong wishes his and his family name placed on list.	"
✓ Armstrong, Rachel B				"	Wife of Rufel B. Armstrong	"
✓ Armstrong, William R				"	Son of " " "	"

List - Continued		Age 1845	Half Breed	Circumstances	Remarks
✓	Armstrong, Linda	33	1	Modest	Widow of Elias Armstrong deceased who made choice to become a citizen but the widow together with her family wish to be placed on the tribal list.
✓	Armstrong, Manar	9	1	Institute	Son of Gabriela Armstrong who's his name on tribal list.
✓	Armstrong, The Inlyre	3	1	"	Son of Gabriela Armstrong
✓	Armstrong, Elizabeth	1	1	"	Daughter of "
✓	Armstrong, Antoinette	1	1	"	Daughter of "
✓	Armstrong, Meama	1	1	"	Daughter of "
✓	Armstrong, James	21	1	"	Made choice to become a citizen
✓	Adkins, Louisa	10	1	"	Orphan and incompetent -
✓	Adkins, Edward	1	1	"	Maiden name Louisa Anne Adkins
(Barber, Mary Barber, Susan Barber, Ann Barber, John Barber, Sophia)					Orphan children of Sarah Barber her husband was a school teacher Indian she was not with the government in 1835 and not enumerated with her they are with John Suckoff their mother in the Affidavit.
✓	Barnett, John	23	1	"	Speaks no English an Affiant -

List 1 - Continued		Age in 1955		Date of Birth		Place of Birth		Remarks	
No.									
✓	Barnett, Jane	28	1	1927	1	Private		See Affidavit of Jane Bennett - her name at that time was Jane Barnett placed on tribal list -	Person
✓	Barnett, Theresa	3	1	1952	1	"		Daughter of Jane Bennett	"
✓	Barnett, Mary J.	3	1	1952	1	"		Daughter of " "	"
✓	Barnett, Delia	1	1	1954	1	"		Son of " "	"
✓	Barnett, Eugene	1	1	1954	1	"		Son of " "	"
✓	Bennett, Susan J.	14	1	1941	1	Private		Daughter of Susan Bennett	"
✓	Bennett, Jefferson	14	1	1941	1	Private		Son of " "	"
✓	Betton, Susanah	32	1	1923	1	Private		Daughter of Matthew Audette, she is Applicant; she wishes her name and family placed on tribal list -	"
✓	Betton, Francis - son -	1	1	1954	1	"		Husband of Susan Betton	"
✓	Betton, Delia	1	1	1954	1	"		Son of " "	"
✓	Betton, Florence	1	1	1954	1	"		Daughter of " "	"
✓	Betton, Francis - son -	1	1	1954	1	"		Son of " "	"
✓	Betton, Carol	1	1	1954	1	"		Daughter of " "	"
✓	Butler, Harriet	32	1	1923	1	Private		Never made choice to become a citizen wishes to have her name with her family placed on tribal list -	"
✓	Butler, Francis	1	1	1954	1	"		Husband of Harriet Butler	"
✓	Butler, Elmira S.	1	1	1954	1	"		Daughter of " "	"
✓	Butler, Eugene	1	1	1954	1	"		Daughter of " "	"
✓	Butler, Thomas	1	1	1954	1	"		Son of " "	"
✓	Beaver, Susan	30	1	1925	1	"		Never made choice to become a citizen wishes to have her name with her family placed on tribal list -	"

L. A. Don't need		Age in 1855	Male	Female	Circumstances	Disposition	Remarks
X	Bearskin George	7	1		Latent	Orphan and Incompetent -	President Indian territory Kansas
X	Bearskin Joseph	4	1		"	" " "	"
	Bearskin Frank	35		1	"	Widow of John S. Bearskin & her name was and is now on the Indian list -	Indian territory
X	Bearskin Oliver	7	1		"	Son of Sarah Bearskin	"
X	Bearskin George	2	1		"	Son of "	"
	Bearskin Sarah - Jr -			1	"	Daughter of "	"
	Bearskin Mary P	25		1	"	Never wished to become a citizen speaks no English wishes her name on tribal list -	"
X	Bearskin Peter	29	1		"	absent - at the time of the treaty of 1855 was being carried out - speaks very little English Mary P. Bearskin was his wife in 1855 he never wished to become a citizen wishes his name on tribal list -	Canada
X	Bearskin William	16	1		"	Son of John S. Bearskin who always remained an Indian	Indian territory
X	Bearskin Sarah	21		1	"	Wife of William Bearskin	"
X	Bearskin Susan S			1	"	Daughter of "	"
X	Digelow Jacob	15	1		"	Orphan and Incompetent -	Canada
X	Digams Martin	24	1		"	Incompetent - list -	New Mexico
X	Digams John	20	1		"	Left the tribe before the treaty of 1855 not heard from since	California
X	Boyd Washington	3	1		"	Son of Mary Boyd of the tribe who never made choice to become a citizen wishes to be placed on Indian list -	Indian territory

