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Navajo Nation Council approves \$554 million agreement to end litigation against the United States over historical mismanagement of trust funds

WINDOW ROCK – The Navajo Nation Council voted 13-3 to approve Legislation No. 0131-14, approving a monumental agreement that will award the Navajo Nation a total of \$554 million from the United States and brings an end to the Navajo Nation’s lawsuit against the United States over historical mismanagement of trust fund assets.

The Navajo Nation and U.S. Departments of Justice, Interior, and Treasury reached an agreement in principle over the Navajo Nation’s claims that the United States had breached its fiduciary obligations arising under treaties, executive orders, federal statutes and regulations, and contractual documents by failing to manage, invest and account for tribal trust funds and resources under the custody and control of the United States in a manner that would maximize the financial return from those assets.

The \$554 million landmark agreement is the largest single resolution in the more than 100 cases filed against the United States by American Indian tribes by more than \$170 million.

The agreement secures a successful resolution to the historical mismanagement of the Navajo Nation’s trust assets by the United States, with claims dating as early as 1946. Under the terms of the agreement, the Navajo Nation will dismiss its pending lawsuit which was filed on December 29, 2006 in the United States Court of Federal Claims.

“The agreement marks the successful conclusion of years of hard fought litigation and secures a very substantial award for the Navajo Nation,” said Naabik’iyátí’ Committee Trust Mismanagement Litigation Task Force chair Council Delegate Lorenzo Curley (Houck, Klagetoh, Nahata Dziil, Tsé Si áni, Wide Ruins).

Under the agreement, the United States also commits to providing the Navajo Nation with all required reports of assets that continue to be held in trust for the benefit of Navajo.

The Trust Mismanagement Litigation Task Force comprised of Council Delegates Russell Begaye, Lorenzo Curley (chair), Charles Damon, Walter Phelps, Alton Joe Shepherd, Roscoe Smith (vice chair), Leonard Tsosie and Dwight Witherspoon, has guided Navajo Nation DOJ and outside counsel throughout the litigation.

Navajo Nation DOJ has worked aggressively to secure an appropriate resolution of this matter with the United States. These efforts have been led by Attorney General Harrison Tsosie, Deputy Attorney General Dana Bobroff, and former Attorney General Louis Denetsosie.

“It is very important for the Navajo people to understand that this agreement only addresses historical trust claims and does not prohibit or hinder our Nation from pursuing claims with respect to future conduct,” added Delegate Curley.

Task force members also emphasize that the terms of the agreement do not impact the Navajo Nation’s existing or potential water and uranium claims, and is separate from and do not impact Navajo allottee claims.

“I am pleased with the awarded amount and it demonstrates our Nation’s sovereignty as we were in the driver’s seat throughout the negotiations,” stated task force member Delegate Shepherd.

Executive branch representatives, including Navajo Nation President Ben Shelly, Chief of Staff Arbin Mitchell, executive director of the Office of Navajo Tax Commission Martin Ashley, Minerals Department Audit Manager Rowena Cheromiah, Washington Office Executive Director Clara Pratte and Division of Natural Resources Principal Attorney Robert Allan, were also instrumental in providing guidance to successfully conclude the negotiations.

“The Navajo Nation sued the United States for mismanaging the Nation’s assets and resources and aggressively pursued its claims,” stated task force member Council Delegate Russell Begaye (Shiprock). “This resolution resolves a matter that otherwise might have resulted in years and decades of litigation at tremendous costs to the Nation.”

Task force members also expressed appreciation to members of the 20th Navajo Nation Council for establishing the Historical Trust Asset Mismanagement Litigation Trust Fund, which enabled the Navajo Nation to pursue its claims against the United States.

The BuckleySandler law firm has represented the Navajo Nation as lead attorneys since August 2012, and conducted the litigation on behalf of the Navajo Nation.

Sam Buffone, Andrew Sandler and Chris Regan were the firm partners that led the representation. The BuckleySandler lawyers worked with Nordhaus Law Firm, longtime counsel to the Navajo Nation who filed the original complaint in 2006. Alan Taradash and Don Grove have led the representation for the Nordhaus firm.

“We are very gratified to have helped the Navajo Nation achieve this fair and equitable agreement,” said Buffone.

Final execution of the agreement and payment to the Navajo Nation is contingent on final review and approval of the terms of the agreement by President Shelly and the U.S. Departments of Justice, Interior, and Treasury.

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