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Monday, May 24, 2010

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Hastings to Introduce Amendment to “Tax Extenders Bill” to Improve Cobell Settlement

Amendment will cap attorney fees, increase payments to individual Indians

WASHINGTON D.C. – House Natural Resources Committee Ranking Member Doc Hastings (WA-04) will introduce an amendment today to fix and improve the proposed *Cobell v. Salazar* settlement agreement included in the Democrats’ tax extender package (H.R. 4213). Hastings’ amendment will include five improvements to benefit individual Indians affected by the proposed settlement.

The Affiliated Tribes of Northwest Indians (ATNI), an organization representing more than 50 federally recognized tribes adopted a [resolution](#) on May 20, 2010 supporting the five improvements first outlined in an [April letter](#) to tribal leaders from Senator John Barrasso(R-WY), the Vice Chairman of the Senate Indian Affairs Committee. ATNI represents tribes in Washington, Idaho, Oregon, Montana, Nevada, Northern California, and Alaska. ATNI specifically requested “*that Congress take whatever steps [are] necessary to ensure that they are incorporated prior to passage of the settlement by the U.S. House of Representatives and the U.S. Senate.*”

“Each of these five improvements would directly benefit individual Indians and ensure they receive the most from this settlement,” said House Natural Resources Committee Ranking Member Doc Hastings. “Considering the number of questions and concerns expressed by Indians about this proposed settlement, Congress has a responsibility to act on their behalf and make these improvements.

“One change that must be made is to limit the high level of attorney fees that could exceed \$100 million. The bottom-line is that every dollar paid to attorneys is a dollar that comes out of the pocket of individual Indians.

“Assertions have been made that changing just one sentence in this proposed settlement would terminate it. The reality is that changes have already been made and deadlines have already been extended. The only way this agreement dissolves is if the parties involved choose to walk away. This amendment makes improvements to ensure individual Indians, not lawyers, receive the most money possible. This is something that all parties involved and all Members of Congress should be able and willing to support.”

Hastings’ amendment will include the following five improvements to the proposed Cobell settlement agreement:

1. Cap attorney fees at \$50 million and use the savings to increase the payments checks provided under the settlement to hundreds of thousands of individual Indians.
2. Limit “incentive awards” for the Named Plaintiffs to actual, unreimbursed out-of-pocket expenses incurred by those plaintiffs – this also ensures the greatest amount of the settlement goes to the hundreds of thousands of individual Indians.
3. Ensure that the Court selects a safe, experienced, qualified bank to hold the \$1.4 billion in settlement funds, and that the bank is independent of the Named Plaintiffs and their attorneys. This eliminates any conflict of interest and ensures the security of the funds.
4. Provide that money “saved” by reducing attorneys fees by \$50 million may be set aside in a special fund to increase settlement payments to individual Indian damages claimants. This corrects a subtle but major flaw in the payment formulas developed by the Plaintiffs and the Obama Administration.
5. Require the Department of the Interior to consult with Indian tribes in planning, designing, and setting the priorities for the \$2 billion fractional interest acquisition program under the settlement, and allow tribes the opportunity to compact or contract with the Department to implement this program.

Background:

Under the proposed agreement announced by the Obama Administration, \$1.4 billion would go towards more than 300,000 individual Indians to resolve historical accounting claims, and to establish and settle a new class of claims relating to resource mismanagement, which were not part of the Cobell lawsuit. In addition, \$2 billion will be made available to the Secretary of the Interior for the purpose of acquiring highly fractionated Indian lands under current Indian land consolidation laws, to fund an Indian scholarship fund, and for a Secretarial Commission on trust reform.

Ranking Member Hastings recently sent a [letter](#) to Dennis Gingold, a plaintiff attorney in the Cobell v. Salazar settlement agreement, regarding statements made in the [news media](#) that the proposed settlement will be terminated if Congress does not approve the agreement by May 28, 2010 or attempts to change any part of it – including putting a cap on attorneys’ fees that could exceed \$100 million.

[Click here for more information on the proposed Cobell v. Salazar settlement.](#)

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