List - Continued		Age in 1851	Male	Female	Consistent	Remarks	Reference
X	Burning Amelia Burning Nicholas	34	1	1	Indistinct	See Affidavit - husband of Amelia Burning	None
X	Brown John D - son -	45	1	1	"	see Affidavit - speaks little English wishes his name placed on tribal list	"
X	Brown John D - son -	7	1	1	"	son of John D Brown - son - wishes his and family's names placed on tribal list	"
X	Brown Mary L	15	1	1	"	Wife of John D Brown - son -	"
X	Brown Leander	20	1	1	"	son of " " " - son - wishes his and wife's name placed on tribal list	"
-	Brown Lane	20	1	1	"	Wife of Leander Brown	"
X	Brown Isaac W	29	1	1	"	Made choice to become a citizen finds it impossible to live as such has been educated out of his property now wishes to resume his tribal relations and have his name placed on tribal list - should have been placed on incompetent list - Wife of Isaac W Brown	"
X	Brown Eliza	25	1	1	"	Made choice to become a citizen finds it impossible to live as such wishes his name placed on tribal list - ought to have been placed on incompetent list - Wife of Adam Brown	"
X	Brown Adam	56	1	1	"	son of " " "	"
X	Brown Joseph		1	1	"		"
X	Brown Thompson		1	1	"		"

List - Continued		Age at 1851		Male Female		Circumstances		Remarks
No								
✓	Brown, Mathew	35	1			Intestate	Made choice to become a citizen but cannot live as such wishes his name placed on tribal list as yet - to have been placed on in competent - first -	Kenosha
✓	Brown, Mary	18	1			"	Daughter of William Brown entirely destitute wishes her name placed on tribal list together with her family	"
✓	Brown, Elizabeth	1	1			"	Daughter of Mary Brown wishes her name placed on tribal list	"
✓	Brown, Margaret	21	1			"		"
✓	Blann, Eliza	17	1			Moderate	Orphan and incompetent - husband of Eliza Blann whose maiden name was Eliza Armstrong and appears on the list	"
✓	Blann, Caning		1			"	Daughter of Eliza Blann	"
✓	Blann, Caddy		1			"	"	"
✓	Blann, Mary Jane		1			"	"	"
✓	Blann, John - jr -		1			"	"	"
	Blackstock, William		1			"	His parents died soon after the treaty of 1851 - he went to New Mexico has not been heard from since	"

List - Continued	Chairs 1855-1900	Holds 3 months	Circumstances	Residence
x Big Ben Smith x Big Ben Eliza	58 17	1 1	See Affidavit - Orphan & incompetent - See Affidavit -	Kansas Indian Territory
x Bosie Madrie	40	1	Daughter of John D. Brown wishes her name together with her family placed on the tribal list - Wife of Rebecca Canada Daughter of "	"
Canada Rebecca B	8	1	"	"
Canada Marion Canada Bluminda	1 1	1 1	"	"
Caswell Elizabeth	12	1	Daughter of Mark & Gene who was absent at the time that the treaty of 1855 was being carried out and never made choice to become a citizen but wishes to and her family's names placed on the tribal list - Two sons of Elizabeth Caswell Daughter of "	Indiana "
Caswell Relig Lee Caswell Rosa Lee	1 1	1 1	"	"
x Clark Richard	18	1	Son of George J. Clark who made choice to become a citizen but Richard wishes his name together with his family placed on tribal list - has not succeeded well as a citizen Wife of Richard Clark Daughter of " Daughter of "	Kansas "
x Clark Copantra x Clark Eleanor x Clark Mary C	1 1 1	1 1 1	"	"

+

List - continued

No	Name	Age in 1855	Male Female	Circumstances	Remarks
C	Clark Peter T	35	1	Destitute	Absent at the time that the Treaty of 1855 was being carried out - name made choice to become a citizen now wishes his and families name placed on Tribal list -
C	Clark Peter D Clark	19	1	"	"
C	Clark Mary J	13	1	"	Widowed daughter of George J Clark she wishes her name placed on the Indian list -
W	Clark Nellie	1	1	"	Widow of Lewis Clark name Indian Territory had an opportunity to make a choice as to citizen's life name wished to become a citizen wishes her name with her family placed on Tribal list -
C	Cram Adeline	14	1	"	Daughter of Lydia Walker she wishes herself and family placed on Tribal list -
C	Cram Francis	1	1	"	Husband of Adeline Cram
C	Clement Jones J	1	1	"	"
					"
					"

