

June 12, 1963

*Int.
Indians*

Hon. Joseph E. Mountford
State Representative
Box 853
Miami, Oklahoma

Dear Mr. Mountford:

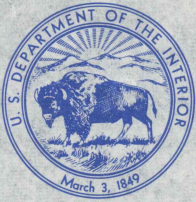
This has further reference to your letter regarding settlement of the estate of Matilda Stand Beaver, deceased Peoria Indian.

According to the enclosed letter from the Solicitor, Department of the Interior, refunds of federal income taxes in this case are restricted Indian property, and that the Department has exclusive jurisdiction. Therefore, the Department's field offices have been instructed to proceed with the probate of the restricted estate, including the tax refunds.

With best regards and good wishes, I am

Sincerely yours,

Enclosure



UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
WASHINGTON 25, D.C.

E-63-1063.9a

JUN 10 1963

Honorable A. S. Mike Monroney
United States Senate
Washington 25, D. C.

Dear Senator Monroney:

On May 29, 1963 you referred to us a letter from Joseph E. Mountford of Miami, Oklahoma concerning the disposition of refunds of federal income taxes included in the estate of Matilda Stand Beaver, deceased Peoria Indian.

This Office has recently advised our field officials that these refunds are restricted Indian property and must, therefore, be probated by the Department's Examiner of Inheritance under the exclusive jurisdiction granted the Department by the Act of June 25, 1910, 36 Stat. 855, as amended. Accordingly, the Department's field offices have been instructed to proceed with the probate of the restricted estate of Matilda Stand Beaver, including the tax refunds.

Mr. Mountford's letter is enclosed.

Sincerely yours,

/S/ FRANK J. BARRY,
Solicitor

Enclosure

May 29, 1968

Hon. Joseph E. Mountford
State Representative
Box 853
Miami, Oklahoma

Dear Mr. Mountford:

I wish to acknowledge receipt of your letter regarding the difficulty you are having with the Muskogee Area Indian Office in connection with the estate of Matilda Stand Beaver, who died on July 30, 1959.

The matter is being called to the attention of the Solicitor, Department of the Interior. He will, of course, have to get in touch with the Muskogee Area Indian Office, and perhaps that will provide the necessary impetus to get this off dead center.

Just as soon as I have something to report, I will let you know.

With best regards and good wishes, I am

Sincerely yours,

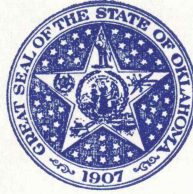
REPRESENTATIVE

JOSEPH E. MOUNTFORD

FIRST ASSISTANT FLOOR LEADER

COMMITTEES:

APPROPRIATIONS
INSURANCE
JUDICIARY
WAYS AND MEANS
JURISPRUDENCE



HOUSE OF REPRESENTATIVES
STATE CAPITOL
OKLAHOMA CITY, OKLAHOMA

ATTORNEY AT LAW
202 SAVINGS AND LOAN BUILDING
P. O. Box 853
MIAMI, OKLAHOMA

HOUSE OF REPRESENTATIVES
STATE OF OKLAHOMA

MAY 31 1963

May 27, 1963

SOLICITOR

Honorable A. S. Mike Monroney
United States Senator
Washington 25, D.C.

Re: Estate of Matilda Stand Beaver
Dec., No. 4950, County Court,
Ottawa County, Oklahoma

Dear Senator Monroney:

I am the Guardian Ad Litem of the above estate and my law associate, Mr. Bryce Ballinger, Miami, is attorney for the Administratrix for the above estate. We have been having a great deal of difficulty with Mr. C. C. Marrs, of the Bureau of Indian Affairs at Muskogee, Oklahoma with the above estate. He appears to be arbitrary in the withholding of any decision in regard to the disposition of funds which he has in his hands which belong to the above estate. We will appreciate it very much if you would contact both the Bureau of Indian Affairs and the solicitors office in helping us to acquire an early and just decision by Mr. Marrs and the Bureau of Indian Affairs.

In further explanation of the matter involved herein, I am enclosing a copy of letter dated April 12, 1963 to Mr. C. C. Marrs, Assistant Area Director of Muskogee Area Office. Mr. Marrs did not answer this letter but on April 26th Mr. Bryce Ballinger and I called Mr. Marrs regarding the problems involved herein. At that time Mr. Marrs informed us that he did not know what action would be taken, that he had requested legal opinions from several attorneys and had received different opinions from each of the said attorneys.

