

Bureau of Indian Affairs



Ada E. Deer, Assistant Secretary
Ralph Gonzales, Bureau Editor

Assistant Secretary Deer, at left in back row on stage, opens a Native American Heritage Powwow. In traditional American Indian attire are, in front row from left, Max Little, Michael Nephew, Marian Hansson, Erlene Ciccarello, Kim Toyekoyah, Willie Chism, and Arlene Bearstail. Photo by Thomas Hartman, BIA Indian Gaming Management Staff



Ada Deer Resigns; Secretary Lauds Her Accomplishments

Assistant Secretary for Indian Affairs **Ada Deer** announced her resignation January 9, but said she will stay on—at the request of the Secretary Babbitt—until her successor is in place.

“It has been an honor to serve in this office during the first term of the Clinton Administration,” said Deer, the first American Indian woman to serve in the position. “And I will leave knowing we have succeeded in achieving some significant milestones on behalf of American Indians.

“I am proud to have been in a leadership role during this Administration and to have played a part in advancing President Clinton’s commitments to Indian people,” Deer said. “I have deeply appreciated the support of tribal leaders these last four years and I extend my warmest appreciation to my staff for their dedication and hard work.” Deer was appointed by President Clinton in 1993.

Secretary Babbitt thanked Deer for her leadership during a period of great progress on American Indian and Alaska Native issues. “Ada has been the catalyst for significant changes in the way the Department approaches Indian Affairs,” said Babbitt.

“Her priority has been on righting historic wrongs. She has worked to resolve long-standing disputes and to settle problems without long, expensive court battles. Ada has overseen the transfer of greater authority to tribal governments, and, as a



Assistant Secretary Deer greets members of the White Oak Singers, a Native American group, at a recent Native American Heritage Month Powwow

result, tribes are better equipped and more empowered than ever before.

Assistant Secretary Deer is known as a champion of Indian rights. She is the former Chairman of the Menominee Restoration Committee where she led a successful campaign to restore federal recognition to the Tribe.

“Assistant Secretary Deer has been a forceful and persuasive advocate for the rights and powers of Tribes throughout the United States,” said **Lawrence A. Aschenbrenner**, directing attorney of the Native American Rights Fund. “She is simply the most admired, most respected and most loved Native leader in this country.”

“Ms. Deer’s untiring efforts towards advancing tribal sovereignty for the Alaska Native Villages has certainly earned her the label of a true advocate of our people,” said **Joe Llano**, executive director of the Alaska Inter-Tribal Council.

During Deer’s term as assistant secretary for Indian Affairs, the Clinton Administration: reaffirmed the government-to-government relationship with 223 Alaska Native Villages; expanded tribal self-governance to 180 tribes through 54 annual funding agreements in 1996; approved 145 tribal-state gaming compacts between 130 tribes and 24 states; and settled a century-old boundary dispute with the Crow Tribe, restoring tribal lands and providing compensation for lost coal reserves and revenue.

Advancing tribal control of Indian education has been an Administration policy. Today 52 percent of Indian schools are now under management of tribal councils or tribal boards of education. During her tenure, Deer also extended federal recognition to 12 tribes. Deer also participated in the development of U.S. policies in the international human rights arena. She testified as a member of the U.S. delegation to the United Nations Rights Committee and has worked in support of a strong U.S. position on Indigenous rights.

“My work has been exciting and rewarding, and, sometimes, frustrating,” Deer said. “I am looking forward to the many new challenges the future will bring.”

Deer Applauds Court’s Indian Country Ruling

Assistant Secretary Deer told a cheering audience of tribal members from across Alaska that they have a “very, very bright future” because of a recent federal court ruling that recognized Indian Country in the state.

Speaking to the Alaska Inter-Tribal Council on December 3, Deer also cautioned that the ruling “is another step in a long legal process” and that the battle in the courts must continue to hold onto the victory.

Deer has been an outspoken champion of tribal rights as Interior’s Assistant Secretary for Indian Affairs, recognizing tribal status for more than 200

Native Alaskan groups across the state since 1993. A member of the Menominee Tribe of Wisconsin, Deer also led a successful fight in the 1970s to restore to her tribe federal rights that had been terminated in the 1950s.

