



# NEWS

U.S. DEPARTMENT OF THE INTERIOR

OFFICE OF THE SECRETARY

FOR IMMEDIATE RELEASE  
April 12, 2000

Noel Gerson (O) 202/208-6444  
Stephanie Hanna (O) 202/501-4633

## **Warm Springs Tribes, PGE, and Interior Sign Agreement for the Pelton Round Butte Hydro Project**

The Confederated Tribes of the Warm Springs Reservation of Oregon (Tribes), Portland General Electric Company (PGE), and the U.S. Department of the Interior (Interior) today approved an agreement providing for the Tribes and PGE to share the 408-megawatt Pelton Round Butte hydroelectric project near Madras, Ore. Before the signing of the agreement, WarmSprings tribal elder, Delvis Heath, provided a beautiful traditional blessing for the ceremony.

Members of Tribes overwhelmingly approved the agreement in a referendum election held on March 28, 2000.

Under the agreement, PGE and the Tribes will pursue a joint license from the Federal Energy Regulatory Commission (FERC). Last year they had filed competing license applications. The agreement is also subject to approval by the Oregon Public Utility Commission and FERC.

The Tribes will purchase portions of the project from PGE over a proposed 50-year license period. On December 31, 2001, the Tribes would acquire one-third interest. Twenty years later, the Tribes have the option to increase their share to 49.99 percent plus an additional option to increase their ownership to 50.01 percent by 2037. The Tribes would purchase all shares at net book value (initial investment minus depreciation). In turn, the proposal provides that PGE's current annual payments of approximately \$10 million to the Tribes for use of Tribal lands and resources would cease on December 31, 2001. In lieu of those payments, the Tribes would earn revenues by marketing their share of the power output from the project.

PGE would continue to operate the project, which would be managed by a joint operating committee of PGE and the Tribes.

The Department of the Interior retains its authorities to provide conditions for the protection of the environment including tribal lands and resources in the new license from the Federal Energy Regulatory Commission, but agrees not to use those authorities to require additional payments to the Tribes, or to alter the relationship between PGE and the Tribes set forth in the agreement.

Olney Patt, Jr., Chairman of the Warm Springs Tribal Council said, "We are very pleased to have taken this step toward our goal of economic self-sufficiency and control of tribal resources that generate revenue. Sharing ownership of the dams with our new partners begins to achieve such control."

(more)

PGE General Manager of Hydro Operations Jim Wyatt said, "PGE is delighted to enter into this agreement with the Tribes, and we are very positive about our partnership and the future of our business relationship."

Interior Deputy Secretary David Hayes said, "Interior is pleased to support the Tribes and PGE in establishing this unique and historic relationship, which will provide multiple benefits to the Tribes, PGE, and the public."

Pelton Round Butte is the largest hydroelectric project located entirely in Oregon. Its generators convert the energy of Deschutes River water into 1.5 billion kilowatt-hours of electric power per year, enough to supply a city the size of Salem.

PGE, headquartered in Portland, is Oregon's largest electric utility. The Tribes are a federally recognized Indian Tribe with a reservation in north Central Oregon, covering 1,000 square miles (640,000 acres), 12 miles north of Madras.

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*Press release and photographs from the signing ceremony are available on the Interior web site under news releases:  
<http://www.doi.gov>*

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# NEWS

U.S. DEPARTMENT OF THE INTERIOR



FOR IMMEDIATE RELEASE  
TUESDAY, DECEMBER 21, 1999

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## JOINT STATEMENT BY THE DEPARTMENTS OF INTERIOR, TREASURY AND JUSTICE On Decision in Cobell v. Babbitt

We are gratified that Judge Lamberth is allowing the federal government an opportunity to move forward and implement the Department of the Interior's plan to manage the Indian Trust Funds. The Departments of the Interior and of the Treasury acknowledge the seriousness of our obligation to Indian people and the importance of meeting the Judge's directives.

We are working very hard and have come a long way. We welcome the opportunity to prove that the Department of the Interior and the Bureau of Indian Affairs, with the help and the guidance from the Congress, can move forward from almost a century of inadequate accounting systems and antiquated record keeping.

We are determined to meet the challenges and overcome obstacles that lie ahead and we welcome the continued oversight from the court as we continue to put plans into action.

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1/12/00

**Chippewa Cree Tribe of the Rocky Boy's Reservation Indian Reserved Water  
Rights Water Settlement and Water Supply Enhancement Act of 1999**

- This settlement is the first congressionally-authorized water rights settlement negotiated under this Administration. The Act was strongly supported by the Administration, the State, and the Tribe.
- The Rocky Boy's settlement agreement marks the successful completion of more than eight years of negotiations among the United States, the State of Montana, and the Chippewa Cree Tribe of the Rocky Boy's Reservation.
- Legislation to ratify the negotiated settlement was jointly sponsored by Senators Baucus and Burns, and Representative Hill in their respective chambers. President Clinton signed the bill, S. 438, into law on December 9, 1999.
- The Department of the Interior led the negotiations for the federal government.
- Under the Act, the United States formally approves and becomes party to a Water Rights Compact entered into by the Tribe and the State in April, 1997.
- The Compact recognizes the Tribe's on-Reservation water right of approximately 10,000 acre-feet, and addresses future water needs by providing an additional 10,000 acre-feet water right to water stored in the Tiber Reservoir.
- The total federal contribution to the settlement is \$50 million. The Act authorizes \$24 million in federal funding over three years for four specific on-Reservation water resource development projects. It also authorizes \$4 million for water resources development feasibility studies, and it establishes a \$3 million economic development fund for the Tribe.
- Other elements of the settlement include a \$15 million federal contribution for future construction of a domestic water system; \$3 million for Tribal compact administration; and \$1 million for Bureau of Reclamation administration costs.
- The Rocky Boy's Reservation, located in North Central Montana, consists of approximately 110,000 acres and includes several tributaries of the Milk River.
- The Tribe has over 3,500 enrolled members and a population growth rate well above the typical rate for tribes. The Tribe has a need for enhanced water storage and infrastructure capacities in order to maintain its modest agricultural base and to meet the domestic water needs of its rapidly growing population.
- Tribal unemployment averages around 60-70% in an economy based primarily on agriculture, including raising livestock. Existing Reservation water use includes irrigation, livestock consumption, wildlife and recreational use, and municipal and industrial uses.



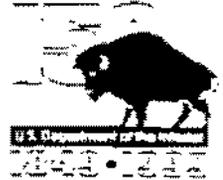
Chris Tweeten, Chairman of the Montana Reserved Water Rights Compact Commission, also applauded the settlement. "This agreement brings certainty to an area in which water is the lifeblood of the economy. The real heroes are the people of the Rocky Boy's Reservation and their neighboring ranchers who set aside years of mistrust to reach this agreement, and in doing so, showed great courage, leadership, and compassion. The enactment of this settlement is a tribute to their efforts."

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# United States Department of the Interior

OFFICE OF THE SECRETARY  
Washington, D.C. 20240



Editor

Washington Post Newspaper

1150 15<sup>th</sup> Street NW, F17

Washington, D.C. 20071-0002

Dear Editor:

The management of Indian trust funds by the Department of Interior has inspired many media reports and much nasty rhetoric, but precious little understanding of the problem and its causes. The article "Held in Trust, and in Limbo" in the Wednesday, June 2, 1999 Washington Post, written by Bill Claiborne is yet another example of the inaccurate and incomplete information being put before the public.

In the article, Mr. Claiborne cites Ripley Berryhill and the 160 acres his grandmother was allotted in 1903 as an example of Interior's failure to protect Indian lands. Mr. Claiborne could not have been more wrong.

First, some context. The federal laws governing trust land in the former "Indian Territory" of eastern Oklahoma were passed by Congress in the first half of this century and were often designed to accommodate the production of oil and gas from the vast reserves that existed. Oklahoma State courts and state laws were given extraordinary jurisdiction over Indian lands in Oklahoma. In the case of Mr. Berryhill, a federal law that gave the State of Oklahoma the right to probate Indian estates and partition Indian lands cost the Berryhill family their land.

Nettie Berryhill was the first owner of the allotment. Her estate was probated in 1945 in the County Court of Hughes County, Oklahoma. The heirs were determined to be her six children.

One of these children in 1948, by warranty deed approved in state court, conveyed her interest in the Berryhill allotment to Ralph Oliphant, a non-Indian. Later that year, Oliphant filed an action in state court to partition the property pursuant to a Congressional act that applied only to Indian lands in eastern Oklahoma.

Fortunately, the Bureau of Indian Affairs had a preferential right to purchase the property in trust for tribes in eastern Oklahoma, and the BIA purchased the land for the Thlopthlocco Tribal Town, a federally recognized Indian tribe, pursuant to the Oklahoma Indian Welfare Act.

Thus, since 1949, the former Nettie Berryhill allotment has been held in trust by the United States for the Thlopthlocco Tribal Town.

Nevertheless, Ripley Berryhill has persisted in asserting ownership of the property. In order to protect the tribe's ownership, the United States filed an action to quiet title to the subject property. By order dated January 24, 1996, the United States District Court for the Eastern District of Oklahoma held that ownership of the property, both surface and minerals, had been vested in the United States in trust for the Thlopthlocco Tribal Town since 1949.

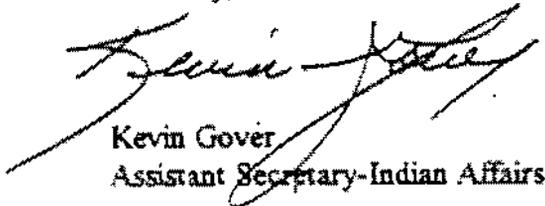
Several pertinent points arise from this history. First, to the extent that the Berryhills were badly treated, their unfair treatment was the product of Oklahoma State laws that were applied to Indian lands with the express blessing of Congress. Sad to say, it was all perfectly legal. Second, BIA was not able to prevent the partition action that would have left the property permanently in non-Indian hands. BIA did the only thing it could to prevent the loss of still more Indian land: it bought the property for the benefit of all the members of the Tribe. Third, all of this information is contained in public court documents. Mr. Claiborne, who has done some fine reporting in other areas of Indian policy, made the common mistake of hearing the story of a sympathetic victim and automatically blaming the Department of the Interior and the Bureau of Indian Affairs.

