



Pawnee Nation of Oklahoma

P. O. Box 470 * Pawnee, OK 74058 * Phone: (918) 762-3621 * Fax: (918) 762-6446

PRESS RELEASE

Pawnee, Oklahoma, December 29, 2021: On December 22, 2021, the Environmental Protection Agency announced a proposal to withdraw and reconsider the Agency's October 1, 2020, SAFETEA decision, which granted state authority to administer EPA programs in certain parts of "Indian Country" throughout Oklahoma.

* EPA's announcement is not a final agency decision. It simply puts forth a proposal and invites public comment on it. EPA will also consult with Tribal Nations to help inform reconsideration of the decision. Pending final action on EPA's proposal, the SAFETEA decision stands--so existing state programs will remain in place.

* EPA's proposal stems from a review of the SAETEA decision required by Executive Order 13990 (2021), which directs agencies to review certain orders rendered over the past four years. EPA's review included consultation with Tribal Nations under President Biden's Memorandum on Tribal Consultation and Strengthening Nation to Nation Relationships (2021).

* After its review, EPA determined that the "expedited" agency consultation with Tribes in 2020 did not provide sufficient time for meaningful consultation or coordination with Oklahoma on program implementation in covered areas. Therefore, EPA is proposing to redo the decision-making process in 2022, improve it, and reconsider the decision.

The Pawnee Nation supports EPA's proposal. President Echo-Hawk stated, "The proposal restores integrity in the Federal decision-making process." He called on Tribal Nations and the State of Oklahoma to support the process:

"Let's work together to achieve a balanced decision that fosters inter-governmental cooperation. If all sovereigns participate in good will, improved Tribal/State relations will benefit all citizens."

Councilwoman Dawna Hare stated, "The path forward charted by EPA enables all jurisdictions to work together in harmony and mutual respect for the greater good." Many Native Nations presented concerns to EPA, including the Pawnee Nation. Efforts to protect Pawnee sovereignty were led by President Echo-Hawk, Councilwoman Hare, the Intergovernmental Affairs Committee, DNRS Director Monty Matlock, and a legal team consisting of Attorney General Smith, Michael Freeman, Rumela Roy, and Lael EchoHawk, with Business Council support.



Pawnee Nation of Oklahoma

P. O. Box 470 * Pawnee, OK 74058 * Phone: (918) 762-3621 * Fax: (918) 762-6446

By way of background, EPA administers environmental programs established by Federal laws. Many of EPA's programs may be run by States and eligible Tribal Nations upon EPA approval, but EPA retains oversight authority on implementation activities. Normally, Tribal Nations can operate EPA programs in their jurisdictions; and where they opt not to, EPA administers those programs in "Indian Country." However, the 2005 SAFETEA Rider lets Oklahoma administer EPA-approved programs in Indian Country under certain circumstances.

In 2020, shortly after the McGirt decision was handed down, Oklahoma requested that EPA grant it authority under the SAFETEA Rider to administer twenty-five EPA-approved environmental programs in certain parts of "Indian Country" throughout the State. The request stated that Oklahoma sought to restore its pre-McGirt regulatory authority. EPA quickly approved the request in a flawed decision-making process fraught with inadequate consultation that ignored Tribal concerns. Tribes opposed the request and expressed concerns over adverse impacts on their sovereignty. After the hasty SAFETEA decision was rendered, Tribes continued to express concerns, Tribal leaders requested an opportunity to discuss their concerns with EPA, and a Petition was filed in federal court challenging the SAFETEA decision, Pawnee Nation v. Regan, No. 20-9635 (10th Cir.).

In the Summer of 2021, incoming EPA Administrator Regan discussed Tribal concerns with sixteen Tribal Nations, including the Five Civilized Tribes, Pawnee Nation, and ten other Tribal Nations from around the State. They asked EPA to withdraw the SAFETEA decision and initiate meaningful government-to-government consultation to identify the decision's adverse impacts on sovereignty interests and mitigation measures for any new SAFETEA decision that might be rendered. EPA began a decision review that included consultations in July through October. The review produced a better understanding of adverse impacts on Tribal Nations and ways to mitigate them.

Going forward in 2022, EPA's proposal lays out a sound process for withdrawing and reconsidering the decision. The proposal strives for a more balanced decision-making process that addresses Tribal concerns; and that process may result in a new decision that strengthens Tribal/State relations in ways that will benefit all Oklahomans.

For further information, contact President Echo-Hawk; wechohawk@pawneenation.org at the Pawnee Nation.