



# Indian Country

THIS WEEK FROM

## TODAY

THE PREMIER E-NEWSLETTER SERVING THE NATIONS, CELEBRATING THE PEOPLE

### *A Letter from the Publisher*

*Shekóli.* The Native way of life, pre-Columbus and pre-disease, was a thriving and prosperous assortment of sophisticated civilizations. In Western terms, our economies and population centers were large in scale, with trade routes established across Turtle Island. In the 17th and 18th centuries, European and American generals who waged war on the Iroquois recorded how they came across stores of millions of bushels of corn during their campaigns—and subsequently destroyed them.

When total war was waged against the Native people, our economies were undermined. Nowhere was this more calculated or devastating than with the war on the buffalo—an organized campaign to destroy all the animals and, with them, the way of life for our brothers and sisters on the plains. Still, we endured and survived. Now that talk has turned to economic development. We see emerging opportunities for again establishing a way of life that provides our communities with traditions and growth and sustenance that work harmoniously. In this week's newsletter, we report on a push from Native organizations and leaders for President Obama to create a tribal economic development council. In



another news item, the Department of the Interior has announced plans to embark on expanding the nation's bison herds in an effort to reintroduce bison to areas beyond national parkland.

The federal government will not correct historic wrongs with the stroke of a pen. But our voices are being heard. The leaders calling for a council are making the push because they have firm ideas of what they'd have the task force do. The key is not to rely on the federal government too heavily, but to take advantage of the opportunities partnership may present, such as the growth of bison herds in areas in which they've long been absent. They call it "re-wilding." We call it a way of life.

*Na ki' wa,*

Ray Halbritter

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## The Black Hills Debacle

*In 2008, Sen. Barack Obama argued against the federal government forcing “Sioux tribes to take settlement money for the Black Hills” in South Dakota. This statement, says **Ruth Hopkins** (Sisseton Wahpeton & Mdewakanton Dakota, Hunkpapa Lakota), opened the door to new negotiations in connection with over \$1 billion in Black Hills settlement that the Interior Department now holds in trust:*

The Oceti Sakowin are uniting to develop a plan of action to reclaim the Black Hills. The Great Sioux Nation owns shares in The Black Hills, by percentage. Loretta

Afraid of Bear, Oglala Lakota, believes reclaiming the Black Hills is crucial to Oceti Sakowin identity. “The land and language are one,” she said. “If you lose them, you lose who you are.”

Working with both tribal and treaty councils, she hopes to develop a realistic plan to present to President Obama and perhaps, Congress. New Jersey Sen. Bill Bradley introduced a bill in 1985 that would have transferred 1.3 million acres of forest in the Black Hills back to the Great Sioux Nation. Unfortunately the bill was unsuccessful. But even if Congress is

unwilling to pass legislation to return the Black Hills to the Oceti Sakowin, Obama can do so by executive order.

Milo Yellow Hair, Oglala Lakota, speaks of the moral obligation that the United States bears under treaty law: “Under treaty, the U.S. pledged its honor. It is a moral issue proclaimed into law. Who is the moral keeper? Who holds them to their word? Individual Americans should start an effort to restore the honor of treaties they made with Indigenous peoples. They owe a lot in the name of manifest destiny.”

The Oceti Sakowin are set to meet with President Obama to discuss the Black Hills in 2015. <http://bit.ly/1vq1P66> ☞

## The Institutional Racism Against Black Indians

*Anthropologist **Julianne Jennings** (Nottoway) considers the peculiar and enduring challenges faced by those who are of both black and Native American blood:*

The 2000 Census reported that there are 182,494 black Indians in this country. However, researchers say that as much as 90 percent of the African American population may also be of Native American descent. Today, Native Americans are the most heterogeneous group in the nation. We are people who are piloting a daring break from the oppressive social constructions of race, and are legitimizing a long neglected history through self-liberation and discourse.

Black Indians are constantly confronted with the fact that they do not fit any of society’s stereotypes for Native Americans. We are no longer the Indians that you read about in textbooks, with long, black, straight hair and dark piercing eyes, hidden deep in the forest like mythical creatures from a golden past. We are a people who have overcome an identity imposed by Christianity and racial folk myth.

Employing discredited biological over cultural definitions of who is an Indian and who is not is an assault on our self-determination. We have endured 450 years of forced assimilation that included

slavery and post-slavery intermarriage, making our walk one of plurality. We are therefore all multiracial.

Race can no longer be seen as something biological, but a social phenomenon based on ignorance, instead of what we have always been as human beings. As tribes become increasingly blended, new criteria for membership must be redefined. Otherwise, they face shrinking populations and stricter federal court scrutiny of tribal laws. It is essential that tribes begin eliminating race as a criterion for membership and as a means for cultural survival, and foster new racial boundaries in an age of self-determination. <http://bit.ly/1jQqyvf> ☞

## What Follows The ‘Redskins’ Change

*Once the name of the NFL’s Washington, D.C. franchise is changed, as it inevitably will be, says ICTMN contributor **Gyasi Ross** (Blackfeet Nation), some truly hard work will begin:*

Native people’s actions following the name change will be at least as important as they were leading up to the name change. At that point, our communities will have an incredible amount of responsibility and work. The epidemics of suicide, alcoholism, domestic violence, diabetes, life expectancy, etc. will not magically change because of this victory. That is to say nothing about the newer generation of existential issues within

our communities like disenrollment, racism, IRA government vs. traditional government, loss of language, or environmental crises like oil pipelines, man camps, and water rights.

The Redskins name change won’t change such pressing issues as alcoholism, fatherlessness, suicide, the Keystone XL pipeline, or violence against Native women. Hopefully, however, getting rid of this name will remove a distraction so that we can focus on the real work of Indian Country—getting our communities healthy again.

