

Lawsuit seeks accounting of natural resources taken from area during mining era

By Randy Petersen
Miami News-Record
27 February 2002

The Quapaw Tribe is seeking an accounting of its resources.

With an estimated \$4 billion of lead and zinc taken out of the Tri-State Mining District in the mining heyday, Quapaw Tribe councilman John Berrey said much of those resources were mined from Quapaw land.

In a suit filed Feb. 14, the tribe is seeking a court order to force the United States Department of the Interior and its agency, the Bureau of Indian Affairs, to account for what was taken off Indian trust lands.

The Department of the Interior is the federal agency assigned the responsibility of tribal trust accounts.

In 1994, Congress passed the American Indian Trust Fund Reform Act, which called for a reconciliation of trust accounts.

Berrey said that hasn't been done to the Quapaw Tribe's satisfaction.

Jason Aamodt, attorney for the Quapaw Tribe, said the BIA's efforts went back to 1973, but failed to cover the peak mining years of 1911 to 1940.

"If the tribe doesn't know what it has, that is essentially a regulatory taking by the bureau," Aamodt said.

Berrey said the tribe is owed money from the natural resources taken from Indian land over the years, but there is no way to prove how much is owed or how much was taken.

Instead, he said all tribal members are left with is the remains of mining efforts on their land.

"The legacy that they left is the Tar Creek Superfund," he said.

The suit filed by Aamodt seeks a court order labeling "the failure to properly manage the Nation's trust assets, accounts and funds" as a deprivation of property and a breach of trust. It also demands a full accounting of assets.

The tribe's suit is not seeking any money, Aamodt noted, since a dollar amount can not be determined until the tribe knows what assets were removed and remain unaccounted for.

The attorney said the next move should be from the BIA, which has the option to seek an out-of-court settlement.

Whether the final verdict comes from the court or from a mutual agreement between the tribe and the BIA, Aamodt said it will take time.

Court action could take three to 10 years and a settlement would take at least a year, he said.

Calls to the Department of the Interior and the BIA to discuss the suit were not returned by press time.

"Used with permission of copyright holder -- Miami News-Record, Randy Petersen, February 2002"