In short, the claim that the government owes Mr. Berryhill millions of dollars is plainly wrong, and Mr. Claiborne could have easily traced the truth. The statement by Mr. Harper that the BIA handling of the matter was a "complete abrogation of their fiduciary responsibility" is exactly the opposite of the truth. In this case, Mr. Berryhill's aunt sold her land to a non-Indian, and that non-Indian exploited the laws passed by the Congress to wrest as much of this land away from Indians as possible. In a good example of the proper exercise of its trust responsibility, the Bureau of Indian Affairs frustrated the scheme and bought the land to be used to benefit the members of Thlopthlocco Tribal Town.

No one at the Department of the Interior would argue that the trust system does not require a complete overhaul. The top objective of this Department is to fix this system. But no one should be under the impression that the trust funds mess is the product of "bureaucratic bungling." To the contrary, the mess is the product of what might charitably be called deliberate neglect by Congress, by the executive branch, and even by the courts. Mr. Berryhill's complaint, and that of many other Indian people, is that Congress made, and BIA executed, bad laws designed to take land out of Indian hands, and the courts upheld such bad policy. That is the story the Post should have run. Rather than attacking Interior's execution of these laws, the laws themselves should be criticized.

The solution requires the cooperation of the Congress, the Administration, the courts, and the Indian people themselves. The Post article failed to contribute any helpful knowledge on this issue. We look forward to more factual and helpful analysis in the future.

Sincerely,



Kevin Gover  
Assistant Secretary-Indian Affairs



# NEWS

U.S. DEPARTMENT OF THE INTERIOR

OFFICE OF THE SECRETARY

FOR IMMEDIATE RELEASE  
April 7, 1999

Stephanie Hanna (O) 202/208-6416  
(BIA) Nedra Darling (O) 202/219-4150

## NEW FINAL REGULATION ON INDIAN GAMING TO BE PUBLISHED

The Department of the Interior will publish final regulations to deal with Indian gaming compact negotiations between States and Tribes when Tribes have exhausted other federal judicial remedies. A final rule has been sent to the *Federal Register* for publication. The new regulation will only apply in cases where Tribes and States have been unable to voluntarily negotiate Class III gaming compacts **and** where States otherwise allow Class III gaming activities **and** when States assert immunity from lawsuits to resolve the dispute.

The final regulation is the result of an extensive public process that began with the publication of an Advanced Notice of Proposed Rulemaking, published in the *Federal Register* in May, 1996, and a Proposed Rule in January, 1998.

"The vast majority of compacts negotiated between States and Tribes during the past 10 years have been negotiated voluntarily and in a spirit of good faith," Assistant Secretary for Indian Affairs Kevin Gover explained. "We do not believe that the Indian Gaming Regulatory Act envisioned giving States a veto power over Class III Indian gaming when other Class III gaming activities take place within their borders. The new regulation addresses only this narrow issue and seeks to level the playing field once again in these rare circumstances."

The Indian Gaming Regulatory Act of 1988 (IGRA) mandated a process of judicially supervised mediation when States and Tribes were unable to negotiate a compact. However, since the *Seminole Tribe of Florida v. Florida* decision in the U.S. Supreme Court in April, 1996, Indian Tribes have been unable to request judicial mediation if States asserted sovereign immunity. The final regulation lays out a process for mediation under those narrow circumstances, seeking State involvement in developing any gaming procedures that might ensue. The final rule does not alter the qualifications necessary for land acquisition for off-reservation Indian gaming.

In addition, State law would continue to govern the 'scope of gaming' permitted in any procedures proposed by the Department to resolve Indian gaming compact disputes. This policy is consistent with the Department's position that IGRA does not authorize classes or forms of Indian gaming in any State where they are affirmatively prohibited.

More than 200 compacts between Tribes and States for Class III gaming have been successfully negotiated in good faith and implemented in 24 States since the passage of the Indian Gaming Regulatory Act in 1988.

(DOJ)

FACT SHEET ON INDIAN GAMING AND NEW INTERIOR REGULATIONS  
(25 C.F.R. Part 291)

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- Congress enacted the Indian Gaming Regulatory Act (IGRA) in 1988 to provide a statutory basis for the operation and regulation of Indian gaming and to protect Indian gaming as a means of generating revenue for tribal governments.
- Prior to the enactment of IGRA, States generally were precluded from any regulation of gaming on Indian reservations.
- IGRA divides Indian gaming into three categories. The new Interior rule addresses only the conduct of Class III gaming, which primarily includes slot machines, casino games, banking card games, dog racing, horse racing, and lotteries.
- Under IGRA, the conduct of Class III gaming activities is lawful on Indian lands only if such activities (1) are authorized by an ordinance adopted by the governing body of the Tribe and approved by the Chairman of the National Indian Gaming Commission (NIGC), (2) are located in a State that permits such gaming for any purpose by any person, organization, or entity, and (3) are conducted in conformance with a compact entered into by a Tribe and State.
- An Indian tribe interested in operating Class III gaming initiates the compacting process by requesting the State to enter into negotiations.
- The State is obligated "to negotiate with the Indian Tribe in good faith to enter into such a compact." If the State fails to negotiate in good faith, the tribe may initiate an action against the State in Federal district court.
- If the court finds that the State has failed to negotiate in good faith, it must order the State and the tribe to conclude a compact within 60 days. If the State and the tribe fail to conclude a compact within that period, each side must submit their last best offer to a court-appointed mediator, who selects one of the proposals.
- If the State does not consent to the mediator's proposal, the Secretary of the Interior must prescribe "procedures" under which Class III gaming may be conducted on the Indian lands over which the Indian tribe has jurisdiction. Procedures are a legal substitute for a tribal-state compact.
- In *Seminole Tribe v. Florida*, the U.S. Supreme Court held that a State may assert an Eleventh Amendment immunity defense to avoid a lawsuit brought by an Indian tribe alleging that the State did not negotiate in good faith. Claiming immunity will, if no further action is taken, create an effective State veto over IGRA's dispute resolution system and therefore will stalemate the compacting process. The rule contemplates that

the Secretary may prescribe Class III gaming procedures to end the stalemate

- On May 10, 1996, the Bureau of Indian Affairs (BIA) published an "Advance Notice of Proposed Rulemaking (ANPR) in response to the *Seminole* decision. In the ANPR, the Department posed among others, the question of "[w]hether and under what circumstances, the Secretary of the Interior is empowered to prescribe "procedures" for the conduct of Class III gaming when a State interposes an Eleventh Amendment defense to an action pursuant to 25 U.S.C. § 2710(d)(7)(B). The BIA received 367 comments in response to the ANPR.
- On January 22, 1998, the BIA issued a proposed rule in the *Federal Register* announcing the Department's determination that the Secretary possesses legal authority to promulgate Class III gaming procedures under certain specified circumstances, and setting forth the process and standards pursuant to which any procedures would be adopted.
- Sixty-seven comments were submitted in response to the January 22, 1998, *Federal Register* publication of the proposed rule. The final rule reflects changes made in response to those comments.
- The final rule tracks IGRA's negotiation and mediation process, adjusted only to the extent necessary to reflect the unavailability of tribal access to Federal court where a State refuses to waive its sovereign immunity. The rule applies only: 1) where an Indian tribe and a State fail to voluntarily negotiate a compact; and 2) where a tribal suit against the State in Federal court to resolve the dispute is dismissed due to the State's assertion of immunity from suit.
- The rule also establishes a mechanism for ensuring State participation in the development of procedures under the regulation.
- In cases in which a State chooses not to assert a sovereign immunity defense, the rule will not apply. Instead, the negotiation and mediation process set forth in Section 2710(d)(7) of IGRA would continue under the supervision of the court.
- Many States objected to the Secretary of the Interior making a determination of whether a State had negotiated in "good faith." Their objection is based on alleged bias that the Secretary might have due to the trust responsibility owed by the Federal Government to the Indian tribes. The final regulation eliminates the requirement that the Secretary make a finding on the "good faith" issue prior to issuing "procedures."
- The applicable "scope of gaming" under IGRA remains the same as provided by existing state and federal law.

END



# NEWS SUMMARY

U.S. Department of the Interior

Office of Communications

PICK-UP IN ROOM 1063

SEP 11 1998

ALBUQUERQUE JOURNAL

WEDNESDAY, SEPTEMBER 9, 1998

## Babbitt Tours Aging Zia School

### Interior Boss Seeks Construction Funds

By LESLIE LINTHICUM  
Journal Staff Writer

**PUEBLO OF ZIA** — Mary Shije fetched coal and hauled water when she was a 6-year-old first-grader at Zia Day School. Back in 1947 when she first sat in desks here, the two-room school was already 18 years old and showing signs of wear.

Today, Shije teaches the pueblo's children their language, Keres, in the same classroom where she was a schoolgirl. It is clean and neat, but showing signs of its 69 years. Adults duck through the low doorways and the stucco has cracked and been patched dozens of times.

Shije, along with teachers, students and pueblo officials, showed their bustling but aging school to U.S. Interior Secretary Bruce Babbitt on Tuesday and asked for his help in getting funding for a new one.

Babbitt, whose department includes the Bureau of Indian Affairs, used the occasion to call attention to the lack of support in Congress for the BIA's school construction budget.

President Clinton's budget for the next fiscal year asked for \$86.6 million for Indian school construction. The House and Senate,

in separate actions, cut that request by about one-third.

It means that two schools, not three, will be built next year in all of Indian country. And it puts Zia Day School's request for a new 40,000-square-foot elementary and middle school back further on the BIA's "to do" list.

"We're not getting ahead," Babbitt said. "We're falling behind. Schools are falling apart. New Mexico more than anywhere else illustrates the urgency of this situation."

Babbitt said he would urge the Senate to restore the \$25 million that it cut when it debates the budget later this week.

And he said Congress needs to go even further and put \$1 billion into a capital-improvements budget that would fund all needed school repairs and new construction in the BIA's 187-school system.

