1. INTERIOR: Agency offers $7B to settle Cobell Indian Trust Fund lawsuit

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The federal government is offering up to $7 billion to end the decade-old Cobell v. Kempthorne Indian Trust Fund lawsuit, but the plaintiffs are decrying the proposal as a sham and saying none of the money would ever reach the proposed beneficiaries.

The $7 billion settlement offer was conveyed in a letter last week from Attorney General Alberto Gonzales and Interior Secretary Dirk Kempthorne. The offer is part of proposed legislation from the Bush administration designed to provide for "economic prosperity, empowerment and self-reliance for tribes and individual Indians."

Part of the legislation would consolidate the 3.6 million fractionated interests that would "enable individual Indians to gain the beneficial use and enjoyment of their property rights within an owner-managed trust," the administration says in a fact sheet on the proposal.

"This is the first time that the federal government has acknowledged a multibillion dollar liability for the mismanagement of the Indian trust funds over the past century and more," said Senate Indian Affairs Committee Chairman Byron Dorgan (D-N.D.) yesterday. "That is a significant admission."

However, Dorgan said the conditions attached to the $7 billion offer -- to be paid over 10 years -- will be "very controversial." DOJ and Interior call for all tribal and individual claims for mismanagement of trust fund accounts against the federal government to be dropped. In addition, the government's historical accounting obligations would be relieved. Dorgan plans a hearing on the offer this month, a spokesman said.

Attorneys for the plaintiffs rejected the proposal. No money would likely be paid to individual trust beneficiaries by the time the $7 billion is spent on other things, including settlement of tribal trust claims, which the administration has previously estimated could be worth up to $200 billion, said attorney Keith Harper.

"They're basically trying to deal with every conceivable issue and end their trust responsibility all in one proposal," Harper said. "This is a signal they do not want to resolve the Cobell case and the only avenue with this administration is further aggressive litigation."

The administration also proposed to cap attorneys fees.

Lead plaintiff Elouise Cobell filed the case in 1996, seeking an accounting from Interior for the long-term mismanagement of Indian trust accounts. The federal government has spent over $300 million defending itself, according to Dorgan's office.

Supreme Court to consider cert on judge's removal

Meanwhile, the Supreme Court will likely decide this month whether or not it will hear the plaintiffs' appeal of last year's removal of Judge Royce Lamberth from the case.

In July, the U.S. Circuit Court for the District of Columbia removed Lamberth from the case at the request of DOJ. During his tenure over the class-action lawsuit since 1996, Lamberth held former Interior secretaries Bruce Babbitt and Gale Norton in contempt, as well as former Treasury Secretary Robert Rubin. Lamberth also ordered Interior's Internet network to shut down four times.

When removing Lamberth, the appeals court cited language from a 2005 opinion in which the district court judge excoriates the department.

"Our 'modern' Interior Department has time and again demonstrated that it is a dinosaur -- the morally and culturally oblivious hand-me-down of a disgracefully racist and imperialist government that should have been buried a century ago, the last pathetic outpost of the indifference and anglocentrism we thought we had left behind," Lamberth wrote (Greenwire. July 11, 2006).