

ETSKA NAV AH PAI  THE NEWS CARRIER

QUECHAN NEWS

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PRE-ELECTION SPECIAL ISSUE

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QUECHAN NEWS

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New Election Board Seated: Date Set Is Oct. 17th



Quechan law enforcement head Gordon Osborne administers the Election Board Oath of Office to Judge Rosie Jack-Sestiaga, Clerks Carla J. Hills and Bryce Parker, and Interim Election Marshal David Waters while a quorum of the Quechan Tribal Council looks on.

QUECHAN NEWS Photo by William Isbell

A reconstituted Election Board, drawn from the community at large, was sworn-in at 10:30 AM on Wednesday, September 26th at a special session of the Quechan Tribal Council. The newly seated Board has immediately begun preparations for the Special Election to consider whether the Quechan Tribe should build the new Casino Resort at the Pilot Knob location, as presently planned, or select a different site

for this long-delayed project.

Rosie Jack-Sestiaga returns as Election Judge, the same post she held in the June General Election, along with returning Elections Clerk Carla J. Hills. Bryce Parker, who served as an elder/alternate for the general election, is now on the board as the additional Clerk.

David Waters, an Officer with the Quechan Security Force took the oath as Marshal for the

upcoming election, having expressed interest in the position while Letters of Intent were being gathered. He has however, informed the *Quechan News* that he may not be able to fulfill the needs of the office due to scheduling conflicts, so the Tribal Council is making arrangements to select and swear in an alternate for Marshal, should that become necessary.

In the meantime, the new

Board has their hands full: all of the equipment from the Election Board Office was returned to inventory at the close of the last election, so their first order of business is putting the office back in working order.

Official Announcements of the Election Date, as well as the Polling Place are still to be posted, and wording of the Ballot Proposition will be set by the Board prior to those ballots being printed.

An Essay by The 1971-1975 Quechan Tribe President Elmer Savilla: **“A Message To The Quechan People”**

*Quechan Tribe President Elmer Savilla is now retired and living in Burke, Virginia. In late August, when he heard of the rumblings taking place at Fort Yuma over the site proposed for construction of the new Casino Resort, he sat down to write out his thoughts on related subjects. Three weeks later, he sent the result to the **Quechan News** for publication:*

For those too young to know the word “termination” and what it means to federally recognized tribes, like Quechan, it means that the federal government withdraws its recognition of a tribe as being a sovereign Indian tribe entitled to special status and government services that are specifically reserved for federally recognized Indian tribes. The tribe terminated would be considered self-governing and self-supported, the same as any city or county. It would no longer be eligible for federal Indian programs.

The U.S. Congress claims the power of termination over us by wrongfully, I think, claiming “plenary power” given it by the U.S. Constitution. Yet our treaties and agreements make no mention of being subject to plenary power. This concept has never been tested by the Supreme Court.

The termination efforts described in this writing were all made by the U.S. Congress during a period of time when tribes were essentially still dysfunctional and not in control of their own business affairs, from about 1887 to 1950. Today, with tribes becoming more in control of their own affairs, the threat of termination still exists. In 2006, President Bush and Arizona Senator John McCain introduced

legislation in the Senate that would have begun the termination process for many tribes. The bill failed to pass. In 1978, a previous effort was made by the Arizona Republican Party to abrogate all treaties made with Indian tribes. Only strong actions by tribes nationwide, led by Navajo Chairman Peter McDonald, prevented this from happening. I tell you this only to illustrate that the threat is real and is still alive.

In terms of the white man’s description of social and economic progress, progress of any kind was literally impossible because, in the approximately 160 years of the existence of the United States, (up to 1930) Native Americans suffered invasion by foreigners, homelessness, displacement, starvation, deprivation, massacre, genocide, wars, theft, imprisonment, lies, dishonesty, broken promises and broken treaties. Is there any wonder that “progress” was not made by many tribes?

Termination of Native American tribes has always been a goal of generations of the Congress. I will discuss this subject first because federal recognition is vitally important to every tribe’s relationship with the U.S. government. Federal recognition is important to our treaties and agreements, and the government’s historic trust responsibility for Indians and all of their resources.

Before the coming of Columbus, there were an estimated 20 to 30 million Native Americans in this country. From those mistreatments named above, According to the U.S. Census of 1920 there were barely enough Native Americans left to fill three football stadiums, roughly 250,000.

Today, only 73 years since the passage of the Indian Reorganization Act of 1934, and only 24 years since the Indian Self-Determination and Education Act of 1983 was made law, most members of Congress are thinking again of terminating federal recognition of tribes, as well as withdrawing the governments trust responsibility for Indians and their natural resources.

In this new century there are at least three serious threats to the continued existence of the Quechan Tribe as a sovereign nation. Any one of these threats could abrogate our individual treaty, or as it is wrongly called, the Agreement of 1893. The worst possibility for all of us is that by the beginning of the year 2100, the Quechan Nation would not exist as a Federally Recognized Tribe IF we do not soon change our behavior and work together as unified Quechan people.

As a tribal nation our most serious problem may be that family groups, or clans, choose to hold personal grudges against each other for generations, making meaningful elections hard to come by. This can be seen by the fact that there may be approximately 2,000 persons eligible to vote in our tribal elections, yet the top position of tribal president is elected by less than 300 votes. This shows a deep divide in the thinking of Quechan people. We must come together for the common good of our tribal nation.

If we cannot begin doing this by this mid-century (year 2050) the Quechan people are almost certainly doomed to be plain American citizens, no longer federally recognized as having lawful special rights and privileges because

of our existence as a nation with an Agreement with the United States.

In describing these threats to our tribal existence I will try to be brief as possible, but they are politically complex in nature, and because they are either plans now in progress, or there may be only a possibility of a threat, we cannot take that risk. Our children and our seventh generation, which we sometimes talk about, are at stake. We must come together and plan for our self-defense.

