

Executive Committee  
Catawba Indian Nation  
P.O. Box 268  
Rock Hill, SC 29731

January 11, 2004  
Senator Lindsey Graham  
United States Senate  
Washington, D.C.

Dear Senator Graham,

We are writing to you as the duly elected Executive Committee of the Catawba Nation. We wish to inform you of and ask for your assistance in rectifying, violations of the Catawba Indian Land Claims Settlement Act by the holdover Catawba Indian Executive Committee. Because the Settlement Act reaffirms the authority of the Constitution of the Catawba Indian Nation, we would also like to bring to your attention several violations of the Catawba Constitution as well as violations of individual American civil rights by the Catawba Nation's non-compliant Executive Committee.

For over ten years the non-compliant Executive Committee has continuously violated the 1993 Settlement Act and the Tribe's constitution. This letter attempts to provide a short, easily verified list of clear violations of both. We are happy to provide any documentation requested.

1. Catawba Indian Land Claims Settlement Act of 1993 (Public Law 103-116)

- The Settlement Act specifies in great detail under 25 USC 941i that “*Any outside investment management firm engaged by the Tribe shall account for the Tribe and separately to the Secretary [of the Interior] at periodic intervals, at least quarterly.*” It requires that said accounting shall identify the assets, report income earned, indicate dates and amounts of distribution. and record any invasions or repayments of principal. The Tribe has never received such an accounting for Tribal assets, nor have they ever authorized the EC to transfer funds from the administration of the Secretary (as established by the Settlement Act) to any investment firm.
- The Settlement Act specifies under 25 USC 941f that “*The Tribe shall adopt a new constitution within 24 months after the effective date of this Act.*” (Oct 27, 1993). Despite that specific deadline. a constitution was not presented to the Tribe for adoption for almost seven years - until May 2000. It is now more than ten years after the effective date of the Settlement Act, and no new constitution has been adopted.

- The Settlement Act states under 25 USC 941f “*Until the Tribe has adopted a constitution, the existing tribal constitution shall remain in effect and the Executive Committee is recognized as the provisional and transitional governing body of the Tribe.*” The non-compliant Executive Committee has interpreted this passage to mean that they as individuals cannot be replaced until a new constitution is adopted. However, the Department of the Interior and the U.S. Justice Department have interpreted it to mean that the Executive Committee, defined in the Settlement Act as “*the body of the Tribe composed of the Tribe's executive officers as selected by the tribe in accordance with its constitution*”, can be replaced at any time.

## 2. Catawba Indian Nation Constitution of 1975 (Current Catawba Constitution)

- The governing document of the Catawba Indian Nation since 1975 has been the Tribe's 5-page constitution. That constitution specifies that “*The governing body of the Catawba Nation of South Carolina shall be the General Council which shall be composed of all qualified voters of the Catawba Nation*” and “*The General Council shall meet on the first Saturday of January and the first Saturday of July of each year.*” By his own admission in his 2001 deposition, Chief Gilbert Blue has effectively eliminated the voice of the General Council as the Tribe's governing body for the past five years by refusing to call or to participate in General Council Meetings since in 1998.
- The 1975 constitution states that “*The General Council by secret ballot shall elect from its own members a chief, an assistant chief, a secretary-treasurer, and two Committeemen who shall serve as the Executive Committee of the Nation*” and further, that “*officials shall be chosen at the July meeting of every four years [following the August 30, 1975 adoption of the Catawba Constitution]*”. However, no election has been sanctioned by the non-compliant Executive Committee since the Settlement Act's effective date, depriving the Catawba Nation of constitutionally legitimate leadership since 1995.
- The 1975 constitution states that the “*Secretary-Treasurer of the General Council shall [report] all receipts and expenditures and the amount and the nature of all funds in his possession and custody at each regular meeting of the General Council. An audit of accounts shall be made once a year and at such time as the General Council may require. He shall not pay out or otherwise disperse any funds in his possession or custody except in accordance with a resolution duly passed by the General Council.*” Since the effective date of the Settlement Act, no audits or accounting have been presented to the General Council, and no resolutions have been passed regarding any dispersal of the funds. The Catawba Tribe has had no accounting for the \$50 million settlement.

