

Chief's Address To The Nation

From Page 1

City officials met with the four tribal nations, Sac & Fox Nation, Citizen Potawatomi Nation, Absentee Shawnee Tribe, and Kickapoo Tribe of Oklahoma, on March 24th at the Heritage Center of the CPN and stated that they were not asking the tribal casinos to collect the sales tax. The question was asked why all four tribal nations were sent this letter and the answer was they wanted to treat all tribes equally!??

The key issue is the claim that the Citizen Potawatomi Nation's Firelake Discount Foods has collected sales tax and that they want 3% of this sales tax paid to the city of Shawnee even though the land where the grocery store is located is considered "trust" property.

The law firms representing the four tribal nations believe that there is another motive behind this issue, possibly supported by the State of Oklahoma which is attacking the sovereignty of all tribes in Oklahoma, depending on the outcome of this battle. Tribal Nations across the United States are closely watching this attack on our sovereignty.

I include the body of Mayor Wes Mainord's letter of response to the four tribal nations:

"Dear Tribal Leaders:

"In response to Chairman Barrett's request for the City's explanation for court rulings providing the authority for the City to force a federally recognized Tribal Na-

tion to collect sales taxes, we provide the following preliminary authorities setting forth (1) the duty to collect. Account, and pay, and (2) the City's ability to enforce the duty.

"The Tribes have a duty under federal law to collect, account for, and pay City sales tax:

"Federal common law permits states and cities to "require that Indian retailers on reservations collect and remit sales tax earned on sales made to non-Indians or to Indians who are not members of the tribe governing the reservation. "Kaul v. Stephan, 83 F.3d 1 208, 121 3 (10th Cir. 1996). The United States Supreme Court established this rule in a number of cases, including one involving the Citizen Potawatomi Nation. Moe v. Salish & Kootenai Tribes, 425 U.S. 463 (1976), Washington v. Confederated Tribes of Colville Indian Reservation. 447 U.S. 134. 138 (1980). Oklahoma Tax Commission v. Citizen Band Potawatomi Indian Tribe of Oklahoma. 498 U.S. 505, 507 (1991). Department of Taxation & Finance of New York v. Milhelm Attea & Brothers. Inc. 512 U.S. 61 (1994), and Wagnon v. Prairie Band Potawatomi Nation. 546 U.S. 95, 114 (2005). The Court has rejected the argument that tribal sovereign immunity precludes collecting and remitting taxes, stating, "[a]lthough the doctrine of tribal sovereign immunity applies to the Potawatomi's, that doctrine does not excuse a tribe from all obligations to assist in the collection of validly imposed state sales taxes: Citizen Band Potawatomi, 498 U.S. at 512; see also Colville. 447 U.S. at 156 (rejecting the argument that state taxation "infringe (d) the right of reservation Indians to 'make their own laws and be ruled by them' merely because the result of imposing its taxes will be to deprive the Tribes of revenues which they currently are receiving.").

"The Supreme Court has confirmed that the burden imposed on tribal businesses "to aid in collecting and enforcing" a sales tax does not violate tribal sovereignty. Colville. 447 U.S. at 159. The permissible burdens include "keep[ing] detailed records of both taxable and nontaxable transactions ... [and] record[ing] the number and dollar volume of taxable sales to

nonmembers of the Tribe." Id. The Tenth Circuit recognizes that federal law does not prohibit recording burdens on tribal entities. See Muscogee (Creek) Nation v. Pruitt, 669 F.3d 1159, 1176 (10th Cir. 2012) (upholding state taxation. and stating that the state tax law would not violate tribal sovereignty even if tribal retailers were required to "purchase and affix the tax and tax-free stamps, maintain detailed records, and precollect some taxes..).

"The City can enforce the Tribes' duty, if we cannot reach agreement:

