

CHAIRMAN'S REPORT

2007 has begun with enormous challenges for the Bush administration and the newly organized U.S. Congress. We are still stuck in the Iraq quagmire with little consensus as to what to do about it. Iraq has already cost about a half trillion U.S. dollars and is costing a billion more every month, not to mention the toll it's taking in U.S. and Iraqi lives.

Meanwhile, vital federal programs affecting Indian tribes are left with no congressional action. It's not only because of the billions siphoned off to pay for the catastrophes that have hit our nation but other national priorities and, in the case of programs like Indian health, unresolved issues beyond funding.

Indian Health Care Improvement Act Re-authorization

The National Indian Health Board (NIHB), NCAI, and individual Indian tribes have worked hard for months to get the Indian Health Care Improvement Act (IHCIA) re-authorization (S1057) off the ground.

I testified on behalf of the Siletz Tribe in support of S1057 as well as for other federal programs. After a long and determined effort, it seems we are back to ground zero.

The administration has not helped to move the legislation forward. The Republican Steering Committee (RSC) has had specific objections to S1057, including such issues as definitions in the current law and questions as to why Indian Medicaid patients should be exempt from co-payments.

In fact, RSC even questioned why all IHS beneficiaries shouldn't be required to make co-payments, not only Medicaid patients.

The National Steering Committee (NSC) of NIHB, in its meetings with congressional and administration representatives, addressed these and other objections to S1057. For one thing, legislators and their staffs were reminded that federal Indian health care is not an insurance program but a treaty obligation.

NIHB also took issue with the Justice Department's White Paper on Indian Health that Justice admitted was released prematurely to the RSC. Tribal officials were told that certain sections of the White Paper would be corrected, although Justice still objected to certain other parts of S1057.

The NIHB Executive Board had sent formal letters to Attorney General Gonzales and President Bush last October, appealing for their support of the IHCIA re-authorization bill without further opposition. NIHB representatives also met with White House staff in November for this purpose.



Delores Pigsley

Although we are back to where we started, tribes may have a better chance now with a new Congress that will address many administration and congressional concerns.

Status of Cobell vs. Kempthorne Case

As you know, the Cobell vs. Kempthorne case has been a burning legal issue for more than 10 years. On Dec. 7, 2006, however, Eloise Cobell, the lead plaintiff in the case, issued a statement in which she said it's time for the trust case to be resolved:

"... Various news outlets are now reporting that Sen. McCain is pressing legislation that would settle the case for \$8 billion. This is a far cry from the over \$27 billion we proposed last summer, but after bearing personal witness to the hardship and abuse that continues to be heaped upon the individual Indian beneficiaries after 10 years of hard-fought acrimonious litigation, I have directed my attorneys to seriously consider this offer. This nation's first citizens are also the poorest and any resolution that is expeditious and fair shall be seriously and thoughtfully considered. We will be examining this legislation to make sure it is just that. If you are an account holder or a trust beneficiary, now is the time to express your concerns and hopes about a possible settlement to your member of Congress. It's time for Indian country to speak. The bureaucrats have had their say."

Those of you who have followed this case in the media may already know that the original judge in the case, District Judge Royce Lamberth, who issued a 34-page ruling several months ago and had harsh words to say about the government's role in the controversy, was removed on July 11 by Chief U.S. District Judge Thomas Hogan of the U.S. Court of Appeals. He assigned U.S. District Judge James Robertson to the case.

It was reported on Dec. 21 that Judge Robertson had received conflicting views as to when the case should be set for trial. Cobell's lawyer suggested the trial be held this summer on the accounting and remedies phases, while the Justice Department insisted it would be inappropriate to hold a trial—no date should yet be set.

The judge commented that it was not his intent "to dawdle" and declared he would hold a second status meeting in January so he could "dive into the case in greater detail and move the case forward."

Because of the complexities involved and differences of opinion regarding when a trial can be held, it's unlikely that this case will be settled anytime soon. At least Cobell seems to have taken a major step forward by directing her attorneys "to seriously consider" Sen. McCain's proposed \$8 billion settlement offer.

Meanwhile, the Office of the Special Trustee, which was established in the wake of the Cobell case and in accordance with the 1994 American Indian Trust Fund Management Reform Act, has put together and implemented a number of important trust fund management reforms.

According to a recent report by the Government Accounting Office (GAO), however, many key reforms have yet to be defined and implemented.

BIAD/DOI Fee-to-Trust Policy

Of major importance to Indian tribes generally and in particular to the Siletz Tribe is a tribe's right to have fee land taken into federal trust status. I believe it's helpful to put our tribe's fee-to-trust efforts, and the issues involved, into historical perspective.

It's often said that Indian tribes lost millions of acres between 1887 and 1934. These years are specifically cited and important because it was in 1887 that the Dawes Act (also known as the Land in Severalty Act) was passed, which began the massive alienation of Indian lands.

Under the act, each head of household was issued 160 acres of land; a single individual 18 and older, 80 acres; and to each minor, 40 acres of land for farming and other agricultural purposes. This act caused more than 90 million acres to pass out of Indian ownership during the 47-year period.

It was in 1934 that the Howard Wheeler Act (also known as the Indian Reorganization Act) was passed by Congress. This act, among other purposes, brought an end to the allotment system and prevented the further erosion of Indian lands.

I believe it's important to point out that although the Dawes Act itself had devastating consequences, millions of acres of Indian land had already gone out of Indian ownership before 1887. In fact, it was in 1865, about 20 years before the Dawes Act, that 250,000

acres were unjustifiably torn out of the heart of our Siletz Reservation by the federal government and opened up for white settlement.

By the 1870s, the rest of our reservation also had been diminished and by the time the termination axe fell on our tribe in 1953, we were virtually landless.

Three years after the Siletz Tribe was restored in 1977 as a federally recognized tribe, Art Bensell, Stanley Strong, Pauline Ricks, Ed Ben, Lindsey John, and others worked on a plan to establish a reservation for Siletz. As a result, 3,600 acres of scattered, rugged forestland were returned to the tribe under the Reservation Act of 1980.

In view of the appalling history of how the tribe's million-acre reservation was wrongfully extinguished, it's no wonder the passion with which our Tribal Council views the federal fee-to-trust process.

The Siletz Tribe has not, however, gone helter-skelter in pursuit of land. We have been methodical, reasonable, and modest in seeking land and always for constructive tribal purposes. We also have been meticulous in applying the requirements of the fee-to-trust process and respectful of the concerns of local governments and communities in our efforts.

My hope has always been that local, state, and federal governments would understand where the tribe is coming from historically and why the tribe's fee-to-trust efforts are of such importance to the welfare of our people and the future of our tribe.

Revised Stipends to Elders

The Siletz Tribe has had various special programs for the elders paid out of the tribe's gaming revenues, which are paid to the tribe for tribal purposes after all expenses have been paid (referred to as excess pledge revenues or EPR). In addition to funding elders' programs, individual tribal elders 70 years and older also have been receiving monthly stipends.

The tribe has decided that all elders (which the Siletz Tribe defines as persons who are 55 and older) should receive stipends. However, since 70-year-olds normally have greater needs than 55-year-olds, a system has been established under which the amount of stipends will depend on age. Elders 55-61 will receive stipends of \$100; those 62-69, \$200; and those 70 and older will continue to receive \$300.

This revised system, which we believe is reasonable and justified, will assist especially the elders who are on fixed incomes and most in need of health care. The new stipend system will require a revision of the excess pledge revenue allocation schedule, which is published periodically in the tribe's confidential newsletter, *Nesika Illahee*.