

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

_____)	
ELOUISE PEPION COBELL, et al.,)	
)	
Plaintiffs,)	
v.)	No. 1:96CV01285 (TFH)
)	
KEN SALAZAR, Secretary of)	
the Interior, et al.,)	
)	
Defendants.)	
_____)	

**NOTICE OF SUPPLEMENTAL INFORMATION
IN SUPPORT OF PLAINTIFFS’ OPPOSITION TO
NARF’S PETITION FOR ATTORNEYS’ FEES**

On May 26, 2011, Plaintiffs opposed the request by the Native American Rights Fund (“NARF”) for fees and expenses (“Plaintiffs’ Opposition”) [Dkt. No. 3779]. One of the primary reasons for plaintiffs’ opposition is that, in lieu of continuing to fulfill its obligations as attorneys for plaintiffs, NARF instead chose in 2006 to represent several tribes in actions against the United States similar to this case. Plaintiffs’ Opposition at 2, n. 6.

This notice provides the Court with information regarding the substantial fees NARF received from representing the tribes instead of continuing to represent these plaintiffs. Of the 41 tribes NARF represented in the tribal trust litigation, 23 tribes have settled with the government for an aggregate amount of nearly \$350,000,000. Exhibit 1. Regarding NARF’s fees, only the Nez Perce tribe has disclosed publicly the amount that it paid NARF, *i.e.*, \$3,000,000 of its \$33,693,000 settlement. Exhibit 2. NARF’s fee is approximately 9% of the Nez Perce settlement. Although NARF’s fees for its representation of the other tribes remains undisclosed, if that 9% NARF fee is applied to the aggregate amount of all 23 settlements shown on Exhibit 1, NARF’s fees exceed \$31,000,000.

Thus, by accepting these tribal representations without the consent of the Class Representatives and dropping the *Cobell* plaintiffs at a critical juncture in this litigation in order to represent the tribes, NARF put itself in the lucrative position to receive much greater fees than it could have ever hoped to receive in this litigation, where NARF expressly had disavowed contingent fees and had entered into a written engagement with the lead plaintiff in this litigation that does not provide for contingent fees. Plaintiffs' Opposition, p.2, n. 2-6. Plaintiffs respectfully request that the Court consider this new information in deciding NARF's Petition for Attorneys' Fees and Costs.

Respectfully submitted, this 30th day of July 2012.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing NOTICE OF SUPPLEMENTAL INFORMATION IN SUPPORT OF PLAINTIFFS' OPPOSITION TO NARF'S PETITION FOR ATTORNEYS' FEES was served on the following via facsimile, pursuant to agreement, on this day, July 30, 2012.

Earl Old Person (Pro se)
Blackfeet Tribe
P.O. Box 850
Browning, MT 59417
406.338.7530 (fax)

/s/ Shawn Chick

NARF's TRIBAL TRUST SETTLEMENTS

Case Name	Docket	Docket No.	Settlement Amount	NARF's Fees	Percentage Recovery
Chippewa Cree of Rocky Boy's	02-0276	102	\$ 8,442,000.00		
Nez Perce, et al.	06-2239	118	\$ 33,693,000.00	\$ 3,000,000.00	8.90%
Confederated Salish & Kootenai Tribes	06-2239	140	\$ 150,126,000.00		
Bad River Band of Lake Superior Chippewa Indians	06-2239	138	\$ 3,771,000.00		
Minnesota Chippewa Tribe	06-2239	137	\$ 1,999,999.00		
Nooksack Indian Tribe	06-2239	136	\$ 25,000.00		
Bois Forte Band of Chippewa	06-2239	135	\$ 1,443,000.00		
Confederated Tribes of Siletz Indians	06-2239	134	\$ 9,140,000.00		
Hualapai Tribe	06-2239	133	\$ 6,088,000.00		
Cachil Dehe Band of Wintun Indians	06-2239	132	\$ 650,000.00		
Kaibab Band of Paiute Indians of Arizona	06-2239	131	\$ 1,000,000.00		
Kickapoo Tribe of Kansas	06-2239	130	\$ 700,000.00		
Lac du Flambeau Band of Lake Superior Chippewa Indians	06-2239	129	\$ 5,442,000.00		
Mescalero Apache Tribe	06-2239	128	\$ 32,831,000.00		
Ute Mountain Ute Tribe	06-2239	127	\$ 42,558,000.00		
Tule River Indian Tribe	06-2239	126	\$ 7,098,000.00		
Tulalip Tribes	06-2239	125	\$ 4,716,000.00		
Spirit Lake Dakota Nation	06-2239	124	\$ 6,693,000.00		
Santee Sioux Tribe of Nebraska	06-2239	123	\$ 675,000.00		
Rincon Band of Luiseno Indians	06-2239	122	\$ 1,000,000.00		
Pueblo of Zia	06-2239	121	\$ 12,123,000.00		
Pawnee Nation of Oklahoma	06-2239	120	\$ 4,442,000.00		
Spokane Tribe of Indians	06-2239	119	\$ 15,005,000.00		
			\$ 349,660,999.00		