I used to be suspicious about the Redskins matter because I felt it distracted

valuable time and resources from basic needs/life discussions for our homelands. Moreover, I also resented that nobody talked to my communities before asserting that these symbols are offensive to all Native people. I know plenty of Natives who aren’t offended by the name. But we’re past that now. We have to be.

This is a serious invitation. Let’s work together—urban- and reservation-based—and get this name changed so that we can hurry up and focus on getting our communities right. The Redskins are the window dressing, the superficial wound that is easy to see. But that’s not the end of the story. <http://bit.ly/1pQDAMR> ☞

## Tribe Helps Elk Herds Reclaim Their Home After Fire

The Cachil Dehe Band of Wintun Indians has received \$189,200 in grant funding from the U.S. Fish and Wildlife Service in an attempt to return Tule elk to their 7,000 acres of reservation land in Colusa County, California.

Roughly three herds of the elk are currently roaming some three to four miles outside the tribe's ranch. But their range expansion has been limited by chamise, the native evergreen shrub that formerly grew extensively on the ranch before it was burned out by a fire in 2012. "Now that the fire's gone through, it may open up the [elks'] migration patterns," said Casey Stafford, director of land management for the Cortina Ranch. "We're just going to try to get them a new place to call home."

The Fish and Wildlife Service recently awarded 25 grants nationwide to federally recognized tribes in 15 states, including five in California, to fund a wide range of fish and wildlife conservation projects.

"Tribal nations share our conservation challenges in the United States," said Service Director Dan Ashe. "The Tribal Wildlife Grants Program creates opportunities for tribes to build conservation capacity and for us to work together in a variety of ways, including species restoration, fish passage, protection of migratory birds and efforts to cope with the long-term effects of a changing climate."

Tribes have received more than \$64 million through the Tribal Wildlife Grants Program since 2003, providing support for more than 380 conservation projects administered by participating federally recognized tribes. The grants provide technical and financial assistance for development and implementation of projects that benefit fish and wildlife resources, including nongame species and their habitats.

<http://bit.ly/1jOO9fX> 📱

## Court Ruling Paves Way for Martha's Vineyard Casino

A U.S. District Court judge has removed another hurdle facing the attempts of the Wampanoag Tribe of Gay Head (Aquinnah) to open a casino on its reservation land on Martha's Vineyard.

The ongoing gaming rights dispute between the Commonwealth of Massachusetts and the tribe does not belong in state court, Judge F. Dennis Saylor IV ruled on July 1. Saylor also stressed that federal courts generally side with tribes in such disputes, because federal Indian gaming law "pre-empts state laws [from] regulating gaming on Indian lands."

Massachusetts Gov. Deval Patrick filed the current suit in December to bar the Aquinnah tribe from building a Class II gaming facility on its unfinished community center on the island. Patrick charged that in a 1983 land deal, the tribe agreed

to abide by state and local zoning bylaws. The Aquinnah tribe argued that the Indian Gaming Regulatory Act trumps the agreement.

"We are very pleased that Judge Saylor has recognized that the question of Aquinnah's right to game is governed by the Indian Gaming Regulatory Act, passed by Congress in 1988, and belongs in federal court," said Cheryl Andrews-Maltais, chairman of the tribe's gaming authority.

"The U.S. Department of the Interior and the National Indian Gaming Commission have each provided formal legal opinions in support of our rights," Andrews-Maltais continued. "We now have all of the federal approvals required to proceed with gaming on our existing trust lands, and we are confident, in light of this decision, that the federal court will confirm Aquinnah's sovereign and federal statutory rights to do so." <http://bit.ly/1mPka7z> 📱

## Interior Releases New Bison Report Favoring Tribal Commitment

The Department of the Interior has released a report that reaffirms its commitment to restore bison to "appropriate and well-managed levels on public and tribal lands" by working with states, tribes and other partners.

"The Interior Department has more than a century-long legacy of conserving the North American bison, and we will continue to pursue the ecological and cultural restoration of the species on behalf of the American public and American Indian tribes who have a special connection to this iconic animal," said Interior Secretary Sally Jewell on

June 30 in announcing the release of *DOI Bison Report: Looking Forward*.

Among other topics, the report addresses recent developments regarding the brucellosis quarantine that could allow for the relocation of Yellowstone bison outside the Greater Yellowstone Area if the animals are quarantined and determined to be brucellosis-free. A new protocol that has been developed by the Wildlife Conservation Society (WCS) and introduced in February strongly suggests this is possible.

"The results of this study indicate that under the right conditions, there is an opportunity to produce live brucellosis-free bison from even a herd with a large number of infected animals like the one

in Yellowstone National Park," said Dr. Jack Rhyen, a veterinary officer for the U.S. Animal Plant and Health Inspection Service, in February. "Additionally, this study was a great example of the benefits to be gained from several agencies pooling resources and expertise to research the critical issue of brucellosis in wildlife."

The new information "raises the potential that for the first time in over a half century, Yellowstone bison could once again contribute to the broader conservation of the species beyond the Greater Yellowstone Area without spreading brucellosis," the Interior Department said. <http://bit.ly/1rp4waG> 📱





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## Navajo Nation and Government Agree to Historic Tribal Foster Care

BY SUZETTE BREWER

The Navajo Nation has made an historic pact with the U.S. Department of Health and Human Services to execute a direct funding agreement through the Title IV-E program under the Social Security Act that will reimburse the tribe and its child welfare agencies for federally eligible foster care, adoptions and guardianships.

The agreement, reached on June 27, provides for reimbursements that will cover maintenance, including room and board; administration (including determination of Title IV-E eligibility), placement of the child, development of a case plan, and other administrative duties under the act; and short- and long-term training for the tribe, including child welfare agencies and court personnel.

