

Q& A about Eastern Shawnee Settlements

Q: What actions has the Eastern Shawnee Tribe taken in its land claims case?

A: The Tribe has presented a comprehensive package to the federal district court which will successfully dispose of the case. Specifically, the Tribe has presented settlements with a number of defendants in the case as well as other interested municipalities which will allow the Tribe to establish a land base in Ohio. The Tribe has jointly filed with the City of Lima a request for more time to complete positive negotiations which have already occurred between the two parties. The Tribe has also requested the Court approve dismissal of certain other defendants who would no longer be necessary for the case. The state of Ohio was already dismissed by the Tribe earlier since the state's presence is not necessary for the specific settlements reached.

Q: Why is the Tribe settling this case?

A: The Tribe seeks to reestablish a presence in Ohio as part of a welcome and mutually beneficial relationship conducted on a government-to-government basis both with the State and local governments. The settlements provide for this possibility and allow the Tribe to resolve its land claims, but not in a manner that will be detrimental to the people of Ohio. Settlement and dismissal of this case is but the first step in a process which will allow the Eastern Shawnee to return to Ohio and establish homeland areas.

Q: How did the Tribe decide on settlements with certain parties?

A: The Tribe seeks restoration of its presence in Ohio at a number of locations of historical importance. The Tribe had discussions with a number of interested parties. The settlements filed with the court resulted. There are many differences in the nature and location of the land involved. Thus, some landowners were able to reach settlement more quickly.

Q: Why is there no final settlement with Lima at this time?

A: The City of Lima is being properly cautious and careful in dealing with the Tribe's claims. It continues to seek assurances that the interests of the City and its citizens are protected. The Tribe and the City desire to conclude a settlement and have agreed to continue their settlement negotiations. Settlements have been reached by the tribe with a number of parties. However, Lima and the Tribe agree they need more time to negotiate on the matter. The Tribe has agreed to drop some claims against Lima. Until all other settlement issues are resolved, they have joined in asking the Court to keep the case open as to the City until the end of the year. If the City and the Tribe cannot reach a settlement, they will continue the litigation pursuant to court rules.

Q: Why are the Tribe and the City of Lima trying to settle the Tribe's claims?

A: The Tribe seeks to reestablish a presence in Ohio as part of a welcome and mutually beneficial relationship conducted on a government-to-government basis both with the State and local governments such as the City of Lima. The Tribe's settlements

with other parties provide for this possibility and allow the Tribe to resolve its land claims in other areas of the state. The Lima area is very important to the Tribe as the Tribe believes that tribal land on its last reservation in Ohio was improperly taken from it. This land is within the boundaries of the City. The City recognizes a need to limit the exposure of the city to Settlement in the litigation and that a cooperative relationship can be beneficial to the citizens of Lima.

Q: Why did the Tribe settle claims with only some parties?

A: The Tribes litigation is a complex case, with over 65 defendants. It would be logistically and practicably difficult if not impossible to settlement every single claim with every single defendant. In addition, the Tribe did not bring every possible claim it had against every possible landowner in the state. Thus, the Tribe also had a number of claims against other parties who are not parties to the law suit. The settlements filed with the court allow the Tribe to meet its needs and move on while releasing other parties from liability.

Q: Will the Tribe continue the litigation?

A: The Tribe has requested dismissal as to all the parties except for the City of Lima, with whom the Tribe is still negotiating a settlement agreement. The claims brought in this case against all other parties have been resolved.

Q: Does the Tribe want to settle because it has a weak case?

A: No. The Tribe believes it has a strong case. However, parties settle lawsuits all the time, and Federal Courts encourage settlement. The settling parties and the Tribe recognize that litigation concerning these matters could be extremely time consuming and costly and that a Court decision after litigation could reach different results which might not benefit the parties to the same extent these settlements will. Settlement and dismissal will avoid the expense and effort inherent in such litigation and to avoid questions and doubts about the title of the property or claims to the property.

Q: Do you think anyone will object to the settlements?

A: They shouldn't object. The settlements and dismissals satisfy the Tribe's requested relief in the litigation and promote the interests of the defendants and the Court by putting an end to this complex litigation which could have clogged the courts and clouded title to land in Ohio for years. The settlements are in everyone's best interests.

Q: What about the state of Ohio?

A: The state failed to file an answer in the case and was dismissed from the case. The state is no longer a party.

Q: Do the settlements mean that there is now an Indian Reservation in Ohio?

A: No. If approved, the settlements only make the Tribe a fee title landowner as to whatever property is ultimately chosen to settle the law suit. That has not yet been determined. Tribally-owned fee land is simply land owned by an Indian tribe. It is not trust land, nor a “reservation,” nor “Indian Country.” The land does not automatically become “tribal land” that is subject to federal Indian law provisions.

Q: What does the Tribe have to do to make the land “Indian land”?

A: Before it can actually become “Indian country,” any land the Tribe may receive in fee through settlement must be accepted into trust status by the United States pursuant to the process established by federal law. In considering the trust acquisition, the Bureau of Indian Affairs must consider, among other things, the purposes to which the land will be used by the Tribe; the impact to local governments, if any; jurisdictional and land use infrastructure matters; the record of title; and the environmental condition of the land.

Q: Do the settlements mean that the Tribe can now conduct gaming in Ohio?

A: No. A settlement agreement will not authorize Indian gaming with out further legal requirements being met. First, the lands involved must be taken into “trust.” Then, if tribal economic development on the lands acquired through settlement includes Indian gaming, further approvals from the United States are necessary for certain kinds of gaming to be conducted on the acquired lands. The lands must be taken into trust by the United States under a process provided by federal law and the Tribe must also demonstrate to the Bureau of Indian Affairs that the “lands are taken into trust as part of . . . a settlement of a land claim” under section 20 of the Federal Indian Gaming Regulatory Act. Certain aspects of proposed gaming would have to be approved by the National Indian Gaming Commission, a federal commission charged with oversight of Tribal gaming. Assuming that these conditions were satisfied, in order to conduct certain forms of gaming, the Tribe would then have to conclude a compact with the state of Ohio to govern such gaming. This process will involve the participation and approval from Lima citizens and officials as well as officials of the State and Federal Government.