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Hoopa Valley Tribe v. U.S.

Current Lawsuit Had its Roots in a 1970 Case

By Kay Heitkamp, Two Rivers Tribune Contributing Writer

Recent headlines proclaimed settlement of a legal claim filed by the Hoopa Valley Tribe against the United States on Dec. 27, 2006 in the Court of Federal Claims.

According to Tom Schlosser, attorney for the Hoopa Valley Tribe, this new claim had its roots in Cheyenne-Arapaho Tribes of Oklahoma v. United States, filed in the Court of Federal Claims in 1970 and settled in 1975. The case is cited as 512 F.23d 1390 (1975). Unless otherwise noted, information in this article was obtained from the case.

"That case was really the basis and foundation of this new case and settlement," said Schlosser.

Cheyenne-Arapaho involved consolidated cases that challenged the federal government's performance of its fiduciary duties as trustee of funds belonging to various Indian tribes.

The lawsuits were brought on behalf of a number of tribes either for themselves or as representatives of large or aboriginal groups. The parties agreed the two tribes that would be considered representative 'test plaintiffs' would be the Southern Ute and Hoopa Valley Tribes.

Plaintiffs claimed the U.S. (Defendant) breached its fiduciary duty by failing to make their trust funds as productive as legally and practically possible. The claim alleged (1) failure to invest moneys ready for investment; (2) delays in making funds available for investment; (3) not maximizing productivity of the funds, and; (4) using the funds to its benefit and to the detriment of the tribes.

During the 1970 case, the Court examined various precedents established in prior holdings. Previous rulings held the U.S., as trustee, has an obligation of the highest trust and responsibility, saying the federal government, by retaining Indian moneys in the U.S. Treasury, is, in effect, borrowing those funds (Seneca Nation of Indians v. United States).

The Hoopa Valley Tribe joined the 1970 lawsuit as a Plaintiff because it owned a 'proceeds of labor account,' a type of account that includes all miscellaneous revenues derived from Indian reservations. The balance of the account never fell below $1 million between mid 1964 and early 1970 and, at times, held as much as $3 million. The tribe also owned an interest account into which interest from proceeds of the labor account was to be deposited.

The court said funds produced by tribal activities are, when kept in the Treasury, held in trust for Indians. When Congress began holding tribal funds in trust rather than immediately distributing them, it also created a series of investment policies for those funds. Plaintiffs alleged the Bureau of Indian Affairs breached their fiduciary obligations by not following those policies.

By statute, Indian trust funds deposited in the Treasury must earn interest at the rate described in the appropriate treaty or appropriations bill. If no interest rate is specified, the funds are to earn an annual rate of four percent simple interest. Plaintiffs claimed that at that low rate, their interest funds were completely unproductive.

Until 1880, tribal funds, rather than being deposited in the Treasury, were legally required to be invested, usually at a minimum rate of five percent. After defaults on some government bonds and declining interest rates, Congress passed the

Act of April 1, 1880. This allowed the government to hold tribal funds in the Treasury and pay interest on the deposits as an alternative to making investments if the Secretary of Interior felt Indian interests would be best promoted by interest-bearing accounts rather than by investments.

The Secretary had the power to withdraw Indian funds from the Treasury and place them in banks which paid a higher rate of interest than the Treasury. He could also invest the funds in any U.S. public-debt obligations, bonds, notes, or other obligations guaranteed as to both interest and principal.

Because of these powers, the court said it could have been possible for the Secretary, by investing rather than holding Indian funds, to provide more than four percent simple interest. The court ruled there were proper sources of investment outside the Treasury which would have yielded higher returns than four percent.

The court noted, "The fiduciary duty which the United States undertook with respect to these funds includes the obligation to maximize trust income by prudent investment."

The court also said another fiduciary duty of the government is to keep informed of opportunities for better and equally safe reinvestments elsewhere, and that investing within a reasonable period of time such as a man of ordinary prudence would do in dealing with his own property was required.

"If eligible investments were available at higher yields, defendant will be liable to plaintiffs for the difference between what interest defendant paid for the funds and the maximum the funds could have legally and practically earned if properly invested outside," declared the court.

Court also held that the government was liable for lost profits on interest accounts on which no interest was paid at all, since any outside investments would have yielded some substantial return.
In 1982, 12 years from the original filing date, judgment was finally entered in favor of the Hoopa Valley Tribe for $669,150.