Norman Suazo, chief of planning and construction for the BIA, said that if Congress were to restore the bureau's full budget request, construction could not begin at Zia until 2002 because the school is 16th on the needs list. If the budget is cut this year and in future years, construction would be delayed even further.

The pueblo, located some 30 miles northwest of Albuquerque, has outgrown the school's original two classrooms. The school's 71 students spend most of their time in three portable buildings that will turn 30 next year.

While Zia Day School stays neat and clean and now has some computers that offer Internet access, administrators recently found a book in the school's small library that predicted that one day a man might walk on the moon.

The effect of aged buildings and out-of-date material on the community, school board members said, is to hurt its pride.

Twenty-four students who are eligible to attend Zia Day School this year are attending elementary schools in nearby Cañon, Rio Rancho or Bernalillo. Their parents send them away, Principal Lawrence Wright said, because those communities have new schools.

"You can't blame them," Wright said.

Edwin Shije, the pueblo's governor and a former school teacher, told Babbitt that in order to preserve the pueblo's cultural and religious traditions, it needs to keep its young people nearby.

The pueblo has a long history of trials and survival. In 1680, Zians fled their ancestral pueblo during the bloodshed of the Pueblo Revolt. They resettled, but by 1892 the community's numbers had been reduced by war, smallpox and neglect to fewer than 100 members.

Today, the pueblo has 860 members, a still-active religious tradition and an enviable number of school children who can converse in their native language.

Wright told Babbitt that the school administration, in that tradition, would continue to provide comprehensive curriculum, provide new computers and Internet access and patch and repair the school buildings.

"We can accomplish 21st century education in a 19th century building until we get a 21st century building," Wright told Babbitt. "We just hope that isn't too long a time."



JIM THOMPSON/JOURNAL

**ALL SMILES:** Interior Secretary Bruce Babbitt had his picture taken with the students of Zia Day School at the Pueblo of Zia on Tuesday after calling on Congress to restore full funding to the nation's Indian school budget.

# Babbitt promises to push for money for Zia school

By Chris Roberts  
THE ASSOCIATED PRESS

**ZIA PUEBLO** — Students were learning their lessons in a 1929 adobe building — the pueblo's original schoolhouse — when Bruce Babbitt toured Zia Day School.

Cracked adobe on the outside and water-stained ceiling panels inside show the building's age. It is surrounded by "temporary" classroom and administrative buildings that have been used, in some cases, for more than 20 years.

After touring the buildings Tuesday, Babbitt announced he would ask Congress to approve President Clinton's \$86 million budget request for Indian school construction. He also said he supports a Zia Pueblo plan to build a new \$7 million school, which would open in 2001.

During the 1998 Legislature, the House and Senate passed separate measures calling for millions of dollars to build and refurbish Indian schools. But the House and Senate did not reach a compromise on the measures and they died.

"I'm hearing from all of them (Zia and Bureau of Indian Affairs officials) that all of you would like a new school, is that right?" Babbitt asked about 70 clapping and cheering students and teachers assembled in the school's small gym. "I agree with you. I think you need a new school, too."

However, Babbitt said more money is needed to keep up with deteriorating buildings and increasing enrollment in the nation's Indian schools. Money for maintenance and renovation isn't keeping pace

with the need, he said.

Babbitt said a \$1 billion capital improvement program is necessary to deal with the bulk of needs in the nation's Indian schools.

During Babbitt's tour, his first visit to Zia Pueblo, teachers demonstrated computer projects and Internet connections with other schools. The projects are meant to promote computer literacy.

"What we basically have is 21st-century education in 19th-century facilities," said Norman Suzzo, chief of the division of planning, design and construction for the BIA in Albuquerque.

Suzzo said Clinton has requested \$46.2 million for repair and improvement of existing school buildings nationwide in fiscal 1999. He said the cost of needed repairs in the Albuquerque area, which doesn't include Navajo schools, is more than \$70 million.

Nationally, Suzzo said, there is nearly a \$700 million need to repair Indian schools. Of that amount, \$162 million is for safety and health-related deficiencies, he said.

"Twenty percent of the buildings in the BIA are over 50 years of age," Suzzo said. "Fifty percent are over 30 years."

And more than 80 percent of buildings used by the BIA are "education-related," he said. "With such small numbers for funding, we're trying to address the most critical needs and we can't spread it out too far."

The new school at Zia would serve more than education needs, said Zia Gov. Edwin Shije. It would be a vital part of the pueblo's efforts to preserve its culture, he said.

"The only way our youths will learn is by being here and being part of the culture," Shije said. "Having the new school here keeps the village together."

Babbitt said he was impressed that the school teaches its students the native Zia language, Keres.

"We're way behind in funding for schools on Indian reservations, particularly here in New Mexico," Babbitt said. "I'm going to go back there (to Washington, D.C.) and do everything I can for your future."

## EDITORIALS

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# BIA School Budget Cuts False Economy

If the Bureau of Indian Affairs' 187-school system were like a typical school district, voters would turn out the entire school board and tar and feather the superintendent.

But, there is no local school board, no electorate that includes parents with firsthand knowledge of issues and conditions — and very little accountability.

Instead of local voters who might pass bond issues, members of Congress — most of whom have never seen a Indian school much less entrust a child to one — hold the capital outlay purse strings.

As a result, Congress habitually has skimmed on its obligation to BIA schools, and the most recent cuts put aging facilities even further behind the curve.

Interior Secretary Bruce Babbitt, whose domain includes the BIA, visited the school at the Pueblo of Zia to spotlight the situation. The original two rooms of the school are 69 years old. The three portable classrooms are 30. Old as it is, the Zia school is 16th on the BIA list for a new building.

That meant new construction was slated for 2002 — at least, that was the schedule before Congress whacked \$25 million out of a BIA school construction budget of only \$86.6 million. By way of comparison, Albuquerque Public Schools capital outlay fund for 1997-98 was \$143.3 million.

The U.S. Senate has an opportunity to reconsider that cut this week. Senators should measure BIA schools against the standard of schools in their home districts. They should put themselves in the position of parents of students in those schools.

Viewed in that context, it should become obvious that cuts in already lean budgets for education in some of the least advantaged areas of the United States is false economy at its worst.



# NEWS

U.S. DEPARTMENT OF THE INTERIOR

BUREAU OF INDIAN AFFAIRS  
For Immediate Release  
April 25, 1998

Contact: Thomas W. Sweeney (202) 219-4150  
Stephanie Hanna (202) 208-6416

## **BUREAU OF INDIAN AFFAIRS APPROVES PALA GAMING COMPACT AND PRESERVES THE RIGHT OF OTHER TRIBES TO NEGOTIATE THEIR OWN COMPACTS**

A Tribal-State gaming compact between the Pala Band of Mission Indians and the State of California was approved Saturday, April 25, by Assistant Secretary for Indian Affairs Kevin Gover and will take effect when the notice is published in the Federal Register.

"I want to stress that this compact applies only to the future gaming operation of the Pala Band of Mission Indians," said Assistant Secretary Gover. "The terms and conditions of this compact are binding only on the State and the Pala Band. Representatives of the State have confirmed that other California Tribes are free to assess whether the provisions of this compact are appropriate for inclusion in their compact with the State. The State has an obligation under the Indian Gaming Regulatory Act (IGRA) to negotiate in "good faith" with each tribe requesting a compact. Because circumstances vary from tribe to tribe, our approval of this compact can not and does not mean that the State meets its obligation of good-faith negotiating merely by offering identical compacts to other tribes. Based on our conversations with representatives of the State, we do not expect that the State will insist on provisions that are not reasonable given the circumstances of other tribes."

During the review process, several amendments were made to the Pala compact and subsequently approved by the Pala Band and the State of California. The amendments address issues that arose during the review process.

The Bureau of Indian Affairs' review of the compact concludes that the agreement does not violate IGRA, Federal law, or the Bureau's trust responsibility. The compact allows the Pala Band an allocation of 199 lottery devices that it can either operate itself or license to other tribes to operate.

-BIA-



# United States Department of the Interior

OFFICE OF THE SECRETARY  
Washington, D.C. 20240

APR 25 1998

Honorable Robert H. Smith  
Tribal Chairman  
Pala Band of Mission Indians  
P.O. Box 50  
Pala, California 92059-0050

Dear Chairman Smith:

On March 13, 1998, we received the Tribal-State Compact between the Pala Band of Mission Indians (Tribe) and the State of California (State), dated March 6, 1998. We subsequently received several addenda jointly executed by the Tribe and the State that amend various provisions of the Compact. We have completed our review of the Compact as amended by the addenda and conclude that it does not violate the Indian Gaming Regulatory Act of 1988 (IGRA), Federal law, or our trust responsibility. Therefore, pursuant to my delegated authority and Section 11 of IGRA, we approve the Compact. The Compact shall take effect when the notice of our approval is published in the FEDERAL REGISTER pursuant to Section 11 (d)(3)(B) of IGRA, 25 U.S.C. § 2710(d)(3)(B).

Notwithstanding our approval of the Compact, Section 11 (d)(1) of IGRA, 25 U.S.C. § 2710(d)(1), requires that tribal gaming ordinances be approved by the Chairman of the National Indian Gaming Commission (NIGC). Regulations governing approval of Class II and Class III gaming ordinances are found in 25 C.F.R. §§ 501.1-577.15 (1997). Pursuant to IGRA and the regulations, even previously existing gaming ordinances must be submitted to the NIGC for approval when requested by the Chairman. The Tribe may want to contact the NIGC at (202) 632-7003 for further information to determine when and how to submit the ordinance for approval by the NIGC.

In addition, if the Tribe enters into a management contract for the operation and management of the Tribe's gaming facility, the contract must likewise be submitted to, and approved by the Chairman of NIGC pursuant to Section 11 (d)(9) of IGRA, 25 U.S.C. § 2710(d)(9) and NIGC's regulations governing management contracts. The Tribe may want to contact the NIGC for information on submitting the ordinance and the management contract for approval by NIGC.