I would certainly appreciate very much if your office could in any manner persuade the federal authorities to reach an early decision on the problems involved herein, and any decision should be based upon the law and the facts as set forth below.

There is in the hands of the Area Director of the Bureau of Indian Affairs at Muskogee a sum of money which has been paid into that office by the Internal Revenue Department as income tax refunds from Alex Beaver and/or Matilda Beaver for years dating back to 1935, together with interest on these tax refunds. The refunds are based upon the fact that the taxes were collected on income from restricted

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properties, and have been by the District Court of the Northern District of Oklahoma, affirmed by the Circuit Court, held to be non-taxable incomes and the Internal Revenue Service has thus made these refunds. The amount held in the account of Alex Beaver is \$136,345.50 tax refunds and \$159,782.60 interest. In the Matilda Beaver account the tax which has been refunded is \$3,222.95 and interest \$3,081.10.

Alex Beaver died May 19, 1956 leaving a Departmental Will which was approved as to restricted property by the Examiner of Inheritance for the government, and as to unrestricted property was probated through the County Court of Ottawa County, Oklahoma. By the terms of this will, Alex Beaver made a bequest of \$1,000.00 cash to his daughter and left the remainder of his estate to his widow, Matilda Stand Beaver. All restricted property which Alex Beaver owned passed on to Matilda Stand Beaver still under restriction. On June 30, 1959 Matilda Stand Beaver died leaving a Departmental Will by which she left a special bequest of \$500.00 to a brother and all of the rest and residue of her estate she left to her daughter, Ida Louise Killough, for her use during her lifetime, with remainder upon the death of Ida Louise Killough to her grandchildren, the children of Ida Louise Killough. Matilda Stand Beaver was a member of the Peoria Tribe of Indians. On August 2, 1959, within 3 days after the death of Matilda Stand Beaver, the Federal Government withdrew its trust relationship to the affairs of the Peoria Tribe of Indians. Section 3 (a) of the Public Law 921, 84th Congress.) Thereafter and on September 14, 1959 the office of the Bureau of Indian Affairs at Muskogee notified the local Indian Agent at Miami that -

"Since Matilda Stand Beaver died on July 30, 1959, too late for the Bureau's Examiner of Inheritance to take action, probate of her estate is now within the jurisdiction of the County Court. All Federal supervision over the properties of this individual has been terminated and the Bureau of Indian Affairs is without authority to take any action pertaining to the probate of her estate. The next of kin should secure the services of an attorney and have the estate probated pursuant to the State law, the same as any non-Indian citizen."

This letter was issued by C. C. Marrs, Assistant Area Director of the Muskogee office. Thereafter and on April 18, 1960, the Area Director of Muskogee, Mr. Paul Fickinger, executed an instrument removing all restrictions upon Matilda Stand Beaver and conveyed to Matilda Stand Beaver all real estate held in restriction by the government. The government also paid over to the estate of Matilda Stand Beaver all money which they then had or held as restricted funds.

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Based upon this action by the Bureau of Indian Affairs, Ida Louise Killough commenced probate proceedings on her mother's estate in the County Court of Ottawa County, Oklahoma, and was by the Court appointed Administratrix With Will Annexed and qualified by giving surety bond. Under contract of employment entered into with Ida Louise Killough, Mr. Bryce Ballinger, Attorney at Law, Miami, Oklahoma, represented her as her attorney in this probate procedure. Under order of the court I was appointed and I am still acting as Guardian Ad Litem of the minor children who are the remaindermen of the life estate held by Ida Louise Killough. This estate has had to borrow money to pay the debts of Matilda Stand Beaver and the estate is still pending as it has not had sufficient money to repay this loan.

