Obama administration reaches $3.4 billion settlement with Native American landowners

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The US government announced last week that it would settle a class action lawsuit brought against it on behalf of Elouise Cobell, former Treasurer of Montana's Black Feet Tribe, and the owners of American Indian land trusts throughout the western United States.

The suit accuses the government, responsible for leasing the Native American lands for use by mining, lumber, oil and gas industries, of mishandling revenues generated by the extraction of natural resources located in the trusts. Many billions of dollars owed to the American Indian landowners were never paid out.

The suit, now known as Cobell vs. Salazar, has been in the court system for 13 years. The $3.4 billion awarded in the settlement is the largest amount ever won by American Indians in a suit against the government. The figure, however, does not begin to approach the amount the occupants and owners of the land trusts have been underpaid over the past century.

Under the conditions of the Cobell vs. Salazar settlement, $1.4 billion will be paid out to the members of the class action suit in the form of $1,000 checks to each member, a pittance considering the government's massive abuse of trust funds. In addition to this, a $2 billion fund will be established to buy back any unprofitable lands that owners may wish to sell.

The settlement agreed to by the plaintiffs and the Obama administration will not become final, however, until Congress permits the allocation of funds for the settlement and the US District Court for the District of Columbia endorses the allocation.

The land trusts at the center of the dispute originated with the General Allotment Act of 1887, more popularly known as the Dawes Act (after Senator Henry L. Dawes of Massachusetts, who sponsored the bill prior to its enactment). The Dawes Act saw the US government divide up the collective lands of Indian reservations and redistribute them to individual tribe members. While land amounts varied, 160 acres were typically given to the heads of families while 80 acres were allotted to unmarried adults. The "supplemental" land, some 90 million acres in all, was then sold to non-Native American interests in the ensuing decades.

The secretary of the interior was given the responsibility for leasing the rights to mineral and lumber resources on the land trusts to the respective industries. The Department of the Interior was to distribute royalty payments for the use of these resources to the Native Americans to whom the land belonged. This arrangement was awash in abuses, exploitation and criminality, much of which would be exposed by the Meriam Report ("The Problem of Indian Administration") in 1928, which highlighted some of the terrible conditions under which most Native Americans lived.

The ultimate aim of the Dawes act was the usurpation of Native American lands by the US government for the benefit of corporations and other non-Native settlers, who sought to turn a profit from resources found in regions previously unavailable to them.

Over the decades, the land trusts have also suffered from fractionalizing, as the system of inheritance currently in place has meant that in circumstances where a will has not been located or recognized, the land has been divided evenly among all the eligible heirs. After several generations, one parcel of land may now have hundreds of owners. Under these conditions, the land's worth is further driven down, generating little revenue and the management of the trust becomes expensive and chaotic. The entire land trust system has had devastating consequences for American Indians lasting more than a century.

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In this light, while the $3.4 billion settlement may be the largest amount awarded to Native Americans by the government thus far, it would be wrong to consider this in any way justice for the historical crimes committed against the Native population through the Dawes Act and many other legal assaults.

However, the Obama administration, not surprisingly, has been more than eager to paint the settlement as a milestone and a righting of past wrongs. Secretary of the Interior Ken Salazar called the settlement “an historic, positive development for Indian country.” He added that it was “a major step on the road to reconciliation following years of acrimonious litigation between trust beneficiaries and the United States.”

President Obama cynically hailed the settlement as an “an important step towards reconciliation” and cast the agreement as a victory for democracy, saying, “I heard from many in Indian Country that the Cobell suit remained a stain on the nation-to-nation relationship I value so much.”s

Comments made by Elouise Cobell after the settlement was announced have been more realistic. “We are compelled to settle,” she told the press, “by the sobering realization that our class grows smaller each day as our elders die and are forever prevented from receiving just compensation.”

Quoted in the *Tulsa World*, Ms. Cobell said, “Indians did not receive the full financial settlement they deserved but we achieved the best settlement we could. This is a bittersweet victory, at best, but it will mean a great deal to the tens of thousands of impoverished Indians entitled to share in its fruits.”

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