July 12, 2012

To the Members of the Nez Perce Tribe,

With this letter we would like to provide you with the facts about the Tribal Trust Mismanagement settlement and give you an opportunity to arrange for disbursement. If you are 18 or older, please return the attached application before July 18, 2012, so that the Tribe may disburse your per-capita by July 24, 2012. If the Tribe has not received a response by July 18, 2012, you will not receive disbursement until after July 24, 2012.

More importantly, if you do not mail back your application before July 24, 2013—one year from this month—then your eligibility to apply will be forfeited. This deadline does not apply to (1) children under 18; (2) those who are serving in the military; (3) those who are currently incarcerated; or (4) those who are eligible to apply for disbursement but are deceased.

The Facts:

- The Nez Perce Tribe received the settlement of \$33,693,000.00 from the United States on July 10, 2012.
- Attorney's fees of \$3,000,000.00 will go to the Native American Rights Fund for their representation of the Nez Perce Tribe in this lawsuit.
- **The \$30,693,000.00 is available to be distributed to the Tribal Membership.** The approximate amount is \$8,600.00 per Tribal member.
- **Tribal members under 18 do not need to fill out the attached form.** They will automatically receive a per-capita that will be held in a trust fund by the Tribe until they reach 18 years.
- Tribal members who were enrolled as of May 4, 2012, are eligible to apply for distribution. So, if a Tribal member was alive on May 4, 2012, but has since passed away, that person's estate may apply for a per-capita.
- Also, those who applied for enrollment on or before July 10, 2012, will be eligible to apply for distribution if they are subsequently enrolled. If the applicant is under 18, he or she will receive a per-capita automatically, which will be held in trust by the Tribe until he or she turns 18.
- **If you wish to apply for immediate disbursement of a per-capita, check Option 1 on the attached application.**
- **The IRS considers per-capita payments from settlements like this to be federally taxable as income. The taxes will not be withheld, so you must set aside enough money to pay your taxes.** The NPTEC highly recommends that you seek the advice of a tax accountant or financial planning advisor in order to address your specific situation and to make the most of your per-capita payment.

- **If you receive TANF, SSI, Disability, or other entitlements, a per capita distribution may affect your eligibility to receive those entitlements.** If you wish to defer your disbursement until a later date while you make arrangements, Please Check Option Number 2 on the application. This will not affect your ability to apply for a full disbursement in the future. The Tribe is trying to arrange for a needs-based program that will allow you to make periodic withdrawals that will not affect your ability to receive entitlements.
- **If you are 18 or older and DO NOT receive TANF, SSI, SSDI or other entitlements, you may defer applying for the per capita until a later date.** This will not affect your ability to apply for the per-capita in the future. **However, you must make your intention to do so known by marking Option Number 3 on the application and returning it.**
- **If you apply to receive the per-capita immediately, YOUR CHECK WILL BE MAILED TO YOU.** Please do not attempt to pick up your check in person.
- **If you receive a per-capita and you do not have a bank at which to cash it or deposit it, DO NOT USE A COMMERCIAL CHECK CASHING SERVICE.** Check cashing services will charge a 5% to 10% fee. Sterling Bank has agreed to cash your check at their branch offices. Or you may go to the bank of your choosing and open a new account.

