



Indian Country

TODAY THIS WEEK FROM
THE PREMIER E-NEWSLETTER SERVING THE NATIONS, CELEBRATING THE PEOPLE

A Letter from the Publisher

Shekóli. Some people say they turn away from the media because news, particularly stories of a political nature, can be depressing. Given the state of acrimony that seems to be presiding in Washington, D.C., that sentiment is easy to understand. As it turns out, some good news prevailed this week—and the online and Facebook audiences of Indian Country Media Network responded in force. Thousands of readers read and shared and placed comments in praise of the announcement that President Barack Obama has nominated Hopi citizen Diane J. Humetewa for a seat on the federal bench.

Humetewa enjoys the support of many people inside and out of Indian country, and her personal achievements are an inspiration. She holds a law degree from Arizona State University and currently serves as Special Advisor to the President and Special Counsel in the Office of General Counsel at ASU. She has worked in the U.S. District Attorney's Office in Arizona, served as deputy counsel for the Senate Committee on Indian Affairs and has sat as an appellate court judge for Hopi tribal courts.

Now Humetewa awaits confirmation by the Senate Judiciary Committee to become a federal judge for the U.S. District Court for Arizona. Assistant Secretary for Indian Affairs Kevin Washburn praised Humetewa and the announcement. "She is tough, but compassionate, and I know that she can gracefully handle the stress of being the first native American woman to travel this path," Wash-



burn said. "This is a historic nomination."

If confirmed, she will be the first Native woman to become a federal judge, and only the third Native American in the history of the United States to hold such a position. Hopes are high for Humetewa: Tribal leaders and Indian advocates have clamored for the President to put a Native nominee forward. His last selection, Arvo Mikkanen, had his nomination blocked by Republican senators during Obama's first term. Now, however, most court watchers cite Humetewa's previous endorsements from Senator John McCain, and the presumed consultations between parties, as indications that Humetewa will indeed be confirmed. Needless to say, this is a crucial appointment. The lack of understanding of Indian law and the poor interpreta-

tions of the sovereignty of Indian Nations at the deeper reaches of the federal courts has bedeviled Indian country for many years. It is high time for this nomination, and we hope to hear of more to come.

Na ki' wa,

Ray Halbritter

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The Federal Task Force Is Indian Country's Trojan Horse

Gabriel Galanda, a Round Valley Indian Tribal member and partner in the Seattle office of Galanda Boardman PLLC, warns that there is more to federal task forces than meets the eye:

Federal task forces do not necessarily include tribal law enforcement agencies, at least insofar as task force activities relate to Indian country. In fact, some task forces purposely exclude tribal cops from raids or entries on Indian lands—we are all related, the

logic goes, and cannot be trusted. And if those task force dynamics were not bad enough, the Justice Department invites state and local police to join those squads and in turn, welcomes them along on incursions into Indian country. State cops on tribal lands. But wait, it gets even worse.

Under the banner of the Federal Asset Forfeiture Program, the Justice Department entices state and local police agencies to federal task forces by promising them a piece of any seized assets. According to the federal government's dubiously titled State and Local Equitable Sharing Program, when state or local cops primarily accomplish a task force asset forfeiture on tribal lands, the Attor-

ney General's office gives them at least 80 percent of the seized assets.

Make no mistake: The Justice Department's task force program is designed to incentivize state and local law enforcement's participation in its activities, including in Indian country. During this economic climate, tax-starved local cops are all too happy to join federal task forces and in turn help invade Indian country as a fundraising activity.

While a combined law enforcement entity might make sense in combatting crime in non-tribal communities, the federal task force is a Trojan horse when it enters Indian country. Be careful in allowing it onto your lands. <http://bit.ly/1aZTr5e> 📌

Native Girls Are Not For Selling

Former FBI Special Agent Walter Lamar, Blackfeet/Wichita, is chagrined that Native child prostitution is still an issue in 21st century America, but he does see hope:

Elders in the Bethel region of Alaska are warning villagers about predators in Anchorage who watch for Native girls at popular teen hangouts and recruit them into prostitution and pornography with promises of an easy lifestyle. Pimps even coerce girls to recruit their friends from their villages. In South Dakota, police point to the flow of young girls from the reservations to Sioux City. Liberal Port-

land, Oregon was shocked to discover the city had become a hub for child exploitation, involving many Native girls who had come to the city in search of a better life.

Some states are working to change that by knitting together networks of providers to help these exploited children. Minnesota's Safe Harbor Initiative increases the opportunities for young people to walk in off the street, a method called "No Wrong Door." Under new laws in these states, children who have been prostituted cannot be charged with juvenile delinquency and are instead treated as victims of a crime. Child welfare advocates hope that if exploited youth don't fear criminal prosecution, they will be more likely to report

crimes against them.

By writing letters or talking to our tribal governments, we can express support for providing abused and neglected children and teens with services to get them on a healing path, before they turn to the arms of a child trafficker. When endangered children feel like their needs are being heard and addressed, they find the courage and confidence to reject empty promises from pimps, gangs and other predators.

It is unimaginable to think of those lost spirits who have died under the worst of circumstances and disposed of in some unknown place. Their spirits continue to roam. <http://bit.ly/1ba3l7Z> 📌

Change the Narrative, Change the Message

For tribes to no longer be held hostage to the false narratives of the dominating society, says Steven Newcomb (Shawnee-Lenape), co-founder and co-director of the Indigenous Law Institute, they should change them to suit their needs:

If we accept without question the key narratives and key arguments of the dominating society, then by our failure to develop alternatives we're making it inevitable that they will continue to be used against us. Those narratives and arguments will be repeated over and over again, just as they have been up until

now, generation after generation, with little fundamental opposition on our part. Through their repetitive retelling, disguised as "the law," such stories of domination get woven together in the neural mappings of our brains and nervous systems.

Many of us have accepted the false belief that in order "to persuade" the dominating society, we have to match and agree with its norms and expectations. Yet, ironically, when we do so we reinforce the very reality of domination that is the source of the problems we want to solve as original nations and peoples of The Great Turtle.

So let's assume for a moment that we

have tremendous potential we have not yet lived up to, potential that enables us to free ourselves of false conditioning. Let's say we have our own "semantic sovereignty" that enables us to directly challenge the dominating society's narratives about itself and about our nations and peoples. Suppose we were to assume that we have meaningful and important things to say to the world about those dominating narratives, and about ourselves. What would we say?

We have the ability to deliver our own unique message from an entirely different cultural, spiritual and ceremonial viewpoint, in keeping with the spiritual laws of the universe. <http://bit.ly/1gT40bd> 📌

Key Thoughts From KeyBank: Indian Country and America's Energy Needs

The United States is entering a new age in energy: Natural resources are rapidly being unlocked by new technologies, and the market for renewable energy sources is booming. That's good news for Indian country.