It is said that History foretells the future, and those that ignore the lessons of History will suffer the consequences. Let’s not let that happen to us. The record of our treatment by the United States is clear, and it tells us to take their words and their actions with a grain of salt. In other words, “Trust, but verify.” Then we should do all we can to remain a sovereign nation.

In a larger sense, we ourselves may be to blame for not recognizing and understanding what was being done to us over the many years. In short, we believed the words of the Federal government and the lies of politicians.

“Trust me,” they said. And we trusted them. You may have heard the saying, “The more things change, the more things stay the same.” Even after seeing what has happened over the past 225 years, too many of our tribal leaders nationwide continue to trust the “Great White Father” in Washington without complaint. Their trust reached a critical point in 1996 in Chicago. About 50 tribal leaders met that year at a Democratic political convention in Chicago, and they discussed what they should do about:

Interior’s continued budget cuts for Indian programs;

Continued efforts by Congress to shut down tribal-owned casinos;

Efforts to end the government’s Trust Responsibility for tribes.

Termination of the federally recognized tribes.

Sadly, I report to you that the only solution those 50 Indian leaders came up with was to “join the mainstream political system and work with the Congress.” Lobbyists, they said, could be hired to speak for them to the Congress. They did not remember that it was the very same politicians who did bad things to them.

Those 50 misguided leaders may have set the stage for the future of all 560 federally recognized tribes. Their best friend in Congress, Senator Daniel Inouye of Hawaii, had repeatedly told tribal leaders that they should, “Stand up for your treaties. Defend your sovereignty. It’s all you have.” Few leaders in the new generation have listened to him.

If our leadership won’t stand up for our Treaties and Agreements, and defend our sovereignty, it is then time for the people to stand up and demand that this be done. If they say, “We are a sovereign nation,” then they must act like it. Our future generations depend on us to make good decisions.

As a beginning, we should educate all those who would be leaders, of the history of our relationship with the United States, including ‘where did our sovereignty derive from, why did some tribes sign formal treaties with the U.S. and why other tribes, like Quechan, were forced to sign Agreements, and

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QUECHAN NEWS

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Have a story idea, or an event you want covered?

QUECHAN NEWS is here to cover the special events and everyday lives of Quechan Tribe Members, and the issues that affect you in the world today. This newsletter is here to keep the lines of communication open, to expand opportunities, and uplift the Native Spirit of the San Pasqual Valley. Your ideas and input are welcome!

Just call the **QUECHAN NEWS** office Monday through Friday at (760) 572-3912, or email your stories and story ideas to w.isbell@quechantribe.com. I’m looking forward to hearing from you!



Heritage & Culture

In Preparation For Indian Day Celebrations Next Week:

Traditional Dresses By Artists Marketplace Staff



Shirley Kelly and Carolyn Menta (at left above) discuss the way two halves of a diamond will line up at the seam of a skirt. In the second photo, satisfied with the line-up, Carolyn proceeds with assembly of another dress. Bertha Ortega (in the third photo) can be seen measuring the hem of one of the many dresses she's finished. At right are two of the finished dresses. QUECHAN NEWS Photos by William Isbell

For the past three weeks, three staff members and two volunteers at the Quechan Artists Marketplace have been getting a crash-course in traditional Quechan diamond-dress making.

Dorothea Montague has taken time out of her busy life as a retired secretary and homemaker, who is the all-around traditional crafts consultant for her extended family, to share some of her knowledge and techniques with both staff and students at the Marketplace.

She has been sewing since the age of seven, creating ribbon dresses for 52 years, and diamond dresses for 47 years. The knowledge was passed onto her from her great-grandmother, who babysat Dorothea as a child while her mom was working as a laundry supervisor. Although she has many years of experience in teaching the "tricks and techniques" of sewing to family and friends, this is her first time in the role as formal instructor of a class.

Her niece, Eileen Valenzuela, is the new Administrative Clerk at the Artists Marketplace, and was pleased to pick up even more instruction from her aunt as a part of her daily job.

"When she started the class," says Ilene, "she had us take our own measurements so we could make our own patterns for traditional dresses. Then she went on to show us how to cut out the dresses, skirts first." She instructed them on the basic diamond pattern. The important thing is to make sure you have diamonds in your pattern.

"It doesn't matter how many diamonds you have in your pattern," Eileen says, "just so long as they lay straight across, so the diamonds at the seams line up correctly." Spacing is important, but the way the dress is put together using bias tape at the edges of each diamond shape and along the edge of the contrasting strip of color surrounding the diamonds means,

thankfully, that precise measurements are not critical in assembling a traditional dress.

Once they've laid out the contrasting color strip along the bottom part of the skirt and ensured the chosen pattern will fit, making the pattern and using it in your measurements to ensure symmetry of design is important to ensure a beautiful final result.

Once the diamonds have been laid out the way the student wants them to fit, bias tape is sewn on to call out the shapes, providing an opportunity for a contrasting color in the final product, and one more feature for individual expression in each finished design.

Another traditional detail is the cuffs for the long sleeves, which are made a little smaller than the sleeves themselves, and sewn onto the sleeve ends to create a bloused effect. "Aunt Dorothy puts pleats in the sleeves at the cuffs," says Ilene, pointing out the attention to detail of a true seamstress.

Most of the dresses that have been made at the Artists Marketplace were made using cotton broadcloth material they already had, in the traditional red, black and dark blue, although once they'd made a dress each, some of the students brought in other colors for their own creations.

Dresses have been created in dark blue and red with white contrasting bias tape, as well as black and red, but some of the ladies also made purple with a light lavender color strip, using a black bias tape for contrast. Bertha Ortega has even gone on to make a bright red shawl to go with her own diamond dress, for a more complete ensemble.

