

Terminated Uintas carry on court fight

Published Oct. 16, 2007
Uintah Basin Standard
Section A, Page 3

By Lezlee E. Whiting

The government continues to insist that terminated members of the Ute Indian Tribe have run out of time to fight a 59-year-old mandate that removed their names from the rolls of the Ute Indian Tribe. However, the attorney for that group is saying that a recently enacted federal statute preserves the claims of his 650 clients.

Dennis Chappabitty, an Indian rights attorney from Sacramento, Calif., says a law passed by Congress three years ago proves the statute of limitations hasn't even begun to run for lead plaintiffs Oranna Felter of Roosevelt, Cal Hackford of Whiterocks and hundreds of other individual terminated Uinta Band members and their descendants.

In 1954 the Ute Partition Act removed the names of 490 Uintas with less than 50 percent Ute blood from tribal rolls. The majority of them were children; Felter 10 at the time.

Chappabitty's latest legal brief says the court must recognize that Public Law 108-108, bars the statute of limitations "from running on any claim, including any claim in litigation pending on the date of enactment" of the 2004 Department of Interior statute.

The rule allows time for affected tribes or individual Indians to be furnished with an accounting

of funds so they can determine whether there has been a loss.

Chappabitty said his clients have yet to receive any such accounting from the federal government, adding that the money they are owed could conceivably be in the millions of dollars.

It wasn't until 2002 that the individual terminated Uintas filed in U.S. District Court in Washington, D.C. to have the Ute Partition Act declared invalid. Felter has successfully fought in court for her hunting and fishing rights but the case filed by Chappabitty five years ago was her first attempt to have the act that ended her tribal identity and that of others, overturned.

In 2006 federal court judge Richard W. Roberts dismissed their case on the grounds that the statute of limitations expired in 1967. However, last January an appellate court reversed Roberts' ruling.

The court ordered Roberts to consider whether the terminated Uintas had access to their financial records and received an accounting of what had transpired before ruling that the statute of limitations had run its course in the case.

In 1950, the U.S. Court of Claims handed down a \$32 million "judgment" on behalf of the Ute Indian Tribe. In his recent brief before the court, Chappabitty notes that the Court of Claims funds were ordered paid

to the tribe at a time when his clients "were federally recognized members of the Uintah Band of Ute Indians."

Even though each of the 490 terminated tribal members were to receive property, stock and cash upon termination, the judgment funds were "not included in any plans for distribution of property or assets established in the Ute Partition Act."

In its argument for final dismissal of the case, the U.S. government argues that the 2004 statute does not apply to Felter v. Kempthorne which concerns "improper termination of federally recognized Indian status," not claims "concerning the losses to or mismanagement of trust funds."

Attorneys for the government also submit that Felter admitted that during the 59 years she nor other terminated Uintas took legal steps to ask for an accounting of the millions the tribe had been paid by the federal government.

However, in their court documents the group points to their meetings with task force members from the American Indian Policy Review Commission who came to Utah in the 1970s to interview them.

"The task force went back to Congress and said there should be immediate investigations into the situation on the Uintah-Ouray Reservation involving BIA mismanagement of trust assets and unethical BIA administrative actions throughout each phase of the termination process," said Felter. "This was in 1976, to date this nothing has been done."

In the mid-1950s the federal government was moving towards terminating all Indian tribes. Although that policy was reversed in the '70s, and many terminated tribes were reinstated, the mixed-blood Uintas of the Ute Tribe remain disenfranchised. The Northern Ute Indian Tribe was the only tribe in the nation to have just a portion of their total enrolled members terminated.