Native American lands contain huge amounts of natural resources, the vast majority of which is undeveloped. The U.S. Department of the Interior estimates that there are 15 million acres of potential energy and mineral resources on tribal



Mike Lettig

land compared to 2.1 million acres already in use. If fully developed, energy projects could add billions in revenues to tribes, helping them build their economies, create jobs and achieve a


better quality of life.

Oil and gas has great potential: The Navajo Nation in the Southwest, the Three Affiliated Tribes in North Dakota and Alaska Native Corporations are engaged in large extraction enterprises. And some tribes like the Southern Ute own companies that manage the entire exploration and development undertaking.

Major coal operations are taking place on Navajo, Hopi and Crow lands, and many tribes have sizeable reserves available for development. Tribal lands also have considerable potential for hydroelectric projects and renewable energy production. For example, the Moapa Band of Paiutes in Nevada is launching the first large-scale solar project on Native soil.

Taking full advantage of natural resource opportunities requires access to capital, both debt and equity and a strategy that protects the land through conservation and sustainable practices. Just as important, it requires careful planning and a financial advisor that understands each Nation's laws and values.

"Key is uniquely well positioned to work with tribes and energy development," said Mike Lettig, director of KeyBank's Native American Financial Services. "When our

bankers team up with KeyBank Capital Markets energy specialists, we ensure that our financial solutions meet Native America's short- and long-term natural resource objectives." 

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Together we have the power to help your Nation succeed.

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To learn how we can help your Nation succeed, visit key.com/nativeamerican.

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Emergency Contraception to be Available at IHS Facilities

The Indian Health Service has expanded access to emergency contraception by issuing a verbal directive to its facilities to dispense Plan B at its pharmacy windows without a consultation or prescription for women age 17 or older.

"We have taken this issue seriously, and the IHS has, on several occasions this year, confirmed access to FDA-approved emergency contraceptive products in all IHS federally operated facilities with pharmacies," the agency told the Associated Press. In response to an inquiry from Indian Country Today Media Network, the agency confirmed that "emergency contraception is available in IHS federally-run facilities."

The IHS had announced its intention to finalize a policy on Plan B distribution more than a year ago; according to the AP, the agency is still putting the finishing touches on the plan. The matter is of particular importance in Indian country because the HIS has no retail pharmacies. Consequently, critics say, Native women have faced inordinately long waiting times for Plan B.

At mainstream facilities, unlike their HIS counterparts, any woman age 15 and older who asks for it can obtain emergency contraception over the counter. But the IHS plans to lift age restrictions to obtain emergency contraception once the Food and Drug Administration approves new labels for the project.

"We've made some progress, and we have to acknowledge that, but there's still more," Charon Asetoyer, the executive director of the Native American Community Board, told the AP. "They're still violating our rights to access by denying women who are age 16 and under. We have to ask, why are we being treated differently?" <http://bit.ly/15mtcHc> 📱

Fond du Lac Wild Rice Crop Bounces Back

The massive June 2012 rainstorms that wiped out last year's wild rice harvest on the Fond du Lac Reservation have actually aided the tribal resources department in managing two ricing lakes for a better harvest this year. Ironically, the very rains that destroyed last year's crop also hampered the growth of two plants that compete with wild rice—pickerelweed and water lilies. Using water-control structures on Aatawemegoko-kaaning (Perch Lake) and Naa-wonigami zaaga'igan (Jaskari Lake), the tribal resources staff kept water levels high after the flood, keeping the problem plants down and enabling the rice crop to bounce back.

"The fact that rice was gone gave us more management flexibility," said Thomas Howes, manager of the Fond du Lac Band of Lake Superior Chippewa Natural Resources Program, who characterized

the current rice crop as "phenomenal." He added that the staff took further advantage of the high water levels for boat access to areas with the undesirable plants. "We went everywhere across the lake and cut everything that was emergent that wasn't flooded."

Letting the natural balance of plants adjust itself is generally good for the ecosystem, Howes added, but historic alterations on the lakes can give the less desirable plants an unfair, unnatural advantage. "The natural mix of vegetation is good to a point," he said. "Rice is an annual, and the other plants we manage are aggressive perennials that enjoy the same growing conditions as wild rice. Left unchecked they will completely overrun the lake, which they essentially did. We certainly would rather let nature dictate the conditions in the watershed, but when things are this far out of balance, it required some intervention." <http://bit.ly/14AmVoW> 📱

Utes Boycott Town to Protest Racial Profiling and Police Harassment

BY CAROL BERRY

The Ute Indian Tribe (Northern Ute) has called for a boycott of non-Ute businesses in the adjoining town of Roosevelt in northeastern Utah, to protest racial profiling by local law enforcement.

The boycott of Roosevelt, a community of about 4,000 Indian and non-Indian residents some eight miles from tribal headquarters at Fort Duchesne, was announced August 30. It is not

the tribe's first; a previous incarnation lasted from 1977 to 1998. The current action prompted Dennis Jenkins, the then-mayor of Roosevelt to say, "It saddened me to see that in 15 years we haven't made any progress."

The Northern Utes are demanding that Roosevelt police "treat tribal members with dignity and respect reservation boundaries." According to tribal officials, the police chief told ABC News he was not aware of any recent racial profiling. Roosevelt city officials said in a press statement that the boycott surprised them; the tribe said that that attitude is "disingenuous in light of the [earlier] boycott of the city."

Northern Utes "continue to be sub-

ject to ongoing unlawful stops and arrests in large numbers" outside local law enforcement's jurisdiction, the tribal statement said. However, the tribe's governing Business Committee will not file a specific complaint for fear of retaliation. Nonetheless, Northern Utes warned, "Make no mistake, the tribe will address these issues very soon in a time and [unspecified] manner of its choosing."

"Tribal membership spends hundreds of thousands of dollars at local businesses in Roosevelt only to be treated as second-class citizens in a city in which they do their shopping," the tribal press release further stated. "Shame on Roosevelt." <http://bit.ly/1fyo1pv> 📱



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Center for Rural Affairs Urges Rejection of Keystone XL

Arguing that the Keystone XL pipeline would not be in the best interest of small towns and agricultural areas, the Center for Rural Affairs on September 24 urged the federal government not to approve the controversial project.

"Oil and water don't mix," said rural affairs board member Maryanne Rouse in a statement. "The Keystone XL pipeline threatens our rural communities, and the natural resources that we depend upon."

At its quarterly meeting in Wayne, Nebraska on September 21, the group's board also signed a letter to President Barack Obama and Secretary of State John Kerry, stating that "the pipeline is not in the best interest of small towns and rural areas, especially those that depend upon agriculture for their livelihood."

