



Indian Country

THIS WEEK FROM

TODAY

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A Letter from the Publisher



Shekóli. Indian Country Today Media Network was established with the mandate of providing the most powerful platform possible for making Native issues known, and celebrating the richness of the contemporary Indian experience. It is designed for the transmission and sharing of information among our many nations, and to present that information in the most impactful light to the mainstream media and world. It is also the means by which many people with an interest in Native issues—typically members of the federal government of the United States—come to present their goals and agendas to an influential audience.

Recently, Senator Mark Begich (D-Alaska) sat down with our Washington Bureau Chief Rob Capriccioso to talk about his growing awareness and advocacy for Indian country. In this week's newsletter, Begich candidly airs his views on fundamentals, such as resolving and ensuring our Nations are paid for performing essential services for the federal government, and formation of effective policies that are designed to better the lives of Native Americans—like mending the broken justice system for Natives in Alaska.

Begich is remarkably candid about weighing the interests of “the people” against the interest of “the state”—meaning local U.S. governments. In fact, his comments illustrate the precise need for a proper and true sovereign relationship between our Nations and the United States federal government. In regards to establishing protections for Native Alaska women left out of the recent Violence Against Women Act legislation he says, “I believe that tribal testimony that will be part of the hearing will be strong, convincing and show that sometimes you have to say no to the state in order to get better justice for people of the state.”

It is an encouraging statement and an enlightening interview.

Na ki' wa,

Ray Halbritter

Table of *Contents*



14

2	COMMENTARY	15	TRADEWINDS CLASSIFIEDS
4	NEWS	16	WEB, EVENTS, LETTERS
10	BEGICH ON THE BARRICADES	17	CARTOON, NEWS ALERTS
12	THE CHILD SNATCHERS	18	UPCOMING POW WOWS
14	WEEK IN PHOTOS	19	THE BIG PICTURE

Why Not the R-Word?

John Banzhaf III, a professor of public interest law at George Washington University Law School, points up the hypocrisy of an impending NFL rule that would prohibit the use of some, but not all, derogatory terms on its turf:

The National Football League is reportedly about to ban the use of racist and gender-related slurs on the field and elsewhere, even to the point of imposing a 15-yard penalty or ejecting a player from the field. The NFL's competition committee will reportedly prohibit the slurs "from the parking lot to the equipment room to the locker room." But the

new rule will apparently ignore one of the most racist, offensive, and derogatory words used hundreds of times every day by the league itself and by one of its teams: "R*dskins."

Imagine the irony. The rule will likely cover sexist and homosexual slurs as well as the N-word, but not the R-word, which has been held in numerous legal proceedings, in dictionaries, and by every major American Indian organization to be equally derogatory, offensive, and racist.

I'm not the only one to see the irony in an anti-slur rule which ignores the word

"R*dskins." Many fans commenting on news web sites have voiced similar concerns. Christopher Stuart in the *HuffingtonPost* writes, "I find it appalling that the NFL who has a whole team—I repeat a whole team—that is named after a racial slur against First Nations peoples, the Washington Redskins, is all of a sudden in the business of 'politically correctness.'"

Eliminating racism and the use of racist language from the NFL is a worthy and long overdue goal, but it cannot be confined to just one race. <http://bit.ly/1c30Qp1> ☞

Not the Harper I Know

Questions of character have recently dogged Keith Harper, Crow, President Obama's choice for human rights ambassador to the United Nations. But Jim Gray, former chief of the Osage Nation, who as chairman of the Inter-tribal Monitoring Association of Indian Trust Funds (ITMA) came to know Harper through his handling of the Cobell case, defends him:

I have always known Keith to be professional and generous with his briefings. As with any attorney with active litigation, he was very careful with what he said, and everyone understood that many of the tribes who made up ITMA had on-

going litigation in the Court of Federal Claims. I never saw Keith resort to name-calling, or losing his temper, then or now. It's just not the Keith I know.

Now, that doesn't mean that many in Indian country did not like the *Cobell* case. They didn't like the way it took over how Indian issues were treated by the Bush Administration, so much so that it could be fairly argued that *Cobell* drove Indian policy in those days. It is also fair to say that the case exposed a national scandal, whereby for generations the federal government neglected the assets and livelihoods of hundreds of thousands of Indian families. In those

days before the settlement of the case, it represented justice for Indian country, pure and simple.

A lot of good came from this case, but it also caused some legitimate hard feelings over some of the more explosive rhetoric made by one of the attorneys. But it was not Keith. It's not surprising to me that after nearly 20 years of litigation and politics of trust reform and settlement of tribal claims, some in Indian country are still bitterly divided over *Cobell*.

But this is a time when we should be celebrating the success of one of our own. Keith Harper is ready to serve our country. <http://bit.ly/1hsAPyz> ☞

Why California is Drying Up

If you want to know the cause of California's current drought, says Spiritual Leader and Traditional Chief of the Winnemem Wintu Tribe Caleen Sisk, don't blame climate change. Rather, blame shortsighted individual and government policies:

Drought is what happens when you clear-cut the trees, kill all the beavers, and murder the wolves. It is what happens when you dam the rivers until they choke and build giant pumps to move water to the desert to grow almonds and pistachios that are exported to China and abroad.

Instead of trying to use technology to mimic nature or trying to invest in restoration, authorities are resorting to building more plumbing like Gov. Jerry Brown's plan to build the \$52 billion tunnels that will divert even more water from the Sacramento-San Joaquin Delta to Southern California.

About 80 percent of California's water goes to agriculture, including many of the ag-farms outside Fresno that are causing toxic selenium pollution. The land is telling authorities that it is spent, that the time for planting in the desert is over, but they are refusing to listen.

