

Remembering and Honoring Elouise Cobell

By Patricia R. Powers

(expanded and edited version of statement on the FCNL website)

On the day Dr. Martin Luther King Jr.'s memorial was dedicated in Washington, DC, a far-less famous hero died in Montana. She too--against impossible odds--had secured a measure of justice for her people. As her lawyer Keith Harper (Cherokee) said: "With any moment of progressive social change, there is always an iconic figure who will define that movement--the person who refused to get to the back of the bus. For Indian people, for this important cause, for this indelible change, that person was Elouise Cobell." The cause was holding the federal government accountable for trust land and resource assets it controls and getting back billions of Indian people's *own money*.

Ervin Chavez, president of the association of Navajo allottees known as Shi Shi Keyah, got to know Cobell when she visited Navajos to gain input on the litigation.

He was at first surprised by her soft-spoken demeanor.

"Because of what she was doing, people pictured her as coming out real strong," he said. "She wasn't like that. She was very soft-spoken. She could bear down on a point she was making, but she never did it in an impolite way. It was more like she stayed after it to make sure you understood what she was saying."

from "Cancer Claims Cobell, Warrior of the People" [Navajo Times](#) 10/20/11

Elouise Cobell was a resolute but atypical activist. She never went to jail for the cause. She wore suits when she testified in court and before Congress. She tried to work within the system in a firm but civil manner, despite being scorned by most government officials. She was a MacArthur genius award winner who lived on the Blackfeet reservation. She challenged--in the press and in the courtroom--a century old policy that kept land-rich Indian families dirt-poor. Ultimately, she also had to persuade the executive and legislative branches of government to fulfill trust responsibilities. Few advocates have had to work on so many fronts simultaneously.

She and fellow Indian leaders proved gross mismanagement of the Individual Indian trust. The federal appeals court found that the U.S. had "flagrantly and repeatedly breached its fiduciary obligations." After 15 years, the Obama administration arranged a \$3.4 billion settlement and finally Congress approved it. Judge Hogan who presided over the final phase of the landmark case said Elouise Cobell as the main plaintiff had shown "unusual effort and courage" in leading the lawsuit.*

I write this commemoration as a former Native American affairs advocate at Friends Committee on National Legislation who watched Elouise Cobell in action. For five years, we monitored the federal Cobell class action case against the Department of Interior and lobbied Congress to provide financial redress for half-a-million individual Indians. Our website was replete with information to provide community education. We submitted a white paper to Interior. We met with the Office of the Special Trustee. We published at least a dozen articles and updates about the case in our Indian Report newsletter and wrote letters to the editor. The Cobell team appreciated FCNL's constant and very public support.

I first read about Elouise Cobell in a 2001 Parade Magazine feature story entitled "The Broken Promise." In the cover picture, she is wearing blue jeans (she was a rancher as well as a banker). A few years later, I included information about her case in a college textbook I was writing. By the time I started at FCNL, I knew faith groups had to convince people that the citizenry was involved too, not just American Indians. It was more than a matter of conscience. For decades, much of the Indian land royalty money that was not distributed to them went into the U.S. treasury-- indirectly benefiting the rest of us. If we as a country did not play fair financially this time with Indian families, after all the audits, congressional investigations, and court findings in Cobell, when would we ever forge an ethical and above-board relationship with the U.S.'s indigenous people?

During the past seven years, there have been so many up's and down's in the process. At many points, it seemed as if victory was imminent. I remember running around the FCNL office celebrating, only to have a Native congressional staff member remind me not to get my hopes too high. "Look what has happened in the past," he said, remembering the dozens of field hearings he had conducted to no avail. It was an emotional roller coaster. Once I watched Elouise Cobell standing, quite patiently, in a corridor at the federal court house and yet her facial expression seemed to say: will it never be through?

My most vivid memory is of an incident that occurred during a Senate Committee on Indian Affairs hearing. Senator John McCain who was chair of the committee launched into a tirade against Elouise Cobell who was sitting at the table before him ready to testify. He was angry about a statement she had made that appeared in a local newspaper in her state. He became so irate that he left the room and never returned. When the hearing resumed, Elouise Cobell started her remarks in her unflappable way by saying, "I'm not the *bad guy* here."

With tempers cooled and results achieved, legislative leaders had started the process for Elouise Cobell to receive a Congressional Gold Medal. Her funeral will be Saturday.

*It should be said that some Native individuals who are part of the lawsuit are unhappy about the settlement for differing reasons, e.g., the small amount of money each member of the class will receive; extra agreements that were part of the settlement, etc. The United States District Court for the District of Columbia granted Final Approval for the Indian Trust Settlement at the Fairness Hearing in June 2011. Final Approval and fund distribution will become effective once all appeals have been resolved. Five appeals were filed in August and September 2011 with one later withdrawn.