Daughter of Lydia Walker she wishes herself and family placed on Tribal list -
 Husband of Adeline Cram
 D. W. Clement - who name made choice to become a citizen she is now in the care of her Grand father William Walker see his affidavit -

List - C. T. H. 111

No	Residence	Age in 1855	Gender	Residence	Notes
1	Barney	14	1	Dist. Ind.	Daughter of Hannah Lane who never made choice to become a citizen. Eliza with her husband and family placed on Indian list.
2	Andrew D	1	1	"	Wife of Eliza B. Conly
3	Sallie	1	1	"	Daughter of " " "
4	Lillie	1	1	"	Daughter of " " "
5	Mannah	1	1	"	Daughter of " " "
6	Eliza - jr -	1	1	"	Daughter of " " "
7	W. C. Catter	31	1	"	See Affidavit -
8	Eliza Catter	9	1	"	Son of Elizabeth Catter
9	Barnard	6	1	"	Son of " "
10	James W.	33	1	"	See Affidavit -
11	Nicholas	6	1	"	Daughter of Nicholas Catter
12	Caroline	17	1	"	Orphan and in competition
13	Curlyhead Jacob	13	1	"	Orphan and in competition
14	Carth	13	1	Moderate	Orphan and in competition
15	Endora W.	13	1	"	Orphan and in competition
16	Endora W.	13	1	"	Orphan and in competition
17	Endora W.	13	1	"	Orphan and in competition
18	Endora W.	13	1	"	Orphan and in competition
19	Endora W.	13	1	"	Orphan and in competition
20	Endora W.	13	1	"	Orphan and in competition
21	Endora W.	13	1	"	Orphan and in competition
22	Endora W.	13	1	"	Orphan and in competition
23	Endora W.	13	1	"	Orphan and in competition
24	Endora W.	13	1	"	Orphan and in competition
25	Endora W.	13	1	"	Orphan and in competition
26	Endora W.	13	1	"	Orphan and in competition
27	Endora W.	13	1	"	Orphan and in competition
28	Endora W.	13	1	"	Orphan and in competition
29	Endora W.	13	1	"	Orphan and in competition
30	Endora W.	13	1	"	Orphan and in competition
31	Endora W.	13	1	"	Orphan and in competition
32	Endora W.	13	1	"	Orphan and in competition
33	Endora W.	13	1	"	Orphan and in competition
34	Endora W.	13	1	"	Orphan and in competition
35	Endora W.	13	1	"	Orphan and in competition
36	Endora W.	13	1	"	Orphan and in competition
37	Endora W.	13	1	"	Orphan and in competition
38	Endora W.	13	1	"	Orphan and in competition
39	Endora W.	13	1	"	Orphan and in competition
40	Endora W.	13	1	"	Orphan and in competition
41	Endora W.	13	1	"	Orphan and in competition
42	Endora W.	13	1	"	Orphan and in competition
43	Endora W.	13	1	"	Orphan and in competition
44	Endora W.	13	1	"	Orphan and in competition
45	Endora W.	13	1	"	Orphan and in competition
46	Endora W.	13	1	"	Orphan and in competition
47	Endora W.	13	1	"	Orphan and in competition
48	Endora W.	13	1	"	Orphan and in competition
49	Endora W.	13	1	"	Orphan and in competition
50	Endora W.	13	1	"	Orphan and in competition