We the tribes should have the "first in time, first in use" water rights that allow us to benefit from all these projects in our river and should allow us to have a voice in what is happening to California's water. For the past few years, I have been attending numerous meetings organized by the governor and other state agencies to get tribal input on water. Whenever I ask about adjudicating tribal water rights, they say, "Oh, I'm not the right person for that" or "We're not the right agency for that". Someday, I would like to know just who the "right" person is. <http://bit.ly/1h6rJI0> ☞

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Former Navajo Delegates Plead Guilty to Conspiracy

Two former Navajo Nation officials have pleaded guilty to participating in a plan to divert tribal funds to their families. Public Safety Committee Chairman Raymond Joe and fellow Navajo Nation Council member Harry Williams, Sr. each pleaded guilty to a single count of conspiracy to commit bribery on February 18; in exchange, six bribery charges that each was facing were dropped.

According to the *Gallup Independent*, Joe and Williams acknowledged they “exchanged benefits” with other delegates, “causing the disbursement of financial assistance funds to each other’s families.” Joe said he conspired with five fellow lawmakers in taking nearly \$25,000 from a discretionary fund for needy tribal members, while Williams admitted to providing \$7,300 to the families of two lawmakers, the Associated Press said.

As quoted in court documents, Joe said, “We exchanged benefits to each other in order to influence and control our exercise of discretion in causing the disbursements of financial assistance funds to each other and our families,” the *Farmington Daily Times* reported. The court documents detail how the money was allocated from October 2007 to January 2009.

The *Daily Times* reported that both men will be sentenced to probation following sentencing agreements, while “the remaining complaints against them will be dismissed if the special prosecutor determines they are cooperating with the investigation.” As part of the plea agreement, neither man is eligible to run for public office in this year’s election, and the tribe may request repayment of the misused funds as a condition of the probation. <http://bit.ly/1hTjamV> 

Iowa Authorities Seek Golden Eagle Killer


Authorities are seeking the killer or killers of a golden eagle that was found shot in the northwestern part of Iowa late last week. The Iowa Department of Natural Resources said the eagle was killed either on February 18 or early on the 19th, according to police in Sioux City.

“There have been other cases of eagles recently shot in western Iowa and eastern Nebraska by what appears to be an organized group of individuals looking to sell them on the black market,” the official notice said. “Harrison County residents are encouraged to report any activity that may lead to the arrest and/or conviction of these poachers.”

However, this does not appear to be a poaching incident, a state wildlife official told KETV in Omaha, Nebraska, because the perpetrator did not climb the tree to retrieve

the majestic bird, which authorities found in Woodbine, near the Nebraska border.

“There’s no reason for someone to go out and shoot such a beautiful bird such as that,” said David Tierney, a state conservation officer with the Iowa Department of Natural Resources, to KETV. “It’s a homicide with wildlife, and that’s how we investigate it.”

Tierney said that the crime, though classified as a simple misdemeanor for a first offense, carries a \$250,000 fine and one year in prison. He also said that the Natural Resources Department is offering a \$2,500 reward for information leading to the killers. Authorities are encouraging anyone with information to contact the state’s Turn In Poachers hotline at 1-800-532-2020 or report it confidentially online. <http://bit.ly/1fU6bKR> 

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Prairie Band Potawatomi Nation Honored with Statewide Award

The Prairie Band Potawatomi Nation Tribal Victim Services program has received the Program of the Year Award from the Kansas Coalition Against Sexual and Domestic Violence. The Prairie Band program was presented with the honor at the coalition's 11th Annual Safe Homes, Safe Streets Awareness Day and Sunflower Safety Breakfast event in Topeka in February; several members of the Tribal Council and staff were in attendance.

Since 1995, the Kansas Coalition Against Sexual and Domestic Violence has been recognizing outstanding advocates and allies who are working to enhance victim safety, to increase perpetrator accountability, and to prevent and eliminate sexual and domestic violence, dating violence, and stalking in Kansas.

The Prairie Band Potawatomi Nation was honored with the statewide award for the SAFESTAR (Sexual Assault Forensic Examination Safety, Training, and Resources) project on behalf of the Tribal Victim Services program. SAFESTAR involves teaching volunteers to help victims of sexual assault through medical and law processes and has been recognized as an important means of addressing sexual violence against Indian women.

The Nation's SAFESTAR project, sponsored by the Southwest Center for Law and Policy, is one of only two in the nation. Overall there are 20 SAFESTAR volunteers, and six of those reside with Prairie Band. Samantha Wahquahboshkuk, also a Prairie Band Potawatomi Nation member, heads the SAFESTAR project.

Other award winners at this year's event included Shirley Collins from Overland Park for the Outstanding Advocate of the Year Award; Helen LaValley from Overland Park for the Volunteer of the Year Award; and Soroptimist International of Hays, Kansas for the Community Ally of the Year Award. <http://bit.ly/1lnC1Ha>

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Four Food Initiatives to Partake of \$250,000 AARP Grant

The AARP Foundation has granted the First Nations Development Institute \$250,000 to fund a project to address hunger, nutrition and food insecurity among Native American tribal elders. The new grant expands work that began in 2012 when the foundation provided First Nations with a \$187,660 grant under the First Nations' Native American Food Security project.

Under the 2012 grant, First Nations awarded \$25,000 each to four projects that have been successfully completed and evaluated:

- The Ponca Tribe put the funding toward raising natural, hormone-free pork and providing it to tribal elders by way of its local food-distribution program and a senior citizen

center.

- The Pueblo of Nambe's Community Farm Project is using its local resources of land, water and sun to revitalize traditional agricultural knowledge while working to end food insecurity among seniors in the community.