The Navajo Nation tribal jurisdiction covers three states: New Mexico, Arizona and Utah. But if a child was placed into state care, each of those states made the eligibility determination and placed the child. At the same time, the tribe's social workers had to plead with each of the three states to return the child to the Navajo jurisdiction to be placed with one of its licensed foster homes. In addition, the tribe only received funding from the state of New Mexico. Arizona and Utah did not provide Title IV-E reimbursements to the tribe.

However, this agreement with the Administration for Children and Families, stipulates that the Navajo Nation will now make its own eligibility determinations and home placements within its jurisdictional borders in all three states and receive federal funding to assist the foster families to help in taking care of its own children.

Sharon Begay-McCabe, director of the Navajo Nation Division of Social Services, said that the tribe had been working since 2011 to qualify for the federal funding with a \$300,000 planning grant. <http://bit.ly/VALRM9> 🌐

## Activist Pleads Guilty to Blocking Bison Slaughter in Yellowstone

A young man who handcuffed himself to the entrance of a bison slaughterhouse at Yellowstone National Park has been convicted of misdemeanor charges, ordered to pay a fine and sentenced to three years of unsupervised probation. He has also been banned from the park.

Frustrated by a controversial plan to cull the bison herd in Yellowstone National Park drew over the winter, 21-year-old Comfrey Jacobs blocked an access road to Yellowstone National Park's Stephens Creek bison trap in March. He did so by handcuffing himself to a 55-gallon drum filled with concrete, and stringing wire-mesh webbing across the roadway entrance.

Jacobs was arrested, arraigned and convicted after pleading guilty on June 20.

The Buffalo Field Campaign volunteer will pay \$355 restitution—the cost

of dismantling his blockade, which consisted of a cement-filled barrel that he handcuffed himself to—as well as a \$500 fine, plus a so-called community service payment of \$2,500 to a Yellowstone National Park-affiliated foundation, the campaign said.

“The community service payment was a suggestion pressed by the U.S. government, and accepted by the judge after learning that Mr. Jacobs had received financial support from the public,” the Buffalo Field Campaign said, adding that that part of Jacobs's sentence was being appealed.

The buffalo slaughter was conducted to reduce the risk of brucellosis transmission to cattle. The practice is controversial, even though tribes were allowed to conduct part of the hunt and received the meat to use for traditional purposes. <http://bit.ly/V4cTuM0> 🌐

## Newly Identified Moth Species Named for Beloved Cherokee Chief

It is drab and gray. But for all that a newly identified species of moth may lack in color, it now makes up for it in Native stature. For it has been named *Cherokeea attakullakulla*, after Attakullakulla, the beloved Cherokee chief who lived in the Appalachian region in the 1700s.

“A small, drab and highly inconspicuous moth has been flitting nameless about its special niche among the middle elevations of one of the world's oldest mountain ranges, the southern Appalachian Mountains in North America,” said the open-access journal *ZooKeys*, where the findings of the insect's formal recognition appeared. Although the moth was first discovered in 1958, it was only this year recognized as a separate species, *ZooKeys* said.

The species was named for the legendary Cherokee chief who lived

on the land on which it was discovered—what is today known as western North Carolina and eastern Tennessee, in the Appalachian Mountains. Chief Attakullakulla is known among his other accomplishment for having been one of six Cherokee ambassadors to travel to London in 1730. The name was chosen by biologist J. Bolling Sullivan, formerly of Duke University, and Eric Quinter, a retired entomologist of the American Museum of Natural History.

“It is sufficiently different from all other known species that we placed it in a new genus,” said Sullivan. “The species name was selected to recognize an early leader of the Nation. It also seemed appropriate to name it after the Cherokee people because the Cherokee are such good stewards of the land.”

<http://bit.ly/1qLGS5E> 🌐



## Lawsuit Against Cleveland Indians

*\$90 billion for '100 years of racism'*

Robert Roche, a Chiricahua Apache and director of the American Indian Education Center, will file a \$90 million federal lawsuit against the Cleveland Indians at the end of July to protest the professional baseball team's name and use of its Chief Wahoo logo. "It's for 100 years of racism," Roche told ICTMN. "It dehumanizes us." Roche, a former director of the Cleveland American Indian Movement, has long opposed the Indians franchise; in 1995 he led a lawsuit against the team when his organization was banned from protesting in front of what was then its home field, Cleveland Municipal Stadium. <http://bit.ly/1sSN9k7>

## Aboriginal Relations Award For Inuit Leader

*Mary Simon to be honored*

Mary Simon, former president of Inuit Tapiriit Kanatami, will receive the 2014 Award for Excellence in Aboriginal Relations from the Canadian Council for Aboriginal Business (CCAB) and the food-service company Sodexo Canada on September 25. Simon is Canada's first ambassador for Circumpolar Affairs and helped lead negotiations for the creation of the Arctic Council, as well as serving as her country's Ambassador to Denmark. "It is the leadership of forward thinkers such as Mary Simon that continues to build vital partnerships and personal relationships that open the

doors of business through education and participation on the national stage," said CCAB president and chief executive officer JP Gladu. <http://bit.ly/1mo8Epu>

## In El Salvador, a Statute of Indigenous Recognition

*Formal act ratifies article of the republic*

El Salvador's legislative assembly voted on June 12 to officially recognize Indigenous Peoples and compel the nation to adopt policies that will support the ethnic and cultural identities of indigenous communities. The formal act ratified Article 63 of the Republic, which states, "El Salvador recognizes the Indigenous Peoples and will adopt public policies that will maintain and develop their ethnic and cultural identities, their cosmic vision, values and spirituality." "These advances," said the National Indigenous Salvadoran Coordinating Council, the nation's largest Native organization, "are tools which will strengthen our cultural identity." <http://bit.ly/1rRqb8P>

## Native Finance Planner Retires

*Gerald Sherman steps down after nine years*

Gerald Sherman, Oglala Lakota, has announced that he will retire as chief executive officer of the Indian Land Capital Company (ILCC), the Native Community Development Financial Institution that he helped establish in 2005. Founded as a collaborative effort between the Indian Land Tenure Foundation of Little Canada, Minne-

## Land Consolidation Efforts Underway



The Land Buy-Back Program for Tribal Nations, created to implement part of the *Cobell Settlement*, is offering fair market value to landowners for voluntarily restoring fractional land interests to tribes, which helps ensure that tribal homelands stay in trust.