Asked about how long it takes to make one of these dresses, once you've gotten comfortable with the process, Ilene says it should take about four days, but that depends on what else you've got to get done, and how much experience you have with sewing.

The ladies now have one dress on display at the Artists Marketplace, one has already been sold, and one dress they've finished will be offered as a raffle prize, and they are busy putting together more for sale right now.

Eileen also says "We hope to have a lot more dresses finished for sale by the time of our Open House on November third."

Dorothea says, "If you don't have patience, this class will help you to develop patience!"

If you're looking for a new diamond dress to wear for the holidays, you may get a chance to learn how to make them at a future class. Dorothea will make herself available, if enough people come forward and show an interest, who have about three days a week for three weeks that they can put into the task. All she needs are at least five students, ready to learn.

If you'd like to join the next class, call John Norton at the Artists Marketplace, (760)572-4413.

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why does the U.S. have a trust responsibility for tribes and their resources.' There are now volumes of Indian Law, but the basics remain the same. We should all become familiar with the basics of our tribal status and constitutional rights.

Casino Decision

I want to now talk about how sovereignty and termination relates to one of today's problems. A problem that affects several basics of Indian Law like sovereign rights, and self government.

Up until 1950, many Quechan families used horse-drawn wagons for transportation. It was the way of life for them, but they were happy riding in their family wagon. There is a saying that one should "never put the cart before the horse."

It just won't work that way. In today's world of business if one does things in a reverse manner from what it should be, it is said "The cart is before the horse."

To prevent this from happening, a system of rules and directions for performance are developed beforehand. But even those rules and directions can be ignored by some, and when that happens, bad things usually happen. There may have been rules broken by our local government in the matter of the building a new gambling casino. If it was not a rule covered by the Quechan constitution and bylaws, then it was simply three principles of good management for tribal governments that may have been broken.

The first principle is "the people's right to know;" the second was "consistency." The third principle is that there should be a system of "checks and balances."

The people have a right to know of any plan or project that will spend a lot of money, or that will have a profound effect on the community. Secondly, consistency in making decisions should be a rule. Third, there should be a means in place whereby managers or leaders can be held accountable to the people they serve. Their actions are checked, and power is balanced between leadership and the people.

I believe that in making the deci-

sions and plans to build a new and expensive casino, all three of the principles above were violated.

When President Mike Jackson first took office I congratulated him, and told him of the good business practices used by his grandfather Edmund Jackson, Sr. as tribal chairman. I remember the meetings he would call to inform the people of a planned action or an expenditure of tribal funds. In those days, funds were hard to come by. I advised Mike to do the same, as this would please the people he served and keep him out of trouble.

The reason for informing the people of large expenditures for risky projects is that tribal funds belong to the people. They have a right to know how it is going to be spent. The president's job is to manage those funds wisely, even if they are budgeted for a project that is run by a committee. As the old saying goes, "The buck stops at the president's desk." The president is responsible for what gets done, good or bad.

Now, some time ago, it was decided by the tribal council and/or a committee to build a multi-million dollar hotel and casino on the lands known as Sleepy Hollow. I personally consider Sleepy Hollow as sacred ground because of the history of visitors from other tribes who camped there. During my boyhood days, it was well known that Sleepy Hollow had "the sweetest water" in the area. Sleepy Hollow today still belongs to the Quechan people by virtue of sacrifice and defense of the land.

It was in this area that Quechan warriors of a previous generation battled the conquistadores of Spain and drove them out of the area. Later, in more modern times, in 1974, without warning or notice Imperial County began clearing the ground for construction of a truck stop.

This bit of land had been set aside for railroad use, according to federal law. When railroad companies had no use for it, the land was deeded to the Quechan Tribe in January of 1894. Eleven months later, in December of 1894, Michael Hoke Smith, the Secretary of Interior, issued a deed for the same land to Imperial County. This mistake didn't come to light until Imperial County decided to use the

land for a truck stop

When all parties were informed that the land had been deeded to the Quechan Tribe 11-months before the date of the county's deed, Imperial County ignored our deed and claimed ownership of Sleepy Hollow and proceeded with ground clearing and construction of the truck stop.

The Quechan President and the Tribal Council discussed the matter and decided on a course of action. Tribal members were informed of the problem. A call was put out to the tribal people for volunteers to occupy Sleepy Hollow until a court could validate our ownership by virtue of the deed of January, 1894.

Sleepy Hollow was politically important to the politicians. Calls from the White House began to come in asking us to not occupy the land. The council's position was that "We have a deed to the land. It belongs to the Quechan." The White House and the Interior Department called frequently asking that we cancel the occupation, but they offered no solutions to the problem. I truly believe that the politicians thought we would back down because the President asked us to do so. Obviously they were wrong.

Thirty families answered the call, and on an announced date our caravan of men, women, and children occupied Sleepy Hollow, camping there for whatever time it would take. One morning they awoke to find an army of Imperial County deputies, California State troopers and Federal police, at least 100 men, all armed and dangerous, and ready for battle. Their commander told us we were trespassing, and to leave immediately or they would "remove us forcefully."

The commander was told that if they came into our camp, the Quechan would be forced to defend themselves. The Quechan stood their ground and refused to leave their land.

The short story is that they had expected us to pack up and go home. The Quechan did not flinch. The women and children were sent to a safe spot, and the Quechan men stood in a line facing the armed troops. When they seemed ready to move against us, our "secret weapon" arrived and the troops stayed

where they were. After an hour of more warnings and tough glares at us, they took off their battle gear, got into their cars and trucks and left.

So you see, men, women, and children of our Quechan tribe were willing to sacrifice their freedom for the Sleepy Hollow land. It is now ours, free and clear. The Quechan warriors of long ago fought for it, and in these modern times, the Quechan people were ready to fight again. That land is sacred and should not be desecrated by a casino.

