



U.S. Department of Justice
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

December 13, 2005

The Honorable John McCain
Chairman
Committee on Indian Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Thank you for the opportunity to comment on S. 1892, which amends P.L. 107-153 and extends by six years the date on which an Indian tribe is deemed to have received Tribal trust fund reconciliation project reports for purposes of the statute of limitations. Under this bill, the deadline for Tribes to file suit challenging these reports is extended from December 31, 2005 to December 31, 2011.

This limitations period was previously extended for three years by P.L. 107-153. That legislation provided that the reports in question, which were delivered to Tribes in February 1996, were deemed to have been received by December 31, 1999. The Department supported the previous extension because it provided additional time for the United States and Indian Tribes to discuss and resolve questions from Tribes relating to these reports.

The Administration opposes any further extensions. Sound public policy calls for the filing of claims with reasonable promptness. Maintaining reasonable limitations periods ensures the availability of necessary evidence, and strikes an appropriate balance between allowing claims while promoting certainty of expectations. Tribes had nine years during which to review these documents. In addition, calling for the prompt filing of claims does not preclude any existing or future settlement negotiations with the Tribes.

During the intervening period, the Department of the Interior has made extensive efforts to explain these documents to Tribes. These efforts have included presentations on the reports; the opportunity to meet with government officials and accounting contractors and ask questions; and discussions of the Tribal trust fund account reconciliation project, its supporting documentation, and the associated methodologies. Tribes have also received copies of the necessary project data and documentation on request. Under these circumstances, we believe that further delay in presentation of these claims is not in the public interest.

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Thank you for the consideration of our views. If we can be of further assistance in this matter, please do not hesitate to contact us. The Office of Management and Budget has advised that there is no objection to the submission of this views from the standpoint of the Administration's program.

Sincerely,


William E. Moschella
Assistant Attorney General

cc: The Honorable Byron L. Dorgan
Vice Chairman