Many landowners have already been paid. While purchase amounts will vary, some individuals are receiving thousands of dollars for transferring land to tribes. All sales are voluntary, though landowners will only have **45 days** to accept offers.

Landowners are encouraged to contact the Trust Beneficiary Call Center (TBCC) to learn about eligibility and to ensure their contact information is current:

**1(888)678-6836**

More information is also available from your local Fiduciary Trust Officer (FTO) at the Office of Special Trustee for American Indians, or on the web at:

**[www.doi.gov/buybackprogram](http://www.doi.gov/buybackprogram)**

U.S. Department of the Interior



sota and the Native American Community Development Corporation of Browning, Montana, the ILCC has become widely known as a national lender to tribes. Once a new chief executive officer for the ILCC has been hired, Sherman will take on a board position, filling the post that was formerly held by Elouise Cobell, the late Native American finance pioneer who helped found the company. <http://bit.ly/1jOJXwN> 📧

### Chickasaw Foundation Director Chosen

*Mississippi attorney to lead new group*

Brad Prewitt, Tupelo, has been appointed executive director of the newly formed Inkana' Foundation. Based in Tupelo, Mississippi, the Inkana' ("Friend") Foundation is a nonprofit corporation devoted to helping protect, preserve and interpret Chickasaw homeland historic sites. Prewitt is an eighth-generation Mississippian with 21 years of experience as an attorney, business consultant, governmental relations specialist, corporate officer, entrepreneur and volunteer leader. Prewitt has previously served as chairman of the city of Tupelo's first public transportation committee and has been on the board of the Mississippi Heritage Trust. He was appointed to the Inkana' chairmanship by Chickasaw Nation Governor Bill Anoatubby. <http://bit.ly/1jOM9Ek> 📧

### Putting Native Veterans To Work

*New Indian Health Service initiative*

The Indian Health Service (IHS) has launched a Veterans Hiring Initiative in the hope of increasing new hires of veterans from six percent to nine percent over the next two years. The IHS will recruit veterans by setting hiring goals, engaging in active outreach, and using existing and new partnerships to create additional career opportunities. As part of its initiative, the IHS will collaborate with the Veterans Administration on federal recruitment events. In addition, the IHS will partner with the Department of Defense on recruiting separating active duty service members through the Transition Assistance Program and through marketing and media outreach campaigns. <http://bit.ly/1o24nDq> 📧

### New Life For A 'Dead' Language

*Web site revives Eyak*

The last Native-born speaker of Alaska's Eyak dialect passed away five years ago. But Eyak descendants have now brought their language back to life with lessons, stories and games at the dAX-unhyuuga' eLearning Place at [www.Eyakpeople.com](http://www.Eyakpeople.com). The site will offer new weekly "journeys" at no cost; followers can choose to set their own pace and goals, ranging from the rendering of meaningful phrases to total fluency. The project is made possible with funding from the Administration for Native Americans, with additional organizational, monetary and in-kind support from the Eyak Preservation Council, the Eyak Corporation and the Alaska Native Language Archive. <http://bit.ly/VlYl1aH> 📧

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Protesters sprang into action over the June 30 Supreme Court decision in *Burwell vs. Hobby Lobby*.

# Contraception, Natives And The Supreme Court

The highest court in the land has invoked Indian law to block birth control  
BY ROB CAPRICCIOSO

**Bottom Line:** *The Supreme Court decision in Burwell v. Hobby Lobby has become a political flashpoint. But few know that there was an Indian angle behind the high court's decision.*

In the wake of the 5-4 Supreme Court

in *Burwell v. Hobby Lobby*, issued on June 30, there has been endless political commentary about religious freedom, abortion rights, and the war on women.

What has been less discussed is how the court relied on an Indian-oriented statute, the Religious Freedom Restora-

tion Act (RFRA) of 1993, in arriving at its opinion.

The *Burwell* opinion stated that certain family-owned and other closely held businesses, like the Hobby Lobby craft store, may opt out of the federal Obamacare mandate that requires the compa-



nies to pay for contraceptives in their workers' health coverage.

As the majority opinion in *Burwell* noted, Congress enacted RFRA in 1993 in response to a 1990 high court decision, *Dept. of Human Resources of Ore. v. Smith*. That decision found that a state could deny unemployment benefits to a person fired for using peyote, even if the drug was used as part of a religious ritual.

The *Smith* case came to the fore after two members of the Native American Church were fired for ingesting peyote for sacramental purposes. The state of Oregon later denied them unemployment benefits because consuming peyote was illegal in the state.

Enter Congress and RFRA, which is aimed at preventing such religious-based discrimination. RFRA passed with almost unanimous support in both the House and Senate, and President Bill Clinton signed it into law in 1993.

One year later, the House Subcommittee on Native American Affairs and the Senate Committee on Indian Affairs further dealt with the narrow issue of *Smith* on the specific issue of the sacramental use of peyote.

"We amended the American Indian Religious Freedom Act [AIRFA] in 1994 to allow for the sacramental use of peyote," said Tadd Johnson, former director of the subcommittee and now the head of the American Indian studies department at the University of Minnesota at Duluth. "President Clinton signed it into law. This AIRFA amendment on peyote still stands."

Fast-forward 20 years. Suing the federal government under the auspices of RFRA, the owners of Hobby Lobby and two other closely held for-profit corporations argued that life begins at conception and that it would violate their Christian beliefs to pay for birth control.

