

For Six Month Period Ending January 31, 2009
(Insert date)

I - REGISTRANT

1. (a) Name of Registrant
Native American Rights Fund

(b) Registration No.
4832

(c) Business Address(es) of Registrant
1712 N Street, NW
Washington, DC 20036

2. Has there been a change in the information previously furnished in connection with the following:

- (a) If an individual:
- | | | |
|---------------------------|------------------------------|--|
| (1) Residence address(es) | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| (2) Citizenship | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| (3) Occupation | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
- (b) If an organization:
- | | | |
|--------------------------|------------------------------|-----------------------------|
| (1) Name | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (2) Ownership or control | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (3) Branch offices | Yes <input type="checkbox"/> | No <input type="checkbox"/> |

Explain fully all changes, if any, indicated in items (a) and (b) above.

2009 MAR 17 AM 8:25

CRM/CES/REGISTRATION UNIT

IF THE REGISTRANT IS AN INDIVIDUAL, OMIT RESPONSE TO ITEMS 3, 4 AND 5(a).

3. If you have previously filed Exhibit C¹, state whether any changes therein have occurred during this 6 month reporting period.

Yes No

If yes, have you filed an amendment to the Exhibit C? Yes No

If no, please attach the required amendment.

¹ The Exhibit C, for which no printed form is provided, consists of a true copy of the charter, articles of incorporation, association, and by laws of a registrant that is an organization. (A waiver of the requirement to file an Exhibit C may be obtained for good cause upon written application to the Assistant Attorney General, National Security Division, U.S. Department of Justice, Washington, DC 20530.)

4. (a) Have any persons ceased acting as partners, officers, directors or similar officials of the registrant during this 6 month reporting period? Yes No

If yes, furnish the following information:

Name	Position	Date connection ended
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(b) Have any persons become partners, officers, directors or similar officials during this 6 month reporting period?

Yes No

If yes, furnish the following information:

Name	Residence address	Citizenship	Position	Date assumed
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5. (a) Has any person named in item 4(b) rendered services directly in furtherance of the interests of any foreign principal? Yes No Not Applicable

If yes, identify each such person and describe his service.

(b) Have any employees or individuals, who have filed a short form registration statement, terminated their employment or connection with the registrant during this 6 month reporting period? Yes No

If yes, furnish the following information:

Name	Position or connection	Date terminated
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(c) During this 6 month reporting period, has the registrant hired as employees or in any other capacity, any persons who rendered or will render services to the registrant directly in furtherance of the interests of any foreign principal(s) in other than a clerical or secretarial, or in a related or similar capacity? Yes No

If yes, furnish the following information:

Name	Residence address	Citizenship	Position	Date assumed
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6. Have short form registration statements been filed by all of the persons named in Items 5(a) and 5(c) of the supplemental statement? Yes No Not Applicable

If no, list names of persons who have not filed the required statement.

II - FOREIGN PRINCIPAL

7. Has your connection with any foreign principal ended during this 6 month reporting period?

Yes No

If yes, furnish the following information:

Name of foreign principal

Date of termination

8. Have you acquired any new foreign principal² during this 6 month reporting period?

Yes No

If yes, furnish the following information:

Name and address of foreign principal

Date acquired

9. In addition to those named in Items 7 and 8, if any, list foreign principals² whom you continued to represent during the 6 month reporting period.

Pottawatomi Nation (Canada Keewatinosagiganing Pottawatomi)

10. EXHIBITS A AND B

(a) Have you filed for each of the newly acquired foreign principals in Item 8 the following:

Exhibit A³ Yes No Not Applicable
Exhibit B⁴ Yes No

If no, please attach the required exhibit.

(b) Have there been any changes in the Exhibits A and B previously filed for any foreign principal whom you represented during the 6 month period? Yes No

If yes, have you filed an amendment to these exhibits? Yes No

If no, please attach the required amendment.

² The term "foreign principal" includes, in addition to those defined in Section 1(b) of the Act, an individual organization any of whose activities are directly or indirectly supervised, directed, controlled, financed, or subsidized in whole or in major part by a foreign government, foreign political party, foreign organization or foreign individual. (See Rule 100(a)(9).) A registrant who represents more than one foreign principal is required to list in the statements he files under the Act only those principals for whom he is not entitled to claim exemption under Section 3 of the Act. (See Rule 208.)

³ The Exhibit A, which is filed on Form NSD-3 (Formerly CRM-157), sets forth the information required to be disclosed concerning each foreign principal.

⁴ The Exhibit B, which is filed on Form NSD-4 (Formerly CRM-155), sets forth the information concerning the agreement or understanding between the registrant and the foreign principal.

III - ACTIVITIES

11. During this 6 month reporting period, have you engaged in any activities for or rendered any services to any foreign principal named in Items 7, 8, and 9 of this statement? Yes No

If yes, identify each such foreign principal and describe in full detail your activities and services:

For foreign principal Pottawatomi Nation (Canada Keewatinosagiganing Pottawatomi) performed legislative lobbying on Senate Indian Affairs Committee for S.56 to implement settlement and on House Resources Committee for companion bill. Telephone calls and e-mail communications with:

- Kim Teeltee (Office of Representative Kildee; House Reserve Committee)
- Kavve Mossman (Office of Senator Inouge; Senate Committee on Indian Affairs)

12. During this 6 month reporting period, have you on behalf of any foreign principal engaged in political activity⁵ as defined below? Yes No

If yes, identify each such foreign principal and describe in full detail all such political activity, indicating, among other things, the relations, interests and policies sought to be influenced and the means employed to achieve this purpose. If the registrant arranged, sponsored or delivered speeches, lectures or radio and TV broadcasts, give details as to dates and places of delivery, names of speakers and subject matter.