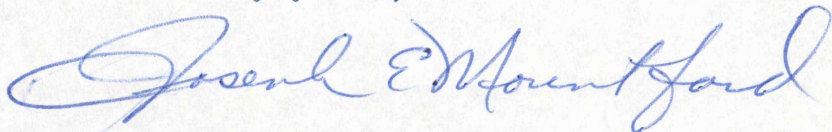
On October 1, 1959 Ida Louise Killough entered into a contract with Attorneys J. Eben Hart and Byron V. Boone, to represent her in the Federal Court in these tax cases. Since some of these contracts were entered into by restricted Indians they bore the approval of the Area Director of the Bureau of Indian Affairs. Ida Louise Killough, not being a restricted Indian, her contract was not required to be approved by the Bureau of Indian Affairs. This money which has been paid into the office of the Area Director should have been paid in the first instance by the Internal Revenue to Ida Louise Killough as Administratrix With Will Annexed of the Estate of Matilda Stand Beaver, deceased. The Bureau of Indian Affairs has suggested that income tax on the interest be withheld under a declaration of estimated income for 1963, but under the Internal Revenue Code, Section 6015-17, an estate is not required to file a declaration of estimated income, nor to pay tax in advance on estimated income. Upon payment of this fund to the estate, Ida Louise Killough will be required by the Court to give surety bond based upon the cash value of the fund and, of course, at the end of the taxable year she will have to file her tax return and pay such income tax as is determined to be due upon the interest refund. In the meantime the estate can earn a substantial sum of money from this fund by investment in securities and bonds and savings accounts under order of the Court, and, of course, the estate is entitled to such income as it can earn on the fund prior to the payment of taxes thereon.

This is simply a case of this fund being misadventently paid into the office of the Area Director, whereas it should have been paid directly to Ida Louise Killough as Administratrix With Will Annexed of the Estate of Matilda Stand Beaver, deceased. It is important to this estate that the Area Director release this fund to the Administratrix and check in payment of the funds should be delivered to the office of Mr. Bryce Ballinger as Attorney for Ida Louise Killough, Administratrix.

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Mr. Ballinger has had a number of telephone conversations with Mr. C. C. Marrs of the Muskogee office and has corresponded with him and he appears to be adamant and unable to agree that this fund should be paid to the Administratrix, although he is unable to show any reason or consideration of justification for retaining the fund by the Bureau of Indian Affairs. The matter should be resolved and the fund paid to the Administratrix immediately on the basis of the facts as herein stated.

Sincerely yours,

A handwritten signature in blue ink, reading "Joseph E. Mountford". The signature is written in a cursive style with a large, stylized "J" and "M".

Joseph E. Mountford

JEM:mm
Encl.

April 12, 1963

Mr. C. C. Marrs, Asst. Area Director
United States Department of the Interior
Bureau of Indian Affairs
Muskogee Area Office
Federal Building
Muskogee, Oklahoma

Re: Estate of Matilda Stand Beaver,
Dec., No. 4950, County Court,
Ottawa County, Oklahoma

Dear Mr. Marrs:

I represent Ida Louise Killough, Administratrix With Will Annexed of the Estate of Matilda Stand Beaver, deceased. This estate is pending in the County Court of Ottawa County, Oklahoma on the probate of the Last Will and Testament of Matilda Stand Beaver. Matilda Stand Beaver was the widow of Alex L. Beaver, deceased, who at the time of his death was a restricted Quapaw Indian, and by his Will left all of his estate to Matilda Stand Beaver, except a special bequest of \$1,000.00 to his daughter. Matilda Stand Beaver, by her Will, left a \$500.00 bequest to her brother, Wilson Stand, and all of the rest and residue of her estate, real, personal and mixed, is left to her daughter, Ida Louise Killough, for her lifetime use, and upon her death such property to go to her grandchildren, who are the children of Ida Louise Killough. The estate had to borrow in excess of \$8,000.00 to pay creditors claims, and accrued expenses of administration, and to mortgage real estate for such purpose and the estate will not be closed until this indebtedness is paid, and there has not as yet been sufficient funds or income to pay such indebtedness.

On September 3, 1959 Ida Louise Killough was sued by the United States Government in Civil Action No. 4773 in the United States District Court for the Northern District of Oklahoma, in an action authorized by the Commissioner of Internal Revenue to recover tax refunds made to the Alex Beaver Estate and to Matilda Beaver, for the years 1954 and 1955. I notified the United States Attorney of the facts concerning the estates of Alex Beaver and Matilda Beaver and on September 15, 1959 the United States District Attorney filed an amendment to the Complaint, wherein he designates as defendant, Ida Louise Killough, Administratrix With Will Annexed of the Estate of Matilda Beaver, deceased. In his Complaint, which as I have stated before was brought on behalf of and on authority of the Commissioner of Internal Revenue, the United

Page 2, Mr. C. C. Marrs, Asst. Area Director.