**Secretary's Approval Authority.** As a preliminary matter, a question has arisen as to whether the Secretary has the authority to review and approve the Pala Compact in light of § 129 of FY 1998 Department of Interior and Related Agencies Appropriations Act, P.L. 105-83 (November 17, 1997) (Enzi amendment). The Enzi amendment prohibits the Secretary from expending funds during fiscal year 1998 to review or approve any initial tribal-state Class III gaming compact entered into on or after the enactment of the amendment, but makes the prohibition inapplicable to any compact "which has been approved by a State in accordance with State law and the Indian Gaming Regulatory Act." The legislative history of the Enzi amendment clearly indicates that the underlying purpose was to ensure that the Secretary did not "bypass" State involvement in the process of establishing terms and conditions under which a tribe can engage in Class III gaming activities. Clearly, Congress did not intend that the Secretary become the final arbiter of issues of state law. To the extent that any requirements of the Secretary exist under the Enzi amendment, the Secretary has fulfilled those requirements by not "bypassing" the State's involvement in the establishment of the terms and conditions under which the Tribe will undertake its Class III gaming operations for the obvious

reasons that the Compact was negotiated by representatives of the Governor and the California Attorney General on behalf of the State and signed by the Governor. Also, to the extent that the Enzi amendment might be interpreted as requiring the Secretary to make an inquiry into state law to determine the scope of the Governor's authority, beyond applying the presumption that the Governor has such authority, or perhaps to determine whether it is "clear beyond cavil that a Governor lacks the authority to sign a compact," Pueblo of Santa Ana v. Kelly, 104 F.3d 1546, 1557 (10th Cir. 1997), the Department has satisfied any such requirement since it has reviewed and considered arguments in favor of and against the existence of such authority.

After careful consideration of the issues, and mindful of the absence of controlling judicial authority addressing the narrow issue of the California Governor's authority, we do not find that the January 30, 1989 letter from Michael J. Karsten, Deputy Legislative Counsel of California to State Senator Ralph C. Dills, or the decisions of other states' courts, e.g., State of Kansas ex rel. Stephan v. Finney, 251 Kan. 559, 836 P.2d 1169 (1992); Narragansett Indian Tribe of Rhode Island v. Rhode Island, 667 A.2d 280 (1995); State of New Mexico ex rel. Clark v. Johnson, 120 N.M. 562, 904 P.2d 11 (1995), compel the conclusion that the Governor of California lacks such authority as a matter of State law. We find the more persuasive position, as offered by the Office of the Governor, to be that the Governor has the authority under the California State Constitution to execute a compact with the Tribe on behalf of the State. We find the arguments of the Governor's office to be persuasive because we do not believe that the Compact makes new law. We recognize, however, that issues concerning the scope of the Governor's authorities are matters of state law appropriate for ultimate determination by the California judiciary.

In addition to the issue of the Governor's authority, numerous tribes, tribal organizations and concerned parties have also raised a number of issues regarding certain provisions of the Compact. Because of the volume and nature of the issues raised, we will discuss those issues raised most frequently.

**County Participation Agreements.** Article 15 of the Compact requires that the Tribe and the County Board of Supervisors negotiate and execute a County Participation Agreement (CPA) before the Tribe commences Class III gaming operations. Article 15 sets forth the minimum requirements for what must be included in the CPA. It does not, however, set forth a limitation on what may be included. Under the Compact, the CPA is to become part of the Compact. In order to guarantee the Secretary's role in approving amendments to compacts and protecting tribal interests, the Tribe and the State agreed to modify the Compact to comport with IGRA's requirement of Secretarial review for Compacts and Compact amendments. The Compact as revised makes the CPA subject to Secretarial review pursuant to 25 U.S.C. § 2710(d)(8) and not effective until published in the FEDERAL REGISTER. With that change, it is no longer possible that terms inconsistent with IGRA, Federal law, or the trust responsibility can be added to the Compact through the CPA.

The CPA is applicable to a "project," which term is defined in section 1.35. The definition of this term has been amended by an addendum that provides that a "project" is an activity which (a) is authorized by the Compact, or (b) is undertaken by the Tribe to "directly facilitate" activities authorized by the Compact. When reviewing the CPA pursuant to amended section 15.1.1, the Department will strictly construe the words "directly facilitate" and require that the subject matter of the CPA be directly related to the operation of gaming activities.

**Safe Harbor Provision.** Article 3 provides a "safe harbor" provision under which the Tribe has the option of applying to the State Gambling Control Agency (GCA) for an opinion as to whether a specified gaming activity constitutes a Class II or Class III gaming activity for purposes of the Compact. The purpose of this provision is to enable the Tribe to engage in an activity which it believes to be a Class II activity during the period the application is pending, without running the risk

of later being found to have breached the Compact should GCA subsequently determine that it believes the activity to be a Class III gaming activity. In other words, a breach of the Compact can be avoided in instances where the Tribe was conducting a Class III gaming activity in the belief that it was really a Class II activity. The Tribe is not bound by the GCA's opinion and retains the right to argue that the activity is a Class II gaming activity. Moreover, as reflected in the addendum creating a new section 3.4.5, the GCA's opinion is not binding on NIGC." Accordingly, the "safe harbor" provision does not represent a usurpation of NIGC's authority to determine whether a given activity is a Class II or Class III gaming activity under IGRA.

***Number of Lottery Devices the Tribe Can Operate.*** Section 9.4 provides that the Tribe agrees to an allocation of 199 lottery devices, which it can either operate itself or license other tribes to operate. It also provides that the Tribe agrees to operate no more than 199 of its own lottery devices and no more than 776 lottery devices licensed to the Tribe by other tribes having a compact with the State. Section 9.5 provides for both upward and downward adjustments to the Tribe's allocation under certain circumstances, and provides that on March 1, 1999, the Tribe and State will consider whether the Tribe's allocation should be modified. These provisions represent agreements that are properly the subject of a Tribal-State Compact, and to which the Tribe has agreed on its own behalf. These provisions are not and cannot be binding on other tribes not parties to this Compact.

***Licensing Restrictions.*** Section 9.6.2 places a temporary per-device ceiling on the amount that may be charged for a license. Sections 9.6.3 - .4 prohibit the Tribe from employing or contracting with agents who have a financial interest in a lottery device license, and from licensing, or assigning or transferring a license to, an entity other than another tribe with a compact with the State. Our understanding is that the Tribe requested these provisions to avoid the risk of a broker or agent depriving the Tribe of license revenues and to safeguard against a secondary market in lottery devices and lottery device licenses. This is a reasonable regulation and does not violate IGRA or any other Federal law.

***Economic Development Zones (EDZ).*** Pursuant to section 9.7, which was amended by the parties to clarify the Tribe's option of accepting EDZ benefits, the Tribe and the State have agreed that the Tribe will reduce the number of machines it operates if the following occurs: (1) the State enacts legislation authorizing an EDZ which is applicable to the Tribe's Indian lands, (2) the Tribe makes a willing choice to avail itself of the benefits conferred by the EDZ knowing that it may result in a reduction of the number of machines; (3) the income generated to the Tribe, or to entities the Tribe owns or controls, from new private investments in the EDZ exceed 25 percent of the annual net income generated by the lottery devices operated at the Tribe's facility; and (4) the benefits from the private investments result in whole or in part from the EDZ. If these things happen, the total number of lottery devices the Tribe is allocated shall be reduced by a number reflecting the amount of non-gaming income generated as a result of new private investments in the EDZ. By requiring that the net income must be generated either to the Tribe, a tribal corporation or another business entity controlled by the Tribe, the amendment makes clear that the Tribe must willingly avail itself of the benefits of the EDZ legislation. The Tribe will only accrue net income if it actively invests in business or ventures that benefit in whole or in part from the EDZ legislation. The Department views the voluntary nature of this provision as a critical factor and would not have approved of this provision if it would have been applicable without the Tribe's consent.

***Section 13.6.2—Limited Waiver of Immunity from Suit.*** As submitted, section 13.6.2 provided in part that "If the State contends that the Tribe is not complying with a federal or state statute or regulation that the State claims applies to the Tribe, the facility, and/or the Hotel, the State shall serve a written notice on the Tribe identifying the statute or regulation and requesting the Tribe to comply. . . . [T]he Tribe consents to the jurisdiction of the court in connection with such a suit." To clarify the intended scope of this limited waiver, the Tribe and the State amended this provision

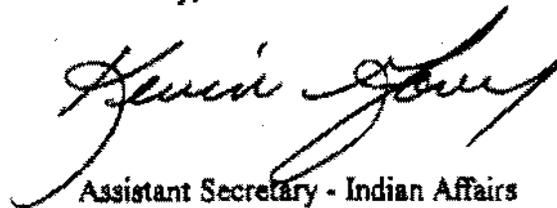
so that it now applies only to a state "statute or regulation governing the employment, health, or safety of the employees associated with the Class III Gaming enterprise that the State claims applies." The amendment restricts the application of this provision to matters covered by the Compact and is therefore permissible.

*Employer-Employee Relations.* Article XIII of the Compact includes provisions that cover employer-employee relations for employees of the gaming facility as well as employees of a hotel the only significant purpose of which (other than to provide lodging) is to facilitate patronage of Class III gaming operations. The issues covered in Article XIII of the Compact have not been included in other tribal-state compacts. However, the application of these provisions has been limited by the addendum to section 1.18, and thus are permissible.

We note that the Compact purports to establish certain limits on the gaming operations of tribes other than the Pala Band. Obviously, the terms and conditions of this Compact are binding only on the State and the Pala Band. Representatives of the State have confirmed that other California tribes are free to assess whether the provisions of this Compact are appropriate for inclusion in their compacts with the State. The State has an obligation under IGRA to negotiate in good faith with each tribe requesting a compact. Because circumstances vary from tribe to tribe, our approval of this Compact cannot and does not mean that the State meets its obligation of good faith by offering only identical compacts to other tribes. Based on our conversations with representatives of the State, we do not expect that the State will insist on provisions that are not reasonable in the circumstances of other tribes.

We wish the Tribe and the State success in this economic venture.