The Center for Rural Affairs joins many others, from tribal members to Nobel laureates, in fighting the \$7 billion, 1,700-mile-long pipeline extension. The pipeline would carry bitumen, a viscous form of crude that is extracted from the oil sands of Alberta, all the way from that northern province in Canada down to refineries on the Gulf of Mexico coast in Texas.

President Obama has said he would not approve the pipeline if it contributed substantially to climate change, and the project may be delayed because of an internal investigation that the State Department is conducting into the firm that conducted the environmental analysis.

"The risk of transporting tar sands oil cannot be ignored, as it threatens our natural resources and could have untold impacts on agriculture," said Rouse. "We need to bring energy development back to renewable, home-grown sources and protect our natural resources as well as the climate." <http://bit.ly/16qRoff>

Oglala Voting Rights Plaintiffs Won't Have to Pay Court Costs

BY STEPHANIE WOODARD

A judge has refused to allow defendants in the recently dismissed *Brooks v. Gant* voting-rights lawsuit to pursue the Oglala plaintiffs for court costs. In a tautly worded September 19 opinion, U.S. District Court Judge Karen Schreier noted that it took a lawsuit to get the defendants, who are state and county officials, to "provide the relief sought by the plaintiffs." Had the officials done so from the start, wrote the judge, "they could have avoided the costs they are now seeking."

Schreier had dismissed the suit after the defendants agreed to fulfill the plaintiffs' request for a full-time early-voting polling place for the Pine Ridge Indian Reservation. Sara Frankenstein, attorney for the county officials, then asked the court to bill the 25 plaintiffs for more

than \$6,000 in court costs—an idea that Judge Schreier called "unjust."

Clarice Mesteth, an Oglala single mother and plaintiff, expressed relief. "We couldn't believe they wanted us to pay because we asked for the same access to voting that the rest of South Dakota gets," she said.

In her decision, Judge Schreier noted that the plaintiffs were "without great means" and did not stand to gain personally from the lawsuit. Rather, they had filed "to vindicate the voting right of all Native Americans who live on the Pine Ridge Indian Reservation."

"It should serve as a precedent in other cases," said Laughlin McDonald, director emeritus of the American Civil Liberties Union's Voting Rights Project. "Some jurisdictions settle voting-rights cases to avoid paying costs and fees, but others who want to maintain their existing systems fight on. Hopefully, the decision will lead to more settlements in cases bought by American Indians." <http://bit.ly/1bchsd5>

Increases in Gaming Revenues Bode Well for Indian Country

BY GAEL COUREY TOENSING

An increase in Indian gaming revenues in 2012 of almost three percent offers "economic encouragements" for Indian country, said the National Indian Gaming Commission (NIGC). The commission released data in late July showing revenues generated by the Indian gaming industry in 2012 totaled \$27.9 billion—the third consecutive year of increases in gross gaming revenues since the recession began in 2007.

The Indian gaming industry saw its largest gross gaming revenues ever in 2012, said NIGC chairwoman Tracie Stevens: "The 2012 Indian gaming industry's gross gaming revenues of \$27.9 billion indicate a strong and mature Indian gaming industry. Additionally, gross gaming revenues in 2012 reached its highest level in history, ahead of 2011's gross gam-

ing revenues by \$746 million. For those who judge casino spending as an indicator of increased discretionary spending and economic recovery, 2012 revenues certainly display economic encouragement."

Associate Commissioner Dan Little said a key role in the growth of the Indian gaming industry was the commission's review and updating of regulations. "Over the past three years our regulatory review has provided much needed reform to meet the needs of the changing industry and provide flexibility and consistency for tribes and tribal regulators," Little said.

The National Indian Gaming Commission is an independent federal regulatory agency that was established by the Indian Gaming Regulatory Act of 1988. It provides for the training and technical assistance and regulatory oversight that ensure the integrity of more than 420 gaming establishments owned and operated by nearly 240 tribes across 28 states. <http://bit.ly/16tmnZA>

Viejas Rejoins California Board

A founding member is back again

The Viejas Band of Kumeyaay Indians has rejoined the board of the California Tribal Business Alliance following a two-year interregnum. Viejas was one of the founding members of the alliance but had stepped back from board representation in 2011 in order to focus on tribal business. The tribe's decision to rejoin the board followed several weeks of discussion over current policy issues and the Viejas' desire to once again coordinate Native American advocacy efforts. "We are very pleased to have Viejas once again represented," said CTBA Chairman Robert Smith, chairman of the Pala Band of Luiseño Indians. <http://bit.ly/182SZCf>

Database For Aboriginal Businesses

Canadian initiative will ease searches

To make it easier to search for aboriginal suppliers and contractors across Canada, the Canadian Council for Aboriginal Business recently launched the Certified Aboriginal Business Program database with support from Suncor Energy. Currently, the platform includes about 250 aboriginal-owned businesses. "Increasingly, corporations have begun to realize the value that aboriginal businesses bring to the table, but it's not always obvious where to find aboriginal contractors and suppliers," said JP Gladu, president and chief executive officer of the Canadian Council for Aboriginal Business. "By creating a searchable, country-wide database for certified

aboriginal businesses, we are providing a starting point for those looking to source a new supplier." <http://bit.ly/16A8vBQ>

Circling Raven Honored For Premier Service

Travelers give golf club outstanding reviews

TripAdvisor has awarded Circling Raven Golf Club, part of the Coeur d'Alene Casino Resort Hotel, its Certificate of Excellence distinction for exceptional hospitality. Located in the scenic Idaho panhandle, Circling Raven was honored for receiving consistently outstanding traveler reviews on TripAdvisor, the world's largest travel site. Named one of America's 100 best public golf courses, Circling Raven was also rated the number one public-access course in the state of Idaho. The club's fame is expected to hit an even higher note when it hosts the Susan G. Komen Benefit and Golf Tournament on Sunday, October 13. <http://bit.ly/1bJ9XcW>

Video Poker Gets Multiple Platforms

Tournament for new gaming approach

For the first time, poker players can extend their gamesmanship by participating in a major video-game tournament using multiple platforms: mobile, desktop, social media and on location at the Pascua Yaqui-owned Casino Del Sol in Tucson, Arizona. "More than 1.5 million people have played Game King Video Poker at DoubleDown Casino since its launch in April, making it our fastest growing table game," John Clelland, vice president

of global marketing at International Game Technology, told *Indian Gaming Magazine*. Clelland noted that the Game King Championship Tournament spans several platforms and has resulted in the largest group of poker players ever competing against each other. <http://bit.ly/1bf8lrV>