States District Attorney alleges that Alex Beaver died May 19, 1956 and that the entire estate of Alex Beaver has since been distributed, prior to the commencement of the suit, to Matilda Beaver prior to her death and that the estate of Alex Beaver is now a part of the estate of Matilda Beaver, deceased.

This suit, as you know, was one of a number of suits filed by the United States Government to recover taxes refunded to restricted Quapaw Indians. That many of these Indians, if not all, and including Ida Louise Killough on behalf of the Alex Beaver and Matilda Beaver estates, employed the law firm of Boone and Ellison of Tulsa, Oklahoma to defend the action, which was successfully defended. Either by agreement had between the attorneys and the Internal Revenue or the actions for refund filed by said firm of attorneys, or by voluntary action of the Internal Revenue, I am not informed by which action, the Internal Revenue Service has paid into your office sums of money comprising tax refunds for income taxes collected on royalty and/or other income from restricted lands during a number of past years, and a separate fund comprising interest on such refunds. Mr. T. J. Perry of the District Indian Office in Miami has furnished me a statement of the tax refunds to the credit of Alex Beaver for the years 1935-6-7-8-9-1940-1-3-4-5-6-7-8-9 in the amount of \$136,345.50 and interest for said years in the amount of \$159,782.60. He has also stated there has been paid in a tax refund to the account of Matilda Stand Beaver for the year 1946 of \$3,222.95 and interest of \$3,081.10.

Matilda Stand Beaver died July 30, 1959. On August 19, 1959 Petition for probate of her Will was filed in the County Court of Ottawa County, Oklahoma by her daughter on the basis that the unrestricted estate would be probated in the County Court and the restricted estate would be probated by the Department of the Interior through its Examiner of Inheritance. Thereafter, I was informed verbally by Mr. E. E. Lamb, who was the Supervisory Field Representative of the Area Office in Miami, that the United States would not undertake a determination of heirship on the restricted property for the reason that effective August 2, 1959 the Federal Government withdrew federal supervision from the Peoria Tribe of Indians, of which Matilda Beaver was a member. This was substantiated by your letter of September 14, 1959 to Mr. Lamb, wherein you state that Matilda Beaver died too late for the Bureau's Examiner of Inheritance to take action, and that probate of her estate is now under the jurisdiction of the County Courts. Therefore, on August 31, 1959, after being so advised by Mr. Lamb I filed an Amended Petition for the probate of the Will on the basis that all of the estate of Alex Beaver was now subject to jurisdiction of the County Court of Ottawa County, Oklahoma.


Page 3, Mr. C. C. Marrs, Asst. Area Director, 4-12-63.

Mr. Perry has also handed me photostat copies of letters from Mr. Earl R. Wiseman, District Director of Internal Revenue, Oklahoma City, addressed to Alex L. Beaver and Matilda Beaver, respectively, requesting the filing of Estate Income Tax Declaration for 1963. Of course, these persons being deceased, such declaration cannot be filed and I am informed by Lee F. Adkison, C.P.A., who is our Tax Consultant, that under Section 6015-H of the Internal Revenue Code, that declarations of estimated income taxes are not required to be filed by estates, trusts, etc. He, therefore, suggests that the tax liability be determined and paid by the Administratrix With Will Annexed of the Estate of Matilda Stand Beaver, deceased.

In talking to you by phone earlier this week, I understood there was some question to whom this fund to the credit of the Alex Beaver and Matilda Beaver estates should be paid. There is no question, on the basis of the above facts, but what the fund must be paid to Ida Louise Killough, Administratrix With Will Annexed of the Matilda Stand Beaver Estate, adequate additional bond furnished by her based upon the value of the fund and taxes determined and paid by the estate. Attorney fees and expenses to Boone and Ellison in accordance with their contract, of course, may be deducted and paid to them.

I am enclosing an extra copy of this Brief and am also mailing a copy to Mr. Wiseman. I shall appreciate your reply as soon as you have given the matter your further consideration.

Yours very truly,


Bryce Ballinger

BB:jh
Encl.

cc_ Mr. Earl R. Wiseman, Dist. Dir.
Internal Revenue Dept.
Oklahoma City, Okla.