Sincerely,



Assistant Secretary - Indian Affairs

Enclosures

Identical Letter Sent to: Honorable Pete Wilson  
Governor of California  
Sacramento, California 95814



# NEWS

U.S. DEPARTMENT OF THE INTERIOR

OFFICE OF THE SECRETARY

FOR IMMEDIATE RELEASE  
November 14, 1997

Stephanie Hanna (O) 202/208-6416  
Ralph Gonzales (O) 202/219-4152

## INTERIOR DEPARTMENT SENDS RECOMMENDATIONS TO CONGRESS TO RESOLVE TRIBAL TRUST FUND CLAIMS

Secretary of the Interior Bruce Babbitt announced today that the Department is sending to Congress a report and legislative proposals aimed at settling more than two decades of disputed balances in Tribal Trust Fund accounts.

The report and legislative proposals represent a multi-year effort by the Clinton Administration to identify deficiencies in the Department's management and accounting systems for Tribal trust funds and to recommend a process to resolve and provide compensation where it is warranted.

"It is the goal of this Administration to determine a fair settlement for past inadequacies and to reimburse Tribes as soon as possible. We also aim to put systems in place that will provide state-of-the-art accounting systems and practices in the future," Secretary Babbitt said. "With help from the Tribes, Congress and the Special Trustee for American Indians, I believe that the approach we have undertaken to install new systems, backed by adequate funding and legislative support, will achieve this goal by the year 2000."

The report, entitled "Recommendations of the Secretary of the Interior for Settlement of Disputed Tribal Trust Fund Accounts" is one aspect of a larger, three-pronged effort to account and provide compensation for inadequacies of the past, and reform the Department's management of trust funds. In addition to the settlement proposal, the Department has embarked on a concerted program to implement key elements of the strategic plan of the Special Trustee for American Indians to improve the underlying trust management and accounting systems. Also, the Department has proposed legislation to halt and reverse fractionated ownership of Indian land.

The recommendations included in today's report lay out a settlement process designed to acknowledge and respect Tribal sovereignty by utilizing informal dispute resolution mechanisms as an alternative to costly and protracted litigation. Building on Congressional directives for reform, the Department first ordered a study by Arthur Andersen LLP in 1991 that involved reconstructing \$17.7 billion in transactions between 1972 and 1992.

(more)

The Arthur Andersen study, completed at the end of 1995, indicated that 86 percent of the transactions, totaling \$15.3 billion were fully reconciled, with an error rate of .01 percent (\$1.87 million in transactions found to be in error). Work on the unreconciled transactions has continued, reducing the total value of those transactions from \$2.4 billion to \$1.97 billion. An unreconciled transaction is one in which source documents could not be located to verify the accuracy of an entry on the general accounting ledger.

Under the proposed settlement, the government would pay Tribes for errors identified in the reconciliation work ("known errors") and would offer each Tribe the opportunity to settle other claims immediately for a specific sum based on a formula that would take into account the particular characteristics of the Tribe's accounts. If the Tribe accepts the offer, claims would be settled according to the formula, and the matter would be closed. If the Tribe does not accept the offer, it would be withdrawn and stage one of the process would be concluded.

Tribes that did not accept the stage one offer would then have the opportunity to engage in government-to-government non-binding settlement negotiations with the assistance of a mediator. This opportunity for individual Tribal negotiations was not among the Department's original settlement options, but was recommended by numerous Tribes during the consultation process. As part of the negotiations, there would be an opportunity to obtain additional data or undertake additional analysis to the extent it would be constructive in reaching a satisfactory resolution of claims.

In the event that the mediation process is not successful, a Tribe would be authorized to file a claim in the United States Court of Federal Claims within the parameters defined by Congress in the legislation.

"This Administration has already done more to shed light on and turn around more than 70 years of inadequacies and under-funding than any other Administration has attempted. This has been a difficult undertaking and there is clearly hard work ahead." Secretary Babbitt said. "It is our goal to continue these efforts, to remedy the inadequacies of the past by fairly compensating those to whom compensation is due and to prepare for the future by installing new trust management systems."

-DOI-

- Achieve agreement on account balances through September 30, 1992, or the date of settlement, as an agreed-upon starting point for the future.

### *How was the settlement proposal developed?*

In December 1996, the Department submitted settlement options to Congress. At the time of submission, the Department promised to consult with Indian tribes on the various options and provide specific recommendations, based on that consultation process, to Congress. This report contains significant new approaches to settlement based on those consultations.

### *What are the elements of the proposed settlement?*

The Department's proposal is designed to provide an opportunity for Tribes to settle all of their Tribal trust fund accounting claims with the government for the period July 1, 1972 through September 30, 1992, and potentially through the date of settlement. The government would report to Tribes all known errors, and would credit Tribes' accounts in the amount of those known errors due Tribes on a net basis, with compound interest, as soon as possible after the results of the additional reconciliation work have been presented to the Tribes for their review and consideration, and funds are appropriated. The government would credit known errors up front, whether or not a Tribe accepts the government's settlement offer for any other claims.

After crediting the known error amounts to Tribes' accounts, the proposal entails a two-stage settlement opportunity for resolving other accounting claims. In stage one, the government would offer each Tribe the opportunity to settle claims immediately for a specific sum based on a formula that takes into account the particular characteristics of the Tribe's accounts. If the Tribe accepts the offer, the settlement would be paid according to the formula and all covered claims against the government would be extinguished. If the Tribe does not accept the offer, it would be withdrawn and stage one would be concluded.

In stage two, Tribes would have the opportunity to engage in government-to-government settlement negotiations with a mediator. The mediation process would be non-binding. As part of this process, there would be a limited opportunity to obtain additional data or undertake additional analysis to the extent it would be constructive in reaching a satisfactory resolution of claims. This aspect of the proposal is a fundamental change from the December report, and is designed to respond to the requests of the Tribes to respect the sovereignty and individual circumstances of each Tribe in settling their claims. If the mediation process does not successfully resolve the Tribe's claims against the government, a Tribe could file a claim in the U.S. Court of Federal Claims.

### *What is the next step in the settlement process?*

The proposal envisions the enactment of legislation to authorize the Department to undertake the settlement process outlined in the Department's report. The Department looks forward to working with Congress on this legislation.



# NEWS

U.S. DEPARTMENT OF THE INTERIOR  
OFFICE OF THE SECRETARY

FOR IMMEDIATE RELEASE  
November 14, 1997

Stephanie Hanna (O) 202/208-6416  
(H) 703/751-8671

## SECRETARY BABBITT TO SIGN LANDMARK TRIBAL WATER RIGHTS AGREEMENT WITH OREGON AND WARM SPRINGS TRIBES

Secretary of the Interior Bruce Babbitt will join the Confederated Tribes of Warm Springs and Oregon's Governor John Kitzhaber on November 17 to sign a water rights agreement that provides certainty for all water users in the Deschutes River Basin and the Metolius River.

"I view this as a landmark agreement that recognizes the reserved water rights of the Warm Springs Confederated Tribes. At the same time it serves the long-term habitat needs of fish and other aquatic species by guaranteeing 'the full natural flow of each stream and river' on the reservation and agreed-upon minimum flows on the two rivers. It will protect the fishing traditions of the Warm Springs Tribes but also vital habitat for fish species that swim up these rivers to spawn."

Secretary Babbitt will attend a celebration dinner and inter-tribal Pow Wow at the Kahneema Lodge on the Warm Springs Reservation on Sunday evening, November 16.

The following morning, weather-permitting, he will travel with Governor Kitzhaber to a forest restoration and trout project tour on the Ochoco National Forest at 8:30 a.m., by helicopter. He will be joined on the tour by Jim Lyons, Undersecretary of the Department of Agriculture, Mike Dombeck, Chief of the Forest Service, and Elaine Zielinski, Oregon State Director of Interior's Bureau of Land Management.

Both Sunday and Monday morning's events are open to media. For Sunday, media should contact Dorris Miller, Tribal Secretary of the Warm Springs' Confederated Tribes at 541-553-3257. For Monday's event, media must travel by car and meet the tour group at the Ochoco National Forest Headquarters, and should contact Bob Applegate of Governor Kitzhaber's staff at 503-378-6496. Unfortunately, media attending the forest tour will not be able to also attend the water right signing ceremony, which begins at 10:00 a.m. at the Kahneema Lodge.

Besides Secretary Babbitt and Governor Kitzhaber, the water right agreement will be signed by Chief Nelson Wallulatum of the Wasco Tribe, Chief Vernon Henry of the Paiute Tribe, Chief Delvin Heath of the Warm Springs Tribe and Joseph Moses, Chairman of the Confederated Tribes of Warm Springs Tribal Council.

"This is a great day for the Confederated Tribes of Warm Springs, a great day for the Deschutes Basin water users and the citizens of Oregon. This agreement is a model for collaboration over conflict," Secretary Babbitt said.

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# NEWS

U.S. DEPARTMENT OF THE INTERIOR

OFFICE OF THE  
ASSISTANT SECRETARY - INDIAN AFFAIRS

FOR IMMEDIATE RELEASE  
November 14, 1997

Ralph E. Gonzales (202) 219-4152

## FACT SHEET ON INDIAN TRIBAL TRUST FUNDS

*How is the Administration addressing the Department's management of Tribal trust funds?*

The Administration is pursuing a three-pronged strategy to address issues related to the Department of the Interior's administration and management of Indian trust funds. First, it is proposing a legislative approach that utilizes informal dispute resolution mechanisms to address claims that Tribes may have with regard to the Department's past management of Tribal trust fund accounts. Second, in conjunction with the Special Trustee for American Indians, the Department has developed recommendations for improving the underlying trust management and accounting systems, and is in the process of implementing those improvements. With Congressional support, the goal is to install new systems nationwide within three years. Third, the Department has proposed legislation to end the increasing fractionation of ownership of Indian allotted lands. This fractionation of interests not only undermines the economic vitality of allottee-owned land, but it also severely complicates the government's management of trust assets and resources.

*What is the scope of the Department's Tribal trust fund management responsibilities?*

The Secretary of the Interior, through the Office of the Special Trustee (OST), maintains approximately 1,500 accounts for 338 Tribal entities with assets in excess of \$2.5 billion. Each year, more than \$802 million passes through the Tribal trust funds system. Although not the focus of the recommendations to Congress, the OST also maintains over 300,000 individual Indian money (IIM) trust fund accounts through which over \$300 million pass each year.

