$33M settlement proposed in Navajo trust fund lawsuit

By Paul Foy
Associated Press Writer

SALT LAKE CITY — When auditors looked at an oil-and-gas royalty trust set up by Congress to benefit Utah's Navajo Indians, they found $50 million had disappeared or was squandered on bribes, bad business deals and payoffs.

Now, 18 years later, Utah's attorney general has agreed to settle a lawsuit over the damage for $33 million in taxpayer money, echoing the federal government's recent decision to settle a much bigger case over Indian trust funds nationwide.

The Utah lawsuit accused the state of failing to ensure royalties, paid by U.S. oil companies, were properly spent, although two Navajo investment groups "were the real culprits," said Brian Barnard, lead attorney for the Navajos' class-action lawsuit.

Those groups, which no longer exist, loaned money to their own board members and to a New Mexico garment factory that never opened. They also underwrote a Lake Powell marina that was swept away by a flood; it was built on a known flood plain.

"I think it's to everyone's benefit to make this work," assistant Attorney General Philip Lott said. The settlement awaits approval by a federal judge and Utah Legislature, which would make four years of payments to settle the case.

Lott said the case has cost the state millions of dollars to defend and could have cost millions more if it had gone to trial.

The state never had proper records accounting for the money, Barnard said.

In 1991, the year before the lawsuit was filed, the Utah Legislature's auditor general reported suspected self-dealing and mismanagement by trust fund officials. Federal criminal indictments followed, alleging bribery, conspiracy, fraud, money laundering and misuse of tribal funds against seven Navajo Nation leaders in Arizona.

Utah was accused of failing in its duty as the trust's fiduciary — a role it never wanted and is trying to shed.

It is asking Congress to appoint another trustee — the Navajo Nation or one of its corporations.

For years, Utah has refused to appropriate any but the most essential trust funds.

Utah was supposed to ensure the money was spent on reservation roads, health care and "tuition of Indian children at white schools," according to a federal statute.

"This agreement is in the best interest of the citizens of Utah," Attorney General Mark Shurtleff said in a statement. "It will bring money to the most impoverished area of our state."

Many on the Navajo reservation have no running water or electricity, and unemployment runs up to 50 percent.

The idea of setting aside the state's share of oil and gas royalties for the Indians surfaced when Congress decided to expand the Navajo Reservation from New Mexico and Arizona into southeastern Utah, where a number of Navajo clans fled when Kit Carson marched the tribe into New Mexico in 1865.

Congress made it law in 1933. But it wasn't until oil and gas companies started drilling in the Aneth oil field about 30 years later that Utah Navajos started receiving a 37.5 percent royalty. The remaining 62.5 percent goes to the tribe, headquartered at Window Rock, Ariz.

Woman's battle long and costly

By Travis Coleman
Great Falls Tribune

> "We knew we were right, and they were wrong. I never put that out of my mind every time I came to the table. The right has got to win."
>
> —Elouise Cobell

GREAT FALLS, Mont. (AP) — Elouise Cobell grew up hearing stories of Native Americans traveling dozens of miles by wagon through waist-high snow in hopes of collecting payment for development by others on their land.

Cobell, 64, recalls that people on the Blackfeet Indian Reservation would wait outside the Old Agency for hours, only to be told that no payments would be issued and to come back the next day. The checks — sometimes for $1— would arrive months later and sometimes not at all.

These stories affected Cobell at a young age and provided inspiration through her 13-year lawsuit against the federal government, which ended with a historic $3.4 billion settlement last month.

"When individual Indians went to collect money, they were treated subhuman," Cobell said in a recent interview. "That's what drove me. I could not tolerate that."

Cobell's rise from poverty to becoming the face of Indian trust reform has been well-documented, making her something of a folk hero on the Blackfeet Reservation — and in Indian Country.

Cobell learned about perseverance early on, growing up as the third youngest among eight children on an isolated patch of land on the south end of the reservation in the 1950s.

They lived a poor life with no running water or telephone, but her parents taught the children to reach out and care for others. She remembers her mother telling her, "I expect to raise strong daughters."

"Everyone lived simple, the basics of life. You had nothing extra," Cobell said. "When I look back, we didn't have what everybody else had, but we didn't know it."

There were crises, such as a car wreck that left her brother a quadriplegic. But the family's philosophy kept them together — don't feel sorry for yourself and keep going. Her brother went on to become a painter and other family members attended college.