Columbia River Brims With Salmon

New abundance is due to several factors

Nearly a million fall Chinook salmon have returned to the Columbia River this year, nearly 400,000 more than have returned since the Bonneville Dam was built 75 years ago. With a month still left in the run, said the Columbia River Inter-Tribal Fish Commission, more than 920,000 adult and jack fall Chinook had already come upriver. On September 9 alone, 63,780 fall Chinook crossed the dam. This abundance is due to several factors: First, river flows were high in spring, when the juvenile fish migrated to the ocean. Also, juvenile fish have spilled over dams, ocean conditions have been good, and numerous ongoing projects have improved the fishes' ability to bypass dams and exist in their spawning habitat. Finally, there has been a higher survival of hatchery-produced fish. An abundance of jacks, three-year-olds and four-year-olds is a harbinger of a potentially big return next year as well. <http://bit.ly/19CMs0j>

No Wolf Hunt, Jessica Lange Urges

Actress appeals to Minnesota governor

Lifelong Minnesotan and

Oscar-winning actress Jessica Lange has written an open letter to Governor Mark Dayton requesting that he suspend this year's wolf hunt. Noting that the 413 wolves killed by hunters and trappers last year were not hurting livestock or threatening humans, Lange decried the 25 percent decline in the state's wolf population, to the lowest number since 1988. Alluding to the upcoming election, she wrote, "As you again ask Minnesotans for the opportunity to lead our state, I ask that you show leadership on this issue." <http://bit.ly/19D3JXe>

Indian Law Firm Wins Gaming Honors

Galanda Broadman gets top annual designation

Global Law Experts has named Galanda Broadman, Washington State's boutique firm, "Gaming Law Firm of the Year." This distinction follows the firm's prestigious Tier 1 ranking in the 2013 *U.S. News & World Reports—Best Law Firms* in the area of Native American Law. As an Indian Country firm, Galanda Broadman is dedicated to advancing tribal rights and Indian business interests. "We are proud to be a small American Indian-owned law firm, listed amongst hundreds of the largest and most prominent law firms in America, and the world," said Galanda, an enrolled member of the Round Valley Indian Tribes of California, to ICTMN. "Indeed, there is no professional mountain that Indian people cannot climb today." <http://bit.ly/1bJ9XcW>

Capobiancos Sue Brown

With transfer effected, insult is added to injury **BY SUZETTE BREWER**

Bottom Line: *The legal battle for custody of 4-year-old Baby Veronica may be over, but another tortuous court action has just begun.*

The four-year custody battle for Veronica Brown came to an end at 7:30 p.m. on September 23. A caravan of federal marshals made their way to the Jack Brown House in Tahlequah, Oklahoma, a guest residence near the Cherokee Nation tribal complex where the little girl's father, Dusten Brown, and his wife, Robin, had been staying for several months to maintain their privacy. Chrissi Nimmo, the assistant attorney general for the tribe, took Veronica's hand and led her to the waiting SUV that was to take her to Matt and Melanie Capobianco, her adoptive parents.

But even as the Capobiancos took custody of Veronica, another legal action was brewing. On September 25, the Capobiancos' lawyers in South Carolina were back in court seeking fines, attorneys' fees and expenses totaling approximately \$500,000 from Dusten Brown.

Brown, a member of the Oklahoma National Guard who served in Iraq, was compelled to turn over his biological daughter to the Capobiancos, who have been ruled as her adoptive parents, after visitation "negotiations" failed. The Cherokee Nation is also named in the action.

However, according to tribal attorneys, the tribe is not a part of the contempt order and therefore not obligated to pay the Capobiancos. Additionally, the attorneys noted that the Capobiancos have no jurisdiction to sue the tribe and that the Cherokee Nation is protected under the 11th Amendment, which grants them sovereign immunity from civil actions

seeking damages and financial compensation.

But for Dusten Brown the suit has potentially devastating consequences. Costs outlined in the contempt action include fines of up to \$32,000 a day, in addition to compulsory payments for the Capobiancos' living expenses while in Oklahoma. With a modest income and few assets, Brown has little chance of ever paying that kind of bill, friends and insiders say.

'Let me tell you, he is devastated right now. He just lost his daughter—probably for good. And here they are kicking this man while he is down.'

"They just took the most precious thing in his life, and now here they are trying to take what's left," said Shannon Jones, Brown's South Carolina attorney. "Let me tell you, he is devastated right now. He just lost his daughter—probably for good. And here they are kicking this man while he is down. They're not only kicking him, they're trying to destroy his life." The Capobiancos have declined requests for interviews.


Jones said that she and the rest of Brown's legal team, including those who pleaded his case before the Supreme Court, have been working pro bono for

him for years because he could not afford to pay them the ever-mounting legal fees in the fight for his daughter. It is widely known that the Capobiancos' legal team, including Lisa Blatt, who argued their case before the Supreme Court, has also been working pro bono.

The broader message that the Capobiancos and their legal team would seem to be sending, however, is the need to make an example of Dusten Brown and the Cherokee Nation.

"The message here is, 'Don't mess with the all-powerful adoption industry, and don't even think about trying to enforce the Indian Child Welfare Act,'" said Jones. "The message is clear that they are trying to threaten and intimidate tribes from attempting to enforce their rights under the law. They're saying, 'This is what's going to happen to you if you try to protect your children.'"

Nor is the larger issue over. Jones said that the Absentee Shawnee Tribe of Oklahoma has already indicated a reluctance to proceed with litigation on behalf of Baby Deseray, one of their tribal members who is currently living illegally with another adoptive couple in South Carolina, because they are concerned about the potential consequences and financial fallout from the tragic course of events in *Adoptive Couple v. Baby Girl*.

"I hope that they do proceed because Deseray's case is similar, but we have a different concern as a tribe," said Jana Snake, the infant's aunt, who is a member of the Absentee Shawnee. "We only have 3,900 tribal members left and we are rapidly dying out. Out of all my cousins, we only have one boy to carry on the Snake name. If we lose Deseray, what kind of message does that send to our tribe?" <http://bit.ly/16JojmA> 

Crisis in Education

Sequestration compounds the problem **BY ROB CAPRICCIOSO**

Bottom Line: *A new report finds that Native students have largely stagnated in the classroom—which is particularly bad news as federal sequestration starves their programs of badly need funds.*

Despite recent progress in improving education among most students of color, achievement results for Native students have remained nearly flat—and as achievement has stagnated, the gaps separating them from their peers have mostly widened, says a new report.

The report, *The State of Education for Native Students*, issued by the Education Trust, a nonprofit organization that focuses on student achievement gaps, was released in August. Among other findings, it noted that National Assessment of Education Progress (NAEP) results for Native students improved more slowly between 2005 and 2011 than for any other major ethnic group. “As a result, while Native students were performing better in fourth-grade reading and eighth-grade math than African American and Latino students in 2005, by 2011 that lead had all but disappeared,” the report stated.

