

# CHAIRMAN'S REPORT

## NOV Settlement Agreement Reached

Regarding the Notice of Violation (NOV) that the National Indian Gaming Commission (NIGC) issued against the Siletz Tribe, I am pleased to announce that we have finally reached a satisfactory settlement. The NOV and the Civil Fine Assessment (CFA) have been dismissed.

It has been a long and difficult ordeal for the Siletz Tribe, which began when the NIGC issued the NOV in June 2000 against the Siletz Tribe, the Tribal Council, and individual council members. The NOV alleged that in 1999, the Siletz Tribe violated the Indian Gaming Regulatory Act, the tribe's compact with the state of Oregon, tribal ordinances, and NIGC regulations. The NOV was followed by the issuance of a proposed \$10,000 CFA against the tribe.

The NOV not only was posted on the NIGC Web site, but NIGC officials made unsubstantiated allegations against the tribe to the press before the tribe had an opportunity to refute the charges.

During settlement negotiations, NIGC representatives acknowledged that their press statements accusing Siletz Tribal members of receiving personal loans and gifts were, in fact, about other tribes and not Siletz. They didn't, however, see a need to retract those statements.

By taking the actions that it did, NIGC violated its own stated policy of consulting with tribes before issuing NOV's or CFAs. During settlement negotiations, the NIGC agreed to follow its established consultation policies in any future interaction with the Siletz Tribe.

Because the dispute dragged on for months before a settlement was reached, some people, including tribal members, urged the Tribal Council to admit we were wrong, pay the \$10,000 fine, and get this problem over with. I am proud of the fact that our Tribal Council stood firm throughout this ordeal. It would have been irresponsible for us as tribal government officials not to challenge NIGC's unfounded allegations.

Convinced of the rightness of our position and unable to convince the NIGC, we appealed the case to the



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Department of the Interior's Office of Hearings and Appeals. The case didn't get to the hearing stage, however, because both parties agreed to make an effort to negotiate a settlement. After extensive negotiations, a settlement was agreed upon and signed by both parties in early May.

While the NIGC had been unable to provide any evidence to support its allegations, the Tribal Council provided NIGC with abundant evidence to prove that neither the Tribal Council nor individual council members violated any law or regulation governing the use of comps. The administrative judge assigned to hear the appeal dismissed the NOV and CFA and also was a signatory to the Settlement Agreement. The \$10,000 civil fine was dropped because the NIGC had no evidence to support it.

The Siletz Tribal Council did agree to clarify, refine, and formalize the tribe's comping policies and procedures – refinements we would have made without the NOV. Ever since the Siletz Tribe initiated gaming as a tribal enterprise, our gaming policies and procedures have undergone continuous internal review and refinement. Our comping policies and procedures also would have undergone the same scrutiny and refinement without NIGC's intervention. We regret that NIGC thought it was necessary to resort to issuing the NOV and CFA, actions that were drastic and totally unnecessary.

Throughout this long controversy, the Tribal Council never acknowledged that NIGC had authority over Class III gaming, an important issue left to be

addressed at another time by tribes or the National Indian Gaming Association.

The Settlement Agreement resolves all outstanding issues and the parties agreed not to take any further action on the dispute. The Settlement Agreement constitutes full and final settlement of the NOV and CFA.

It was, as I stated earlier, a long and difficult ordeal. We're proud, however, of the fact that we didn't give in, as some people had suggested. That would have been an easy route for us to take, but we would have been derelict in fulfilling our obligations as a Tribal Council. We're satisfied with the results of the Settlement Agreement. Finally, the NOV and CFA are now behind us.

## BIA FY2003 Budget Formulation

In the April issue of Siletz News, I reported on the Bureau of Indian Affairs FY2002 budget and preliminary issues involving the FY2003 budget formulation.

During the week of May 9-10, a follow-up national BIA budget meeting was held in Washington, D.C., with all regional directors, budget officers, and three member tribes from each of the 10 regions in attendance. I, together with Ron Allen of the Jamestown Band of Clallam and Chairperson Colleen Cawston of the Colville Tribe, presented Northwest regional issues.

We testified that the government needs to live up to its commitment on education, tribal jurisdiction, and law enforcement, to name some of the priorities, and that they be fully funded and the contract support costs be fully funded. We will have follow-up meetings and are committed to lobbying our positions.

## McCaleb Nominated as Assistant Secretary of Indian Affairs

Neal McCaleb, a member of the Chickasaw Nation and Oklahoma Secretary of Transportation, was nominated by President Bush to serve as assistant secretary of Indian Affairs. Recently appointed Secretary of the Interior Gale Norton, under whom McCaleb will serve, said "McCaleb will

bring a unique blend of skills, experience, and background that will serve him well as assistant secretary for Indian Affairs ... his compassion for Indian issues, decisive management skills, and ability to facilitate dialogue will help to improve this program and the relationship of the department with Indian tribes around the country."

Although most of his background has been in Oklahoma politics and administration, McCaleb has served on bodies dealing with national Indian issues. In the Nixon administration, McCaleb was appointed to the National Council on Indian Opportunity. A decade later, President Reagan appointed him to the Indian Reservation Economies Commission, although some tribal leaders have questioned the position of the commission on issues such as tribal sovereignty.

But that was then. In his recent letter to Secretary Norton dated March 9, 2001, McCaleb stated, among other things, that, "The responsibilities of the assistant secretary must be compatible with the BIA mission 'to preserve, protect, and enhance the tribal and individual Indian estate held in trust by the U.S. ... for the benefit of Native Americans ... to enhance and advance the circumstances and opportunities of Native American people through government-to-government interaction and development of federally recognized tribes.'" His letter also states that "Tribal self-governance and economic self-sufficiency are compatible goals and should be emphasized by the Office of the Assistant Secretary."

His concluding comments regarding the funding of Indian programs, however, are troubling. He states, "Currently, a strong emphasis is being placed on the need for additional funding from Congress for the implementation of self-determination policy and programs. Additional program funding may be inappropriate until the efficiency of the current system for the delivery of services is evaluated."

Let's hope that he soon will see the need for adequate funding of Indian programs to meet the pressing needs of Indian tribes. There are many tribes that can't wait for another study to evaluate "... the efficiency of the current system for delivery of services."