Deer also talked about other challenges facing Indian tribes across the nation: Coping with what are likely to be sharp federal budget cuts for Indian services; Creating healthy families, educated children, and tribal governments that really work; and the need for tribes to develop visions of the future they seek for the 21st century, and to develop long-range plans to make the vision a reality, especially in partnerships with private enterprises.

The court ruling that Deer applauded was issued November 20 by the 9th U.S. Circuit Court of Appeals. The three-judge panel reversed an Anchorage federal judge and said the villages of Venetie and Arctic Village and 1.8 million acres of land controlled by their joint tribal council are “Indian Country,” a legal classification that applies to reservation land in the contiguous 48 states.

The decision is viewed as the latest and most significant in a series of federal court rulings that generally support the



Assistant Secretary Ada Deer, a lifelong fighter for American Indian rights, joins Joe Martin, a Native American and solicitor at the Department of Justice at a powwow marking Native American Heritage Month. Martin is wearing traditional Plains Indian attire with more than 100 eagle feathers. Photo by Thomas Hartman, BIA Indian Games Management Staff

notion that Native Alaskan villages retain tribal sovereignty.

If the ruling is subsequently upheld by the courts, Alaskan village tribal councils will be able to assert more government authority over their communities, including the power to tax, zone, police, and perhaps regulate hunting and fishing on tribal lands. Tribal councils and courts would have criminal and civil jurisdiction over tribal members, and civil jurisdiction over non-members whose actions threaten the health or safety of tribal members.

Fellowships for Native American Graduate Students

The American Indian Graduate Center is accepting fellowship application requests for the 1997-98 school year. Students must 1) be an enrolled member of a federally-recognized American Indian tribe or Alaskan Native group in the United States; 2) be (or will be) pursuing a masters or doctorate degree as a full time graduate student at an accredited graduate school in the United States (an accreditation list is in the application packet); 3) apply for campus-based aid through the federal financial process at their college financial aid office by June 1.

The Center, which has served Indian graduate students since 1969, funds all fields of study. New applicants will be subject to a one time non-refundable application fee of \$25 that must accompany the application. Applications must be received at the Center’s office by June 2, 1997 to meet the deadline. Applications will be mailed until May 30, 1997. Fellowship brochures are available upon request. For information call (505) 881-4584. The fax number is (505) 884-0427. The Center is located at 4520 Montgomery Boulevard, NE, Suite 1-B, Albuquerque, New Mexico, 87109-1291.

Secretary Recommends Options to Resolve Tribal Trust Fund Disputes

The Department has presented Congress an initial report that proposes a legislative settlement for resolving disputed balances in Tribal trust accounts. The recommendations are in response to a five-year study by a national accounting firm that examined billions of dollars in Tribal trust fund transactions handled by the Bureau of Indian Affairs.

"We are committed to resolving these issues in a manner that is fair to the Tribes and fair to the public, and that does justice," said **Secretary Babbitt**. "Where the government has been found to owe money, we will pay it, with interest. Where a Tribe may owe the government money after resolving all errors relating to that Tribe's account, the amount would be forgiven," Babbitt said.

If a Tribe disputes a transaction based on the Tribe's own documentation or disputes the BIA's documentation used to reconcile a transaction, those claims would be addressed through mediation. "The overriding objective of these options is to achieve fairness and justice with respect to Tribal trust account balances," Babbitt explained.

The study was conducted by Arthur Andersen, LLP at a cost of \$21 million and was completed in 1995. The objective of the project was to reconstruct tribal accounts to the extent possible, to provide some assurance of the accuracy of transactions, reasonableness of investment earnings, and propriety of income collected.

Reconciling Tribal Accounts

The study examined \$17.7 billion in non-investment transactions that the BIA handled from July 1972 to September 1992. Of that total, transactions for \$15.3 billion were reconciled. That means that supporting documents could be located for 86 percent of the transactions. About \$1.87 million of these reconciled transactions were in error—a rate of .01 percent.

The remaining 14 percent of transactions—about \$2.4 billion—were unreconciled, meaning that the BIA's Office of Trust Funds Management was unable to locate source documents during the course of the project to support the accuracy of the general ledger entry for the transactions.