“In 2011, only 18 percent of Native fourth-graders were proficient or advanced in reading on the National Assessment of Educational Progress (NAEP), compared with 42 percent of white fourth-graders,” the report also stated. “In math, only 17 percent of Native eighth-graders were proficient or advanced, and nearly half (46 percent) performed below even the basic level. For white students, the pattern was almost exactly the reverse, with 17 percent below basic and 43 percent proficient or advanced.”

The report has current urgency because of the current federal budget sequestration, said Heather Shotton, president of the National Indian Education Association. She said that programs that are struggling, as well as those that are helping Native students, are inordinately harmed because they depend on

federal funds.

“Sequestration has limited the success of such programs—disproportionately affecting America’s most vulnerable populations,” Shotton said. “For tribes and educators working tirelessly to reverse the disparaging statistics, sequestration has reduced budgets, increased class sizes, and reduced staff when Native students need them most.”

On the higher education front, the report finds that of the Native students who enrolled in a four-year college in the fall of 2004, only 39 percent completed a bachelor’s degree within six years. It was

‘There’s an urgent need to pick up the pace of improvement for Native students in this country.’

the lowest graduation rate for any group of students.

“Our country’s focus on raising achievement for all groups of students has left behind one important group—Native students,” said Kati Haycock, president of the Education Trust, in a statement. “To ensure that all Native students succeed, we must do more and better for them starting now.”

“There’s an urgent need to pick up the pace of improvement for Native students in this country,” added Natasha Ushomirsky, Education Trust’s senior data and policy analyst and author of the report.

The good news is that the poor trends are far from inevitable. The report points out that some states, schools and institutions of higher education are already

working hard to ensure progress for Native students. Still, there is a long, long way to go, said Native education experts.

Quinton Roman Nose, executive director of the Tribal Education Departments National Assembly, said the report paints a dire picture that Indian education experts have long been asking the federal government to heed and change for the better. He believes the information presented in the report offers a starting point for more research as to why there has been little progress under the Obama administration for Native students.

“I wish there were more information regarding local partnerships between tribes, local education agencies and state education agencies,” Roman Nose said. “The recent State Tribal Education Partnership grant has awarded four grants to have tribal education agencies partner with local education agencies and state education agencies in developing selected title programs from the Elementary and Secondary Education Act.”

Shotton said her organization is “troubled” by the achievement statistics highlighted in the report, but that it helps to focus on some success stories that illustrate these trends are not irreversible.

“As noted in the report, some states are currently raising Native academic achievement outcomes,” Shotton said. “Among other successes, increased tribal and Native community involvement in Oregon and Oklahoma ensure Native-serving schools include culture-based education and provide resources for language immersion, which as research shows, increases academic outcomes.”

The NIEA is currently asking federal lawmakers to leave Native education programs unharmed as sequestration continues to be implemented, or for Congress to work with the Obama administration to implement a planned reduction measure, rather than enact across-the-board cuts that disproportionately diminish the education of those who need it most.

<http://bit.ly/16AfNVY> 

McCain Opposes Harper

Rough sledding for human rights nominee **BY ROB CAPRICCIOSO**

Bottom Line: Keith Harper has hit a snag on his road to joining the United Nations Human Rights Council as an embarrassing letter written in connection with the Cobell settlement returns to dog him.

Citing human rights concerns stemming from the *Cobell* settlement, Sen. John McCain (R-Arizona) has refused to endorse lawyer Keith Harper, Cherokee, for the position of U.S. representative to the United Nations Human Rights Council in Geneva, Switzerland.

"Right now, Mr. Harper, I cannot support your nomination," McCain said during a September 24 confirmation hearing of the Senate Foreign Relations Committee.

The National Congress of American Indians, the Cherokee Nation and other tribal leaders and advocates have strongly supported Harper's nomination, which President Obama put forth in June. Harper had been a major fundraiser for the Obama campaigns, raising over \$500,000 last year alone for the president. He also worked on Obama's transition team on Indian issues and in his administration as a member of the Commission on White House Fellowships.

But it was his concurrent work with the law firm of Kilpatrick Stockton, as co-counsel in the \$3.4 billion *Cobell v. Salazar* litigation settlement, that aroused McCain's suspicions. At issue is a letter promoted by the *Cobell* legal team during the appeals period of that Indian trust case last year. It included the names and addresses of four Native Americans who were launching an appeal of the settlement, and the letter encouraged class members to contact them.

A wide range of Indian country legal experts decried the letter, but at the time Harper would not comment on it. This

silence has now cost him the support of McCain, who called the letter "a terrible thing to do" and "one of the more provocative letters" he had ever seen.

Harper placed responsibility for the letter squarely on Dennis Gingold, his co-counsel on the *Cobell* case, saying that Gingold handled its writing and its posting online. "When we learned of the letter, our firm had discussions with our co-counsel to pull the letter off the web," Harper said.

But McCain noted that both Harper and Gingold refused to respond to media requests about the letter after it was posted and asked why Harper didn't publicly rebuke the letter at the time if he felt it was wrong.

"At the time, we were in active litigation," Harper responded. He also said he did not think that publicly disavowing the letter was in the best interest of his clients.

"So you couldn't answer for a letter that mentioned people's names, addresses, phone numbers—encouraging people to call and harass them?" McCain asked.

Harper responded that he thought the letter a bad idea at the time and reiterated that he did know anything about it prior to its publication.

"You should have known," McCain said. "He was your class [co]-counsel."

"I should have been informed, but I was not informed," Harper replied.

"So the dog ate your homework," McCain said.

The senator further hammered Harper for not condemning the letter at the time, saying that that decision caused him to question the lawyer's ability to be a human rights advocate. "You're talking about human rights here," McCain told Harper. "I think these four people's human rights were abused."

Harper admitted during questioning that the *Cobell* counsel should not have "actively engaged" in putting the letter

out. But he emphasized, "I did not participate in that. I have colleagues and nobody from my firm, from my understanding, participated in that. We did not have any control."


McCain spokesman Brian Rogers told Indian Country Today Media Network after the hearing that Harper spoke in error or was perhaps disingenuous about the letter's removal.

"During his testimony to the committee and Sen. McCain, Mr. Harper claimed that the controversial 'Ask Elouise' letter dated January 20, 2012 had been removed from class counsel's website IndianTrust.com," Rogers said. "In fact, the letter is still up." Rogers offered a time-stamped screen capture showing that the letter was still posted online at the website run by Harper and the other *Cobell* lawyers.

McCain concluded his questioning by saying he has further questions about lawyers' fees involving Harper on tribal trust settlements, as well as on the relationships between Harper's firm and individual tribes.

Sen. Barbara Boxer (D-Calif.), who chaired the confirmation hearing, said she was "blindsided" by the revelation and added, "I agree with [Senator McCain] that this is a problem."