No	List 1 - Cases in need	Age	1845-1849	Males	Females	Circumstances	Remarks
1	W. T. Carr	7	1	1	1	Indistinct	Indistinct
2	W. T. Carr	6	1	1	1	Orphan and in competent -	Orphan and in competent -
3	W. T. Carr	10	1	1	1	Orphan and in competent -	Orphan and in competent -
4	W. T. Carr	1	1	1	1	Orphan and in competent -	Orphan and in competent -
5	W. T. Carr	1	1	1	1	Orphan and in competent -	Orphan and in competent -
6	W. T. Carr	1	1	1	1	Orphan and in competent -	Orphan and in competent -
7	W. T. Carr	1	1	1	1	Orphan and in competent -	Orphan and in competent -
8	W. T. Carr	1	1	1	1	Orphan and in competent -	Orphan and in competent -
9	W. T. Carr	1	1	1	1	Orphan and in competent -	Orphan and in competent -
10	W. T. Carr	1	1	1	1	Orphan and in competent -	Orphan and in competent -
11	W. T. Carr	1	1	1	1	Orphan and in competent -	Orphan and in competent -
12	W. T. Carr	1	1	1	1	Orphan and in competent -	Orphan and in competent -
13	W. T. Carr	1	1	1	1	Orphan and in competent -	Orphan and in competent -
14	W. T. Carr	1	1	1	1	Orphan and in competent -	Orphan and in competent -
15	W. T. Carr	1	1	1	1	Orphan and in competent -	Orphan and in competent -
16	W. T. Carr	1	1	1	1	Orphan and in competent -	Orphan and in competent -
17	W. T. Carr	1	1	1	1	Orphan and in competent -	Orphan and in competent -
18	W. T. Carr	1	1	1	1	Orphan and in competent -	Orphan and in competent -
19	W. T. Carr	1	1	1	1	Orphan and in competent -	Orphan and in competent -
20	W. T. Carr	1	1	1	1	Orphan and in competent -	Orphan and in competent -
21	W. T. Carr	1	1	1	1	Orphan and in competent -	Orphan and in competent -
22	W. T. Carr	1	1	1	1	Orphan and in competent -	Orphan and in competent -
23	W. T. Carr	1	1	1	1	Orphan and in competent -	Orphan and in competent -
24	W. T. Carr	1	1	1	1	Orphan and in competent -	Orphan and in competent -

List Continued

No	Name	Age in 1855	Sex	Marital Status	Remarks	Residence
40	Chapman, Rysia	24	1	Single	See his Affidavit.	Indian Territory
41	Dawson, Sarah J	44	1	Married	Was absent at the time that the treaty of 1855 was being carried out - never made choice to become a citizen wishes his own name and father's families placed on the tribal list - Wife of David J Dawson	Ohio
42	Dawson, Catharine L	38	1	"	Wife of David J Dawson	"
43	Dawson, Catharine J	10	1	"	Daughter of " "	"
44	Dawson, Della J	5	1	"	Daughter of " "	"
45	Dawson, Robert - A	14	1	"	Son of David J Dawson wishes his and his family names placed on tribal list - Wife of Robert - A Dawson	"
46	Dawson, Annie E		1	"	See Affidavit - Husband of Launda Dyre	Indian Territory
47	Dyre, Launda	28	1	Destitute		"
48	Dyre, Marion		1	"		"
49	Dyre, Martha	4	1	"	Daughter of Isaac Dyre speaks no English with husband and family on tribal list - Daughter of Martha Dyre	"
50	Dyre, Catharine - jr -		1	"		"
51	Dyre, Isaac P	44	1	"	Absent at the time of the carrying out of the treaty of 1855 made choice to become a citizen is blind and speaks no English wishes himself and family placed on tribal list.	Canada

List - Continued		Persons in 1855		Circumstances		Residence	
No							
✓	Driver Martha			1	Destitute	Wife of Isaac P. Davis	Portland
✓	Driver Catherine	46	1	"	"	A widow at the time of the death of 1855 man made choice to be with a citizen wishes to remain with it. Wife speaks no English visits her and family name placed in tribal list. Daughter of wife the name on tribal list.	Indian tribe
✓	Driver Susan	15	7				"
✓	Elliott Sarah	5	1		Moderate	Orphan and in company of	Kansas
✓	Emonds F. Eudora	6	1		Destitute	Orphan in 1855 was in the care of her Grandmother. Grandfather name made choice to be with a citizen wishes the name on tribal list. Husband of Eudora F. Emonds.	"
✓	Emonds Dallas		1		"	Son of	"
✓	Emonds Theodore P.		1		"	Eudora F. Emonds Maider name was	"
✓	Fish Andrew	4	1		"	Eudora F. Fish school time lived in orphan and orphan in 1855 not placed in tribal list. Brother of Eudora F. Fish in care of 46's Grandmother. Grandfather name	"

No	List - Continued	Age in 1855	Name	Circumstances	Place
1	Brost - Eddy	7		Daughter of Michael Brost - who never made choice to become a citizen but went to the Indian living soon after the adoption of the treaty of 1854 - wishes his name placed on tribal list -	Kansas
2	Brost - Oliver & Frost - Polley	1		Sister of Eddy Frost -	"
3	Faker Mary	1		Sister of " -	"
4	Fader Mathias	13		Orphan and incompetent - list -	"
5	Fader Mathias	1		Maider name Mary (brunette)	"
6	Fader Eulena	1		Wifeband of Mary John	"
7	Fader John	1		Daughter of " -	"
8	Freese Mary W.	1		Son of " -	"
9		1		Daughter of Mary Williams who was orphan and incompetent -	Ohio
10	Garrett Peupel	26	Suing	Was opposed to the treaty of 1855 - never consented to become a citizen and now wishes his and wife's name placed on the tribal list -	Kansas
11	Garrett Elizabeth	1		See Affidavit -	"
12	Garrett Byron	8	S. substitute	Wife of Peupel Garrett wishes her name on tribal list -	"
13		1		Son of Mary Ann Garrett -	"
14		1		a widow at the time of the adoption of the treaty of 1855 never made choice to become a citizen. The new wish his and his wife placed on the tribal list -	"

