



Chairman, Delores Pigsley

CHAIRMAN'S REPORT

During the past several months, the Siletz Tribe has had a flood of court cases emerging from the recall election. With the exception of the single case brought by council members, Bonnie Petersen, JoAnn Miller, Dolly Fisher and myself on August 2, 1998, all other cases have been brought by the former Council Chairman, Pat Duncan and recalled council members, Clifford Case and Denise Peterson.

On September 30, 1998, Pat Duncan filed suits against every member of the present Council, seeking damages of one to five million dollars each for acting illegally as members of the Council.

The purpose of my report to you is to help clarify what these court cases are about and where they now stand.

Before presenting the summary, I would like to comment on two issues you may be wondering about.

The first involves the status of the tribal Chairmanship. From time to time, Pat Duncan refers to herself as Tribal Chairman, although she voluntarily resigned from the Council on August 1st.

Pat Duncan claims she rescinded her resignation, but there is no authority under Siletz law for the rescinding of a resignation.

Pat herself seems at times to understand this. For example, in the late August 1998 issue of Indian Country Today she appropriately referred to herself as "Former Tribal Chairman".

The second issue involves Pat's claims that there is no Siletz Court of Appeals. In a letter to Assistant Secretary of the Interior, Kevin Gover, she alleged that a Siletz Court of Appeals is unconstitutional.

However, the following summary will show that Pat herself has appealed to the appellate court, decision of the Tribal Court that were not favorable to her. Her claims and alleged facts seem to change, depending on the circumstances.

On September 16, 1998, the Court of Appeals issued an opinion which Craig Dorsay says is not technically a "new" action but has a bearing on the other cases. The court said there was a clear conflict of interest by the four council members named in the recall election. They violated the constitution when they voted on matters related to the recall, including a recall

ordinance; that Pat Duncan and the recallers engaged in a deliberate effort to obstruct and prevent the recall election from going forward.

It also upheld the Election Board which went ahead with the recall election once the former Council failed to carry out its constitutional duty. The Court said that the majority on that Council took advantage of its own wrongful conduct to make allegations against the Election Board.

My summary begins with the petition filed by council members Bonnie Petersen, JoAnn Miller, Dolly Fisher and myself on August 2, 1998. We were the remaining members of the Council after four Council members were recalled and Pat Duncan had resigned.

1. Petition for Declaratory Judgment, TC 98-11

When Pat resigned to avoid being voted out as Chairman, she left the Council without a quorum. No business could have been conducted, the Tribe's contracts and grants would have been in jeopardy and critical documents could not have been signed.

We exercised our legislative authority and appointed Jessie Davis to restore a quorum to the Council. (Davis received the next highest number of votes in the last general election and was also the first person on Pat's list to fill a vacancy).

On August 3, 1998, Chief Judge John Roe certified our action. The quorum then elected a Chairman, who in turn, appointed (with Council approval), four persons to fill the remaining seats.

2. Clifford Case v. Siletz Tribal Council, TC 98-12

On August 3, 1998, Clifford Case appealed Judge Roe's decision to prevent the new Council from conducting business and to require the federal government to call a special election.

Although Clifford claimed that Judge Roe and Judge Gladys Bolton were biased against him and should be disqualified, his arguments were rejected and he was advised that he could re-file his petition. Clifford re-filed but it wasn't clear whether he intended his petition to be an "appeal" before the Siletz Court of Appeals or an "amended petition" still before the trial court.

On August 7, 1998, a response was filed by the present Tribal Council refuting Clifford's allegations.

Although Judge Roe at first maintained there was no conflict, he did remove himself from the case and assigned the case to Judge

Gantenbein (a judge with the Northwest Inter-tribal Court System). Roe later rescinded his withdrawal, challenged Case's allegations and filed an affidavit with the Court that he held no bias or prejudice against Clifford.

On the same day that Judge Gantenbein scheduled August 19, 1998 for a hearing on this matter, Clifford filed a "Notice to Disqualify" Judge Gantenbein, alleging that his appointment was unconstitutional.

The disqualification issue was assigned to Judge Emma Dulik, another judge from the Northwest inter-tribal Court System.

In the meantime, Clifford filed a petition claiming he was misled by the Court Clerk and requested that his petition be classified as an appeal and to have his legal rights clarified.

On August 31, 1998, Clifford filed another petition, this time, a "Notice to Disqualify" Judge Dulik on constitutional grounds. This motion was denied by the Judge on September 8, 1998 who pointed out that the affidavit referred to in the disqualification notice was not included.

The court dismissed this case on September 23rd.

3. Pat Duncan vs. Siletz Tribal Council

On August 13, 1998, Pat filed in the Siletz Court of Appeals, an appeal of Judge Roe's August 3rd decision. She raised alleged constitutional issues with regard to Roe's decision, claimed the General Council was denied the right to vote, that the appointment of a fifth member was made without a quorum and Roe's decision was a legislative action.

On September 1, 1998, the Attorney received from Pat, a "Motion to Reverse Declaratory Judgement and Brief in Support of Motion". While the number on her pleading refers to the "Tribal Court", the heading on the document is titled: the "Siletz Court of Appeals". It is assumed she meant the Siletz Court of Appeals (which, you recall, she claims is unconstitutional).

4. Denise Peterson v. Siletz Tribal Council

On August 17, 1998, former council member Denise Peterson filed a Notice of Intent to Appeal Judge Roe's August 3rd judgement which, you remember, ratified the action of the remaining four council members to call a special council meeting and to appoint a fifth member.

5. Pat Duncan v. Chief Judge John Roe

On September 15th, Pat filed a suit, again in the court of appeals, against Judge Roe alleging violations of the Siletz constitution. She contends

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