It was difficult for at least one of the American Indian appellants, Kimberly Craven, to watch the video of the hearing online. She had already suffered emotional scars from the letter and now had to experience them all over again.

"Since [the letter] was sent out to the *Cobell* settlement list serve and posted online, I have been threatened at my work and home," the Sisseton Wahpeton Oyate citizen wrote on Facebook soon after the hearing. "I have gone to the local police when I was scared by someone who said they knew where I lived." <http://bit.ly/1amsPL5> 



A federal district court has favored New York City in its tax battle against Seneca Indian Nation-based tobacco wholesalers, arousing tribal ire.



Tracie Stevens, a member of the Tulalip Tribes of Washington, is stepping down as chairman of the National Indian Gaming Commission.



Sen. John McCain (right) has opposed the nomination of Keith Harper, Cherokee, to a key United Nations human rights post.



A dugout canoe believed to date back at least several hundred years was found in Owen Lake in the Ocala National Forest east of Ocala, Florida.

A Native Court Nominee

Humetewa is candidate for federal bench **BY ROB CAPRICCIOSO**

Bottom Line: *With his nomination of Hopi citizen Diane J. Humetewa to the U.S. District Court for Arizona, President Obama has the chance to hit back at Republican senators who blocked his previous attempt to seat a Native on the federal bench.*

Responding to widespread requests from tribal leaders and Indian legal advocates, President Barack Obama has nominated Diane J. Humetewa, a Hopi citizen, to serve on the U.S. District Court for Arizona. If confirmed by the Senate Judiciary Committee, she will be the first Native American to be appointed by Obama to the federal bench, the first Native American woman to assume a federal judgeship, and only the third Native American in this country's history to hold such a position.

It is already known that Humetewa has a strong ally in Sen. John McCain (R-Arizona), who had recommended her for a U.S. attorney position during President George W. Bush's second term. At the time, she told Indian Country Today Media Network that she was "humbled" to be chosen.

"The opportunity arose when one day I was sitting in my office, and the telephone rang—a gentleman said, 'Please hold for John McCain,'" she said. "Sen. McCain simply asked me whether I wanted to provide this service for Arizona. Frankly, I was pretty taken aback and surprised and flattered. I felt I certainly couldn't say no."

Humetewa, who received both her undergraduate and law degrees from Arizona State University, currently serves as Special Advisor to the President and Special Counsel in the Office of General Counsel at ASU. She also teaches at the university's Sandra Day O'Connor College of Law. She worked in the U.S. Attorney's Office in the District of Arizona from 1996 to 2009, serv-

ing in among other capacities as senior litigation counsel and as counsel to the Deputy Attorney General. From 1993 to 1996, Humetewa had been deputy counsel for the Senate Committee on Indian Affairs. And from 2002 to 2007, she was an appellate court judge for the Hopi Tribe Appellate Court.

Obama had previously nominated one tribal citizen to serve on the federal bench, Arvo Mikkanen, of the Kiowa Tribe. But Republican senators successfully blocked that nomination during the president's first term. Oklahoma's senators in particular expressed frus-

Court's tendency not to understand tribal law.

Jack Trope, executive director of the Association on American Indian Affairs, recently told Indian Country Today Media Network that getting more Indians appointed to the federal bench during Obama's second term was a top priority for a range of tribal advocates. "We just have to hope the administration goes through the process of consulting the appropriate senators," Trope said. "We don't want another situation like what happened with [Mikkanen]."

Among those who expressed support for Humetewa's nomination was Juana Majel, first vice president of the National Congress of American Indians. "In 2013 we have witnessed the passage of the Violence Against Women Act Reauthorization that included extraordinarily important protections for Native women," Majel said. "With the nomination of Diane Humetewa to be the first Native woman to be a federal judge, 2013 is truly a landmark year for Native women."

Assistant Secretary for Indian Affairs Kevin Washburn, a law dean at the University of New Mexico before joining the administration last year, also expressed optimism upon learning of the selection.

"Diane Humetewa will make an excellent judge," said Washburn, a Chickasaw Nation citizen. "She was a very capable U.S. Attorney for Arizona and a capable career prosecutor before that. She is tough, but compassionate, and I know that she can gracefully handle the stress of being the first Native American woman to travel this path. This is a historic nomination."

Matthew Fletcher, director of the Indigenous Law Center at Michigan State University, said that Humetewa was "a wonderful selection" and he expected that she would be easily confirmed.

<http://bit.ly/14AuCv8> 

'With the nomination of Diane Humetewa to be the first Native woman to be a federal judge, 2013 is truly a landmark year for Native women.'

tration that the administration did not consult with them on the nomination, but they would not specify their problems with Mikkanen at the time. The administration pushed back, with White House officials laying full blame on Senate Republicans, saying their opposition was part of their overall plan to thwart the president.

Since then, Indian affairs experts have been pressuring President Obama to make another Native American federal judgeship appointment—several more, in fact. They have cited the large number of Indian law cases heard in federal courts and the U.S. Supreme

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- Knowledge of NEPA and CEQA
- Knowledge of construction codes
- Ability to read, analyze, and interpret complex documents
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Headlines from the Web

KENOSHA CASINO HAS SUPPORT IN REGION, POLL FINDS

<http://bit.ly/194Egnr>

HEITKAMP BILL ENDS TAXATION OF SOME NATIVE HEALTH PROGRAMS

<http://bit.ly/19JIT7d>

SAN MANUEL: TRIBE GIVES \$50,000 TO STATE REPUBLICANS

<http://bit.ly/1b9LPgJ>

FRANKLIN UNABLE TO SHAKE NIKWASI MOUND MISSTEPS

<http://bit.ly/1bIOKjk>

JUDGE TOSSES 2 CASES AGAINST YUBA COUNTY CASINO

<http://bit.ly/14LUep5>

WISCONSIN ASSEMBLY BILL WOULD REWRITE RULES ON MASCOT OBJECTIONS

<http://bit.ly/1bWQdm7>

Upcoming Events

LEONARD PELTIER INTERNATIONAL TRIBUNAL ON THE ABUSE OF INDIGENOUS HUMAN RIGHTS OCTOBER 2-4

Nearly 40 years after the uprising at Pine Ridge, South Dakota, in which Leonard Peltier was convicted of killing two FBI agents, participants will take testimony from witnesses and present their findings to the World Court in the Netherlands in an attempt to clear the name of one of the founders of the American Indian Movement.

Location: Radisson Hotel and Conference Center, Green Bay, Wisconsin

FIRST NATIONS L.E.A.D. INSTITUTE CONFERENCE OCTOBER 3-4

The 18th annual conference offers training tracks in nonprofit capacity building, Native economic development and Native agriculture and food systems. Sponsors include the Kresge Foundation, Comcast/

NBCUniversal, the W.K. Kellogg Foundation, the Northwest Area Foundation, Ogallala Commons, the CHS Foundation and the Kalliopeia Foundation.