- The Santo Domingo Pueblo implemented a traditional farming program to engage seniors, farmers and youth in the community. Through the purchase and development of a greenhouse, the seniors planted and cultivated traditional crops. The seniors worked directly with youth on a weekly basis to provide traditional education around the interrelationship of agriculture and various cultural practices, including songs,

dances and prayers. The seedlings cultivated in the greenhouse are then sold to community members and transplanted by elders and youth in a community field, where programming will continue throughout the summer and fall.

- The Sipaulovi Development Corporation in Arizona works to ensure elder food security by reclaiming locally controlled food systems based on traditional knowledge, contemporary practices, and coming together for the common good. Activities focus on restoring seed and water sources, reviving community farming and gardening, and growing, processing and sharing food in the traditional manner. <http://bit.ly/N2kPsZ> 


Feds Release \$9 Million for Cleanup of Abandoned Coal Mines on Tribal Lands

The Navajo Nation and the Crow and Hopi tribes, all of whom have been plagued by issues stemming from hazardous abandoned coal mines, are eligible for more than \$9 million in federal cleanup funding this year. The Department of the Interior's Office of Surface Mining Reclamation and Enforcement announced the funding on February 24.

The allocation is part of a total of \$298 million in 2014 Abandoned Mine Land (AML) grants being awarded to 28 states and the three tribes "to help eliminate dangerous conditions and pollution caused by past coal mining," the government said. AML-funded projects include closing dangerous mine shafts, reclaiming unstable slopes,

improving water quality by treating acid mine drainage, and restoring water supplies damaged by mining.

Under the current funding plan, the Crow Tribe is eligible for \$1.6 million, the Hopi for \$1.2 million and the Navajo Nation for \$6.2 million. The tribes and other entities have until the end of September, when the current fiscal year closes, to apply for the funding. In the case of the Navajo Nation, its purchase of the Billiton coal mine in December does not fall under the purview of the reclamation grants because that mine is still operational.

Since the Surface Mining Control and Reclamation Act of 1977 was enacted, upwards of \$7.8 billion has been spent to clean up more than 370,000 acres of "high-priority hazardous abandoned mine sites." <http://bit.ly/1hf7FU8> 

NASA Officials Tour Ho-Chunk Headquarters


Two NASA Goddard Space Flight Center officials recently toured the corporation headquarters of the Winnebago Tribe of Nebraska's economic development corporation, Ho-Chunk, Inc., in Winnebago, Nebraska, as well as its office in Bellevue. Verron Brade and Lori Moore of the Office of Human Capital Management at Goddard arranged the tour to better understand how the corporation and its subsidiaries reinvest government contracting revenue into the Winnebago community. The officials particularly sought to learn more about the Ho-Chunk, Inc. Summer College Internship Program.

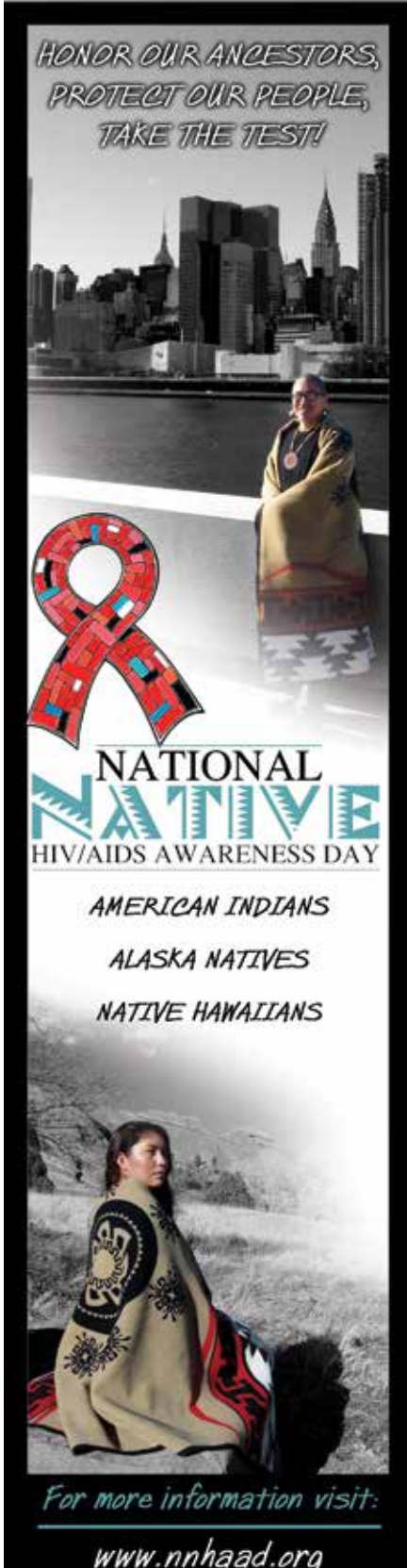
NASA's Goddard Space Flight Center has a high regard for education and provides a series of internship opportunities at its facilities throughout the United States. NASA internships work to prepare students for careers aligned with Goddard and its industry and university partners.

Similarly, Ho-Chunk, Inc.'s internship program provides hands-on ex-

perience to students seeking a career aligned with Ho-Chunk, Inc. and its industry within a business environment. Developmental opportunities include meetings with managerial and corporate executives; various education workshops; subsidiary information exchanges; strategic planning sessions; networking events and various other relevant proceedings.

"We really appreciated the opportunity to share our story," said Ho-Chunk, Inc. President and CEO Lance Morgan. "Not only did we get to share a little more about our mission and operations, but also had the chance to learn more about their facilities and educational programs."