List - Continued

CNo	Name	Age in 1855 Male Female	Residence	Remarks
✓	Garrett Jane	1	Des Plais	Wife of Byron Garrett who knows her name placed on tribal list
✓	Garrett George B	1	"	Husband of Martha P. Walker who never made choice to become a citizen - he is now a widower who has his name placed on tribal list
✓	Garrett Edward	24	"	Appeared to the treaty of 1855 - never had an opportunity to make choice - never made choice to become a citizen who has his name placed on tribal list
✓	Garrett Mary	50	Moderate	Never made choice to become a citizen see Affidavit
✓	Garrett Minnie	1	Des Plais	Daughter of Ed. P. Garrett who never made choice to become a citizen was absent at the time of the adoption of the treaty of 1855
✓	Garrett Isabella	1	"	Wife of Theodore J. Garrett who never made choice to become a citizen was absent in California at the time of the adoption of the treaty of 1855 who has his name on tribal list

List - Continued		Persons in 1855 and 1856		Circumstances		Residence
No.						
X	Greyeyes John W	34	1	Destitute	Never made choice to become a citizen. His affidavit - made his own and wife's name placed on the tribal list - contracting party to treaty of 1864	Kansas
X	Greyeyes Catharine	33	1	"	Wife of John W. Greyeyes	"
X	Greyeyes Silas M	19	1	"	Man consented to become a citizen. Had no name on tribal list - see his affidavit - contracting party to treaty of 1864	Indian Territory
	Graves Adilora	10	1	Prostrate	Daughter of Adilora Guthrie makes to have her name on tribal list.	Kansas
	Graves Charles		1	"	Husband of Adilora Graves	"
	Guthrie Adilora	41	1	"	Made choice to become a citizen and declares his intention to remain as such	"
	Guthrie Nancy	35	1	"	Wife of Adilora Guthrie who made choice to become a citizen. Had name and her children wish to retain their tribal relation and have their names placed on the list.	"
	Guthrie Parvona	8	1	"	Daughter of Adilora Guthrie	"
	Guthrie James	3	1	"	Son of "	"
	Guthrie David	3	1	"	Son of "	"
	Gray Isaac W		1	Destitute	Son of Mary Brown	"
X	Gyammee Lefee	28	1	Prostrate	Never made choice to become a citizen. Never had an opportunity to make choice himself and family placed on the tribal list.	"
	Gyammee Pampo	1	1	"	Son of Lefee Gyammee	"

No.	List - Continued	Age in 1855	Gender	Circumstances	Relationship	Residence
x	Hicks Matilda	7	1	Destitute	Daughter of Mary Hicks	Indian Country
x	Hicks Virginia	3	1	"	Daughter of "	"
x	Hicks Francis	4	1	"	Son of "	"
x	Hicks James	21	1	"	Can Indian list -	"
x	Hicks Radicea	23	1	"	Wife of James Hicks	"
x	Hicks Galinda	1	1	"	Daughter of "	"
x	Hicks Henry	9	1	"	Son of John Hicks see Affidavit of John W. Higgins for Hicks and also his mother's affidavit - Mary Hicks	"
x	Hicks Maryann	7	1	"	Wife of Henry Hicks see her father's affidavit - Robert - Robertville	"
x	Hicks Mary - Jr -	1	1	"	Son of Henry Hicks - son -	"
x	Hicks Robert	1	1	"	Son of "	"
x	Hicks Susan	40	1	"	Incomplete list -	"
x	Johnson Benjamin	15	1	Indebted	Husband of Sarah S. Johnson	House
x	Johnson Sarah S.	15	1	"	Wife of Benjamin Johnson	"
x	Johnson David S.	1	1	"	Was orphan in 1855 about 1 year	"
x	Johnson Henry L.	1	1	"	See placed on orphan list - with	"
x	Johnson Ida S.	1	1	"	herself and family placed on tribal list	"
x	Johnson Minnie	1	1	"	Son of David S. Johnson	"
x	Johnson Robert L. S.	1	1	"	Daughter of "	"
x	Johnson	1	1	"	Daughter of "	"
x	Johnson	1	1	"	Daughter of "	"
x	Johnson	1	1	"	Son of "	"