Writing for the majority, Justice Samuel Alito agreed: "As applied to closely held corporations, the [Department of Health and Human Services] regulations imposing the contraceptive mandate [of Obamacare] violate RFRA," he wrote. "RFRA applies to regulations that govern the activities of closely held for-profit corporations like *Conestoga*, *Hobby Lobby*, and *Mardel*." The high court further sug-

gested that the federal government could find ways to pay for birth control coverage if it wishes to do so.

Thus, major companies successfully used a law rooted in protecting Indian religious freedom to shield them from the need to pay for birth control for employees covered under the companies' health plans.

This shocked many Indian-focused legal experts who were working in the trenches during the peyote-based foundations of RFRA, and who have since seen that same law applied by the federal courts in ways that they feel are unjust toward American Indian religious practices involving sacred sites.

Stephen Pevar, a lawyer with the American Civil Liberties Union (ACLU) who has long argued in favor of protections for Indian religious practices, said he never envisioned that RFRA would be used for such a purpose. "[I]t never occurred to me," he said. "I doubt if it occurred to anyone."

Jack Trope, director of the Association on American Indian Affairs, was also surprised to see RFRA used in such a manner. "I can't say that I ever really thought about the issue of for profit corporations utilizing RFRA until these cases came up," he said.

This is not, however, the first time that the high court has seen fit to question RFRA. In 1997, the court ruled in *City of Boerne v. Flores* that the law was applicable to the federal government but not to the states. Thus, tribal citizens whose religious freedoms are usurped by states, as happened in the original *Smith Peyote* case, are left unprotected by federal law.

Tribal advocates are now more concerned that the high court has never before used RFRA to do what it was intended to do—namely, to protect Indian religious freedoms. Yet they point out that the court is now using the law to limit the rights of women who want to use their healthcare coverage to purchase birth control.

Pevar sees a parallel between how the high court treats Indians and women.

"The Supreme Court, with rare exceptions, has been insensitive to women's issues, and the Court's record is even worse—far worse—on Indian issues,"

he said. "In the last 30 years, Indians and tribes have lost at least 75 percent of their cases in the Supreme Court. The Supreme Court is asked to review some 7,000 cases a year but selects fewer than 100. The fact that the Court selects so many Indian cases and then rules against Indians in those cases suggests a desire to harm Indian interests."


Nonetheless, Trope said, *Burwell* provides an outline that allows Native-focused lawyers to strengthen their arguments in the federal courts regarding the use of RFRA to protect sacred sites in future cases.

He cited the recent Navajo Nation case before the Ninth Circuit. This case focused on the tribe's contention that the San Francisco Peaks are sacred to the tribe and that therefore corporate development on them should be limited. "One of the main arguments made against us was that RFRA was meant to turn back the clock to the day before the *Smith* decision in 1990," he said.

Such a rationale meant that decisions like the Supreme Court's in the 1988 *Lyng* case—which determined that the First Amendment did not provide protection to Indian sacred sites—would still make for good law, despite the existence of RFRA. (The *Lyng* case centered on an American Indian religious-based challenge to the development of a road for timber harvesting.)

But "[t]he court in the Hobby Lobby case rejected the idea that the intent of RFRA was only to restore the law as it was in 1990 before *Smith*," Trope said. "Instead, the court essentially held that RFRA provides broader protection than was provided by the First Amendment prior to the *Smith* case."

The application of RFRA to Native sacred sites remains unresolved, notwithstanding the Ninth Circuit's toiling in Navajo Nation's San Francisco Peaks case. But in the latest decision, Trope finds reason for hope.

"Only time will tell whether the interpretation of RFRA in Hobby Lobby turns out to be helpful in future sacred sites cases or whether courts will continue to find ways to reject Indian religious freedom claims," Trope said. <http://bit.ly/1n01kPU> 



*President Obama is being urged to establish a tribal economic development council made up of actual tribal leaders.*

# Pressuring The President

Calls for action after Obama's reservation visit **BY ROB CAPRICCIOSO**

**Bottom Line:** *Native American leaders and Native-focused legislators are pushing the White House to establish a tribal economic development council.*

Following President Obama's June 13 to the Standing Rock Sioux Tribal Nation, Native advocates are urging him to use his executive powers to create an overarching economic plan for Indian country—especially a tribal economic

council made up of actual tribal leaders—that would put more weight behind a series of initiatives that his team has offered.

"It's time to diversify the conversation," said Gary Davis, president and chief executive officer of the National Center for American Indian Enterprise Development. "We need the Native people who are advancing economic develop in Indian country every single day weighing

in, making sure that the proper tribal perspective is being offered."

Indian leaders are aware that the president has already created a White House Native American Affairs Council. But they routinely complain that it is made up mainly of non-Indian agency officials, spread throughout the vast administration, who do not have on-the-ground experience that is rooted in the realities of tribal economies.



Admittedly, the administration has reached out to tribal leaders to solicit their ideas for bold and wide-sweeping improvement. During last year's White House Tribal Nations Summit, the president met with a small group of Indian leaders who suggested that the federal government encourage more collaboration between private business and tribes by convening a gathering of such entities.

After the meeting, which he attended, Ray Halbritter, Oneida Nation representative and CEO of Nation Enterprises, the parent company of Indian Country Today Media Network, said it would be to the administration's advantage to facilitate such an endeavor because it has power that tribes and Indian organizations lack.

"If the administration backed such a plan, there would be an automatic serious nature to it," he said. "Businesses would perhaps feel more obliged to collaborate and to find ways to partner with Indian nations."

The administration has already made tentative and limited progress in improving reservation economies. During the president's June trip to the Standing Rock Sioux Reservation, the White House said it had already partnered with several Native communities by granting millions of dollars in funding—specifically, by providing increased technical assistance on various federal-tribal programs, and by pushing for legal and regulatory tribal economy-focused improvements.