*How will claims relating to the IIM trust fund accounts be resolved?*

The IIM accounts are currently the subject of a class action lawsuit brought by IIM account holders against the United States, Cobell v. Babbitt, 1:96CV01285 RCL (D.D.C.). The parties are working diligently to define a process by which those individual claims pertaining to IIM accounts will be examined and adjudicated.

*How were the Tribal accounts reconciled and what were the findings?*

The Tribal Reconciliation Project (the "Project") was undertaken by Arthur Andersen LLP, ("Arthur Andersen") under the supervision of the Department. The basic reconciliation procedures of the Project encompassed the reconstruction of \$17.7 billion in non-investment transactions, of which \$15.3 billion -- about 86 percent -- were reconciled. For the reconciled transactions, approximately \$1.87 million in transactions were in error -- an error rate of .01 percent. The remaining 14 percent of transactions (\$2.4 billion) were deemed to be "unreconciled," meaning that the Department could not locate all source documents required under the Project procedures to verify the accuracy of the general ledger entry for the transactions within the time frame allotted to the reconciliation process. After completion of the project, the Department, employing the services of an independent accounting firm, Chavarria, Dunne & Lamey LLC, continued to reconcile previously unreconciled disbursement transactions. As a result, the value of unreconciled transactions has decreased from \$2.4 billion to \$1.97 billion dollars.

*Does this mean that the government has lost \$1.97 billion of Tribal funds?*

No, it not mean that the \$1.97 billion is lost or missing. However, it indicates that the poor condition of the records and systems did not allow the federal government to conduct a complete audit or provide the level of assurance to account holders that was expected. The results of the Project are described in more detail in the Department's report and in the earlier reports submitted in May and December 1996.

*What are the objectives of the settlement process being proposed by the Department?*

The objectives of the settlement process are to:

- acknowledge and respect Tribal sovereignty;
- achieve a settlement that is fair to both the Indian community and the general public;
- achieve the most resource-efficient settlement of claims (in terms of conserving federal government and Tribal time, money, and staff, including attorneys' and expert witness fees);
- encourage settlement by providing incentives to settle and disincentives to litigate;
- use the most informal settlement processes available rather than litigation to encourage Tribal participation;
- obtain funding for the settlement without reducing appropriations for the OST and BIA budgets and Tribal programs; and



# NEWS

U.S. DEPARTMENT OF THE INTERIOR

OFFICE OF THE SECRETARY

FOR IMMEDIATE RELEASE  
August 25, 1997

Stephanie Hanna (O) 202/208-6416

## **CHEROKEE LEADERS SIGN LANDMARK JOINT AGREEMENT TO RESOLVE MONTHS OF CRISIS FOR OKLAHOMA NATION**

A joint agreement was reached at the Department of the Interior today between Principal Chief Joe Byrd, Council members of the Cherokee Nation and Secretary of the Interior Bruce Babbitt, establishing a framework to resolve months of conflict that have divided the Nation and its government.

The agreement signed today was negotiated on Friday, August 22, under the leadership of Secretary Babbitt. In a statement to news media after a marathon eight-hour negotiating session on Friday night, Babbitt expressed his fervent hope that this common-sense and rational approach would ultimately prevail.

"The agreement signed today is evidence that Chief Byrd and Councilmen Phillips, Crittenden and DeMoss have risen above past differences to take action that is in the best interest of the Cherokee Nation, its proud traditions and institutions," Babbitt said.

Joining together for a press conference at the Department of the Interior to endorse today's agreement, Chief Byrd and the tribal leaders urged citizens of the Nation to use the upcoming Cherokee National Holiday celebration over Labor Day weekend as "an appropriate occasion to mark the beginning of a process of reconciliation and healing." They urged citizens to avoid political demonstrations or other unrest. Consistent with this resolution, Chief Byrd agreed to forego any political speeches during the celebration.

Major provisions of the agreement (attached) include the reopening of the Cherokee Courthouse in Talequah, Oklahoma, on Wednesday, August 27; the acceptance by Chief Byrd of the opinion of the independent Massad Commission regarding the constitutionality of removing Tribal Justices from office, and an agreement to permit them to occupy their chambers and exercise the powers accorded the Tribunal if the Massad Commission Report finds that the Justices were improperly impeached. If the Massad Commission determines that the Justices were constitutionally removed, the Justices will not be restored to their chambers and all signers of today's agreement will support this conclusion.

The agreement also includes a moratorium on writs, suits, and other legal actions related to the present Cherokee Constitutional crisis until the Council acts upon the Massad Commission Report. All the tribal leaders signing the agreement urged the participation of all three branches

(more)

of the Nation's government in honoring the agreement and, in particular, the moratorium. The Cherokee leaders stressed the importance of the moratorium as a "cooling-off period" and opportunity for the Council to act on the Massad Commission Report.

In addition, the agreement provides a process for the Bureau of Indian Affairs to make an orderly transition during early September from the law enforcement it is currently providing to the Cherokee Nation. Chief Marshal Ragsdale would be reinstated with back pay, and placed on administrative leave pending final action on the Massad Commission Report. Other marshals who had served under Ragsdale would be offered tribal employment as marshals with back pay. The BIA would also undertake a routine certification process, authorized under the Indian Law Enforcement Act, for all Cherokee tribal marshals.

**-DOI-**

WHEREAS: The undersigned leaders of the Cherokee Nation wish to restore confidence in the Cherokee Government and its institutions; and

WHEREAS: The leaders have met with the Secretary of the Interior in order to put aside differences that have undermined public confidence in the Cherokee Government and its institutions; and

WHEREAS: The upcoming celebration of the Cherokee people is an appropriate occasion to mark the beginning of a process of reconciliation and healing;

IT IS HEREBY AGREED AS FOLLOWS:

1. Law Enforcement

Chief Byrd agrees to reinstate former Chief Marshal Ragsdale. He will provide Mr. Ragsdale with back pay, and he will place Mr. Ragsdale on administrative leave, with full rights to prosecute an appeal of his dismissal, so long as such action is not initiated until after the finalization of Massad Report. Mr. Jordan shall remain as Chief Marshal, pending the issuance of the Massad Report.. Mr. Jordan shall offer employment, with back pay, to the marshals who served under Mr. Ragsdale, and who have not yet been rehired.

The undersigned leaders agree to request that the BIA undertake an orderly transition of law enforcement from the BIA to the tribe in early September. In connection with this transition, it is understood that the BIA will undertake a certification process for tribal marshals. The leaders have received assurances from the Secretary of the Interior that he will cooperate in making this transition.

2. Judicial Branch

A. Courthouse

The undersigned leaders of the Cherokee Nation recognize that the Courthouse is profoundly important to the Cherokee Nation for historical and constitutional reasons. In view of the courthouse's importance to the Nation, Chief Byrd has agreed to reopen the courthouse on Wednesday, August 27, 1997.

B. The Justices

It is hoped that the Massad Commission will provide its conclusion regarding the legality of the removal of the Justices as soon as possible. If the Commission concludes that no action of the Council has heretofore constitutionally removed the justices from office, the Chief Byrd has agreed that he will permit them to occupy their chambers and resume their duties immediately upon such a finding. Under such circumstances, the undersigned leaders agree that the justices possess and may exercise the powers accorded the Tribunal under the Constitution and laws, subject to the moratorium discussed below, and that they will urge all other members

of the National to act in accordance with conclusion. The Council will retain full constitutional authority to review any charges against any justice and to act thereon, consistent with the Constitution.

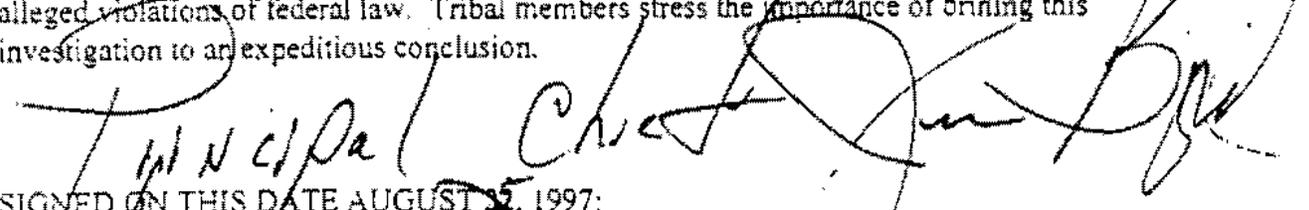
If the Massad Commission concludes that the Council has constitutionally removed the justices from office, the undersigned leaders agree that the justices will not be restored to their chambers and the undersigned leaders agree that they do not possess and may not exercise the powers accorded the Tribunal under the Constitution and laws, and will urge all other members of the Nation to act in accordance with the conclusion.

3. Moratorium of Certain Legal Actions

The undersigned leaders agree that no writs, suits, or other actions related to the activities that have caused the constitutional crisis in the Cherokee Nation shall be initiated until the Massad Report is issued and the Council takes action thereupon.

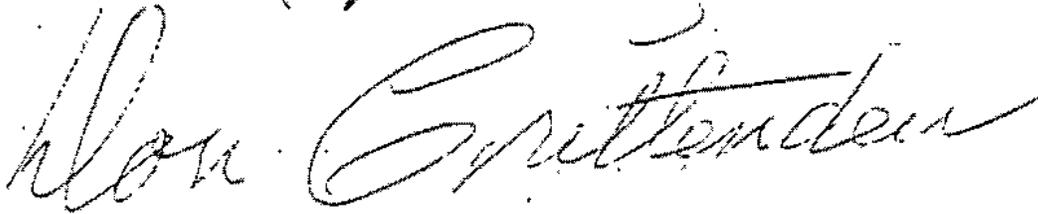
4. Investigation

The Department of Justice acknowledges that it is undertaking an investigation of alleged violations of federal law. Tribal members stress the importance of bringing this investigation to an expeditious conclusion.

Principal Chief   
SIGNED ON THIS DATE AUGUST 25, 1997:











# NEWS

U.S. DEPARTMENT OF THE INTERIOR

OFFICE OF THE SECRETARY

FOR IMMEDIATE RELEASE  
May 21, 1997

Stephanie Hanna (O) 202/208-6416

## LANDMARK SETTLEMENT REACHED BY SAN CARLOS APACHES OVER USE OF TRIBAL WATER FOR PHELPS DODGE MINE

Secretary of the Interior Bruce Babbitt announced that, following days of marathon negotiation sessions, the San Carlos Apache Tribe has reached a favorable settlement with Phelps Dodge Corporation over use of the Tribe's water and the ownership of a pumping station and pipeline located on reservation lands.