Location: Mystic Lake Casino Hotel, Prior Lake, Minnesota

ARIZONA INDIAN EDUCATION ASSOCIATION PARENT CONFERENCE OCTOBER 3-4

"Bright Futures: College and Career Readiness for American Indian Families" will focus on parent involvement, education, culture, health, and career and workforce readiness to support, inform and advocate Arizona's American Indian parents in the education of their children.

Location: Scottsdale Community College, Scottsdale, Arizona

SOCIETY FOR THE ADVANCEMENT OF HISPANICS/CHICANOS AND NATIVE AMERICANS IN SCIENCE NATIONAL

CONFERENCE OCTOBER 3-6

One of the largest annual gatherings of minority scientists in the country is expected to draw 3,700 attendees for four days of scientific research presentations, professional development, networking, exhibits, culture and community. The gathering will also mark the 40th anniversary of the society.

Location: Henry B. Gonzalez Convention Center, San Antonio, Texas

TRIBAL ENVIRONMENTAL LEADERS SUMMIT OCTOBER 7-11

Tribal leaders and their environmental staff, along with representatives of the Environmental Protection Agency, are invited to share and seek resolution to tribal environmental concerns throughout EPA Region 10. Hosted by the Kalispel Tribe in partnership with the EPA.

Location: Northern Quest Resort & Casino, Spokane, Washington

LETTERS TO THE EDITOR

Re the proposed Nazi takeover of Leith, North Dakota (September 22): I hate Nazis. Hopefully the Sioux will keep a close eye on them. The Nazis should be kept under the rocks from which they crawled.

I just finished watching several Holocaust videos and am dismayed at the "Final Solution." How can there even be Holocaust deniers? The evidence is plain to see.

If I had a Nazi within reach right now,

I would bury him up to his neck in an ant pile and smear molasses all over his mouth and nose.

— Michael Madrid
Las Cruces, New Mexico

I am so troubled about the shocking development of Veronica Brown now being in the custody of Matt and Melanie Capobianco (September 24). This

child should be with her father, Dusten. From all I've read, there have been numerous misleading unlawful actions to take Veronica. Please tell me there

is still some legal recourse for Dusten and Veronica.

— E. James Griffin, Georgia

Let us know what you think. To have your letter to the editor considered for publication, please email us at editor@ictmn.com



TOP NEWS ALERTS

From IndianCountryTodayMediaNetwork.com

COMANCHE CODE TALKERS EXHIBIT OPENS

An exhibit honoring 17 members of the Comanche Nation, all now deceased, who served as Code Talkers during World War II, has opened at the Comanche National Museum and Cultural Center in Lawton, Oklahoma. "A lot of people didn't realize our Comanches were code talkers. And you know why? They pledged secrecy," said Comanche Nation chairman Wallace Coffey at a commemorative ceremony. "Now they're finally getting recognized."

CHEROKEES THREATEN ZOO WITH SUIT

Amy Walker and Peggy Hill, two tribal elders of the Eastern Band of Cherokee Indians, say they intend to sue Cherokee Bear Park, a roadside zoo in North Carolina, for violating the federal Endan-

gered Species Act by housing its bears in concrete pits on reservation land. "The Cherokee Bear Zoo is an open concrete grave for these intelligent animals," their attorney, James Whitlock, told the Associated Press.

SHINNECOCKS HOST DRUG TASK FORCE

About a dozen members of the Shinnecock Indian Nation of Long Island attended a discussion with Assistant U.S. Attorney Michael Canty regarding prescription drug abuse. Canty noted, among other statistics, that some 2,500 U.S. teenagers get high daily on Percocet, Vicodin, OxyContin and other opioid drugs, and that in the last decade this class of drugs has caused more overdose deaths than cocaine and heroin combined. On October 26, the tribe will host a DEA initiative

to turn in unused prescription drugs. Tribal trustee chairman Daniel Collins called the meeting and initiative a "proactive measure" to "start looking out for future generations."

VOTING RIGHTS FEES APPROVED

A federal judge has ordered that the Northern Arapaho and Eastern Shoshone tribes be reimbursed over \$960,000 in legal fees after they successfully challenged the at-large voting system for county commissioners in Fremont County, Wyoming. "The purpose of this litigation was to seek justice for people who have historically been marginalized, and as a result, their most valuable voting rights have been diminished," wrote U.S. District Judge Alan Johnson of Cheyenne. "The court has vindicated the importance and the value of

this lawsuit to the democratic process in Fremont County," said Andy Baldwin, who was among the lawyers for the plaintiffs.

NOOKSACKS PROTEST LOSS OF IDENTITY

About a hundred people gathered in downtown Seattle on September 20 to protest the possible disenrollment of over 306 members of the Nooksack people. Tribal officials say there is no proof of their ancestry; the members in question are descendants of a woman named Annie George, whose name is missing from a particular census record—something that those affected say is merely a mistake. "I've known ever since I was a little boy that I was Nooksack and that I was Native American," Rudy Romero told KUOW. "And the tribal council is trying to take that away from me."

UPCOMING POW WOWS

101st Annual Cherokee Indian Fair

October 1 - October 5,
Cherokee Indian Fairgrounds,
Cherokee, North Carolina
Contract: Howard Wahneta
828-554-6471

howawahn@nc-chokeee.com
VisitCherokeeNC.com

25th Annual Mehrrin Indian Nation Pow Wow

October 4 - October 6,
Ahoskie, North Carolina
Contact: Joseph Jordan
770-873-8785

[Facebook.com/events/374130539360708/](https://www.facebook.com/events/374130539360708/)

Washunga Days Pow Wow

October 4 - October 6,
Kaw City, Oklahoma
Contact: 580-269-2552

rbellmard@kawnation.com
KawNation.com

Keetoowah Cherokee Pow Wow

October 4 - October 5,
Keetoowah Celebration Grounds,
Tahlequah, Oklahoma
Contact: 918-431-1818

jbyrd@unitedkeetoowahband.org
UnitedKeetoowahBand.org

Hardy Turtle Island Annual Pow Wow

October 4 - October 6,
Loberg Park, Hardy, Arkansas
Contact: 870-972-6995

OldHardyTown.net

21st Annual Indigenous Peoples Day

October 5, Martin Luther King Jr.
Civic Center Park,
Berkeley, California
Contact: 510-595-5520

info@ipdpowwow.org
IPDPowWow.org

25th Annual West Valley College Pow Wow

October 5, West Valley College Lawn,
Saratoga, California
Contact: 408-741-2492

jose.bautista@westvalley.edu
WestValleyPowWow.org

Sacred Springs Pow Wow

October 5, Aquarena Center,
San Marcos, Texas
Contact: Maria Rocha
512-393-3310

iciinfo@indigenoucultures.org
IndigenousCultures.org

Fifth Annual Lucerne Valley's Big Time Gathering and Intertribal Pow Wow

October 5, Pioneer Park,
Lucerne Valley, California
Contact: Ophelia Sow'ally Porter
760-885-5924

ophelia@nativeamericanbead.com
[sites.Google.com/site/bigtimepowwow](https://www.google.com/site/bigtimepowwow)

