

30th Restoration commemorative issue

Attorney helped terminated Tribes regain recognition

Don Wharton was the founding director of Oregon Legal Service's Native American Program from 1979 to 1983 and assisted the Grand Ronde Tribe during its campaign for Restoration.

Wharton, then a senior attorney in the Boulder, Colo., office of the Native American Rights Fund, recalled the Grand Ronde Restoration effort during a July 23, 2008, phone interview.

Q. How did you become involved with the Grand Ronde Tribe and its Restoration efforts back in the late 1970s?

A. In 1978 in Oregon, Legal Services started a program called the Native American Program and they asked me if I would be the director of that program. I was in Washington, D.C., at the time. I said that I would, so I moved to Portland.

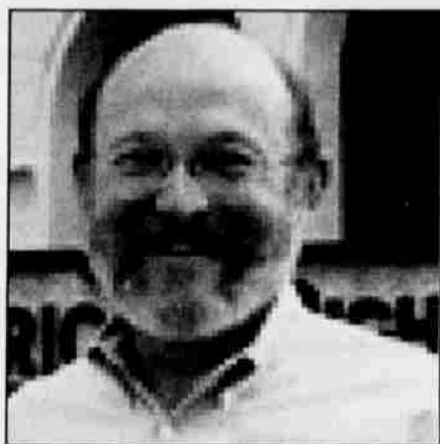
We went around Oregon and assembled a board of directors. That board of directors was taken from various Tribes, both recognized and terminated. We set priorities for what the program was to focus on. Their determination was that the most important thing to focus on was the Restoration of the Tribes that had been terminated.

The Siletz Tribe had been restored, so the other Tribes in Oregon who had been terminated, and there were many, also wanted to seek Restoration. We called around, and there were some that had offices and some that did not. ... We were able to get ahold of the folks at Grand Ronde and they invited us to come out and meet with them. So a young attorney that I had just hired at the office and I drove out to Grand Ronde to meet with them. We met in the cafeteria at the elementary school because they had no offices or buildings of their own. And, as best I can recall, at that meeting were Dean Mercier, Jackie Colton, Marvin Kimsey, Margaret Provost and, I think, Merle Holmes; maybe Eula Petite as well. ... And we said what I have basically told you, that we started a Legal Service's program and that our priority was restoration. Were they interested? They were very interested in doing that.

Q. What were the legal hurdles that the Tribe had to overcome?

A. There was only one way to deal with Termination and that was to get Congress to pass legislation extending recognition to the Tribe unlike those Tribes that had not yet been recognized that could go through the Federal Acknowledgment Program. That was not available to terminated Tribes because Congress had passed legislation terminating their federal government-to-government relationship and the only way that could be restored was by Congress.

Therefore, we had to put together



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a legislative program to go and seek legislation. Now understand that this is not the only problem the Tribes were facing. ... This simply was the priority.

The next time I came out, we met in that little green house in the cemetery. ... that is where they convened an official meeting of the Tribe. You know, the fact that the federal government doesn't extend recognition doesn't mean that you're not a Tribe, or not indeed a government. So the Confederated Tribes of the Grand Ronde existed as a Tribe and a government; they just didn't have federal recognition. Therefore, they convened the meeting of the Tribe and voted. They voted to say that they wanted Restoration and to retain the Native American Program to assist them in that process.

... I think you can fairly say that the little green building out there is the birthplace of Restoration for the Grand Ronde Tribe and the Grand Ronde people.

I think this is very apt because it is so modest, and it represents what things were like then. You know, it was a very modest beginning because the aspirations of that time were equally modest. I can remember Jackie Colton saying, "You know what I want more than anything is for my grandmother to be able to have medicine." You know, that was her goal for the time ... to have the ability to have educational opportunities for their children, to try to figure out some way to create economic opportunities in the community so the young people would not have to move away to find jobs or to progress in their education.