### 3. Individual Civil Rights

- Without due process and without authorization from the Tribe or the Tribe's constitution, the non-compliant Executive Committee removed eight tribal members from tribal rolls. Prior to their removal, seven of those tribal members were warned in writing that unless they ceased to question the policies of the Executive Committee, they would lose their membership in the Tribe. Membership is clearly defined in the Tribal Constitution as all persons of Indian blood whose names appear on the 1943 and 1962 roll recognized by the U.S. Dept. of Interior, or their children of Indian blood. Nothing in the tribal constitution allows for removal of a member of Indian blood for any reason.
- The right to assemble guaranteed to all American citizens has been repeatedly denied to Tribal members. Employees of the Tribe have been threatened, in writing, with loss of employment if they attended any political tribal meeting not sanctioned by the non-compliant Executive Committee, and one tribal member was removed from her job for attending such meeting. Tribal employees also were threatened with loss of employment if they voted in the September 7, 2002 election for new Executive Committee members. Tribal members expelled from the Tribe for political activity were threatened with arrest (and subsequently arrested) for attempting to attend constitutionally mandated meetings.

Tribal efforts to rectify these and other violations have been largely ignored or, in some cases, thwarted by the BIA's Eastern Regional Director Franklin Keel. In August of 2002, Keel responded to a query from the non-compliant Executive Committee regarding tribal members' efforts to hold elections for new Executive Committee members. His letter, later retracted, stated that BIA's position was that elections could not be held until a new constitution was adopted; this despite the fact that the U.S. Department of the Interior and the U.S. Justice Department had answered that question 1 1/2 years earlier in a 2000 Amicus Curiae brief requested by 5th District Federal Court Judge Joseph Anderson.

In January 2000, Judge Joseph Anderson had posed the question to the Department of the Interior: "whether the specific individuals in office at the time of the Settlement are intended to remain as the members of the Executive Committee, and thus in control of the provisional government of the Tribe, until a new constitution is adopted, regardless of how long that process may take." The answer provided by the U.S. Department of Interior and the U.S. Department of Justice was "*Nothing in the statute prohibits an election for new members to serve on the Executive Committee under the existing constitution... Therefore, the BIA sees no reason why such an election cannot be held without waiting for the adoption of a new constitution.*"

On the strength of that Department of Interior decision, and in accordance with the Catawba Constitution and the Settlement Act of 1993, Catawba elections were held on September 7, 2002, for new members to serve on the Executive Committee. Since those elections, the BIA has refused to acknowledge the new, duly elected Executive

Committee of the Catawba Nation. The BIA's stated intention is to wait for the outcome of the pending federal court case against the holdover Executive Committee. However, they acknowledge that if the court upholds the 2002 elections, subsequent appeals by the non-compliant Executive Committee will indefinitely postpone recognition of a new Catawba Executive Committee, and by extension may postpone adoption of a new constitution and final implementation of the Catawba Settlement Act.

Since the U.S. Congress had the power in 1993 to implement the Catawba Indian Land Claims Settlement Act, it is our belief that they have the power to enforce the laws of the Settlement Act. A two-year process has already consumed ten years, with no end in sight. Consequently, we request your assistance in rectifying the violations outlined above so that the Settlement Act finally can be implemented, and the tribe can move forward.

We can be reached for further information and documentation at the address above as well as email address [BillHarris@cetlink.net](mailto:BillHarris@cetlink.net) and telephone & fax (803) 684-3125.

Sincerely,

Chief William Harris

Assistant Chief Jack Canty

Secretary-Treasurer Sam Beck

Committee Member Gene Blue

Committee Fred Sanders