

December 23, 2002

The Honorable Daniel Inouye
Chairman
Committee on Indian Affairs
SH-838
Washington, D.C. 20510

Dear Mr. Chairman:

Over the past year, we have had a number of conversations about efforts to resolve the longstanding problem of Federal government mismanagement of its Indian trust responsibility. I know how seriously you take this issue, and I greatly appreciate the attention you have devoted to it as chairman of the Senate Indian Affairs Committee. You have been instrumental in encouraging valuable dialogue between Interior Department officials and tribal leaders that has moved the process closer to a consensus solution.

While the Executive, Legislative and Judicial branches of government continue to discuss different strategies for reaching closure on this issue, I had thought that one principle on which all parties had agreed was that the trust problem, which means so much to tribal leaders and their members, must be resolved with the full participation and concurrence of the Native American community. Therefore, I was both surprised and disappointed to learn last week from South Dakota tribal leaders about new developments with this issue.

I am told that, on December 4, the Department of Interior sent a request for authority to reprogram Department funds to implement a trust reorganization plan that was crafted without serious input from Indian leaders. Indeed, I understand that at the recent meeting, held on December 16 and 17, between the Department and its Trust Reform Task Force to discuss the trust reform issue, that reprogramming request was not even raised by Interior officials until the end of the meeting on December 17. Deputy Secretary Griles and other senior officials sat with tribal leaders the entire day of the 16th and did not even hint that a plan had been submitted to Congress two weeks earlier.

Tribal leaders thought, mistakenly, that their input was being sought on a plan that would be proposed to the Congress and the District Court in the future. Only at the end of the two-day session were the Tribal leaders told of the December 4th letter to Congress.

Compounding the problem, I am told that neither the membership of the Senate Committee on Indian Affairs nor the Senate leadership were informed that a reprogramming request had been received. When I met with Chairman Mike Jandreau, a member of the Secretary's Task Force, on December 18 to discuss the reprogramming request he had been told about on the 17th, I did not know that the Committee had already approved the request.

On the merits, Tribal leaders in my State are very concerned that the Department's plan moves in the wrong direction. Instead of integrating the trust and "non-trust" functions of the Department, the plan separates the functions even further. In terms of process, they ask what happened to the "consultation" that was so trumpeted earlier in the year.

Mr. Chairman, I would appreciate your attention to this matter at your first convenience. It is a matter of the highest importance to me and to tribes all across the country. Given the developments of the past month, I have no credible answer to tribal leaders' complaint that the Department appears more interested in the reaction of the Court in the Cobell suit than in the opinion of Indian Country.

Clearly, this Interior Department reprogramming request was not a routine matter. At a minimum, it would have been helpful if all interested Senators could have been notified before the Committee (staff) took it upon themselves to sign off on it. But now that the Department has been given approval to proceed administratively with its reorganization plan, I am interested in your view of what the Committee might do legislatively to address Indian Country's concern about its specifics. I look forward to talking with you about this matter when the Senate reconvenes in early January.

Sincerely,

Tom Daschle