I propose that the casino be built elsewhere.

Further, a tribal-council-delegated-Cultural Committee recently studied the area where the casino would be built and declared it a sacred site. The question has to be asked: "Why didn't the tribal council honor the advice of the committee they had delegated to study the site? I think profit was the motive. The dollar sign blinded them to what they were doing.

Here again, the cart was before the horse. The committee was asked to study the site after 29 million dollars had been spent to prepare for construction.

The same declaration of a 'sacred site' had been made at the site of a planned gold mining project that was off-reservation land. The tribal declaration of a sacred site prevented the mining project. More recently, an oil corporation had planned a development near the Wellton area. President Mike Jackson announced to one and all that this new project would harm what is a Quechan sacred site.

If the tribe is to be believed when declaring sites sacred, then the tribe should show a "consistency" in recognition of sacred sites. If the tribe builds, of all things, a gambling casino on a sacred site, will anyone believe or respect the next claim of a 'sacred site'? The New York Times carried the story nationally, and asked the same question. The tribe's reliability is being questioned.

It is my understanding that a few weeks ago a meeting was held by the tribal vice-president with tribal members to ask the question, "Should the tribe go ahead with their plans to build a casino at the planned site?"

It bothers me that more tribal members didn't attend that meeting. The merits and demerits of the need for a new huge casino has never been discussed before at a general meeting of the tribe. As many other tribes have found out, there is a downside to mega-casinos.

I hereby call for a general meeting of all tribal members so they can know of the good and the bad to come from building another casino.

This is a good example of the cart before the horse. The people are asked the question only after construction is ready to start. That question is one that should have been asked of the people before the project got started. I am told that roughly 29 million dollars has already been spent in just getting ready to build the casino. Any other local government would be in deep trouble if such an expensive project were started without putting the question to the people.

I am told that \$29 million has already been spent on engineering, ground tests, designing, architects, plans and drawings, et cetera.

If we must have a mega-casino, I would vote to cut our losses by moving the casino to a more favorable site, one that is not said to be a sacred site. To build on a sacred site would bring nothing but trouble. I believe Red Beans, the old Quechan prophet and tribal holy man would agree.

I would also favor a constitutional amendment that requires a referendum for future development projects over a certain amount, say \$1 million. It's the people's right to know. It's the people's money, not the president's and not the council's to do with as they please.

There is also good reason for not going ahead with this expensive and labor intensive project. There is reason to believe that the federal government will make another attempt to terminate the federal recognition of certain tribes and cut them loose to support themselves. The members of those tribes would become ordinary tax paying U.S. citizens.

In the first paragraphs of this writing, I told you of President Bush and Senator McCain's proposed legislation to terminate

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tribes. The reason for their wanting to terminate some tribes and abrogate their treaties is that the federal government owes tribes a lot of money that is missing or perhaps misspent out of the Tribal and Individual Indian Trust Fund. Estimates of how much is missing ranges from the Interior Departments estimate of only \$40 million, and up to Indian lawyers estimates of \$2 trillion dollars. The president and the senator do not want to have to repay the Indians. No politician would want to do that. So if the Republican Party has their way they will offer legislation again to repay only pennies on the dollar, and termination and an end to the trust responsibility would take place.

But even if this didn't happen, the Congress believes it can legislate tribal sovereignty out of existence. Our tribal sovereignty used to put the tribes on a political level equal to a state, but over time our degree of sovereignty began to disappear. An example of a gradual loss of tribal sovereignty is contained in the text of the Indian Gaming Act that led to the proliferation of tribal-owned casinos. The Act required that tribes first get permission from their state before opening a casino. This caused tribes to give up a bit more of their sovereignty each time they signed a compact with the state. Each time a compact is made, the state demands more and more money from the tribe for the privilege of operating a casino in their state. There isn't any state that is required to pay the government for the privilege of operating a legal business, but casino tribes willingly pay states for that privilege. Does this sound like something a sovereign government would do? At one time, before the passage of the Indian Gaming Act, states had no jurisdiction over anything with the reservation boundary.

This was proven in 1973 when our Quechan game warden confiscated a rifle from a white boy who was hunting within the reservation without a tribal hunting license. The boy's parents and Imperial County took the case to court and a Federal Court of Appeals ruled that the tribes game warden had acted within tribal law, and that

further, Imperial County had no right to intervene in a case within the Quechan reservation. (*Ninth Circuit Court of Appeals, Imperial County v Quechan Tribe*)

While we're talking about a new casino to cost millions and millions of tribal profits that we don't have, I think it would be prudent for our tribal government, that is the officers and the tribal council members, to consider the real possibility that they may be opening the door to termination.

Some tribes are now considering giving up more of their sovereignty for the right to get rid of federal regulation of gaming. Most tribes are putting all their eggs in one basket, the casino basket—but what will happen when the Congress is pressured to cut back on Indian gaming? Las Vegas and Atlantic City would like nothing better than that.

Casinos depend on a good healthy economy and a steady influx of customers for a profitable casino. I would ask, are there plans in place for what must be done if a recession or a depression in the economy of the area sets in?

Even a mild recession can cause real problems for the gambling industry. In the 1980s some casinos in Atlantic City, New Jersey, had to shut down or cut back on their operations when a recession hit the northeastern states. In the 1960s, the construction industry suffered a recession in the Los Angeles area. Thousands of workers lost their well paying jobs, and the economic loss trickled down to the smallest towns. And if you are reading only the big newspapers, don't believe them when they tell you how well the national economy is doing! Since the beginning of international trade agreements (CAFTA, NAFTA, and coming soon the North American Trade Agreement with Canada and Mexico) U.S. factories have moved to other countries, leaving millions of Americans unemployed.