New initiatives are also under way. The White House has said it wants to remove regulatory barriers to Indian energy and infrastructure development, increase tribal land development opportunities, and to make federal data focused on tribal economic development easier to find and use by tribes. Encouraging the use of tax-exempt bonds for tribal economic development, growing Native small businesses, and supporting Indian veterans were also on the agenda.

Brian Patterson, president of the United South and Eastern Tribes, said he supports the administration's efforts to date and its plans for the future. "However," he added, "none of this will transform the situation without the full engagement of Indian country as an equal partner."

"[W]ithout the direct input of tribal leaders, scholars, and activists into federal policy, you tend to wind up with piecemeal fixes that are not linked together in a way that makes them effective," said Chris Stearns, a Native affairs lawyer with the firm of Hobbs Straus.

"I can't imagine that a Council on Native American Affairs led by the tribes themselves wouldn't be able to come up with 10 times more than what a roomful of federal officials has been able to do so far," Stearns added.

The administration has in part been reluctant in some cases to solicit stronger tribal input on economic development issues because many tribal leaders to relax or remove federal laws that they feel will hamper their growth. Among these are the Administrative Procedure Act, the National Environmental Policy Act and the Endangered Species Act, which several tribal leaders have told Congress hinder development on their reservations.

"These and other laws create conflicting allegiances for the federal Indian trustee, bogging down tribal development decisions to the point that tribes cannot compete fairly in most private sector markets," said Philip Banker-Shenk, a Native affairs lawyer with the firm of Holland & Knight.

Rep. Don Young (R-Alaska), chairman of the House Subcommittee on Indian and Alaska Native Affairs, is among those who believe that the Obama administration has been slow in supporting economic self-determination for tribes because that goal often conflicts with its more progressive ideals. For instance, Young's recent Native American Energy Act received tribal support from its conception to its passage in the House as part of a larger bill. Yet the administration has consistently opposed it.

The bill, if Obama signs it into law, could open up many opportunities for tribal energy development. Yet it would also give tribes more of an ability to challenge the National Environmental Policy Act and other regulations that hold them back from such development. Thus, the administration has stood opposed to the move. This has caused considerable consternation to tribal advocates who note that Indian oil, gas and construction in

aggregate garnered \$15 billion for a select group of tribes in 2013. Many more tribes could be able to benefit if Young's legislation became law.

"The administration continues to focus on endless discussions, but rarely takes actions," said Matt Shuckerow, a spokesman for Young. "Truly promoting economic self-sufficiency for tribes takes more than hosting a tribal summit each year. The administration should actively work with Congress to allow for responsible development of natural resources on tribal lands."

Sen. Jon Tester (D-Montana), chairman of the Senate Committee on Indian Affairs, agrees that the progress of both the administration and Congress has been too sluggish and not focused on supporting true tribal self-determination.

Tester said that the federal government sometimes holds tribes back from self-determination opportunities, adding that he has tended to see more economic successes from tribes that have been able to take increased responsibility over programs that support their lands and citizens. How to get all tribes to be able to take increased responsibility is one of the major dilemmas of this situation, he said.

"Make no mistake, I know how difficult it is," he said. "When you're poor, you're poor."

A step in the right direction, Tester said, would be for the president to create a permanent cabinet-level Native affairs advisor position that could elevate these issues to the highest level of federal government in conjunction with appointing a tribal economic development council to inform such an advisor.

"If in fact this is something that can happen, we will talk about it as a committee, and send a letter off," Tester said.

Davis, fresh from testifying before the Indian Affairs committee about economic development challenges, said he would be more than willing to join such a council. "As it is now, I worry we may not be looking as far to the left as we can, nor as far to the right as we can," he said. "We need to be open-minded, we need to take responsibility, and we need to have a real seat at the table."

<http://bit.ly/1t1YLLs> 



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*The centennial of the birth of the Apache master sculptor Allan Houser is currently being celebrated.*



*This brownish-white moth, newly identified as a distinct species, is now named Cherokeea attackullakulla, after the Cherokee chief Attakullakulla.*



*David Arrowchis, a Northern Ute, recently graduated from the United States Military Academy at West Point.*



*The Interior Department has released a new bison management report that pledges to work with tribes on the issue.*

# Headlines from the Web

## POTAWATOMI DROPS 'BINGO' FROM NAME AHEAD OF HOTEL OPENING

<http://bit.ly/1q0YDwr>

## NAVAJO WOMAN WINS ROUND IN FIGHT TO BLOCK REDSKINS' TRADEMARK

<http://bit.ly/VjWnah>

## WINDOLOWSKI A HERO TO THE KIOWA TRIBE

<http://wapo.st/1qUjK4M>

## FORMER EASTERN PEQUOT CHAIRMAN TO BEGIN RESTITUTION PAYMENTS

<http://bit.ly/1s5lnwI>

## SENECA NATION'S NEWEST GAMING FACILITY OPENING FRIDAY

<http://bit.ly/1q0ZXzs>

## BEGICH SLAMS MCCASKILL IN FEUD OVER ALASKA NATIVE CORPORATIONS

<http://bit.ly/1mdf9ts>

## Upcoming Events

### AMERICAN INDIAN/INDIGENOUS TEACHER EDUCATION CONFERENCE JULY 10-12

"Indigenizing Education: Empowering Students, Empowering Communities" is designed to bring together community and language activists, educators, school administrators, school board members, tribal officials, and parents to share ideas and experiences on how to improve educational programs for Indigenous communities; to provide a forum for exchange of scholarly research on teaching Indigenous children; and to disseminate through a monograph and web site recent research and thinking on Indigenous education best practices. Sessions will include "Improving Indigenous Student Learning Outcomes", "Civilization, Normal Childhood and Nurture", "Opening Common Core Close Reading To Cultural talk" and "Bringing Reading Research to Life for Native Students".

