N.C.A.I. News Release

Amid increasing opposition in Indian country and in Congress to policy plans of Interior Assistant Secretary Ross O. Swimmer, Indian leaders have intensified efforts to remove the banker, lawyer, and former Cherokee chief from his post as head of the Bureau of Indian Affairs (BIA). "He says he wants to teach us the lessons he learned as an elected tribal official," said National Congress of American Indians (NCAI) President Reuben A. Snake, Jr., "but he must have experienced the Reagan syndrome and forgot everything."

Since going on the BIA payroll in June of 1985, Swimmer has "sought to silence potenital opposition and to adjust attitudes and leadership in Indian country through cash and poverty politics and disinformation," said NCAI Executive Director Susan Shown Harjo. "With an iron fist and ham hand, Mr. Swimmer has tried to sell Indian property to private bidders and to disrupt tribal programs, turning Indian policy-makers into crisis managers and presuming to usurp the prerogatives of Indian governments and Congress in the bargain."

Snake and Harjo applauded the leaders of seven Inland Empire Tribes who walked out on a March 30 meeting in Spokane, Washington, which was called by the BIA's Portland area office at Swimmer's direction as part of his nationwide attempt to prove to Congress that he has consulted with Indian leaders on his initiatives. Swimmer ordered the BIA line officers to call "consultation meetings" on short notice when his plans were rebuffed by the House Interior Appropriations Subcommittee on March 12.

The seven Indian leaders issued a statement from an emergency caucus of the Affilitated Tribes of Northwest Indians (ATNI) after their walk-out, voicing "united opposition to the Ross Swimmer agenda" and citing his " attempt to restart" plans to turn over nearly $2 billion in Indian trust monies to a bank in Pennsylvania, to turn over the management of Indian-owned forests to private companies and to turn over the BIA schools to states or third parties.

ATNI President Allen V. Pinkham, Sr., who also heads the Columbia River Inter-Tribal Fish Commission and is an NCAI Vice President, said that the "privatization would merely transfer the bureaucratic red tape of the Indian Bureau to private companies which are far removed from the Indians, rather than the BIA putting its own house in order." One by one, the tribal leaders stated for the record that they were not part of the "consultation" and walked out of the meeting, prompting one BIA employee to remark that it was "the shortest meeting on record."

Chairman Micheal Pablo of the Confederated Salish and Kootenai Tribes said, "With Swimmer, real consultation is non-existent," and Chairman Joe Flett of the Spokane Tribe called the meeting "an attempt to coerce the lcoal (BIA) agencies into supporting (Swimmer's) termius policies." Chairman Mel Tonasket of the Colville Confederated Tribes called the policies "organized disorganization designed to confuse and divide the tribes." Chairman Ernie Stensgar of the Coeur d'Alene Tribe said that "the small tribes especially still need the BIA" and that the "continuing fight to stop Swimmer is sapping the tribes."

Tonasket, a past President of NCAI, said that "Ross Swimmer himself is the real issue. Until we get rid of him, this fight will go on." Chairman Glen Nenema of the Kalispel Tribe and Chairman Ronald Abraham of the Kootenai Tribe of Idaho joined the other leaders "vowing" to do what they can "to achieve the objective." An emergency meeting of ATNI has been called for all its member tribes for April 2 and 3 in Spokane. ATNI was the first intertribal organization to call for Swimmer's removal in August of 1986, citing his lack of appreciation and respect for Indian cultural and traditional values.

In September of 1986, the NCAI membership at the 43rd annual NCAI Convention called for Swimmer's resignation or removal, citing the initiatives known at that time and his "refusal to conduct more than superficial meetings with Indian and Native leaders." Six months later, on March 24, Swimmer responded in writing to the NCAI Convention action, stating that he was "extremely disappointed" but "not surprised." He said that he "realized that this position had become unpopular for many reasons. Change does not come easily. However, I did not seek this job and only after I was assured of the strong desire of this administration to try and help the Indian people and tribes improve the quality of life on the reservation did I accept the challenge."