Almost half of the unreconciled \$2.4 billion related to transactions that involve funds that the federal government receives from third parties (oil or gas developers, for example) on behalf of a Tribal account. An additional half-billion dollars of unreconciled transactions involved transfers between different accounts of the same Tribe.

In these two categories of transactions, where the receipts or transfers to a particular Tribe's accounts were posted to the general ledger, it is likely that the Tribe had use of the funds even if it they were posted to the wrong account of that Tribe. Overall, slightly less than half of the errors detected were to the detriment of Tribes and the balance were to the benefit of Tribes.

Deducting these amounts from the \$2.4 billion



Consultations with Tribes and individuals is a key to the Department's plan to resolve long-disputed account balances in Native American trust funds.



Secretary Babbitt's report to Congress recommends a legislative solution to address about \$575 million in disputed Native American trust fund account balances. Photo by Tami Heilemann, ISC

in unreconciled transactions, and using other supplemental data, the BIA believes that the settlement options should focus on the remaining \$575.1 million, excluding interest.

Consultation with Tribes

The Department has begun consultations with the Tribes regarding options to address these balances, as well as any other claims that Tribes may have involving transactions outside the scope of the 20-year study. These talks include meetings early this year in Portland, Oregon; Denver, Colorado; Phoenix, Arizona; and Washington, D.C.

The Department believes that legislation ultimately will be required to provide a settlement that will be fair to account holders. Its report, submitted to the Senate Committee on Indian Affairs and the House Committee on Natural Resources, contains specific recommendations for addressing claims based on transactions where documentation indicates that errors were made.

When the consultation process with the Tribes is complete, the Department will submit a final set of recommendations to Congress. The source of funds for the settlements also needs to be identified. To provide time for consultation with Tribes, the Department plans to submit those recommendations to Congress in April.

Furthermore, a Presidentially appointed Special Trustee who reports to the Secretary is making recommendations to implement Department-wide improvements to bring the trust accounting and management functions up to industry standards. The Special Trustee will submit his recommendations to Congress by March.

Objective is Efficient Justice

The Department was guided by several objectives in formulating its legislative proposals, including the following:

Achieve a settlement that is fair;

Achieve the most resource-efficient settlement of claims in terms of conserving federal government and Tribal time, money, and staff, including fees for attorneys and expert witnesses;

Encourage settlement by providing incentives to settle and disincentives to litigation;

Use the most informal settlement processes available rather than litigation to encourage Tribal participation;

Obtain funding for the settlement without reducing appropriations for the BIA budget and Tribal programs;

Achieve final agreement on account balances through fiscal year 1995 as an agreed-upon starting point for the future.

Keeping the Books on Trusteeship

For more than a century, the federal government has been the trustee of funds for American Indian Tribes and individual Indians. Currently, the Secretary of the Interior, through the Office of the Special Trustee, maintains about 1,500 accounts for 280 Tribes with assets in excess of \$2.5 billion.

Each year, more than \$802 million passes through the Tribal trust funds system. In addition, the Secretary, through the Office of Special Trustee, maintains more than 300,000 Individual Indian Money trust fund accounts with a current balance of \$450 million. About \$300 million passes through this system annually.

For a number of years, concerns have been expressed in Indian Country, various quarters of the executive branch, the General Accounting Office, and Congress that the management and accounting systems for the trust funds have not kept pace with technological developments in the private sector.

The Gist of the Trust Fund Dispute

Questions have been raised about whether assets were being properly managed and funds adequately accounted for. There have been calls for accountings of both Tribal and Individual Indian Money funds and for additional investment by the federal government to upgrade its systems.

The Congress passed the American Indian Trust Fund Management Reform Act of 1994, which provides that the Secretary shall outline efforts he will undertake to resolve disputed Tribal trust fund account balances. The Secretary's report to Congress for settling the disputed balances was made in accord with this Act.

Some reforms already have been instituted, including conversion to a core trust accounting and investment system for tribal funds, publication of standardized procedures for the management of Individual Indian Money accounting operations, and reconciling all cash activity on a daily basis for both Tribal and individual accounts.

The Office of Trust Fund Management has published regulations providing procedures for Tribes to withdraw and manage their own funds should they so choose. Finally, the Administration has included in its budgets for 1996 and 1997, and will include in future budgets, funding to implement trust reform efforts.

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