List - Continued		Age in 1855		Residence	
40					
X	Johnson William - son -	35	1	See affidavit -	Indian Territory
X	Johnson Catharine	36	1	Wife of William Johnson	"
X	Johnson William - jr -	18	1	Son of "	"
X	Johnson Alexander	1	1	Son of "	"
X	Johnson Margaret		1	Daughter of "	"
X	Johnson Allen	15	1	See his father's affidavit -	"
X	Johnson Catharine C	9	1	William Johnson - son -	"
X	Johnson Catharine		1	Wife of Allen Johnson mother	"
X	Jackson Aragona		1	name Catharine born on Orphan	"
				and incompetent - list -	
				Daughter of Allen Johnson	
X	Jackson Aragona		1	Daughter of Sam White see	Kansas
				her mother's affidavit - Susan White	
				Grand mother of Aragona Johnson	
X	Johnson Charlotte	14	1	Maiden name, Charlotte Clark	Louisiana
X	Johnson E. P.		1	Orphan and incompetent -	"
X	Johnson - infant -		1	Husband of Charlotte Johnson	"
X	Jonathan Margaret		1	Child of "	"
			1	Orphan list -	Indian Territory

EXHIBIT “D”

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

To all to whom these presents shall come. Greeting:

By virtue of the authority vested in me by the Archivist of the United States, I certify on his behalf,
under the seal of the National Archives and Records Administration, that the attached reproduction(s) is
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NAME Lori Cox-Paul	DATE 9-22-2015
TITLE Director of Archival Operations	
NAME AND ADDRESS OF DEPOSITORY National Archives at Kansas City 400 West Pershing Road Kansas City, MO 64108	

NA FORM 13040 (10-86)

Office Sup't Indian Affairs,

Lawrence, Kansas, 1/28 1871.

Now E. V. Parker,
Commissioner }

Considering the disorganized condition of the Wyandotte. I have advised Special Agent Mitchell. That they should enter into an organization of their tribe and that all Wyandotte, who were not classified as Citizens under provisions of the treaty of 1865 - as also, all who were classified as Citizens under said provisions, without their knowledge or consent, as appears by their testimony (See full Report from this off. 6/14-1870) should constitute the Wyandotte tribe of Indians. - And after their organization (full notice having been given to all members thereof) they would have power, to admit to their organization - such Citizen Wyandotte as they might be united in receiving

to their Tribe - This instruction
 is in accordance with my report
 of 6/14 - which I trust will receive
 the Commission's approval
 Respectfully



Chas. J. July 15 1871.

Wm. H. Hoag
 Sup. Ind. Affs.
 James H. Hoag
 Jan 25 1871
 Submit to the
 Com. concerning
 organization of
 the Indian Affairs
 Department

your interesting com^{re} of the 18th Inst, came
 to hand in due time. We regret to hear of the illness of
 the Dept. when you and A. R. Long visited him, & are glad
 to believe that Sub Agent Mitchell has been for some time
 fast measuring with Hancock to recognize him as
 Private Chief of the Wyandotte people, in order to get
 the right of way for the R.R., through our country.
 Hancock refuses to do any thing in the matter until the
 Sub Agent Mr. recognizes him as principal chief and
 gave Hancock certain instructions to follow in the re-
 organization of the Wyandotte tribe.
 Hancock is now making up a list to send his views
 admitting his friends regarding of the list of Wyandotte
 people, made out and forwarded to the Department.
 According to instructions all Wyandottes entitled to a
 vote must be notified to attend the election. We have
 no hope of heading off Hancock's measures, only by the
 use using power of the Department. We are here
 disappointed, and our next - to a house full of officers

Almon Indian Secretary
 Oct. 22 - '11.

Copy

cautions, as we may not be admitted only as
Superannuaries, as our friend Robitaille expects
to be. Our only hopes are in the cooperation of yourself
& Russell Garrett, with the Superintendent to save
our rights. We shall not be satisfied until the
Supt. or some other disinterested person shall preside
at the election for reorganization of our people

(Signed)

Very Respectfully
John W Gray Esq.

Copy.
 Additional July 24 '11.
 I have just met Major Mitchell who is holding a conference with the Ottomans. He informed me that he will
 about next Monday for Washington City, being called
 for "and wanted to meet the Legation at the Agency
 next Saturday, and wishes to know if they have any
 business to put in his hands." I do not know that we
 have any business to put in his hands, nor business
 to meet him with. We might request him to wait
 upon the Dept. to have one time run off by a
 messenger, between us and the different tribes, I do
 not think we can go beyond that. I have my fears
 that M. is eager to work through the American
 Leg. of which Graham is a sneaking member
 Very Respectfully
 (Signed) John W. Gray Esq.