**Location:** Northern Arizona University College of Education, Flagstaff, Arizona

### TRIBAL EMPLOYMENT RIGHTS & LAW SEMINAR JULY 14

More than a dozen panelists will convey

how creating and maintaining sustainable and productive employment is a top priority for tribes, tribal businesses and the agencies and enterprises that serve Native American communities. The conference will offer in-depth guidance on crucial legal issues in employment law in Native American communities, including the application of federal employment laws to tribes; tribal preference policies and sovereignty issues; collective bargaining, employment insurance and risk management; best practices for personnel dispute resolution; selecting and managing employee benefit and retirement plans; and using the EB-5 investor visa program to create new job opportunities on reservations. **Location:** Washington State Convention Center, Seattle, Washington

### PATHWAYS TO RESPECTING AMERICAN INDIAN CIVIL RIGHTS JULY 14-15

Conducted by the American Indians Pathways Task Force, in conjunction with the Denver field office of the U.S. Equal Employment and Opportunity Commission, this training and education conference for leadership will include information on health care, employment, education, environmental justice and nutrition. Also

included will be discussions on crisis issues within the Native American communities such as hate crimes, the loss of culture and violence against Native women. The goal is to provide attendees with answers to a wide range of questions in the Native American community under an umbrella of cultural comfort.

**Location:** King Center at Auraria Campus, Denver, Colorado

### REFORM OF FEDERAL ACKNOWLEDGMENT REGULATIONS JULY 15

The Interior Department is holding hearings throughout the month of July to refine proposed regulations that would reform the 35-year-old process whereby the department grants federal recognition to tribes. Key features of the proposed reform measures would include promoting transparency and eliminating the need for petitioners to demonstrate that third parties had identified them as tribes from 1900 to the present. The existing regulations, known as "the Part 83 process", were originally adopted in 1978 and updated most recently 20 years ago.

**Location:** Bureau of Indian Affairs Regional Office, Portland, Oregon and Menominee Casino Resort, Keshena, Wisconsin

## LETTERS TO THE EDITOR

Re your article regarding the decision of Dictionary.com to refer to the term "redskins" as "disparaging and offensive" ("Redskins Is Officially a Dictionary-Defined Racial Slur—In All Cases", July 2):

The term "redskin" is a term of violence. European Americans coined the

term to describe Native Americans as savages. "Redskin" refers to Native Americans killing European-Americans in battle. The heads and bodies of Native Americans would be covered with their enemies' blood.

We should not encourage violence

by the use of the term "redskin". Native American children will automatically celebrate this kind of encouragement of violence. The use of the term "redskin" needs to be banned or, at least, discouraged.

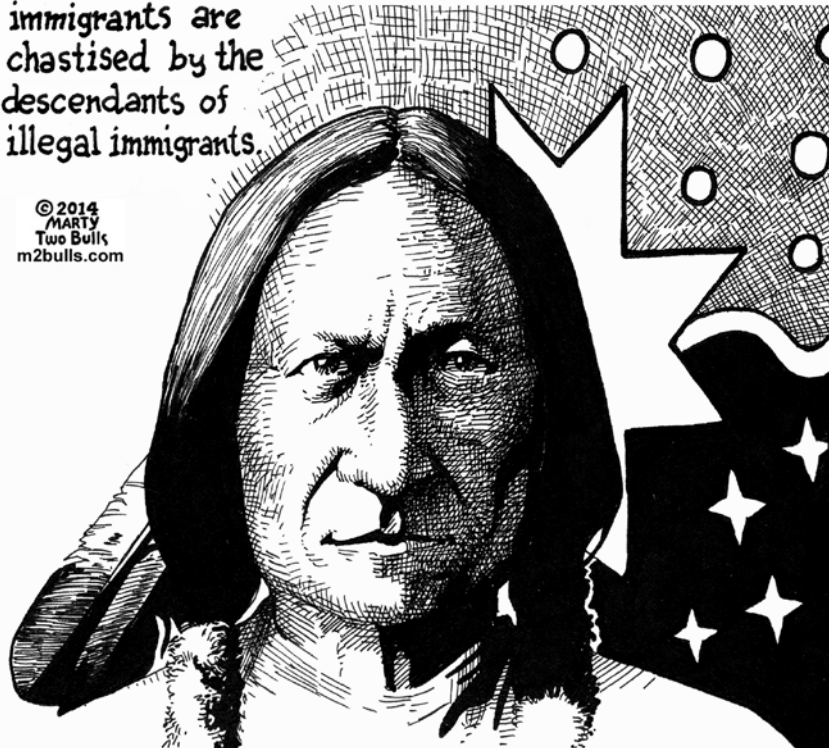
*F.S. LaFountaine*  
Spokane, Washington

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



Ironically, the children of illegal immigrants are chastised by the descendants of illegal immigrants.

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Two Bulls  
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## TOP NEWS ALERTS

From IndianCountryTodayMediaNetwork.com

### NEW OSAGE CHIEF INAUGURATED

Attorney Geoffrey Standing Bear was inaugurated as principal chief of the Osage Nation on July 2. The ceremony, which took place in Ponca City, Oklahoma, followed the tribe's impeachment several months earlier of Chief John Red Eagle. Also inaugurated at the two and one-half hour ceremony were six members of the tribal legislature and two members of its judiciary. The keynote speaker was Rep. Tom Cole (R-Oklahoma), one of the only two registered Native Americans in Congress.

### RED CROSS AND CROW TRIBE SIGN ACCORD

The Crow tribe and the American Red Cross of Montana on June 26 signed a Memorandum of Understanding that makes

formal a working partnership between the two parties concerning their preparation for and response to emergencies and disasters. "This agreement will allow for a much faster and more efficient response in the event of a disaster on Crow land," said Montana Red Cross CEO Rod Kopp. The agreement was signed during the Crow Native Days celebration.