A Ho-Chunk, Inc. subsidiary was recently awarded the Office of Human Capital Management Professional Services contract for work to be performed at NASA Headquarters in Washington, D.C. and at all NASA Goddard Space Flight Center facilities throughout the U.S. The \$23 million federal contract officially began on September 1, 2013. <http://bit.ly/OuVvMG> 



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2015 CSCs To Be Paid

'A major victory,' says Sen. Begich

President Obama's 2015 budget will call for full funding for tribal contract support costs, the White House has announced. The news follows the recent announcement that 2014 CSCs would be fully funded. The decision is a dramatic reversal from the White House's plan last year to cap CSCs owed to tribes. "While the discretionary funding caps in FY 2015 required tough decisions, the administration has given priority to Native American programs," said a White House official. "It's a major victory," said Sen. Mark Begich (D-Alaska), who played a role in getting the administration to change its decision. President Obama's fiscal year 2015 budget was formally released on March 4. <http://bit.ly/1jAB23e> 🌐

Goshute Tribes Sue Government

Join in coalition over water issues

The Confederated Tribes of the Goshute Reservation (CTGR) of Iapah, Utah, have joined a broad coalition of tribes, ranchers, farmers and environmentalists in a lawsuit against the Department of the Interior and the Bureau of Land Management that challenges the latter's decision to grant a right-of-way water pipeline that the plaintiffs say would destroy irreplaceable cultural and natural resources. The pipeline, authorized by the Southern Nevada Water Authority, would transport groundwater from the ancestral lands of Goshute and Shoshone people in

central-eastern Nevada to the Las Vegas Valley. "We cannot look the other way when the future of our people and homelands are in the hands of those who have their priorities mixed up," said CTGR Tribal Chairperson Madeline Greymountain. <http://bit.ly/1hhUlxC> 🌐

Humetewa Clears Senate Judiciary Committee

One step closer to making history

Hopi citizen Diane Humetewa is one step closer to becoming only the third Native American ever to serve on the federal bench and the first Native female to do so, following her approval by voice vote by the Senate Judiciary Committee on her nomination as judge for the U.S. District Court for Arizona. Humetewa's nomination now goes to the full Senate for consideration. "Diane Humetewa should be the first of several [Indians on the current federal bench], not the one and only," said Jack Trope, executive director of the Association on American Indian Affairs. <http://bit.ly/1hXdxUE> 🌐

Shirley Wants To Head Navajo Again

A third run for president

Joe Shirley Jr. has announced that he will run for a third term as Navajo Nation President. "I decided to run because I love my Navajo Nation, I see a leadership vacuum that needs filling, there's ample opportunity for me to serve again, and I frequently hear from Navajo people who tell me they would like me



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The time to sign up is now, before someone you love really needs it. You may be eligible for tax credits to help pay for health insurance; this makes it affordable and with no cost-sharing or deductibles when you receive services from Indian health programs. Sign up by March 31. Contact your local Indian health program about how you may qualify or find out more at www.healthcare.gov/tribal.

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to run again," Shirley said. Shirley became the first Navajo president to be reelected in 28 years when he served from January 2003 to January 2011. A chance at a third consecutive term was quashed in 2010, when the Navajo Nation Supreme Court ruled against it. However, the court said he could seek a third term at another time. <http://bit.ly/1ccU2W1> 🌐

Mike Connor Is New Interior Deputy Secretary

Second Only to Sally Jewell

Mike Connor was confirmed as deputy secretary of the Department of the Interior on February 27 by a Senate vote of 97-0. Connor has worked for Sen. Jeff Bingaman (D-New Mexico), as director of

the Secretary of the Interior's Indian Water Rights Office, and as a lawyer at multiple offices at Interior. Since 2009 he has served as the commissioner of the Bureau of Reclamation at Interior, where he implemented five Indian water rights settlements. While not an enrolled tribal citizen, Connor has roots with the Taos Pueblo, as his maternal grandmother was an original member of its water rights task force. <http://bit.ly/MBxF-Nm> 🌐

Appointments To Tourism Association

Advancing tribal interests in Alaska

The American Indian Alaska Native Tourism Association (AIANTA) recently named Nevada native Sherry L. Rupert president of its ex-

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ecutive board. Rupert, Paiute and Washoe, is the executive director of the Nevada Indian Commission and is part of Gov. Brian Sandoval's cabinet. She previously served on AIANTA's board as treasurer and vice president. AIANTA also recently announced that Rachel Moreno, Sitka Tribe of Alaska, will serve as the board's vice-president and that Aimee Awonohopay, St. Croix Chippewa Indians of Wisconsin, had been elected secretary. AIANTA is a 501(c)(3) national nonprofit association of American Indian tribes that was incorporated in 2002 to advance Indian Country tourism. <http://bit.ly/1hKFUFH> ☞

Distance Learning In Minnesota

*Tribal colleges getting
high-definition network*

A consortium of colleges led by Bemidji State University has won a \$500,000 grant from the Department of Agriculture to expand distance learning and telemedicine opportunities for rural northern Minnesota residents. The grant will allow schools in the Aazhoogan (Bridge) Consortium—which comprises Bemidji, Northwest Technical College, Leech Lake Tribal College, Red Lake Nation College and White Earth Tribal and Community College—to build a network of high-definition video connections linking the five institutions. Students at the Native colleges currently have no existing or functioning interactive distance learning equipment, but the network will give them access to industry-driven certification training, bachelor's degrees and specialized associate's degrees not previously available to them. <http://bit.ly/Mow9OK> ☞

Begich on the Barricades

After five years in office, the junior senator from Alaska is a seasoned pro-Native veteran **BY ROB CAPRICCIOSO**

Bottom Line: *Since joining the Senate in January 2009, Mark Begich (D-Alaska) has become a forceful advocate for Alaska Native and American Indian issues. He recently conducted an extensive and candid interview with Indian Country Today Media Network.*

You joined the Senate Committee on Indian Affairs just over a year ago, and we are now in the midst of a leadership shuffle where Jon Tester (D-Montana) recently took over the gavel from Maria Cantwell (D-Washington) What do you make of this transition?