The Submits these letters without comment.
 (Signed) Wm. Walker.
 Received Grant.

Office Sup't Indian Affairs,

Lawrence, Kansas, 7/8 1871.

Hon H. P. Blaine

Referring to Department letter
3^d inst - Acknowledging receipt of Special
Agent Mitchell's Report on Reorganization
of the Wyandotte, and asking if the same
passed through this office - and if I had
any suggestions in reference to it -
I would inform a letter from this office
was forwarded with the report, which ap-
pears not to have reached the Department.

In this connection I may say - After
long and careful investigation in the
Bureau of provisions of the treaty of 1855
and the part of the Government. My
views were expressed in a Report to the
Comd^t 6/14-1870 - and in a letter 1/28-1871.

Believing, as I was compelled to, that
under these treaty provisions in the
Enrollment and Classification of the
Wyandotte, the work had been de facto
left to sinister and personal ends.

Office Sup't Indian Affairs,

Lawrence, Kansas, 1871.

that Reports, arising from them, are
by affecting the best interests of the
Wyandottes - Should not have been re-
cognized by the Government - Resulting
in the humiliating fact - that now,
by the action of the latter - but 13 poor
Indians can be produced to elect
a chief - from whom we have no
hope of aid in their advancement
in a higher life

Respectfully

Enoch Hoag
Sup't

Office Sup't Indian Affairs,

Lawrence, Kansas, 8/8 1871.

Hon A. R. Allen
Act Com'r

Enclosed I transmit copy of
letter from Special Agent Mitchell
4th Inst - informing that the Wyandotte
through their Council. Claims the right
to determine all questions of Heirship in
their tribe, and protest against ap-
proval of Deeds, made by persons -
claiming such Heirship - until investiga-
ted and decided upon by said Council

Respectfully

Enoch Hony
Supt

Copy

Gnapaw Special Agency. Ind. Ter.
August 4, 1871.

Enoch Hrag
Supt. Indian Affairs.

Dear Sir:

I am requested by the Wyandottes to ask you, to make known to the Dept. that they claim the right through their Council to determine all questions of heirship in their tribe and protest against the approval of any deed or deeds made by persons claiming to be heirs of deceased members of the tribe until the Wyandotte Council shall have investigated and determined who the heirs of such deceased Wyandottes are. They say, that they have cause to believe that certain impositions are in contemplation or will be attempted.

(signed)

Yours respectfully
Geo. Mitchell
U.S. Special Agent

Office Sup't Indian Affairs,

Lawrence, Kansas, 9/16 1871.

Hon H.R. Quay
Act'g Commissioner

Enclosed I transmit copy of letter from Sp Agent Mitchell ("tribe") calling for instruction in reference to the further organization of the Wyandottes and asking what disposition is to be made with the Citizen Clap. resident on the common reservation.

Referring to the 13th Art of their Treaty - 1866 - Among Wyandottes now classified citizens - claim that, under the provisions therein for enrollment - whereby all Wyandottes were privileged to declare - and be registered as to their "desire" to, and remain Indians and in a tribal condition" and now, in the prosecution of said provision - shut out from the tribe - and that without their election - action or desire - This office anticipated this injustice, to that portion of the Citizen class who were so constituted in opposition to their elections - and desired to obviate it, as shown by

Office Sup't Indian Affairs,

Lawrence, Kansas,

1871.

our reports - If now the Depart-
ment can extend relief in their new
~~status to the resident citizen class~~
on the reserve - who by remaining, it
is believed, would be of much service
in advancing this small tribe - in indus-
trial and Educational pursuits - such
favor would be advantageous to both classes.

Respectfully

Enoch Hoag
Sup't

Quapaw Special Agency Ind. Ter.
Sept. 11. 1871

Enoch Hoag
Supt. Indian Affairs.

In a letter from Acting Chief Clerk A. H. Hamham, dated, August 31st referring to the decision of the Hon. Acting Secretary of the Interior as to what class of Wyandottes should constitute the tribe. He uses this language "The said tribe when reorganized will instruct me. I wish to know what remains to be done to complete the organization after the publication or announcement of the decision of the Hon. Secretary to the tribe - I wish to be instructed as to what shall be done with the Citizen Class of Wyandottes now residing on the reserve of the tribe. If they are to be removed, it is important that it should be done by order of the Department and not by any action of the tribe.