Cobell's parents established a one-room school for their children and neighbors to learn in. Cobell soon began dreaming of a world outside the reservation, to one day wear the fancy clothes she saw in weeks-old editions of the Sunday New York Times that were delivered to the school.

"I thought 'one of these days, I'm going to be outta here,'" Cobell said.

Cobell graduated from Valier High School and attended business college in Great Falls. After a stint in Seattle, she met her husband and returned to the Blackfeet Reservation, eventually becoming the tribe's treasurer in 1976.

She then began hearing those same stories about tribal members not receiving royalties for the oil, gas, grazing, mining and other development happening on their properties, which were held in trust by the U.S. government.

The agreement between tribes and the federal government was that the government would handle the leasing of millions of acres of Indian-owned land and then disperse the generated revenue to the owners.

Cobell found the government's records for tribal trust accounts were in shambles, making it hard to track how much was owed. She tried to get answers from the federal government to questions asked by tribal members but didn't get any response.

"We were treated like nobodies, even though it was our own money. The people were treated terrible," Cobell said.

She added she initially didn't want to sue the federal government; she just wanted to fix its trust accounting systems. However, at that time government bureaucrats had a habit of ignoring and demeaning those who asked about trust accountability, according to Cobell. And she wasn't the only tribal treasurer who had questions.

"I just got tired of it. The only way I was going to make sense of it was to sue 'em," Cobell said.

A legislative attempt to spur trust management reform in 1994 failed because of a lack of funding.

There also was no money to put up a legal fight against the government.

Cobell soon met attorney Dennis Gingold, who was a banking attorney based in Washington, D.C. Gingold was supportive from the outset.

"(Gingold) gave up his entire practice to work on this because he thought it was the right thing to do," Cobell said. "He thought the same way I did. It's not an Indian issue; it's a banking issue."

There also was help from the Native American Rights Fund, along with attorney Keith Harper and others from the firm Kilpatrick Stockton LLP. Along the way, Cobell would win cash awards and grants that she used to pay the attorneys.

What would be later referred to as "the Cobell lawsuit" was filed in 1996. Cobell was one of five lead plaintiffs from tribes across the nation. The other plaintiffs would come to hearings when they could, but Cobell soon became the face of the case.

The plaintiffs sued the Bureau of Indian Affairs, saying the U.S. government failed to properly manage Indian trust assets.

The hope was that the government would fix its accounting system and pay back-royalties to Native American landholders.

The plaintiffs represented present and past Indian trust beneficiaries, including more than 300,000 current Individual Indian Money account holders.

Restitution would be in the tens of billions of dollars, the plaintiffs' attorneys said then.

The odds were against the small legal team, which was dwarfed by the rows of attorneys representing the government during the hearings, Cobell said.

But she remained confident.

"We knew we were right, and they were wrong. I never put that out of my mind every time I came to the table. The right has got to win," Cobell said.

There were big early victories, such as when a federal judge ruled that two cabinet-level secretaries were in contempt of court for failing to produce adequate financial records for federal trust funds.

The plaintiffs' team also proved the government mismanaged and neglected trust funds for more than a century.

"That was just the best for me," Cobell said.

Briefly

Feds drop charges against fugitive in fake tribe

WICHITA, Kan. (AP) — Prosecutors have asked a federal judge to dismiss an indictment against a fugitive charged in an immigration fraud scheme by a Kansas group that claimed to be an Indian tribe.

The government says in a court document that the whereabouts of Jorge Villareal are not known, and it is unlikely that he will be apprehended.

Villareal was one of 11 people charged in a scheme by the so-called Kaweah Indian Nation that defrauded immigrants, approximately 12,000 across the U.S., by telling them that joining the tribe would give them U.S. citizenship.

Villareal was charged with seven counts, among them harboring illegal aliens, conspiracy to defraud and use of fraudulent documents.

Court overturns Kickapoo decision

SAN ANTONIO (AP) — A federal appellate court has overturned the conviction of a former tribal leader and his family for allegedly stealing from a tribal casino near the Texas-Mexico border.

The 5th Circuit Court of Appeals in New Orleans overturned the embezzlement convictions of Isidro Garza Jr., his wife and one of his sons. The trio had been among so-called the "Kickapoo Seven" — a group of tribal and casino employees from the Kickapoo Traditional Tribe of Texas accused of stealing from the tribe's small casino near Eagle Pass.