"This is truly a landmark settlement that has resolved decades of dispute and the potential for lengthy, contentious court battles," Secretary Babbitt said. "The ceaseless hours of effort put in by our negotiating team during the past few weeks should send a strong signal that the Clinton Administration will fight hard for fair resolution to these long-standing Indian water rights disputes."

The terms of the settlement announced today will be included as part of Congress' 1997 Supplemental/Rescission bill providing emergency flood funding and disaster relief that is now in conference. Congressman Jim Kolbe (R-AZ) will add to his amendment in the House-passed version of the bill to include the exact settlement terms and language agreed upon by both the Tribe and Phelps Dodge. The settlement will become law when President Clinton is able to sign the Congressional emergency funding legislation into law.

"Although it is not strictly necessary to have Congressional legislation on all aspects of this settlement, it is helpful to have the exact terms set in law so that there is no incentive to derail any aspect of this complex agreement during the 18-month implementation process," Babbitt explained.

Under the settlement terms, Phelps Dodge employees will vacate the San Carlos Apache Reservation and abandon the pump station, pipeline and a disputed right-of-way on Reservation lands by July 23, 1997. At that time, the Interior Department's Bureau of Reclamation will operate the pump station and pipeline during an interim period of up to 18 months and will provide an agreed-upon amount of water to Phelps Dodge for operation of its Morenci copper mine. Phelps Dodge will pay the Tribe \$25,000 per month for use of Reservation lands and will pay all costs associated with Bureau of Reclamation interim operations so that no costs from the settlement are borne by U.S. taxpayers.

(more)

When the Bureau of Reclamation has had appropriate time to train members of the Tribe to maintain and operate the pump station and pipeline, Phelps Dodge will surrender its interest in all facilities and electrical transmission lines on Reservation lands and will no longer divert water from the Black River into the pipeline system or pump groundwater adjacent to Reservation lands. Instead, the San Carlos Apache will lease about 14,000 acre feet of water to Phelps Dodge that will result in payments to the Tribe of about \$1 million per year in charges for the water and distribution system. In addition, Phelps Dodge will provide an initial cash payment for the lease of \$5 million, and will pay all costs associated with the operation, maintenance and replacement of the pump station and pipeline facilities from which the mine benefits.

The Tribe will also agree under the settlement to dismiss a damage claim recently brought against Phelps Dodge in Tribal Court, while reserving the right to seek legal recourse for past damages against Phelps Dodge in federal court if necessary in the future.

The San Carlos Apache Tribe has asked that most of the income derived from the settlement and the lease to be held in trust for members of the Tribe in the future. In addition, the agreement makes possible the full implementation of the 1992 San Carlos Settlement Act, under which the Tribe will receive a \$41 million trust fund and the right to market significant amounts of water. The 1992 Act would have expired at the end of June had the new agreement not been reached.

"All parties to this settlement are winners and all are to be commended for having stuck it out through hundreds of hours of difficult and contentious negotiations," Babbitt said. "The biggest winners are the San Carlos Apaches, their children and their grandchildren."

"The Tribe has now established a new and long-term business relationship with Phelps Dodge, under which the Tribe will deliver water needed for the Morenci mine and neighboring towns at a fair price that fully compensates the Tribe for this service. At the same time, the San Carlos Apaches will now have full control over their Tribal lands and resources," he continued. "Everyone who negotiated this agreement deserves a great deal of credit for accomplishing significant achievements under extraordinary pressure."



# NEWS

U.S. DEPARTMENT OF THE INTERIOR

OFFICE OF THE SECRETARY

Stephanie Hanna 202/208-6416

For Release: December 18, 1996

## LAND EXCHANGE PROTECTS ENVIRONMENTALLY SENSITIVE LANDS IN FLORIDA AND ESTABLISHES INDIAN TRUST FUNDS

The Department of the Interior today closed on a major land exchange with the Collier companies of Florida. "Today we are adding 108,000 acres through land exchange to the purchase of 2,200 acres of east coast buffer lands with Farm Bill-funds that were announced last week. Together, these represent one of the most significant weeks in the history of the restoration of the Everglades," Secretary of the Interior Bruce Babbitt said. "I have supported the Collier land exchange since I was Governor of Arizona and Senator Bob Graham was Governor of Florida. It is with great satisfaction that we now bring it to closure."

Under the provisions of the Arizona-Florida Land Exchange, authorized by Public Law 100-696, the United States acquired approximately 108,000 acres of environmentally sensitive land in southwest Florida and will receive \$34.9 million to establish Indian education trust funds. In return, the Collier companies are receiving 68 acres of land at the site of the former Phoenix Indian School in downtown Phoenix, Arizona. Of the remaining federal property at the Phoenix site, 20 acres were conveyed to the City of Phoenix for a park, and 16 acres were transferred for use by the Federal and Arizona State Veterans Administrations for significant expansion of facilities and a new nursing home.

The City of Phoenix and the Collier companies entered into a subsidiary land exchange agreement, under which the Collier companies agreed to exchange 53 of their 68 acres at the site of the former Phoenix Indian School to the City of Phoenix for a 7½-acre parcel of land owned by the City in downtown Phoenix. These 53 acres will be added to the 20 acres conveyed directly by the federal government to the City of Phoenix to create a 73-acre public park at the School site. The Collier companies will retain the 15 acres at the southwest corner of the site. The subsidiary land exchange also closed today.

(more)

Under the terms of the Exchange, trust fund payments will be made to the Department for deposit into the Arizona InterTribal Trust Fund and the Navajo Trust Fund. The amount of \$34.9 million plus interest will be paid in the form of annual payments over a period of thirty years. The funds will be used to supplement educational and child welfare programs, activities, and services for the benefit of the Navajo Tribe and Arizona Tribes that were members of the InterTribal Council of Arizona in 1988, the year legislation authorizing the Exchange was passed.

The Florida lands acquired by the United States in the Exchange serve as additions to the Big Cypress National Preserve and the Florida Panther National Wildlife Refuge, and create the Ten Thousand Islands National Wildlife Refuge. The new refuge, one of over 512 refuges in the National Wildlife Refuge System, will protect approximately 21,000 acres of coastal habitat in Collier County, Florida. Habitats range from saltwater mangrove island systems to freshwater marsh areas and are used by roughly 86 species of fish, over 80 bird species, and such mammals as bobcat, raccoon, opossum, river otter, and bottlenosed dolphin. The Ten Thousand Islands NWR also includes important habitat and will provide protection for such endangered species as the American crocodile, West Indian manatee, bald eagle, peregrine falcon, wood stork, and Atlantic loggerhead, green, and Kemp's Ridley sea turtles. The area is also currently used by the public for recreational activities including sportfishing, boating, bird watching, camping, and enjoying the natural setting.

The Florida Panther NWR realizes an addition of approximately 4,000 acres which will have a great impact on efforts to provide optimum habitat conditions for Florida panthers through protection and habitat management. The additional acreage will protect habitat lying between the Florida Panther NWR and Big Cypress National Preserve. It will complete the protection of a corridor of panther habitat between Big Cypress National Preserve and the Fakahatchee Strand State Preserve. The addition lands in the Fakahatchee Conservation Club area will also protect a large hammock area that is used by more panthers per square mile than any other in south Florida.

The over 83,000 acres being added to the Big Cypress National Preserve will allow protection of a large portion of the remaining south Florida ecosystem that development has not significantly altered, and extend protection of habitat used by the endangered Florida panther. The survival of many plant and animal species are dependent on the water, native food sources, and habitats available in the Preserve. The addition lands will bring in a much larger watershed from the north with a drainage

system that feeds the Shark River Slough, an important water source for Everglades National Park located to the south and east of the Preserve. The Kissimmee Billy Strand and Mullet Slough also run through the northeast portion of the addition. Once use studies have been completed, recreational pursuits currently enjoyed by the public, such as hunting, off-road vehicle use, and frogging, may continue in the addition lands in the Preserve.

As part of the overall public lands effort, the State of Florida has made a significant contribution to the restoration and protection of the south Florida ecosystem. The State has been a major player and equal partner in restoration efforts since the initiation of the Governor's "Save Our Everglades" program in August 1983. A key objective of the program has been the restoration and protection of the Big Cypress Swamp. The State was instrumental in achieving enactment of the Big Cypress National Preserve Addition Act and the Arizona-Florida Land Exchange legislation passed by Congress in 1988. The Preserve Addition Act required the State to contribute 20 percent of the cost of the land to be acquired within the expanded Big Cypress National Preserve. As of today, approximately 35,000 acres of land north and south of I-75 have been acquired by Florida within the Addition boundary (roughly 24 percent of the 146,000-acre area).

Secretary Babbitt applauded these land acquisition efforts as integral to the recovery and protection of the south Florida ecosystem. "The health of the south Florida ecosystem is essential to sustain the natural systems, protect fresh drinking water for millions of residents, and support an economy primarily based upon the tourism and fishing trades." With regard to the Exchange, the Secretary added that it is an excellent example of how Federal, state, and local governments can join with the private sector to achieve a variety of goals to the benefit of the American public.





# NEWS

U.S. DEPARTMENT OF THE INTERIOR

## OFFICE OF THE SECRETARY

FOR IMMEDIATE RELEASE  
June 21, 1996

Stephanie Hanna (O) 202/208-6416  
John Pinette, Microsoft Corporation (O) 206/ 882-8080

### INTERIOR DEPARTMENT AND MICROSOFT JOIN IN NEW PARTNERSHIP TO BRING COMPUTER TECHNOLOGY TO REMOTE INDIAN SCHOOLS

Calling it "a tremendous step forward in addressing the needs of technologically needy students on remote Indian reservations," Secretary of the Interior Bruce Babbitt announced today that Microsoft Corporation has contributed over \$350,000 in software, computers and cash to Four Directions, a project of the Bureau of Indian Affairs (BIA) that will electronically link Indian schools using the Internet and provide new technology opportunities to Native American students in eight states.