Yours with respect
(signed) George Mitchell
U. S. Agent

Miram W Jones

St. Louis City - Jan'y. 29th 1891

Hon. R. F. Van Horn

Dear Sir

You are aware that Commissioners were appointed by the Land Department at Washington, to take evidence in regard to the sale and transfer of Lands owned by that class of Indians called incompetents in Wyandott Co. Kans. Now the land which I purchased from Mr. Cox, Chgo. Glick told me belonged to the competent class, but it was returned by said Commissioners as belonging to the incompetent list and I was notified to appear before said board and prove that the Indian received what was considered as fair compensation for his land. This I did, and also proved that

Land of
 an ~~of~~ John H. Standing Stone was
 sold by Order of the legally constituted
 Court of Wyandot Co. ^{for taxes} ~~Kans.~~ and purch-
 -ased by Byron Judd - and sold by
 said Judd to Wm. M. Cox - which con-
 stituted a double title to said land

But as I am informed that there
 is a set of Land sharks who are
 at work in Washington to invalidate
 all sales made by the so called
 incompetent Indians - and thinking
 that my land possibly ~~may~~ be wrested
 from me if not looked after, I have
 concluded to request a favour of you
 which I will compensate you well for.

That is, to take the proper steps
 to secure the legal recognition of my
 title to said land - You know better
 than I do how to proceed - If you
 will serve me in this respect I will
 consider it a great favour.

Enclosed please find a plat.
 The marked ~~the~~ land on the margin of the
 river is the land I ought to own.

you can obtain a copy of the patent
or a ratification of My title, I would like
to have it as soon as the 25th of Feb. 1871 - as
the leasing of said Farm dates from the
1st of March.

We are all well and I believe
all your friends are as well as usual.
Give our best respects to Mrs. Van
Horn.

Yours Respectfully
Peter Arnoldia

Office of Indian Affairs,

CENTRAL SUPERINTENDENCY,

Laurence, Kansas,

3/4

1872.

How F. A. Walker
Commissioner }

Herewith I transmit proceedings of the Wyandotte Council (24th ulto) reinstating — by the free consent of the tribe — certain Citizen Wyandottes, as members thereof, under provisions of the 13th art of their Treaty of 1868

Respectfully

Enoch Hoag
Supt

Dear Sirs,
 I am also cordially anxious the course
 of the Bill in the matter and believe it is for the best
 interest of all concerned for the Bill to be allowed
 to remain where they. As a portion of almost every family
 have been adopted by the consent of the Bill - and a Reso-
 lution of the order, attached to which necessarily comes
 from the Bill to leave or divide families
 very respectfully
 M. W. Jones
 W. S. Jones 1872

Received Special Agent
 due date 2/26-1872

Onondaga Special Agency, N.Y.
Seneca P.O. Mo - 4/6 - 1872

Enoch Hony
Supt Ind affs }

I desire to call the attention
of the Hon Commissioner of Indian Affairs
to art 14. of the Treaty of Feb 23rd 1867. which pro-
vides "That after a registration of the Wyandotte
people shall have been made and a tribal
organization effected - after paying for the lands
purchased from the Senecas. any remaining
funds shall be paid them per Capita."

If there should be any such funds due
them they would respectfully ask that it may
be forwarded to them. as soon as practicable
(as they are very needy), thereby enabling to open
up farms. and improve their country - so as
to render them selfsustaining.

Respectfully

S. W. Jones
W.S. Ind agt

25/11/16
Department of the Interior

Indian.

Washington, D.C. March 30th 1872.

Sir,

I return, herewith, the letter of Supt. Hoag of the 22nd instant, and Certificate of Chiefs of the Wyandotte tribe, restoring seventy five persons therein enumerated to membership in that tribe, under the 13th Article of the Treaty of 23rd February 1867.

The recommendation, contained in your report, of the 29th instant, submitting the papers, (that) ^{for} the admission of the parties referred to, to membership of the tribe, is hereby approved.

Very respectfully,

Your obt. Servant

Hon. F. A. Walker }
 Comr. of Ind. Affairs }

William
 Secretary.

Indian
V.D.

Department of the Interior,

Washington, D.C. June 18th 1872

Sir,

I return, herewith, the letter of Sup^r Hoag, dated the 11th inst, and the list of sixty five (65) Myandotto citizens, certified to by the Agent, as being adopted to membership with the Myandotto tribe of Indians, under the 12th Article of the treaty of Feb'y, 23^d 67.

In compliance with your recommendation, - contained in the report of the 17th inst, submitting the papers referred to, - the list is hereby approved,

Hon F. A. Walker
Com^r. of Ind Affs.

Very respectfully,

Your obedient servant,
W. Delano
Secretary,