39th Annual Honolulu Intertribal Pow Wow

October 5 - October 6, Thomas Square
Park, Honolulu, Hawaii
Contact: Mae Prieto or Dr. David Bevet
808-392-4479 or 808-783-7527

honolulupowwow@gmail.com
HonoluluIntertribalPowWow.com

SACNAS Pow Wow 2013

October 5, Henry B. Gonzalez
Convention Center,
San Antonio, Texas
Contact: Annabel Ortiz
831-459-0170 x 231

annabel@sacnas.org
SACNAS.org

18th Annual Chumash Intertribal Pow Wow

October 5 - October 6,
Live Oak Campground,
Santa Ynez, California
Contact: 805-688-7997

info@santaynezchumash.org
SantaYnezChumash.org

12th Annual Cumberland Plateau Pow Wow

October 5 - October 6,
Putnam County Fairgrounds,
Cookeville, Tennessee
Contact: 931-544-4908

iicpowwows@yahoo.com

San Manuel Pow Wow

October 11 - October 13,
California State University,
San Bernardino, California
Contact: 909-864-8933

powwowsanmanuel@gmail.com
SanManuel-NSN.gov

Bois Forte Miigwech Manomin

October 11 - October 13,
Nett Lake School Gymnasium,
Nett Lake, Minnesota
Contact: Donald L. Chosa Jr.
218-757-3261

dchosjar@boisforte-nsn.gov
BoisForte.com

Seventh Annual Trail of Tears Memorial Walk

October 12 - October 13, 3011 Port
Royal Road, Adams, Tennessee
Contact: Doug Kirby
931-801-1415

rotebard@yaho.com
NativeCulturalCircle.Webs.Com

Nineth Annual Native American Gathering

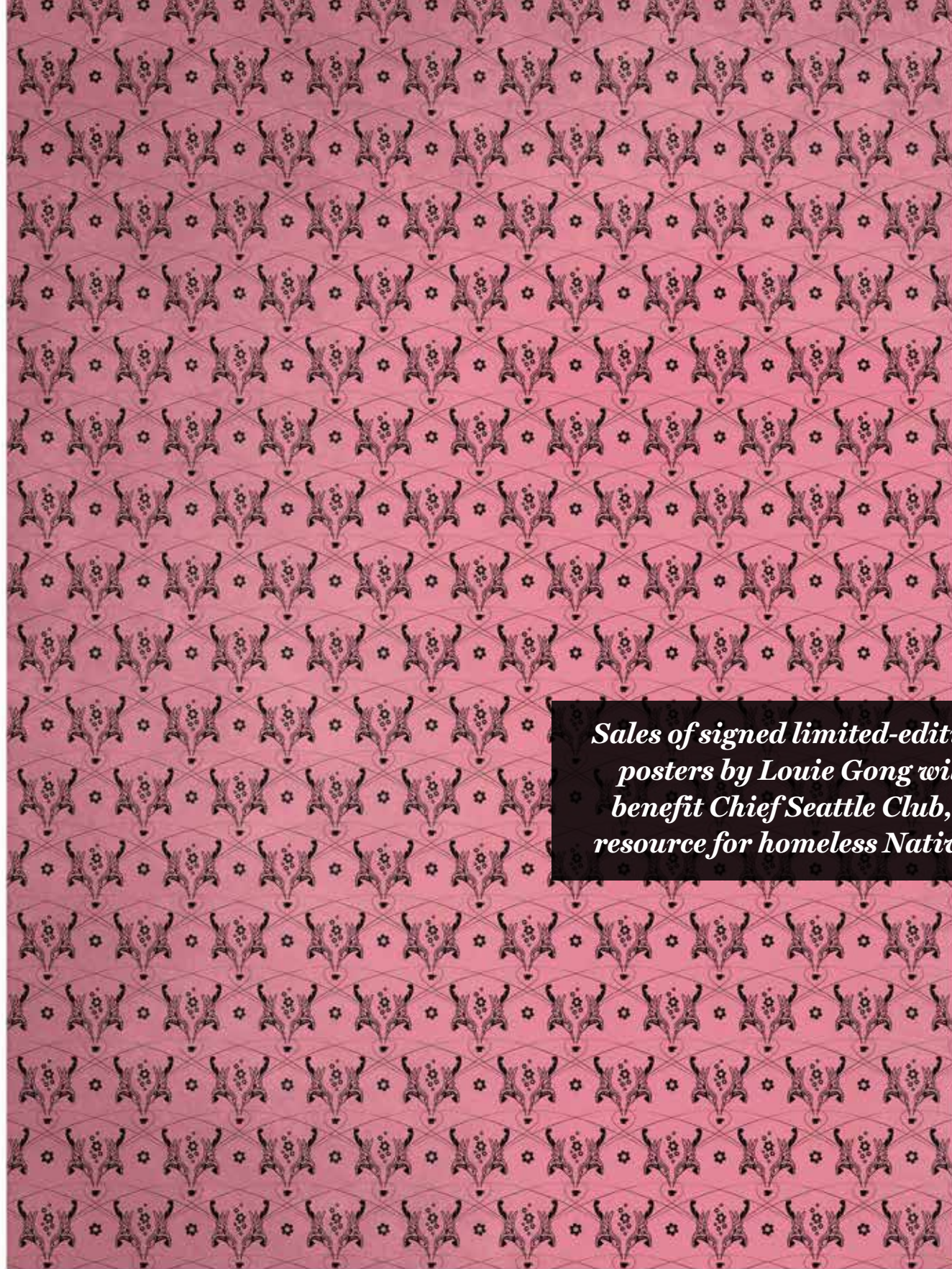
October 12 - October 13, Wolf Creek
Habitat, Brookville, Indiana
Contact: Kathy
513-312-9143

wolfcreekhabitat@msn.com
WolfCreekHabitat.org

Rappahannock Pow Wow

October 12, 5036 Indian Neck Road,
Indian Neck, Virginia
Contact: 804-769-0260

rappahannocktrib@aol.com
RappahannockTribe.org



Sales of signed limited-edition posters by Louie Gong will benefit Chief Seattle Club, a resource for homeless Natives.

Louie Gong 



THE BIG PICTURE