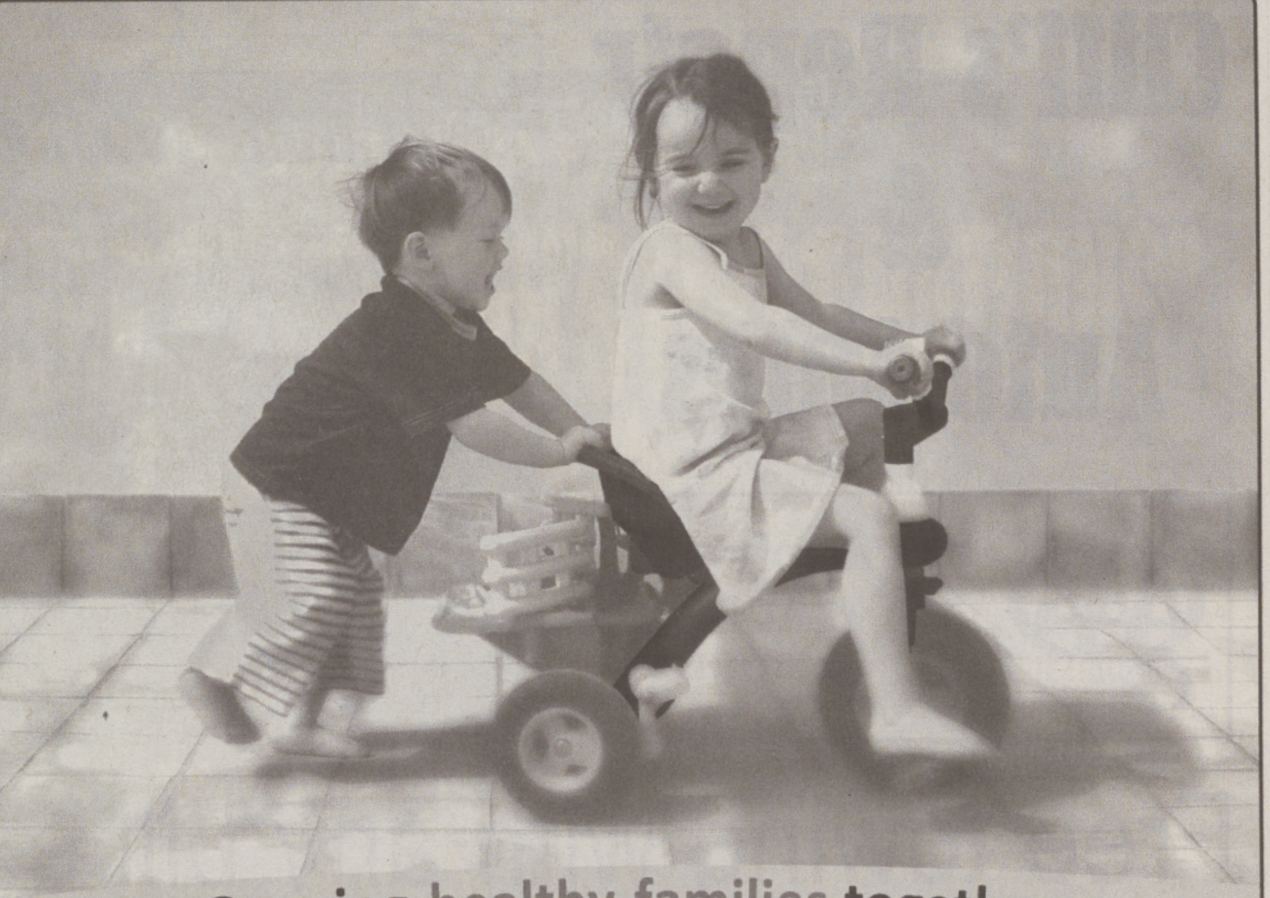
The appellate court overturned the convictions because it said that U.S. District Judge Alia Ludlum erred in transferring the case to Waco, about 300 miles from where the defendants, attorneys and witnesses lived.

First American Indian bishop dies

ALBUQUERQUE, N.M. (AP) — The nation's first Native American bishop died Jan. 7 at a Florida hospital from an undisclosed illness, according to the Roman Catholic Diocese of Gallup. He was 64.

Donald Pelotte served for 18 years as bishop of the diocese that covers northwestern New Mexico and northeastern Arizona.

The diocese did not release details about Pelotte's illness. He was admitted to a Ft. Lauderdale hospital on Dec. 27.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