

and no economic or environmental analysis is even more troubling. Over the years, our federal agencies and this body have done an admirable job of protecting these lands for the public, not for private interests. We should not start reversing that record now.

ARKANSAS RIVERBED LAND

Mr. INHOFE. Mr. President, I wish to express my thanks to the chairman and vice chairman of the Senate Committee on Indian Affairs who have greatly assisted the effort to bring much needed finality to the uncertainty created by litigation surrounding the ownership of the bed of the Arkansas River. A decision by the United States Supreme Court in 1970 determined that parts of the bed of the Arkansas River were included along with other land that was conveyed to Indian Nations based on 19th century treaties between the United States and the Indian Nations that were relocated from the East Coast of the United States to Oklahoma or "Indian Territory" as it was then known.

Based on the Supreme Court's decision that Arkansas riverbed lands were included within the treaties with Indian Nations, the United States is subject to monetary damages for any breaches of its trust obligation with respect to this land. A suit has been brought on behalf of the Indian Nations asserting that such breaches of trust have occurred. The case is presently before the United States Court of Federal Claims.

With respect to such treaty lands, the Non-Intercourse Act of 1790 prevents the transfer of title without Congressional approval. Without action by Congress, claims to legal title on behalf of the Indian Nations can continue to be raised with respect to these lands based on the Federal Government's underlying trust obligation. The threat of such lawsuits is a serious hardship on those people who were simply unaware that they were living on land that was once part of the bed of the Arkansas River. H.R. 3534 would eliminate title problems that are the result of the Supreme Court's decision and resolve breach of trust claims brought by the Indian Nations.

Several months ago, United Keetowah Band of Cherokee Indians, UKB, filed a motion to intervene in the Court of Federal Claims lawsuit. Although this motion was denied, the Department of Justice expressed its reluctance to endorse H.R. 3534 unless it was drafted to preclude the UKB from either bringing quiet title actions or from petitioning the United States to bring such actions. In order to ensure that UKB was not left without a remedy for pursuing its claims, the Justice Department proposed that the bill be amended to allow the UKB to pursue such claims in an action in the Court of Federal Claims. In addition, the Justice Department suggested that H.R. 3534 be amended to reserve some por-

tion of the settlement proceeds until any claims that can be raised by the UKB are fully and finally litigated.

I am pleased to report that a compromise was reached on this issue. Like any compromise, everyone had to give something up in order for us to move forward. In that regard, I would like to express my appreciation to all of those who have worked so hard on this compromise.

Under the proposed amendment to H.R. 3534 that is before the Senate, all tribal claims concerning Arkansas riverbed land are resolved through proceedings in the Court of Federal Claims or through the settlement incorporated in H.R. 3534. This allows the United States Congress to remove the threat of quiet title actions brought by or on behalf of an Indian tribe claiming title to land based on the Supreme Court's decision. In other words, the UKB and each of the other tribes have agreed to allow their claims to the riverbed to be addressed through the process established by H.R. 3534. In return, the UKB has asked that 10% of the settlement fund established by the bill will be aside to satisfy any of the UKB's claims if the tribe is ultimately successful in the Court of Federal Claims. In addition, if this amount is not sufficient to satisfy any judgment awarded to the tribe, the permanent judgment appropriation, section 1304 of title 31, is explicitly made available to satisfy the remainder of any judgment amount awarded to the UKB.

The UKB has also requested one additional consideration. The UKB recognizes that the purpose of the legislation is to preclude the Tribe from bringing or asking the United States to bring a lawsuit making a direct claim that asserts right, title, or an interest in Arkansas riverbed arising out of the Supreme Court's opinion. However, the Tribe wishes to make it clear that nothing in H.R. 3534 is intended or is to be construed to address, resolve, or prejudice the underlying basis of a claim that they would have been able to make if H.R. 3534 was not enacted. In other words, the UKB have asked that the legislation include a provision to make it clear that H.R. 3534 does not alter the character, nature, or basis of any claim or right that the tribe could have made before the effective date of this legislation. We have done so.

I wish to express my appreciation for the assistance of the Chairman of the Committee on Indian Affairs, Senator INOUE, who has provided important procedural assistance to allow the bill to be moved expeditiously now that we have an agreement between all of the Indian tribes and the Departments of Interior and Justice.

In addition, I wish to acknowledge the good work of Senator CAMPBELL, the vice chairman of the Indian Affairs Committee, who deserves a great deal of the credit for bringing the final compromise on this matter to fruition. With that in mind, I would like to briefly engage in a colloquy with him on this final compromise.

Does the vice chairman agree that section 9 of the proposed amendment ensures that the law will only be construed to preclude claims for title to the Arkansas riverbed lands either by the UKB or on its behalf; or from the UKB requesting that the Federal government bring such claims?

Mr. CAMPBELL. That is correct.

Mr. INHOFE. Based on the Senator's answer to my last question, it is clear that the UKB will no longer be able to make a claim to the riverbed lands. However, the bill still provides a means for the UKB to raise the riverbed claims it might otherwise have brought, but it now directs that they must pursue these claims exclusively in the manner provided in H.R. 3534; isn't that correct?

Mr. CAMPBELL. Yes, that is correct.

Mr. INHOFE. By including section 9, Congress is making it clear that other than this change in forums for riverbed matters, it is not Congress's intent to express any opinion or have any effect on the claims the UKB might bring. Isn't that correct?

Mr. CAMPBELL. That is correct. To my knowledge, Congress has not reviewed or considered these claims. Furthermore, it is not necessary for Congress to do because the bill does not address the individual claims of the UKB, it merely ensures that the Tribe's claims to the riverbed are only pursued in the manner provided in H.R. 3534. Section 9 is included to make it clear that the bill is not to be construed to address the merits of any particular claim by the UKB; instead the bill is only concerned with how those riverbed claims may be pursued.

Mr. INHOFE. I thank the Senator for his assistance in this very important matter.

SMALL WEBCASTER SETTLEMENT ACT OF 2002

Mr. LEAHY. Mr. President, I am pleased that the Senate is taking the important step of passing the Helms-Leahy substitute amendment to H.R. 5469, the "Small Webcaster Settlement Act of 2002." This legislation reflects hard choices made in hard negotiations under hard circumstances. I commend House Judiciary Chairman SENSENBRENNER and Representative CONYERS for bringing this legislation to a successful conclusion and passage in the House of Representatives in a timely fashion to make a difference in the prospects of many small webcasters. I also thank Senator HELMS and his staff for working constructively in the lame duck session of this Congress to get the bill done.

The Internet is an American invention that has become the emblem of the Information Age and an engine for bringing American content into homes and businesses around the globe. I have long been an enthusiast and champion of the Internet and of the creative spirits who are the source of the music, films, books, news, and entertainment