He also stated, "Meaningful access and superficial meetings are terms used to describe hours and hours, days and days, of meetings with nearly every tribal leader during the past year. I did accept the challenge of being the Assistant Secretary and chief operating officer of the BIA. The Office of Assistant Secretary could be ceremonial and policymaking but I believe a 'hands on' approach could get more done."

In a March 20 hearing before the House Committee on Interior and Insular Affairs, Swimmer characterized his initiatives as "budget-driven" and that the budget was "directed by the tribes." He testified that tribes were "fully informed on every step that's happening" on the proposed transfer of trust funds, and the "we have consulted to the extent humanly possible." Regarding the proposed transfer of forestry management, he said that there is "no initiative on the table" and that he had "consulted with the forestry tribes on this." While saying that he had withdrawn a Febraury 11 request for a Solicitor's Opinion on the contractablity of the forestry program, Swimmer said that he was "concerned that the forestry tribes make out better than other tribes" through a BIA "subsidy".

Swimmer told the Committee Members that his schools-transfer proposal was an effort to "get tribes involved in the education of their children" and that he had "changed the intent of 638" to use the self-determination contracting law to encourage tribal contracts. Representatives Bill Richardson (D-NM) and Ben Nighthorse Campbell (D-Col.) noted that it is Congress that changes the intent of laws, not the Executive Branch. Swimmer also said that he would soon propose regulations for a flat fee in lieu of negotiated indirect cost rates for tribal contracts, and that "consultation will begin" with publication in the Federal Register.

NCAI Director Harjo, the only other witness at the March 20 hearing, took exception to the suggestion that tribes have not been involved in the education of their children and emphasized that there had been no consulation in Indian country on Swimmer's initiatives. She informed the Committtee that the NCAI Executive Council on March 12 unanimously adopted a resolution reaffirming the 1986 Convention action, expressing a deepened lack of confidence in and urging and demanding the immediate resignation or removal of Swimmer as Interiro Assistant Secretary for Indian Affairs. The second NCAI call for Swimmer's removal cited eight areas of "further justification for this action:

1. "his decison, absent any consultation and despite promises to the contrary, to premise the FY1988 for the BIA on a 15% flat fee in lieu of negotiated indiect costs rates for self-determination grants and contracts, and his decision to propose the elimination of the self-determination grants under section 104(a) of P.L. 93-638;

2. "his decision, absent any consultation in Indian country, to propose the transfer of the remaining BIA and BIA-funded schools to states and other third parties;

3. "his failure to exercise the fiduciary duties of his position with regard to the siting, transportation and clean-up of hazardous waste and nuclear waste, and his failure to advocate the interests of or to empower those Indian and Native peoples affected and potentially affected by hazardous and nuclear waste;

4. "his decision, absent any consultation with the Indian and Native governments and people with private property interests in the trust funds held by the BIA, to transfer $1.7 billion of Indian and Native trust funds and their management and investment to the Mellon Bank, and his attempts to characterize superficial briefings as consultation and his failure to provide requested legal advice, policy analysis and decision documents to the owners of these monies;

5. "his decision, absent any consultation, to impose a workfare system on Indian and Native governments and people, without considering such factors as lack of jobs in Indian country, lack of child-care systems, limited transportation and impact on tribal liability insurance;

6. "his decision, absent any consultation, to force Indian and Native people, who are the poorest population in the United States, to pay relatively exorbitant tuition fees to attend BIA post-secondary schools;

7. "his decision, absent any consultation, to cut the forestry management program and to impose an administrative fee for forestry management;

8. "his on-going effort to encourage other federal agencies and the Office of Management and Budget to impose a ten-year plan in Indian country for the Indian and Native governments to contract BIA and other federal programs, at the same time encouraging and participating in efforts to reduce and eliminate the programmatic bases."

