

3-2-2016

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Recommended Citation

Kevin Washburn, *U.S. Restores Millions of Acres to Native Americans*, *Albuquerque Journal* (2016).

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U.S. restores millions of acres to Native Americans

By Kevin Washburn

**Albuquerque Journal
March 2, 2016**

One of the greatest successes of President Obama in Indian country is his concerted efforts to restore lands to the tribal nations who have lost so much. To date, the Obama Administration has restored nearly 2 million acres to tribal ownership in a variety of different ways.

This is not only about justice. A tremendous challenge in Indian country is economic development. President Obama has unlocked the value of Indian lands and restored tribal control so lands can be put to good use.

For Indian tribes, the land problem took a century to develop.

In the 40 years leading up to the Great Depression, land was taken from tribes across the United States and redistributed to individual Indians in small parcels for farming and grazing. Once each tribal member received an "allotment," the remaining lands were declared "surplus" and distributed to non-Indian settlers.

The stated goal was to open land for settlement and transform Native Americans into farmers. But soon came the Dust Bowl and the Great Depression. No sooner had individual Indians received allotments when they were lost to drought and taxes.

The result was that tribes lost 90 million acres.

The disastrous allotment policy was disavowed during FDR's New Deal. In the 1930s, Congress declared that lands transferred to Native Americans and not yet lost would be forever held in trust by the federal government. This law prevented further loss of lands, but it spawned a new catastrophe that unfolded in slow motion over decades as generations of Native Americans died without wills, leaving their lands to be distributed in equal shares to their heirs.

Today, some very rural parcels of land of 40 to 160 acres are shared by dozens or even hundreds of individual owners, none of whom own a large enough interest to make a decision about the land. This is known as problem of fractionated interests in Indian land.

In 2010, President Obama led an effort to address this problem. In settling the Cobell class action lawsuit brought by fractionated land owners, which had been pending since 1996, the president and Congress set aside \$1.9 billion over 10 years to repurchase fractional interests, one by one, from willing sellers to restore these land interests to the tribes from which they had been taken.

The Cobell settlement was finalized by the courts about a month after I joined the Department of the Interior in late 2012. One of my first jobs was to help launch the initiative to repurchase these fractional interests, known as the Land Buy Back Program.

As a fiscal conservative and Native American with a well-earned skepticism of federal government efficiency, I secretly doubted Interior's ability to succeed. The program would require numerous units of the department to cooperate with tribes nationwide, appraise tens of thousands of properties, and make offers to buy literally thousands of individual interests for hundreds of millions of dollars. Thus, I am perhaps as surprised as anyone to report success.

It took a year to stand up the Land Buy Back Program and the first purchase offers were made around Christmas of 2013. By now, the initiative has deployed more than \$700 million in little more than two years and restored to tribes approximately 1.5 million acres of land, in tens of thousands of small fractional interests.

The Indian country-wide effort has recently come to New Mexico where it will work to consolidate interests in more than 4,000 allotments on the Navajo reservation. Up to 400,000 acres is at stake.

Navajo communities and the state of New Mexico will see an influx of millions of dollars of federal money paid to sellers who restore their land to the Navajo Nation. Each purchase will unlock value in the land and restore the Navajo Nation's ability to steward the land for economic development and other purposes.

Allotment of Indian lands is a tragic legacy of federal Indian policy in the early 20th century, a scar on the conscience of this great nation. In the 21st century, we can be pleased to see a federal program working hard to diminish that harmful legacy. Let's hope that the program succeeds with the Navajo Nation.

Kevin K. Washburn served as an assistant secretary at the U.S. Department of the Interior from 2012 through 2015.

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