I think Maria Cantwell has done a great job. I think Jon Tester is a very strong proponent of Indian country and really understands the issues. I've brought him up to Alaska twice already. He has a very good and strong understanding of Alaska, which is a huge plus from my perspective. I have heard that he wants to have a hearing on our Safe Families and Villages Act, which is very important. This legislation attempts to fix the Alaska Native exclusion from the Violence Against Women Act [VAWA] reauthorization [of 2013]. Jon Tester has already identified this as a priority, so we're very excited about that.

Regarding the Safe Families and Villages Act, many tribal advocates are concerned that your legislation doesn't go as far for Alaska Natives as the VAWA reauthorization goes in giving en-

hanced jurisdiction to tribes over non-Indian domestic violence offenders in the lower 48 states.

I 100 percent agree with that. As a matter of fact, my original legislation had that language, but in order to get a co-sponsor, we had to soften the language. My hope is when we have the hearing that the tribes will be able to lay on the table

rent governor, the lieutenant governor, and the former attorney general—oddly enough, two of those guys are running against me—have no interest. We had to soften it for the state to at least be somewhat neutral at this point, but also to get a Republican co-sponsor. We are anxious to include tribal ideas within the committee substitute legislation after the first



Begich: "Sometimes you have to say no to the state in order to get better justice for the people of the state."

what they want to see improved on this. I will be the first to make the amendments necessary to make the bill stronger or similar to what I offered last year. Honestly, though, we couldn't get the state of Alaska to agree with my original legislation. The state is objecting to our tribes having the ability to deal with criminal justice in their communities. The cur-

hearing. The problem with this place is sometimes you have to soften it in order to get the hearing, and now that we're going to get the hearing, we can strengthen it. Honestly, at the end of the day, I don't care what the state of Alaska says.

So, you're willing to go up against your state there. Do you think your co-spon-

sor, Sen. Lisa Murkowski (R-Alaska), is willing to go there with you?

I hope so. She's on the bill now, and she's heard from a lot of tribes about the importance of this legislation and the positive impact it could have in solving the dynamics that have put Alaska Natives at a disadvantage when it comes to fighting crime, especially domestic violence, sexual assault, and substance abuse. I am hopeful, and I believe that tribal testimony that will be part of the hearing will be strong, convincing and show that sometimes you have to say no to the state in order to get better justice for people of the state.

You've gotten some notice as an appropriator of late on the tribal contract support costs issue and the administration's controversial attempt to cap funding of these payments to tribes last year.

Yes (*laughs*), there was an article in your publication last year with a headline saying something like 'Begich Says Administration Cheats Indians.' I thought, 'Holy mackerel!' I tell you something, your article got the White House to call over to me, and I said the article summarized the situation pretty well. And, as an appropriator, I said I was sick and tired of seeing cap proposals and gimmicks that didn't resolve the issue. We now have promises from the administration to fully fund tribal contract support costs for 2014 and 2015. It's a major victory.

Why do you think the administration developed that controversial cap plan in the first place?

I think the Office of Management and Budget lacked understanding here, and I think Dr. Yvette Roubideaux, the director of the Indian Health Service, was not a strong advocate. The person in that position should be someone who fights tooth and nail for the needs of Indian country. She might have been doing that behind the scenes, but we need her out front.

Dr. Roubideaux's renomination is still pending before the Senate Committee on Indian Affairs. What's going to happen there?

I will continue to push against moving her forward because I want to see some

more results here. I want these long-standing obligations on contract support cost payments that are owed to tribes settled. They are starting to pick off a few, but at the rate they go, it could take 100 years. I want to see some acceleration on those settlements. I'm feeling like they may announce something soon. And if they do, I will probably tell the new chair that I don't have a problem with moving Dr. Roubideaux forward. But I'm not interested in moving her forward until I see some strong results. Then I will feel better that there is a real advocate in that position.

Do you support a 100 percent clean Carcieri fix to the controversial 2009 Supreme Court decision that limited the Department of the Interior's ability to take lands into trust for tribes recognized after 1934?

Yes—no Alaska carve-out. I put that on the record at Indian Affairs a few months ago. I just had a conversation with the White House on this. We made it very clear: No Alaska carve-out. That was apparently creating a problem for settlement of the issue in the Senate.

What about a California tribal carve-out? Sen. Dianne Feinstein (D-California) has been really pushing the idea that there needs to be a limit of off-reservation gaming for at least some California tribes in any potential Carcieri fix that she could support.

This is not about gaming, even though I think that is what Sen. Feinstein wants to make it about. This is about issues of land, ownership and trust. People who want to make this about gaming are missing the issue.

Can you vow that you will always support a 100 percent clean Carcieri fix with no carve outs that recognize tribes differently from each other?

Yes, you have to. Because otherwise you start creating some imbalances in sovereignty. You have to be very careful. At the end of the day, though, we are making sausage here, so sometimes one of the ingredients added is not always what you like, but if you can get to a completion, then it is worth it. I will do my best

to keep it clean.

Sen. Murkowski has been hammering a recent decision by Secretary Sally Jewell against the development of a road for Alaska Native residents in the King Cove region. Where do you stand here?

We have been fighting together on this. I have introduced legislation that says these residents need the road for medical emergency purposes. We are trading thousands of acres of land in exchange for a few hundred. It is a very fair arrangement. I have asked for my legislation to move forward. Rep. Don Young (R-Alaska) has also introduced legislation on the House side. On top of that, we are trying to enhance the role of the Coast Guard to be able to address medical emergencies in the region.