Too, gambling casinos can have a negative effect on small towns. Five years after a well known Indian casino in Connecticut opened, the people in nearby small towns were fed up with everything about the casino: local people were losing their money, visitor traffic was

crowding their roads and store prices for necessities went up as did the crime rate. Most of all they were blaming the tribe for their problems.

The Indian Gaming Act has opened a Pandora's Box of problems and issues that can affect the future of the many casino-owning tribes. The western states of New Mexico, Arizona, California, Oregon and Washington are saturated with dozens of casinos, large and small. Likewise the Midwest from the Canadian border to the Gulf of Mexico is covered with Indian casinos. They all contribute millions of dollars to the states while the tribes are the ones taking the risks. The states take no risks at all, yet are well paid.

Attendance at medium-sized casinos like the present Paradise Casinos are fine for a fall and winter population of about 70,000, but when Snowbirds leave town from March through October can we count on attracting a large number of gamblers from San Diego or even from the Imperial Valley? I don't think so, with at least six casinos in the San Diego area, three in the mountains and at least four near Palm Springs. Over the next few years the Quechan would be the ones taking a big gamble in keeping a large casino profitable. For their size, the Paradise Casinos seem to be doing fine.

For the record, Roger Jourdain, then-chairman of Red Lake Chipewewa, and Elmer Savilla, then-Executive Director of the National Tribal Chairmen's Association were the only national leaders to publicly oppose the Indian Gaming Act when it was passed.

The Threats

A. Termination of Federal Recognition;

B. Abrogation of Treaties and Agreements;

C. Loss of Trust Responsibility.

1. A real possibility is the abrogation of our Treaties and Agreements by a Congress and White House that knows nothing about the history of treaty-making by the U.S., and the governments trust responsibility to Native Americans. A large part of the American Public today believes that Native

Americans are still "wards of the government," and that our treaties and agreements can be overturned at will. Couple that with an ever-growing American Public that cares little for Native American rights, and will lead to:

Termination of our Federal Recognition as Native American tribes.:

The withdrawal of the United States' holding our reservation and allotted lands in trust.

The disappearance of "Indian reservations," as we know them.

The loss of tribes' main source of income: Casino gambling.

The complete loss of the tribe's Federal water rights for economic development.

Federal Recognition refers to recognition by the United States that we Native Americans are an aboriginal people who were here long before the coming of any Europeans. International law also recognized that the aboriginal tribes were self-governing nations in their own right. Therefore, the new U.S. government was required to make international treaties with each of the federally recognized tribes.

The danger to come from losing our federal recognition, is that the abrogation of Treaties and Agreements would follow closely. If this seems unbelievable, let's look at History:

In the beginning, the Europeans made treaties with the separate Native American nations. The belief was that the natives would soon assimilate within the new American society. When the natives resisted assimilation, they were moved westward. When more land was needed for Americans they were more or less confined to "reservations." When tribes rebelled against the confinement the Indian Wars began. The tribes fought a war for survival, and it was once official U.S. Army policy, during the 1860s to kill all Indians, young and old. The U.S. Army took a beating from the Indians, and Congress decided it was cheaper and safer to make treaties with tribes, than making war with them.

After tribes were pacified by treaties and promises, those treaties were broken many times, and the wars continued defensively by the tribes. It must be said here, that

it was not a defeat from the U.S. Army that beat the tribes, it was genocide by starvation and the destruction of their historic way of life.

In 1871 Congress ended the making of treaties with Indian tribes because the House of Representatives objected to treaties being made with tribes in their states without their input, so instead of treaties, all completed negotiations with tribes were labeled Agreements. The tribes had no input into this deviation from the U.S. Constitution. The Constitution is specific on how treaties must be made: Treaties, which would become "the law of the land," could be made by the President and then ratified by the U.S. Senate. However, the Agreement of 1893 was made by U.S. Commissioners, and later ratified without any input from the tribes, and it may now be too late to challenge the constitutionality of this decision.

In 1995, I asked one of the few recognized Constitutional experts in the country, Lawrence Tribe, Law Professor at Harvard University, for his opinion on the legality of substituting Agreements for Treaties. He sent me a copy of his testimony to Congress in the matter of the Senates debate on the constitutional issue regarding a trade Agreement with the World Trade Organization (WTO). He advised the Senate that the Constitution of the United States makes no provision for substituting treaties with agreements. A requirement of the U.S. Constitution may have been violated. Excerpts from his testimony on Treaty versus Agreement is an attachment to this document.

A sample of Lawrence Tribe's legal opinion is, "I find it profoundly troubling the notion that, in the process of governing the American people, (our) national leaders would consider the Constitution only as an afterthought. (I am) amazed at the many leaders' apparent disregard for the Treaty Clause of the Constitution. It is my hope that Senators who have taken an oath to support the Constitution will agree that...the constitutional structure embodies protections dearly fought for and won at great price. When the Senate properly

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fulfills its Treaty Clause responsibilities, it is doing no less than upholding our constitutional form of government.”

The story of how the Quechan Agreement of 1893 was made atop Fort Yuma Hill is a sad and terrible story and all Quechans should read of it.

Termination

The reader should keep in mind the fact that almost all congressional legislation or policy actions prior to 1934 was done without the input of the Native American people. We only learned of these actions after the fact.

In 1887, the Congress passed the General Allotment Act that made allotments of tribal land to individual Indians. Your adult ancestors were each given an allotment of 10 acres of land for farming purposes. Previous to this time, the entire reservation belonged to the tribe as a whole.

But even this “gift” of 10 acres had an evil motive. It was really meant to break up tribal-owned landholdings. President Theodore Roosevelt told Congress, “The General Allotment Act is a mighty pulverizing engine to break up the tribal mass.”