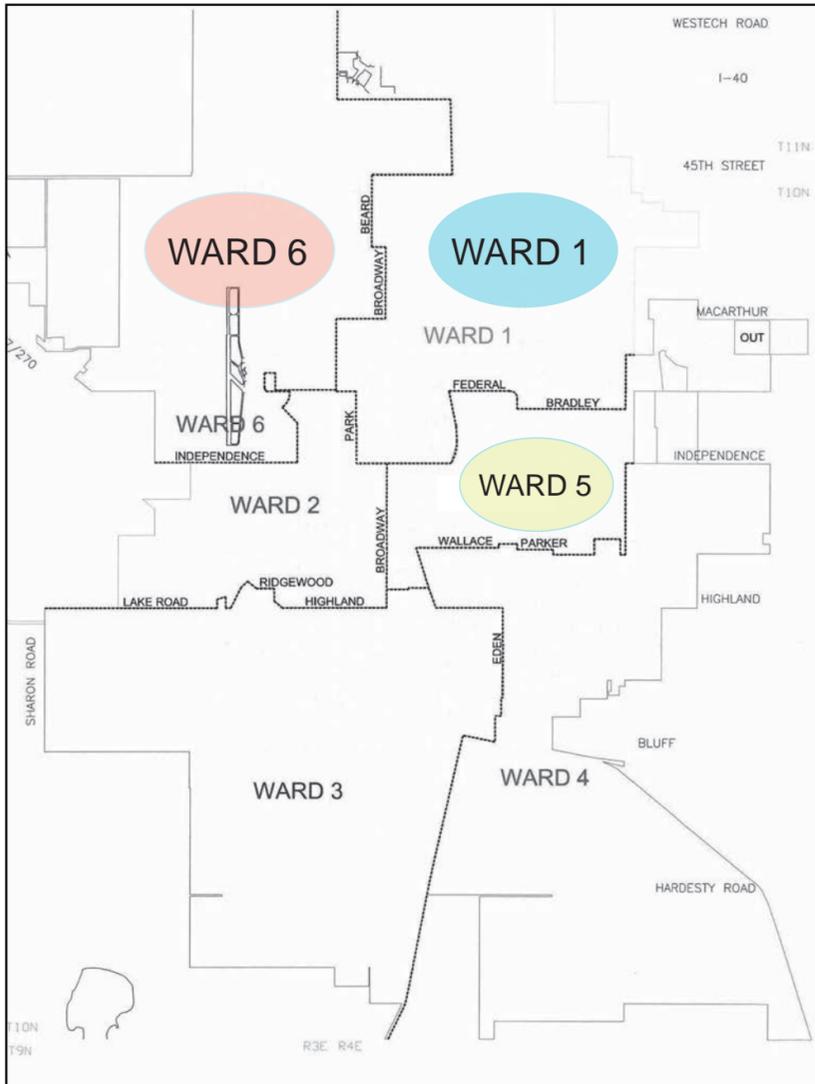
"While Tribal sovereign immunity may prevent a lawsuit against a tribe to collect back taxes, a suit against tribal officials for "prospective" relief, to require the Tribe to pay future taxes is permissible under Supreme Court law that allows an injunction to prevent a future violation of federal law. See Citizen Band Potawatomi, 498 U.S. at 514 (citing Exparte Young, 209 U.S. 123 (1908)); see also Crowe & Dunlevy. P.C. v. Stidham, 640 F.3d 1140, 1154 (10th Cir. 2011) ("Exparte Young as an exception not just to state sovereign immunity but also to tribal sovereign immunity.").

"Sovereign immunity does not excuse compliance with an injunctive order of the court issued against government officials. See Cooper v. Aaron, 358 U.S. 1, 4 (1958) (state of Arkansas). A federal court may fashion a remedy to enforce a duty required under federal law. Including requiring submission to audits. When injunctive relief has been awarded. See Cabell v. Norton. 392 F.3d 461.474 (D.C. Cir. 2004) (United States Department of the Interior); Del. Valley Citizens' Council for Clean Air v. Com. of Pa., 674 F.2d 976. 985 (3d Cir. 1982) (Commonwealth of Delaware); United States v. Gov't of Guam, CIV. 02-00022, 2008 WL 4682183 (D. Guam Oct. 22, 2008) (Government of Guam).

"We hope this information gives the Tribal Nations a better opportunity to evaluate the City's position."

I once again thank you for allowing me to represent you as Chief of our Sac and Fox Nation. Remember to register to vote and exercise your right by voting in all elections.

Sincerely,
George Thurman, Principal Chief





SAC AND FOX NATION

920883 S Hwy. 99 Building A • Stroud, Oklahoma 74079 • (918) 968-1141 • FAX (918) 968-1142

NAME CHANGE AND/OR CHANGE OF ADDRESS FORM

NAME

PRINT CURRENT FULL NAME (First, Middle & Last)

SIGNATURE

PLEASE LIST PREVIOUS NAME (PRINT)

ROLL NUMBER

DATE

DATE OF BIRTH

DATE OF BIRTH

MAILING ADDRESS

<u>OLD</u>	<u>NEW</u>
_____ ADDRESS	_____ ADDRESS
_____ CITY STATE ZIP	_____ CITY STATE ZIP

STREET ADDRESS (IF DIFFERENT THAN MAILING ADDRESS)

<u>OLD</u>	<u>NEW</u>
_____ STREET ADDRESS	_____ STREET ADDRESS
_____ CITY STATE ZIP	_____ CITY STATE ZIP

CHANGE OF ADDRESS FOR MINORS REQUIRE A W-9 FORM BE COMPLETED FOR THE BANK. PLEASE REQUEST A FORM FOR EACH CHILD FROM THE ENROLLMENT DEPARTMENT, 918-968-3526 ext. 1040 or 1041.

TO BE COMPLETED BY THE ENROLLMENT DEPARTMENT

_____ Date Electronic File Was Updated	_____ Date Sac and Fox News Was Notified	_____ Staff Initials
---	---	-------------------------

UPCOMING ELDERS EVENTS

April 4 - Indain Taco Sale
Shawnee Multi-Purpose

April 9 - Elders Advisory meeting,
Shawnee 10:00 a.m.

April 18 - Elders Easter Party
Sac and Fox Elders/Veterans Building
Hwy 99 Stroud
North of JB's Smoke Shop

URGENT NOTICE TO VETERANS

Men and Women
especially WW1,
WW2 and Korean

The Sac and Fox
National Public Library
is asking for your
DD 214's for their records
and

**Memorial Monument
Purposes**

See Cathrine Walker
1-918-968-0705