"Microsoft's donation will bring the power of the Internet to tribal communities that have been geographically and economically isolated," Secretary Babbitt said. "This program will supply rich new resources to the children in these communities, powerful new tools to the teachers in these formerly isolated schools, and new communications opportunities for adults throughout their communities. Yesterday, these eight communities were among the most technologically deprived in America; tomorrow, these communities will have the tools and skills to participate more fully in the information age."

Four Directions is a Bureau of Indian Affairs project designed to bring technology to Indian schools. It seeks to expand student access to technology, improve communication among BIA schools, share learning resources and expose the wider community to new technologies, including the Internet.

"We view this as an opportunity to share the latest technology with students who otherwise might have little or no access," said Bill Neukom, Microsoft's Senior Vice President for Law and Corporate Affairs. He added: "Four Directions will help students, teachers, and the broader communities in which they live. At Microsoft, we understand the potential of the personal computer and the Internet - but we also understand that some communities do not have access to these technologies. This partnership with the Bureau of Indian Affairs is an important part of our efforts to help bridge the gap between 'haves' and 'have-nots' in the information age."

(more)

"Every school should have access to the intellectual and cultural resources of the Internet. This technology can help to connect schools with their communities, encourage communication among parents, teachers and students, and assist teachers in sharing resources and best practices," Neukom continued. "Today, students, teachers, librarians and community members can collaborate in new and productive ways. Four Directions is a marvelous example of making those important connections with PC technology."

Microsoft will provide software, computers and cash to fund teacher training in eight pilot schools. Project goals include connecting teachers in the pilot schools around the country with one another to share learning resources, lesson plans and advice. Incorporation of Native American themes into curriculum and expanded access and use of technology by Indian students will also be part of the project.

"The Four Directions Project has the potential to transform teaching and learning in schools funded by the Bureau of Indian Affairs, and those public schools educating American Indian children," Gilbert Sanchez, from the Pueblo of Laguna, lead Local Education Agency for the project, said. "Significant learning will occur when technology, Indian culture, language and subject matter is integrated holistically."

The Four Directions pilot schools are :

Dilcon Boarding School; Winslow, Arizona  
Ahfachkee Day School; Clewiston, Florida  
Indian Island School; Old Town, Maine  
Hannahville Indian School; Wilson, Michigan  
Fond du Lac Education Division; Cloquet, Minnesota  
Laguna Middle School; Laguna, New Mexico  
Takini School; Howes, South Dakota  
Quileute Tribal School; La Push, Washington

Software titles donated to the pilot schools include: Microsoft NT Server, BackOffice Server 1.5, Microsoft Windows95 Upgrade, Microsoft Office Professional, Microsoft Project, Creative Writer, Fine Artist, Encarta96 Encyclopedia, 500 Nations, Art Gallery, Magic School Bus-Oceans, Magic School Bus-Solar System, Magic School Bus-Human Body, Ancient Lands, Dangerous Creatures, Explorapedia: World of Nature, Art Gallery, Automap Road Atlas, Bookshelf, Dinosaurs, Flight Simulator, World of Flight, Composer Collection, Cinemania and Microsoft Money.

"As a former educator with a deep attachment to Indian students everywhere, I am very pleased to see Microsoft providing this hardware, software and training for teachers in these eight remote Indian schools," Assistant Secretary for Indian Affairs Ada Deer said. "These young people deserve the tools to be able to compete in the 21st century, and I look forward to hearing of their progress working with the Internet and being able to enrich their lives through communication with other students, teachers and experts throughout the country and the world."



# NEWS

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## U.S. DEPARTMENT OF THE INTERIOR

OFFICE OF THE SECRETARY

FOR IMMEDIATE RELEASE  
April 18, 1996

Stephanie Hanna (O) 202/208-6416

### INTERIOR SECRETARY TO SEEK COMMENT ON AUTHORITY TO AUTHORIZE CLASS III GAMING BETWEEN STATES AND TRIBES

Secretary of the Interior Bruce Babbitt announced today that the Department will soon issue an Advanced Notice of Proposed Rulemaking (ANPR). It will seek public comment on its authority to authorize Class III gaming under the Indian Gaming Regulatory Act (IGRA) in cases when States raise an 11th Amendment defense to the judicial enforcement and mediation process with Indian Tribes provided for in the Act.

The ANPR is being prepared in response to a recent U.S. Supreme Court decision in *Seminole Tribe of Florida v. Florida*. The decision raises questions concerning the process that a Tribe can now follow when attempts to secure State cooperation in the compacting process have failed.

At the present time, 146 compacts for Class III gaming in more than 20 States have been successfully negotiated between Tribes and States, and signed by the Secretary of the Interior. Prior to 1988 enactment of IGRA, States were generally precluded from any regulation of gaming on Indian Tribal lands.

"Despite the fact that the majority of compacts have been negotiated in the spirit of cooperation envisioned by the Act, we must proceed to develop some consistent process in the aftermath of this Supreme Court decision," Babbitt said.

"Indian Tribes and States are asking where we go from here, and, frankly, I am interested in the views of all interested parties on how I should exercise my authority when the negotiation process between Tribes and States has broken down.

The ANPR is likely to request formal comment on two principal areas:

- o Whether and under what circumstances the Secretary of the Interior should prescribe procedures for the conduct of Class

III gaming if a State allegedly refuses to bargain concerning the terms of the compact and asserts its 11th Amendment immunity from suit.

o The appropriate process for the development of such procedures.

"Clearly these are complex issues and we will benefit greatly from constructive discussion and comments from all parties concerned," Babbitt said. "We need to promptly commence a process to resolve the uncertainty left by the Supreme Court's decision. These situations where Tribes and States are at loggerheads are a small minority, but, unless a way is found to move forward, they threaten to cloud the benefits realized by both Tribes and States since 1988 when the Act was passed."

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# NEWS

U.S. DEPARTMENT OF THE INTERIOR

OFFICE OF THE SECRETARY

For Immediate Release

April 10, 1996

Contact: Thomas W. Sweeney  
(202) 219-4150

## SECRETARY BABBITT STRENGTHENS INDIAN RESOURCE PROTECTION

In a newly released report, Secretary of the Interior Bruce Babbitt charged each Interior Department office and bureau with identifying policies and procedures that protect and conserve Indian resources. The report, entitled *Protection of Indian Trust Resources Procedures*, outlines how each Interior Department bureau and office will integrate trust protection practices and policies into daily activities.

"We are strongly committed to ensuring that each bureau and office understands its trust obligations and conducts all activities that affect American Indian tribes and tribal members in accordance with the highest fiduciary standard," Babbitt said. "We are equally committed to working with tribes on a government-to-government basis in recognition of the sovereign powers of tribal governments. We are, therefore, pleased to have completed a major step in advancing Department-wide adherence to principles and practices that not only make the Department an effective trustee, but a responsive one as well."

"This report," said Assistant Secretary of Indian Affairs Ada E. Deer, "demonstrates our commitment to greater intergovernmental communication and cooperation with tribes. This report also can serve as a model for all Federal agencies to follow. I support and continue to encourage all Interior Department bureaus to work on initiatives that will benefit tribes and Indian people."

This Interior Department initiative also furthers President Clinton's 1994 memorandum on *Government-to-Government Relations with Native American Tribal Governments*, which was issued to "ensure that the rights of sovereign tribal governments are fully respected." In this directive, President Clinton highlighted the U.S. Government's unique legal relationship with tribal governments and outlined principles for all federal agencies to follow.

The report, *Protection of Indian Trust Resources Procedures*, is being coordinated by the Office of American Indian Trust. Copies of the report can be obtained by contacting the Office of American Indian Trust, 1849 C Street N.W., MS-2472, Washington, D.C. 20240, telephone (202) 208-3338.

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# NEWS

U.S. DEPARTMENT OF THE INTERIOR

OFFICE OF THE ASSISTANT SECRETARY

FOR IMMEDIATE RELEASE

March 28, 1996

Ralph E. Gonzales (202) 219-4150

## TRIBAL RIGHT TO SUE STRICKEN

The U. S. Supreme Court rendered its decision on the Seminole Tribe of Florida v. Florida et al., case on March 27, 1996. The 5 to 4 decision held that the "Eleventh Amendment prevents Congress from authorizing suits in federal court by Indian tribes against States to enforce" the provision in the Indian Gaming Regulatory Act (IGRA) requiring States to "negotiate in good faith."

"This decision is not only a strike against American Indians' access to federal courts to enforce federal rights against a State, but jeopardizes the rights of all Americans to use the federal courts to ensure that States comply with federal law," said Ada E. Deer, Assistant Secretary for Indian Affairs. "I agree with Justice Stevens' assessment that this 'decision is fundamentally' a mistake."

The court's decision will prohibit Indian tribes from using the federal courts as a vehicle to compel States to negotiate in good faith for casino gaming, but all of the other provisions of the IGRA remain intact.

"The Bureau of Indian Affairs stands staunchly behind the Indian tribes and their right to conduct Indian gaming." "We will protect this American Indian right and exercise our trust responsibility to assist Indian tribes to engage in authorized gaming under the IGRA," said Ms. Deer.

There are 557 federally recognized Indian tribes which would be allowed to conduct Indian gaming under the IGRA, but currently there are only 282 tribes that are actively conducting Indian gaming and of this amount approximately 1/3 (126) tribes have tribal-state compacts authorizing casino gaming.

Indian gaming authorized under the IGRA, unlike non-Indian gaming, requires that the proceeds from the gaming operation be used to (1) fund tribal government operations or programs, (2) provide for the general welfare of the Indian tribe and its members, (3) promote tribal economic development, (4) donate to charitable organizations, or (5) help fund operations of local government agencies. "Indian gaming has been a general boost for some Indian tribal governments and has been instrumental in directly improving the living conditions of Indian people on various Indian reservations." States Ms. Deer. "Take for example the Oneida Tribe of Wisconsin that has used the proceeds to fund school, develop Tribal infrastructure, and to provide for the general welfare." "I pledge my direct and dedicated support to Indian tribes to continue to conduct Indian gaming under the IGRA."