Within a few years, termination of several midwest tribes was begun. First to go was mixed-blood White Earth Chippewas in Minnesota. Next were the Five Civilized Tribes of Oklahoma. These first efforts to terminate tribes failed eventually, but the government would try again, many times. The Indian Reorganization Act of 1934 finally put a stop to land allotments.

The years of from 1917 through 1924 saw new efforts to terminate individual Indians by “civilizing” them and then declaring them to be “competent” to manage their own affairs. By 1916, almost 21,000 Indians had been declared competent and released from Federal supervision. But the competency plan failed when most of the Indians promptly sold their land, then when they were penniless they returned to their former reservation. It is obvious that they did not know what they had done.

In 1924, President Calvin

Coolidge tried a new plan. He signed the Indian Citizenship bill into law. He thought Indians would then assimilate into the general public. This plan failed too, after it was found that most Indians were already citizens and had no wish to assimilate.

The Indian Reorganization Act was made law in 1934. The IRA has been cussed and discussed many times, and usually tribal leaders seem to endorse it, and tribal people cuss it. It was made in good faith by its authors, but as usual, politicians distorted the IRA in practice. One thing it did do was that it formed tribal governments and gave them power to govern their tribal people. Tribal constitutions were adopted, but as written by BIA personnel, they left a lot of power to bureaucrats. The IRA encouraged bureaucrats to revive plans for termination. They thought that by organizing tribes in the manner of towns and cities, that they would assimilate much faster than before. They called it “full freedom from Federal supervision.”

New programs in the 1940s and ‘50s that were offered without government pressure were accepted, such as the Civilian Conservation Corps (CCC), the Work Progress Administration’s (WPA) Indian Employment Program, and even the Indian Relocation programs seemed acceptable to many Indians. But then when Congress began to mention termination Indians abandoned these programs

The fact that all Indians were now citizens would later be used by the government in the 1940s to grant them all the rights and services which all citizens received, and Indians were urged to accept the same lifestyle as all other citizens, “including freedom and taxes.”

In the meantime, by 1943, the Bureau of Indian Affairs management was in such a mess that Senators from seven states began to call for elimination of the Bureau. And by October, 1944, there began to be new calls for termination of federally recognized tribes, “even if it means starvation for large numbers of tribal people.” This shows the lack of concern by some hard-nosed politicians for native people.

Native Americans everywhere

began to mistrust all new government programs. Even education at BIA vocational schools was seen as a means to absorb young Indian people into the mainstream of America. Attendance at schools like Chemawa in Oregon, Sherman in Southern California and Phoenix Indian School in Arizona began to drop, as well as those in Nevada and in Oklahoma.

Here, it should be pointed out that the mistrust by Indians of the Federal government’s long-term plans for their future has not been wrong. By looking a “the big picture” being shown to us by History, we see the Merriam Report of 1928 pointed out serious problems in the governments handling of Indian programs. Some congressmen wrongly used the report to justify means to “wean the Indians away from their special status as soon as possible.” In 1946 they used the Merriam Report to develop a new Indian policy which stated that the main objectives of the Bureau of Indian Affairs were “the social rehabilitation of the Indian, the organization of Indian tribes so they can manage their own affairs, and the adaptation of Indian institutions and culture to modern conditions.”

Accordingly, in February of 1947, testimony was presented to a Senate Committee for a withdrawal of the Indian Bureau. Tribes, and groups of tribes, were divided into three groups according to their acculturation; economic resources and condition of the tribe; willingness of the tribe to leave federal control; and the willingness of the state to assume control over the tribe.

Those tribes that indicated that they wanted to assume more control, if not full control, of its tribal assets and tribal operations were especially vulnerable to federal termination and state control. Tribes in Group 1 could be released immediately from federal control. Group 2 in 10 years, and Group 3 in an indefinite time.

According to the Annual Report to Congress of William A. Brophy, Commissioner of Indian Affairs in 1946, the United States places more credence in a “national Indian policy” than it does on our solemn treaties and agreements. He announced that the main objectives

of the BIA were “the economic and social rehabilitation of the Indian; and the organization of tribes so they can manage their own affairs; and the adaptation to modern conditions.” Time after time these issues have been used as justification for proposals to terminate tribes. This fact alone should make all tribal leaders and tribal members in the country begin to strengthen their sovereignty and make the United States aware of their commitment to hold the federal government to their treaty terms.

As Senator Daniel Inouye once warned: “Protect your treaties and your Sovereignty. It’s all you have.”

It makes one wonder if Congress will use the huge gambling profits from Indian casinos, coupled with the BIA’s Self Governance program, as reasons to terminate your tribe.

It is important to know that in the many discussions of tribes’ political status, treaty terms have never been part of the discussion when it came to tribal termination. Treaties have been mentioned many times by tribal leaders, but Congress has not recognized them as still being in force. Instead, in the 10 years leading up to 1945, bill after bill had been introduced in both houses of Congress with purposes of making reservation land available for sale to local white farmers, and eliminating the Bureau of Indian Affairs.

If nothing else, Indians now feared “Termination” for what it meant: An end of reservation life.

World War II began in December of 1941 and approximately 65,000 young Indian men and women, nationwide, joined the war effort and this proved to be a great stimulant for them. They became more knowledgeable and comfortable with living and working with non-Indian strangers.

When the war ended in 1945 and our own Quechan men came back to the reservations, many had dreams of beginning their own businesses, farms and ranches on the reservation by taking advantage of the GI Bill for veterans. But here again, their dreams were shattered, when it seemed they were again being pushed into mainstream America, because they found that

the housing and business benefits of the GI Bill did not apply on the reservation. As a result, little economic progress took place on the Quechan reservation until the late 1960s.