If the attached application is lost or damaged, you may get a new application at the NPTEC offices in Lapwai; the Wa-A-Yas Community Center in Kamiah; and the Teweepuu Community Center in Orofino. You may also make a Xerox copy of another person's application. Finally, you can download a copy of the application from the Tribe's website at <http://www.nezperce.org/>. Again, you must return the attached application to the Tribe before July 18, 2012, if you want your disbursement by July 24, 2012. Most importantly, you must return an application before July 24, 2013—one year from now—or your eligibility to receive disbursement will be forfeited.

Please Return the Attached Application to:

MAIL:

Enrollment Office, Nez Perce Tribe
P.O. Box 305
Lapwai, ID 83540

FAX:

(208) 843-7354

EMAIL:

nptec@nezperce.org

**Nez Perce Tribe
Per Capita Distribution Application – Adults Only (18 and over as of July 24, 2012)
Tribal Trust Mismangement Case Settlement Funds**

* This Application must be RECEIVED by July 18, 2012, if you want disbursement mailed by July 24, 2012 *
(Applications received after that date will be processed approximately 7-10 days following receipt)

If this Application is NOT Received by July 24, 2013, Your Eligibility to Apply for Disbursement Will Be Forfeited

Name: _____ Enrollment Number: _____ Date of Birth: _____ Social Sec #: _____

Other Name Used: _____ Mailing Address: _____
(Street or P.O. Box, City, State & Zip)

Phone: _____ E-mail: _____

THE TRIBE HAS BEEN ADVISED THAT THIS DISTRIBUTION IS CONSIDERED TAXABLE BY THE INTERNAL REVENUE SERVICE (IRS), AND DUE TO ITS SIZE COULD ALSO AFFECT YOUR ELIGIBILITY FOR CERTAIN NEEDS-BASED ASSISTANCE OR OTHER FEDERAL, STATE OR LOCAL SOCIAL SERVICE PROGRAMS YOU PARTICIPATE IN. AS SUCH, PLEASE CAREFULLY READ THE ACCOMPANYING LETTER BEFORE RETURNING THIS APPLICATION GIVING INSTRUCTIONS TO THE TRIBE AS TO WHAT YOU WANT DONE WITH YOUR SHARE OF THE DISTRIBUTION. THE TRIBE IS UNABLE TO ASSESS EACH MEMBER'S PERSONAL FINANCIAL SITUATION. THOSE RECEIVING A DISTRIBUTION AT THIS TIME WILL RECEIVE A FORM 1099 FROM THE TRIBE BY JANUARY 31, 2013, AND BE RESPONSIBLE FOR PAYING THE APPROPRIATE TAXES ON AMOUNTS RECEIVED IN ANY TAX YEAR.

Please fully complete this Application and return to the Tribe immediately for processing. You must select one option from the choices below:

- _____ 1) I request the entire distribution be paid to me and mailed to the address above on or about July 24, 2012, or as soon as practicable thereafter. I acknowledge responsibility for paying applicable income taxes on this amount when filing a tax return for 2012, and that receipt of this payment could affect my eligibility for various needs-based financial assistance programs.
- _____ 2) Due to my participation in TANF, SSI, SSDI, or other needs-based entitlements, I wish to defer application for disbursement while the Tribe arranges for a tax-exempt, needs-based, general welfare program that will allow me to maintain my entitlements and access the per-capita as I need it. I understand that this will NOT affect my ability to apply for a full disbursement in the future if I so choose.
- _____ 3) I would like to defer application for disbursement until such time as I request to receive it. Amounts will be subject to taxation in the year ultimately received. I understand that this will NOT affect my ability to apply for a full disbursement in the future.

Signature Date

PLEASE RETURN TO:

Mail: Enrollment Office, Nez Perce Tribe, P.O. Box 365, Lapwai, ID 83540, Fax: (208) 843-7354 or E-mail: nptec@nezperce.org