Sen. Claire McCaskill (D-Missouri) made headlines a few years back for going after Alaska Native Corporations for some of their business practices. Where is that at now?

Obviously, I didn't like what she was doing. She heard from me more than once in a very aggressive way. I showed up at her hearings. And I got to have my voice at the table. Since that time, she and I have continued to have discussions. She still has issues, but she has been a lot quieter about this issue. I think it's because she has more information, and I think some of the problems she raised have been corrected.

The Alaska Native vote—is it going to matter a lot in your election this fall?

It will. We need a higher turnout among Alaska Natives. We need much more of them to vote. I have met with a couple of groups recently where there were large amounts of Alaska Native leaders, and I told them, "I am 100 percent supportive, but you have to mobilize." The power that they have is enormous if they exercise it. They need to turn the vote out. The people I am running against have very little interest in Alaska Native issues. I need more friends, more allies to change the deck. You have to kick the people out who are not representing your needs and concerns. The moment is now. <http://bit.ly/1dAvLnG> ☞

The Child Snatchers

In South Dakota, charges over a lack of due process **BY SUZETTE BREWER**

Bottom Line: *The class-action lawsuit Oglala Sioux Tribe v. Van Hunnik charges South Dakota state and local county officials with violating the rights of Indian parents and tribes in state child custody proceedings. This is the first in a series of articles about the case.*

On October 25, 2011, Stephen Pevar was driving home from work in Hartford, Connecticut listening to NPR. On this chilly, overcast evening, one story grabbed his attention. It was a report out of South Dakota, where he had worked in the early 1970s as an attorney with the South Dakota Legal Services on the Rosebud Sioux Indian Reservation.

The story alleged that Indian children were being taken from their homes by South Dakota social workers, often disappearing into state custody that apparently operated with virtually no accountability or oversight. Reportedly, state workers were placing Indian children with white foster families even though Indian foster homes were available. Moreover, social workers were said to be severely restricting, and sometimes denying, Indian parents from having contact with their children during their time in foster care.

Pevar, the National Staff Council for the American Civil Liberties Union, knew that if even half of these accounts were true, the State of South Dakota Department of Social Services (DSS), in collusion with court personnel and even judges, might be systematically violating the Indian Child Welfare Act (ICWA) and the Due Process Clause of the Constitution. Stunned, he steered his car into a parking lot, pulled out his cell

phone and speed-dialed the ACLU's executive director in South Dakota.

"As I listened to the [NPR] story, my concern was whether all the hard work that Congress had devoted to investigating the plight of Indian children and in passing the Indian Child Welfare Act was going to waste," Pevar said. "Were South Dakota officials following the procedures required by ICWA and the Due Process

ICWA. Hanna is a veteran litigator and trial lawyer who specializes in federal Indian law with his own private practice in Rapid City. He was going over briefs when he became aware of the case currently being presented to the judge, involving two Indian parents. He glanced up.

"I couldn't believe what I saw," he recalled. "The parents were not advised of any rights—no rights—the prosecutor



Stephen L. Pevar, center, at a press conference on March 21, 2013 about the unjust practices promulgated by the state of South Dakota in handling child custody cases involving Native American families.

Clause [in the Constitution]? According to this news report, they were not. And if that were the case, something needed to be done about it."

Another Broken Circle

The same month that Pevar heard the NPR report, Dana Hanna was sitting in court, waiting to present a case he was working on that was unrelated to the

read a brief statement, the judge turned to the parents and said, 'Do you have anything to say?' They said they wanted their children back. But the court granted DSS's petition for custody and foster care placement of their children for the next 60 days, and then scheduled the case for an advice of rights hearing two months down the road. They were advised that they had some legal rights two months

after the state took custody of their children and placed them in foster care.”

Because Hanna did not represent the couple, he could not intervene. But soon afterward, he began researching a series of strange emergency “48-hour temporary custody hearings” required by law two days after a child has been removed from its parents’ custody.

“Once I got involved, I realized that nobody in the tribes was getting any semblance of a fair hearing,” Hanna said. “And it’s in these temporary custody hearings where critical decisions are being made about the fate of their children. These hearings are closed, they are not transparent, no lawyers were ever present on behalf of the parents, [the parents] were never advised of their rights.”

Although South Dakota appeared to be operating outside the scope of the Indian Child Welfare Act, Hanna said, “This case is not just about ICWA. It’s about the systematic denial of due process and fundamental fairness: Indian parents and children have a constitutional right to have a meaningful hearing, one in which they can present evidence and be heard, before the state can take their children for two months and place them in foster care. Since 2010, they have been denied that right in the Seventh Judicial Circuit Court.”

Two Worlds Colliding

According to the Lakota People’s Law Project, nearly 750 Indian children are removed into foster care by the South Dakota DSS each year. That figure constitutes just over half of the population in state custody. According to the 2010 Census, however, Indian children make up only 13 percent of the entire population of children within the state.

For years, hundreds of Indian parents and relatives had complained in vain to their tribes about the daily practices and procedures of the South Dakota DSS and court system. But given the poverty and lack of resources on many of the state’s Indian reservations, many were either unaware of their rights or financially unable to pursue legal recourse. Their children were being taken and placed in non-Indian foster homes or in private institutions that are also operated by non-

Indians that have been described by one former U.S. Attorney as “foster mills.”