The threat of termination would not be put to rest by the Congress. In 1952, a new relocation program for Indians was again begun, ostensibly for employment off the reservations. Only a year later, the BIA estimated that about a third of those relocated returned to their reservation, yet non-BIA estimates ranged as high as 60 percent returned home. The Indians now identified ‘relocation’ with ‘termination.’ This became such a serious problem that the BIA renamed the program to be Employment Assistance.

By 1962, as congressional pressure for Indian termination grew, legislation for funding of programs to prepare the Navajo and the T’hono O’odom tribes for termination was enacted by Congress.

Termination in the 1950s and again in 1978 and 1997

(Excerpts taken from the statement of Laurence H. Tribe, Professor of Constitutional Law, Harvard University Law School, in the matter of agreements and treaties, to the Senate Committee on Commerce, Science, and Transportation on October 18, 1994.)

This statement was given in the matter of The World Trade Organization and The Treaty Clause: The Constitutional requirement for submitting the General Agreement for Tariffs and Trade as a Treaty: (All excerpts printed below are from Professor Tribe’s written testimony in the GATT matter. This Agreement was being made in the same manner as was the Quechan Agreement of 1893, except that there was no force exerted on the signers. Certain editorial changes are made (in parenthesis) to fit Quechan’s interests, and emphasis on certain topics were made by Mr. Elmer Savilla):

Professor Tribe: “I am honored to testify before this Committee on the constitutional issues raised by the Senate’s consideration of the Uruguay Round of the General *Essay Concludes on next page*

Essay Continued From Page 6

Agreement on Tariff's and Trade as a congressional-executive agreement rather than as a treaty. The agreement would entail such substantial shifts in state (tribes) sovereignty that the agreement should be subject to Senate ratification as a Treaty."

"The establishment of the World Trade Organization with its unprecedented Dispute Settlement Body would so alter the dynamics of state and federal relations that ratification by the Senate is necessary. My concern here is what the United States of America is about (which is) not just economic success, but self-government within the context of an enormously important document, the Constitution of the United States."

"My concern is with basic constitutional values...that are beyond any price. I find it profoundly troubling the notion that in the process of governing the American people, our national leaders would consider the Constitution only as an afterthought. So, the more I learned about Uruguay Round, the more dismayed I became at our many leaders' apparent disregard for the Treaty Clause of our Constitution. No matter how momentous the issue may be, the importance of adhering to the Constitution is something that we cannot afford to take lightly. This issue represents a call for the solemn requirements and rigors of the Treaty Clause, regardless of any inconvenience."

"The structural commands of the Constitution may be neither

ignored nor changed outside of the precise limitations of Article V, through which the Constitution may be amended. This foundational principle is a self-conscious limitation that We the People have placed upon ourselves. This principle means that our government will not always be the most efficient, or the most effective in a utilitarian sense, but for the price of occasional inefficiency, We the People gain security in the knowledge that the government will function according to pre-established rules. It is only when we can trust that the government will operate within legal, constitutional bounds that we can feel secure in our treasured rights and freedoms."

"My testimony today consists of a defense of the continued viability of the Treaty Clause, and that the Uruguay Round agreement qualifies as a treaty, and a strong suggestion that the Senate seriously explore the constitutional requirements of the Treaty Clause and establish principled guidelines for determining which types of international agreements ought properly be considered as treaties in the future."

"I begin by defending my view that the Constitution provides that treaties (with American Indian nations) may be entered into only "with the Advice and Consent of the Senate" culminating in approval by two-thirds of those Senators present. Contrary to the opinion of some political leaders, the Constitution's requirement of Senate supermajority approval of treaties is not simply an alternative procedure

to be followed only if the President and the Senate find it expedient to do so. Rather, the Treaty Clause provides an exclusive procedure for treaty approval."

"The Constitution uses an array of terms to describe a variety of international agreements, including "Agreements," "Compact(s)," and "Treaties." The Constitution makes it absolutely clear that these are not completely interchangeable terms, but they represent discrete categories of agreements subject to distinct constitutional requirements."

"In the leading Supreme Court case on treaties (*Missouri v. Holland*, 252 U.S. 416 (1920)), the court made clear that the treaty power and Congress's legislative power are not coextensive. The Constitution permits treaties to accomplish things that cannot be achieved through mere legislation. It necessarily follows that the treaty form and the congressional-executive agreement are not wholly interchangeable."

"The State Department has issued guidelines (in 1955) for deciding whether a particular agreement should properly be negotiated and approved as a treaty. Since there is a constitutional category of agreements that must be deemed treaties, any agreement falling within that category must be approved according to the provisions of the Treaty Clause. Although some have claimed that the Treaty Clause provides only one of several alternative routes for the approval of such international agreements, both the Constitution's text and its struc-

ture argue strongly against such a hazardous approach to reading the Constitution."

"Finally, "I do not retreat from my claim that the GATT agreement should properly be considered a treaty. (Tribal) sovereignty concerns find special protection in the Treaty Clause because the Senate is the only body that represents the states as states, and the only body in which every state, from the smallest to the largest, is guaranteed equal representation. In the House of Representatives, by contrast, a representative might feel political pressure to support a measure that would benefit his or her district at the expense of his or her state as a whole. In the Senate, however, the states are represented as states—and on a basis of equality."

The history of the framing of the Treaty Clause leaves no doubt that the Senate's special role as guarantor of state (and tribal) sovereignty and of interstate equality was central to the special role the Senate was given in matters of treaty ratification.

It is clear to me that whatever the precise contours of the treaty category, an agreement warrants the high level of consensus mandated by the Treaty Clause and may not escape classification as a treaty if it (1) creates a governing entity with a "legal personality" and legal powers capable of affecting the lives of all its citizens by affecting state and federal lawmaking efforts; (2) provides for ongoing cooperation and reciprocal commitments between (the parties of

the treaty); (3) accedes to the more than theoretical possibility of the United States being subjected to substantial sanctions against which the United States cannot retaliate without placing itself in violation of the agreement (or treaty).