... There was another person that was always around at these meetings and was an enormous amount of support ... Candy Robertson. Candy was always in the background and always organizing things to make sure that the place was open and that the lights were on. Out of all the meetings, Candy was always in the background. She never came out front, but she was always there working hard, as were all of these people.

Q. What were some of the tangible things that hiring the Native American Program's legal services did for the Tribe

that helped them go through this and set up the legislative agenda to get Congress to OK federal recognition?

A. The thing about legislation is that it is political. It wasn't a legal problem in the sense that it was trying to figure out a lawsuit to secure hunting and fishing rights, or something under a treaty. No, this was a political process. Now it certainly has its legal elements. That is, the legislation itself. The legal elements of the legislation have to be drafted and all of this has to be put together, but in the very beginning before you even start writing all that stuff you have to survey the political landscape and start figuring out how to do the advocacy. The advocacy is local; it is not running off to Washington, D.C. It is about going to the local community. To the county commissioner, the local town, the city council, the school boards, to all of those people in the community that have some interest or concern about what happens to their community and then begin building the relationship that you need.

We went to the state, to the Legislature and to the Governor's Office to explain what we were about. When I say we, the Grand Ronde were one Tribe amongst many who were coordinating their efforts here. There were the Grand Ronde, Cow Creek, the Coos, the Lower Umpqua and the Klamath. There were a number of Tribes working together to make this work and going to these places. However, for each Tribe they had to work in their own communities to get this done.

Then they had to convince the most important person in this process, which was their congressperson. Each of them had a different one. In Grand Ronde, it was Les AuCoin. Therefore, they had to go to their congressperson and say, "We want you to assist us in introducing this legislation." Now, we also had to go to the senators. The senators were not going to do anything if the local congressperson did not support us. We had to get the support of our congressperson first.

Well, we went to Les AuCoin, who had supported and accomplished the Siletz Restoration. He did not jump right on board and say, "Yes, I have done this before so let's do it." No, he asked us some very hard questions like: What does the local community think? Where are these people? What is your plan? How is it all going to work? Why do you need in this legislation? Well, we had to get all of this addressed and part of that effort included doing radio shows.

I can remember we needed to go on the local radio station and talk about why the Tribe wanted Restoration, what it meant and what the history was. One of the hardest

things to do was to teach the local people their own history mainly because they believe that they already knew it, and, of course, they did not know a thing about Grand Ronde history. They did not understand what Termination was. They did not even know that the Tribes were in fact governments. There were so many things that they did not know.

We had to begin the education process just to help people understand the horrible inequity Termination was, and why there was the importance of Restoration. We needed to explain why Restoration needed to take place, not just as a moral matter, but also as an ethical matter.

... The first radio show we did, I remember I asked Dean (Mercier), Marvin (Kimsey) and Margaret (Provost). They all had business they were taking care of, so I went to Jackie Colton. Jackie was a very modest, very shy person. ... She was very active in her community and very charming, but the idea of going on the radio was terrifying to her.

But you know what, Jackie bucked up because the one thing that drove all of these people who gave of their own time, who were never paid for this, who donated all of their travel and money to make these things work was that they had focus, and that focus was on the future. That future was the future of their own children, the future of the Tribe and the ability to take care of their elderly, to take care of issues concerning education and housing. I mean, they really focused on that.

This was a dedication to what needed to be done for the future of the Grand Ronde people, for the future of their families, their loved ones and the larger community. So they made these contributions. No one paid them, no one asked them to do this; it was all volunteer.

Q. What was it about the era of the late '70s and early '80s where you started seeing the terminated Tribes in Oregon pursue Restoration? Was there a common theme, an event that maybe encouraged all of the Tribes to do it?

A. There were two things that were going on. As you recall in the '60s there was the civil rights movement. The civil rights movement focused its larger lens on the issue of minority rights. ... What was going on in the '70s is that, as a result of civil rights and a number of other things, President (Richard) Nixon in 1970 issued the very first Indian self-determination statement. So the tenor and the attitude in the government, that is the Executive Branch and in Congress,

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