According to some of the parents interviewed by Indian Country Today Media Network, in some cases children were taken away under nothing more than the pretext that their parents were “poor,” or because of an unfounded rumor. The parents say the children were routinely pushed into a foster system that forced families to wait 60 to 90 days without a speedy evidentiary hearing as required by federal law before the parents were permitted to regain custody. In the meantime, they were allowed only one-hour weekly visitations, under the watchful supervision social workers. Sometimes the families never saw their children again. Some even committed suicide in state custody. Other parents say that by the time they were even able to reunite with their children, the damage had been done.

The disruption caused by these procedural and judicial errors has led to a siege mentality among tribal members who say their children still suffer the long-term, deleterious effects, including separation anxiety, night terrors, depression and self-destructive behaviors. All this has allegedly occurred 35 years after the Indian Child Welfare Act was enacted with the intention of preventing the destruction of tribal life in America.

Course of Action

Joining forces, Pevar and Hanna agreed that in the absence of a negotiated settlement, some kind of litigation would have to be pursued. But South Dakota officials, based on their public position, were convinced that they had broken no laws. They have repeatedly declined to respond to Indian Country Today Media Network regarding these allegations.


After much discussion, the lawyers agreed that the best points of entry were the initial “48-hour temporary custody hearings” in Pennington County. Under the terms of these hearings, Indian parents have stated, they were never advised of their rights; never allowed to see the complaint filed against them or the right to see the affidavit in support of the complaint; and never given the opportunity to present evidence or the chance

to cross-examine witnesses. Furthermore, parents alleged they were given no chance to defend themselves; and most importantly, state officials would never tell them whether the threat under which the children had been taken even existed at the time of the hearing.

Hanna said that judges routinely rejected his requests for compliance with the ICWA on behalf of the Oglala and Cheyenne River Sioux tribes. For example, Judge Mary P. Thorstenson (who left the bench in January 2013), told Hanna in court that “you have brought this issue up on numerous occasions, [and the court has consistently held] that ICWA does not apply to emergency hearings.” Indeed, she reminded Hanna that under the first sentence of § 1922 of ICWA, “state law prevails in the 48-hour hearing” and “the Tribe does not have a fundamental right to fairness under ICWA” at that hearing.

What Judge Thorstenson and other judges consistently bypassed, however, was the second sentence in that section: “The State authority, official, or agency involved shall insure that the emergency removal or placement terminates immediately when such removal or placement is no longer necessary to prevent imminent physical damage or harm to the child and shall expeditiously initiate a child custody proceeding subject to the provisions of this subchapter, transfer the child to the jurisdiction of the appropriate Indian tribe, or restore the child to the parent or Indian custodian, as may be appropriate.”

As battle-hardened Indian law practitioners, Pevar and Hanna were well aware of the constant friction between tribes and states, and the numerous junctures where the two are at odds. As the discussions commenced, they agreed to try diplomacy first, hoping that South Dakota officials would come to an out-of-court agreement.

But knowing the entrenched mindset in a state infamous for its often-ugly history with Indian tribes, including the Wounded Knee Massacre, they also began preparing for a worst-case scenario by devising a legal strategy that could no longer be ignored nor dismissed. <http://bit.ly/1fDSEHh> 



Tony Duncan (Apache/Arikara/Mandan/Hidatsa) placed second at the Heard Museum's annual World Championship Hoop Dance Contest.



Ticket sales spiked for the last home game of senior Shoni Schimmel (left), Umatilla, of the University of Louisville, seen here on February 19.



Among the many creations for 'Anti-Bullying Pink Shirt Day' on February 26 was this creation by Haida artist Andrew Williams.



Authorities are seeking the killer of a golden eagle that was shot in Iowa, just northwest of Woodbine.

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To apply or to get a complete list of requirements, please go to:

<http://www.colvilletribes.com/jobs.php>

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—Kenneth Turan, LOS ANGELES TIMES

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Upcoming Events

INDIAN CHILD WELFARE ACT LISTENING SESSION MARCH 11

Organized by the Bureau of Indian Affairs, the session will re-examine "Guidelines for State Courts," a guide to state court implementation of the ICWA in Indian child custody proceedings, which was issued shortly after the passage of the Act in 1978. Among the areas of discussion that are of particular interest are what role if any the Bureau of Indian Affairs should have in the ICWA agreement process between states, and if the Bureau should provide training or guidance for tribes regarding their role in ICWA compliance. The session will be held in conjunction with the Executive Council Winter Session of the National Congress of American Indians (see below).

Location: Westin Washington Center, Washington, D.C.

NATIONAL CONGRESS OF AMERICAN INDIANS TRIBAL NATIONS

LEGISLATIVE SUMMIT MARCH 11-13

The NCAI's Executive Council Winter Session will take up a broad range of issues and concerns. Subjects include "Federal Tax Issues Impacting Indian Country," "What Tribal Leaders Need to Know About the Affordable Care Act," and "Advocacy 101." Guests and speakers will include Sen. Mark Begich (D-Alaska), Rep. Mike Simpson (R-Idaho), Environmental Protection Agency Administrator Gina McCarthy, Secretary Shaun Donovan of the Department of Housing and Urban Development, and former Sen. Byron Dorgan (D-North Dakota) of the Aspen Institute's Center for Native American Youth.

Location: Westin Washington Center, Washington, D.C.

NATIVE AMERICAN FATHERHOOD AND FAMILIES ASSOCIATION

REGIONAL SEMINAR MARCH 13-14

"Fathers: Keep Families Together" is the first of four regional seminars designed

to encourage and promote fatherhood and the strengthening of families. Sessions and presentations will include "Healing Generations," "Linking Generations," "Addressing Family Violence" and "Grandparents Raising Children."

