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U.S. House of Representatives
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Opening Statement by
Committee on Natural Resources
Chairman Doc Hastings
At the Subcommittee on Indian and Alaska Native Affairs
Legislative Hearing on H.R. 887
April 5, 2011

I want to thank the Chairman of the Subcommittee for introducing H.R. 887 and holding an expedited hearing on it.

I am an original cosponsor of this bill.

Let's be clear: every dollar paid to the attorneys comes directly out of the pocket of individual Indians. This bill is focused on ensuring those individual Indians for whom this settlement was reached are the ones who benefit, and what is owed to individual Indians under the law isn't fleeced away by a handful of lawyers demanding over \$200 million dollars based on a secret deal known only to themselves.

During the second session of the 111th Congress when the Cobell Settlement was pending approval, Members of the Committee were advised that the lawyers were seeking \$50 million to \$100 million in legal fees and costs pursuant to an Agreement on Attorney fees that was signed by both Parties to the lawsuit, the government and the plaintiffs.

In testimony made in this Committee in March 2010, the Named Plaintiff said her attorneys would not seek more than \$100 million. The Government witnesses also described the \$50 million to \$100 million fee range as being agreed upon. And it was on these assurances that Members made their decision.

At the time, the \$50 million to \$100 million fee range was considered by many to be extraordinary. A number of prominent tribal organizations and noted experts on the Cobell litigation recommended that Congress amend the Settlement to impose a fee cap of \$50 million.

These questions about excessive fees led me twice to file amendments to impose such a cap. Both times, the Rules Committee under the control of House Democrats blocked me from offering my fee limitation amendments.

So imagine everyone's surprise when shortly after the President signed the Claims Resolution Act into law, the plaintiffs revealed they had been hiding a contingency fee agreement under which they claim to be owed \$223 million.

The chief Senate advocate of the Cobell Settlement, Senate Indian Affairs Committee Chairman Byron Dorgan, called this development "shameful."

Senator Dorgan added that \$223 million "is not a level that is acceptable and it's not a level that was contemplated by the agreement."

Mr. Chairman, I would hope that Members of the Committee concur in the statement made by the former Chairman of the Senate Indian Affairs Committee, and take steps to protect the interests of 500,000 individual Indians by supporting H.R. 887.

Lastly, it is very disappointing that the Departments of Justice and Interior refused to testify at this hearing. To claim that the case is in active litigation as an excuse just defies all history. Time after time after time, the government had testified on this case it was in litigation. Their position in court is to limit fees to \$50 million, which is what HR 887 would do. They even reiterated that this is their position in refusing to testify before the Committee.

Even more frustrating and outrageous is the refusal of the plaintiff attorneys themselves to testify. They've been asked to provide this Committee with a copy of their secret contingency agreement and other information used to justify their fee claim. They refused this request last year. And when asked again this year they again refused. So what did they do? They hired attorneys to represent them.

Lawyers signing secret agreements to enrich themselves at the expense of individual Indians.

Lawyers hiring lawyers instead of being open and transparent.

This is why HR 887 was introduced, its why this hearing is necessary and its why further action by the Committee should be expected.

Again, I thank and commend Chairman Young for convening this hearing. I look forward to hearing the views of today's witnesses on this issue.