The NCAI resolution also calls upon Congress "to conduct hearings in Indian country for the purpose of developing with the Indian and Native peoples a legislatively mandated definition and plan of consultation on actions affecting Indian and Native people and their property and interest; which would incorporate advocacy of the Indian and Native interest in Executive Branch daily dealings."

In an effort to halt a possible trouble spot by early public exposure, Harjo also called to the Committee's attention reports from a number of Indian leaders that Swimmer had approached them to be a part of a select group of between 12 and 24 "advisors" who would take his initiatives and work them through their tribes and intertribal and national organizations, so that they return to the BIA from Indian country. It was said that Swimmer suggested use of the "model of criticizing him on the outside, while working for his initiatives on the inside."

On March 26, the House Appropriations Committee approved the Interior Subcommittee's action to stop the Swimmer initiatives until the end of this fical year, September 30, by prohibiting use of FY1987 monies to implement them. The Committee Report states, "Bill language has been included which prohibits the Bureau from signing a contract which would result in the transfer of tribal and/or individual Indian trust funds to any private banking institution, until certain conditions have been met. These include completion of full accounting of the funds to be tranferred under such a contract, and provision of this accounting to the affected tribes and/or individuals; and full consultation with the appropriate committees of Congress and the tribes as to terms of the proposed contracts.

"Bill language has also been included prohibiting BIA from proceeding to implement any proposed initiatves which have not yet been reviewed or approved by the Congress. The examples of such initiatives cited in the language are the implementation of a flat fifteen percent administrative fee on P.L. 93-638 tribal contractors, and imposition of tuition rates at Bureau post-secondary schools. Examples of other such initiatives intended to be included under this language include any transfers of Bureau schools to tribal, local or State control (except where a tribe requests to contract to operate a Bureau school under a P.L. 93-638 contract); and implementation of the proposed 'economic self-assistance' program. The Bureau is reminded that no action should be taken during fiscal year 1987 on any such proposed initiatives while Congress has the proposals under review. This means, for example, that clear instructions should go to the BIA post-secondary schools that recruiting for 1987-88 students should note only that charging tuituion has been proposed but until and unless Congress approves such a change, there will continue to be no such charges imposed.

"The Committe also believes that the proposed change to a flat fifteen percent administrative fee for tribal contractors could have significant impacts on many contractors, and wants to ensure that adequate time is given for both the tribes and appropriate Committees of Congress to review the proposal, and the revised regulations now being prepared, before any such change is implemented."

In an unrelated matter, the Committee "directs that the Bureau provide, at a minimum, the same amount to the Council of Energy Resource Tribes in fiscal year 1987 as was provided in fiscal year 1986." Numerous tribes had asked the BIA to make monies available directly to them, so they would not have to go through an organization, and the BIA proposed to do this by cutting funds to the membership group. Non-member tribes now are asking Congress to provide funding directly to their governments, irrespective of the organization's funding level. Swimmer headed the group prior to assuming his position with the BIA.

In other actions, the Committee disapproved the Administration's request to reprogram monies from the Community Health Representatives and Urban Health Programs to pay for Indian Health Service personnel raises, and provided funding to cover the salary increases. The Committee also prohibited the imposition of any personnel ceiling that would reduce the full-time equivalent level of the Indian Health Service.

The Senate Interior Appropriations Subcommittee has not set a date to mark up the FY1987 Supplemental Appropriations bill. The Senate Select Committee on Indian Affairs has taken strong positions supporting the recommendations from Indian country on the FYY1988 budget, urging the Senate Budget Committee to reject most of the Swimmer initiatives, and has requested Senate support for the House positon on the FY1987 Supplemental Appropriations bill.

Swimmer was dealt a blow in another area on February 10, when Representative Morris K. Udall (D-Ariz.) and Senator John Melcher (D-Mont.) wrote to Comptroller General of the United Staes Charles Bowsher, requesting that the "General Accounting Office investigate and prepare a report on certain personnel practices and policies of the BIA." The letter stated that the House Interior Committee. which Udall chairs, "has

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