The combination of these factors in a single agreement (treaty) would seem to compel the conclusion that the treaty or agreement warrants the high level of deliberation and consensus that the formal requirements of the Treaty Clause guarantees. The very idea that the creation of a sovereign governance body with real powers would not require approval as a treaty is remarkable, to say the least."

These comments, coming from an experienced expert in constitutional law, should give courage and confidence to Native American people and their tribal governments to, at last, question the political methods that have been used against the interest of Native Americans. To consider yourself wrong just because a politician says you are wrong, is foolish. You are wrong only if you do not examine his or her motives. The guarantee of treaties must be restored.

To those interested, the genesis of treaty making, and a history of several Indian Treaties and Agreements, and how they helped to develop the economy and growth of the United States, is available in book form.

If you wish to contact Elmer M. Savilla, you can reach him by mail at: 5802 Chase Commons Court #205, Burke, Virginia 22015.



Per Capita Distribution Scheduled For Oct. 12th

The Quechan Indian Tribe will be disbursing Per Capita checks for each enrolled adult member at the Quechan Tribal Administration Building from 9:00 AM until 6:00 PM on Friday, October 12.

Dianna Waters, of the Revenue Distribution Office says they will have three locations set up at the Tribal Administration Office, to ensure those who come to pick up their checks in

person will be able to move through the lines quickly.

Those between the ages of 18 and 20 should report to the front reception desk, where a clerk will have their names on a list and checks waiting.

All those over 21 whose last names begin with the letter "M" (and there are a LOT of you!) should enter the east side of the Administration Building, next to the flagpole, where the checks will be disbursed.

Everyone else over the age

of 21 should go in through the front entrance and proceed down the hall to the Tribal Council Chamber, where you will be taken care of.

All those aged 18 - 20 must have an original copy of their high school diploma or G.E.D. Certificate on file with the Tribe by close of business on Wednesday, October 10th to pick up a check on the 12th.

A valid Driver's License, State I.D. Card or Tribal picture I.D. is required for every-

one picking up a Per Capita check.

If you wish to have someone pick up your check for you, you must provide the Revenue Office with an original Power of Attorney or an original Notarized letter giving authorization. The Notarized Letter must also have your address and phone number, as well as READABLE copies of both your I.D. and the I.D. of the person picking up your check.

Any checks that are un-

claimed as of Monday, October 15th will be mailed to the address on file with the Enrollment Department. If a stop-payment is necessary, it will take 48 hours before a replacement check can be issued.

Please allow 10 business days after October 15th to receive your check. If you do not have your check by October 31st, please call either Robin Estrada (Ext. 214) or Dianna Waters (Ext. 220) at The Quechan Tribe Office number: (760)572-0213.

Strong Hearts Present "Mini-Indian Day" for Quechan Head Start



Faron Owl, the Strong Hearts Advisor made introductions with Miss San Pasqual Middle School 2006/07, Jessica Collins-Solorio. Once the singing and dancing started, both Jessica and Hope Lopez got some of the little girls to join in (middle photos). Chris Emerson of the Strong Hearts also danced in front of the line of singers, in the photo at right.

Quechan Indian Tribe INDIAN Oct. 11 - Oct. 14 DAYS 07

Thursday, October 11

6:00 PM

Miss Quechan Pageant

(Quechan Community Center)

Friday, October 12

3:00 PM ► Booths Open

5:00 PM ► Opening Remarks

Welcome Address by Miss Quechan 2007/08

Youth Contest, Bird Singing and Dancing Tortilla Contest

5:30 PM ► 5 Mile Run

Ron's Treats

6:00 PM ► Native Dress Contest

9:00 PM ► Teen Dance

(Diabetes Walking Park Stage)

For More Info Call: (760) 572-0213

Saturday, October 13

9:00 PM

Indian Days Parade

(Housing to Evergreen Park)

10:30 PM ► Flag Raising

Quechan Post 802

Welcome Address by

Miss Quechan 2007/08

Presentation of Awards

12:00 Noon ► Baby Contest

1:00 PM ► Games

Kids Games and Adult Games

1:30 to 3:00 PM ► Native Dance

Special Guest Performances by

Hopi Butterfly and Eagle Dancers

Mojave Bird Dancers

4:00 PM ► Bird Dance Contest

6:00 PM ► Community Bar-B-Q

(With Dinner Entertainment)

7:00 PM ► Special Performance

Apache Crown Dancers

8:00 PM ► Soul Solution

9:00 PM ► Chicken Scratch Dance

and Peon Tournament

Sunday, October 12

9:00 AM ► Horseshoe Tournament

Noon to 5:00 PM ► Main St. Cinemas

Native Film Festival Screenings

Last Thursday, September 27th, the students of the Strong Hearts Native Society at San Pasqual High School got the chance to put on their first public show of the school year for the children at Quechan Head Start.

Students were trooped out in lines to sit on the sidewalk outside the QEC Multipurpose Building in the cool, fall morning. Some teachers couldn't resist, and joined in once the dancing was underway.

Returning Strong Hearts Joe Montague, Marilyn Galindo and Michelle Alvarez were joined by new members Hope Lopez, John Jackson, Royer Valencia, Vincent

Golding, Sean Johnson, Mandel Sanchez, Charlie DeCourse and Chris Emerson, while their adult advisor, Faron Owl led the boys in a series of gourd songs as the girls danced for the assembled crowd.

Some of the smaller girls were asked if they'd like to join in, and they quickly hopped into line with Jessica and Hope, only to stand and watch when they realized all of their classmates could see them!

The Strong Hearts were glad to take the time and perform for the Head Start group, since it gave them a chance to appear in public before they are deep in the thick of things at Indian Day next week!



QUECHAN NEWS Photos by William Isbell