### MAJOR SAGINAW CHIPPEWA DISENROLLMENT EFFORT

The Saginaw Chippewa Indian Tribe of Michigan has made a renewed effort to remove more than 200 of its members from its rolls. Via letter, the disenrollment proceedings were made against 169 living, and 65 deceased, members of the tribe. But according to attorney Paula Fisher, who

represents the affected tribal members, the attempt to disenroll her clients is outdated and without merit. "These are all cases that were closed five years ago, but were filed against 234 people and previously dismissed by the tribe with prejudice," she said.

### CHEROKEE BEAR ZOO LAWSUIT PROCEEDS

A U.S. district court judge has denied a motion brought by two Cherokee tribal members who allege that grizzly bears kept at the Cherokee Bear Zoo in North Carolina are being psychologically maltreated in the roadside attraction under the terms of the Endangered Species Act. "The bears languishing in atrocious living conditions at Cherokee Bear Zoo have won this round in

the courts," Cheryl Ward, a consultant in the lawsuit, told the *Smoky Mountain News*. "The bears suffer every day at this so-called 'zoo'."

### FEDERAL JURISDICTION OVER WAMPANOAG GAMING

In a 13-page decision, a federal judge affirmed that any legal dispute over the attempts of the Aquinnah Wampanoag Tribe to open a Class II gaming facility on its reservation on Martha's Vineyard in Massachusetts belongs in federal, not state, court. "[T]he fact that at least one circuit has concluded that the IGRA [Indian Gaming Regulatory Act] entirely preempts the field of Indian gaming regulation is further evidence of the strong federal interest at issue here," Judge F. Dennis Saylor IV declared on July 1.

# UPCOMING POW WOWS

## **North American Indian Days**

7/10/14 - 7/13/14

Blackfeet Celebration Grounds

124 2nd Avenue Northwest

Browning, MT

406-338-7406

[BlackfeetCountry.com](http://BlackfeetCountry.com)

## **16th Annual National Pow Wow**

7/10/14 - 7/13/14

Vermilion County Fairgrounds

Danville, IN

434-316-9719

[info@nationalpowwow.com](mailto:info@nationalpowwow.com)

[NationalPowWow.com](http://NationalPowWow.com)

## **Strong Sun Pow Wow**

7/11/14 - 7/13/14

Ivey Redmond Sports Complex

Kernersville, NC

336-618-0561

[sulali@live.com](mailto:sulali@live.com)

[NearRiverDwellers.com](http://NearRiverDwellers.com)

## **Prairie Island Dakota Summer Wacipi Celebration**

7/11/14 - 7/13/14

5634 Sturgeon Lake Road

Welch, MN

651-385-4161

[dbenson@piic.org](mailto:dbenson@piic.org)

[PrairieIsland.org](http://PrairieIsland.org)

## **Midnight Sun Intertribal Pow Wow**

7/11/14 - 7/13/14

2010 2nd Avenue

Fairbanks, AK

[MidnightSunPowWow.com/](http://MidnightSunPowWow.com/)

## **Marcellus Norwest Veterans Pow Wow**

7/11/14 - 7/13/14

Uyxat Pow Wow Grounds

9390 Highway 22

Grand Ronde, OR

800-422-0232

[PublicAffairs@grandronde.org](mailto:PublicAffairs@grandronde.org)

[GrandRonde.org](http://GrandRonde.org)

## **Festival of Native Peoples Pow Wow**

7/11/14 - 7/12/14

Cherokee Indian Fairgrounds

Cherokee, NC

828-554-6471

[howawahn@nc-cherokee.com](mailto:howawahn@nc-cherokee.com)

[RomanticAsheville.com/festival\\_of\\_native\\_peoples.htm](http://RomanticAsheville.com/festival_of_native_peoples.htm)

## **30th Annual Summer Great Mohican Pow Wow**

7/11/14 - 7/13/14

Mohican Reservation Camp & Festivals Grounds

23270 Wally Road

Loudonville, OH

800-766-2267

[powwow@mohicanreservation.com](mailto:powwow@mohicanreservation.com)

[MohicanPowWow.com](http://MohicanPowWow.com)

## **29th Annual Taos Pueblo Pow Wow**

7/11/14 - 7/13/14

Off Highway 64, Taos Pueblo

Taos, NM

575-741-0181

[taospueblopowwow@gmail.com](mailto:taospueblopowwow@gmail.com)

[TaosPuebloPowWow.com](http://TaosPuebloPowWow.com)

## **Sussex County Pow Wow**

7/12/14 - 7/13/14

Sussex County Fairgrounds

37 Plains Road

Augusta, NJ

718-686-9297

[native@redhawkcouncil.org](mailto:native@redhawkcouncil.org)

[RedhawkCouncil.org](http://RedhawkCouncil.org)

## **Mount Kearsarge Indian Museum's 15th Annual Intertribal Pow Wow**

7/12/14 - 7/13/14

Mount Kearsarge Indian Museum

18 Highlawn Road

Warner, NH

603-456-2600

[info@indianmuseum.org](mailto:info@indianmuseum.org)

[IndianMuseum.org](http://IndianMuseum.org)

## **American Indian Festival**

7/12/14 - 7/13/14

Century II Expo Hall

225 West Douglas

Wichita, KS

316-350-3341

[ascott@wichita.gov](mailto:ascott@wichita.gov)

[TheIndianCenter.org](http://TheIndianCenter.org)

## **24th Annual Echoes of a Proud Nation Pow Wow**

7/12/14 - 7/13/14

Kahnawake Mohawk Territory

Routes 132 & 138 (off Mercier Bridge)

J0L 1B0 Kahnawake

United States Minor Outlying Islands

450-632-8667

[info@kahnawakepowwow.com](mailto:info@kahnawakepowwow.com)

[KahnawakePowWow.com](http://KahnawakePowWow.com)





*It was announced in June that this 500-year-old Aztec headdress, connected to the Emperor Moctezuma, could not be returned to Mexico from its current locale in Austria because of its fragile state.*