Location: Crowne Plaza Sacramento Northwest, Sacramento, California

AMERICAN INDIAN SCIENCE AND ENGINEERING SOCIETY REGION 5 CONFERENCE MARCH 13-14

The annual spring regional conference of the AISES provides an opportunity for the organization's college and professional chapters to gather and share information, form partnerships, and network with each other and with selected presenters and partners. Among the activities scheduled are mini-career fairs, poster presentations and engineering competitions. Local and national professionals within a variety of fields also provide workshops, seminars and discussion groups about a wide variety of topics.

Location: University of Minnesota Twin Cities

LETTERS TO THE EDITOR

Re "A Star Trek Convention for Native Enthusiasts: Inside a German Pow Wow" (February 24):

I've been living in Germany for almost 35 years. I've ended friendships with some "Indian Groupies" who don't want to accept the fact that because they're infatuated with Karl May, who popularized but also misinterpreted

many aspects of Indians and the American West, their attitudes can be very offensive.

I am an Apache from New Mexico and I never even let my German wife know I was Native until I brought Albuquerque, where I grew up. She loves all people including Natives, but she knows she could never be one nor does she

want to be. I know some artists from Germany and they spend a great deal of their time in New Mexico among the natives from the pueblos. They are nothing like many of the Germans in your article.

— Greg Ortega
 Wuerzburg, Germany

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

NO WRONGDOING IN KEYSTONE REPORT

A contractor that helped write an environmental review of the controversial Keystone XL pipeline did not violate federal conflict of interest rules, the State Department's inspector general announced last week. Opponents of the proposed pipeline criticized the departmental review, which stated that the pipeline would not substantially worsen carbon pollution, when it was disclosed that some employees of the contractor, Environmental Resources Management (ERM), had previously done work for the pipeline operator, Trans-Canada. But the inspector general said that none of their work involved the pipeline and that it predated their joining ERM.

FORT SILL APACHES

GO TO COURT

The New Mexico Supreme Court will hear arguments on March 10 on whether the state should recognize the Fort Sill Apaches as a New Mexico tribe. The tribe calls the 30 acres of land that it owns in southwestern New Mexico its reservation. But Gov. Susan Martinez says they are an Oklahoma tribe and who only want to establish a foothold in her state so that they may pursue operating a casino in Luna County.

WIND POWER DIES FOR CAMPO

A proposal to develop a wind power project that would have generated up to 250 megawatts of power on the Campo Indian Reservation in San Diego County, California, has been cancelled. The Shu'luuk Wind Project, proposed by the firm Invenergy,

was defeated by a 44-34 vote of the general council of the Campo Tribe of Diegueno Mission Indians last June. The tribe subsequently canceled its lease with Invenergy, and the Bureau of Indian Affairs has now said it would cancel the project's final Environmental Impact Statement.

DELAWARE-CHEROKEE HOUSING AGREEMENT

Under an agreement signed by the Delaware Tribe of Indians and the Cherokee Nation, the former will receive federal housing funds directly from the Department of Housing and Urban Development. The Delaware Tribe, headquartered in Bartlesville, has been under the jurisdiction of the Cherokee Nation by treaty since 1867. But in 2008 the tribes signed a memorandum of agreement that would en-

able the Delaware to regain their federal recognition. Delaware Chief Paula Pechonick said the move constituted another step toward tribal self-determination.

INDIAN CABINET POST IN OKLAHOMA?

A key committee of the Oklahoma House of Representatives has approved a bill that would give the state's approximately 325,000 Native Americans cabinet-level status in the governor's office. By a 9-1 vote, the General Government Committee on February 20 approved House Bill 1305, which establishes a cabinet-level position that would have purview over "all the functions of all executive agencies, boards, commissions and institutions related to Native American issues and state and tribal relations," the bill states.

UPCOMING POW WOWS

21st Annual Indian Education Pow Wow

March 15
Siuslaw Middle School
Florence, Oregon
Contact: Lynn Anderson
541-997-5458
landerson@siuslaw.k12.or.us

40th Annual Denver March Pow Wow

March 21 - 23
Denver Coliseum
Denver, Colorado
Contact: Grace B. Gillette
303-934-8045
denvermarchpowwow@comcast.net

DenverMarchPowWow.org

4th Annual Ida'ina Gathering
March 28 - 30
Dena'ina Civic & Convention Center
Anchorage, Alaska
Contact: Emil McCord
907-646-3115
emccord@tyonek.com
TebughnaFoundation.com

Pow Wow at Rocky Top

March 29
University of Tennessee—Humanities Amphitheater
Knoxville, Tennessee
Contact: Savannah Hicks
828-734-5727
shicks17@utk.edu

27th Annual Carolina Indian Circle Pow Wow

March 29
UNC Chapel Hill Campus
Chapel Hill, North Carolina
Contact: Jessica Oxendine
919-843-4189
jloxendi@email.unc.edu
americanindiancenter.UNC.edu/powwow

Red River Intertribal Club Benefit Pow Wow

March 29
National Guard Armory
Wichita Falls, Texas
Contact: Jim Moore
950-782-7747
redriverintertribalclub@yahoo.com
RedRiverIntertribal.org

Miss, Junior Miss, and Little Miss Indian Oklahoma City Honor Dance

March 29
Shawnee Expo Center
Shawnee, Oklahoma
Contact: Shirley Wapskineh
405-632-5227
swapskineh@sbcglobal.net
MissIndianOKC.org

University of Nevada Reno Social Pow Wow

March 30
Joe Crowley Student Union
Reno, Nevada
Contact: Saundra Mitrovich
775-682-6499
smitrovich@unr.edu
UNR.edu/cultural-diversity/events



These Lakota silver-alloy and buckskin arm bands, ca. 1880, are among more than 350 items featured in the new exhibition “Native American Voices: The People—Here and Now,” which opened at the Penn Museum in Philadelphia on March 1. Such traditional jewelry was often worn for special occasions.