13. In addition to the above described activities, if any, have you engaged in activity on your own behalf which benefits any or all of your foreign principals? Yes No

If yes, describe fully.

⁵ The term "political activities" means any activity that the person engaging in believes will, or that the person intends to, in any way influence any agency or official of the Government of the United States or any section of the public within the United States with reference to formulating, adopting or changing the domestic or foreign policies of the United States or with reference to the political or public interests, policies, or relations of a government of a foreign country or a foreign political party.

IV - FINANCIAL INFORMATION

14. (a) RECEIPTS - MONIES

During this 6 month reporting period, have you received from any foreign principal named in Items 7, 8, or 9 of this statement, or from any other source, for or in the interests of any such foreign principal, any contributions, income or money either as compensation or otherwise? Yes No

If no, explain why.

If yes, set forth below in the required detail and separately for each foreign principal an account of such monies⁶.

Date	From whom	Purpose	Amount
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\$ 0.00

Total

(b) RECEIPTS - FUND RAISING CAMPAIGN

During this 6 month reporting period, have you received, as part of a fund raising campaign⁷, any money on behalf of any foreign principal named in items 7, 8, or 9 of this statement? Yes No

If yes, have you filed an Exhibit D⁸ to your registration? Yes No

If yes, indicate the date the Exhibit D was filed. Date _____

(c) RECEIPTS - THINGS OF VALUE

During this 6 month reporting period, have you received any thing of value⁹ other than money from any foreign principal named in Items 7, 8, or 9 of this statement, or from any other source, for or in the interests of any such foreign principal? Yes No

If yes, furnish the following information:

Name of foreign principal	Date received	Description of thing of value	Purpose
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^{6, 7} A registrant is required to file an Exhibit D if he collects or receives contributions, loans, money, or other things of value for a foreign principal, as part of a fund raising campaign. (See Rule 201(e).)

⁸ An Exhibit D, for which no printed form is provided, sets forth an account of money collected or received as a result of a fund raising campaign and transmitted for a foreign principal.

⁹ Things of value include but are not limited to gifts, interest free loans, expense free travel, favored stock purchases, exclusive rights, favored treatment over competitors, "kickbacks," and the like.

15. (a) **DISBURSEMENTS - MONIES**

During this 6 month reporting period, have you

(1) disbursed or expended monies in connection with activity on behalf of any foreign principal named in Items 7, 8, or 9 of this statement? Yes No

(2) transmitted monies to any such foreign principal? Yes No

If no, explain in full detail why there were no disbursements made on behalf of any foreign principal.

If yes, set forth below in the required detail and separately for each foreign principal an account of such monies, including monies transmitted, if any, to each foreign principal.

Date	To whom	Purpose	Amount
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\$0.00

Total

(b) DISBURSEMENTS – THINGS OF VALUE

During this 6 month reporting period, have you disposed of anything of value¹⁰ other than money in furtherance of or in connection with activities on behalf of any foreign principal named in Items 7, 8, or 9 of this statement?

Yes No

If yes, furnish the following information:

Date disposed	Name of person to whom given	On behalf of what foreign principal	Description of thing of value	Purpose
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(c) DISBURSEMENTS – POLITICAL CONTRIBUTIONS

During this 6 month reporting period, have you from your own funds and on your own behalf either directly or through any other person, made any contributions of money or other things of value¹¹ in connection with an election to any political office, or in connection with any primary election, convention, or caucus held to select candidates for political office?

Yes No

If yes, furnish the following information:

Date	Amount or thing of value	Name of political organization	Name of candidate
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^{10, 11} Things of value include but are not limited to gifts, interest free loans, expense free travel, favored stock purchases, exclusive rights, favored treatment over competitors, "kickbacks" and the like.

V - INFORMATIONAL MATERIALS

16. During this 6 month reporting period, did you prepare, disseminate or cause to be disseminated any informational materials¹²?
Yes No

IF YES, RESPOND TO THE REMAINING ITEMS IN SECTION V.

17. Identify each such foreign principal.
Pottawatomie Nation (Canada Keewatinosagiganing Pottawatomie)

18. During this 6 month reporting period, has any foreign principal established a budget or allocated a specified sum of money to finance your activities in preparing or disseminating informational materials? Yes No

If yes, identify each such foreign principal, specify amount, and indicate for what period of time.

19. During this 6 month reporting period, did your activities in preparing, disseminating or causing the dissemination of informational materials include the use of any of the following:

- Radio or TV broadcasts
- Magazine or newspaper articles
- Motion picture films
- Letters or telegrams
- Advertising campaigns
- Press releases
- Pamphlets or other publications
- Lectures or speeches
- Internet
- Other (specify) e-mail correspondence

20. During this 6 month reporting period, did you disseminate or cause to be disseminated informational materials among any of the following groups:

- Public officials
- Newspapers
- Libraries
- Legislators
- Editors
- Educational institutions
- Government agencies
- Civic groups or associations
- Nationality groups
- Other (specify) _____

21. What language was used in the informational materials:

- English
- Other (specify) _____

22. Did you file with the Registration Unit, U.S. Department of Justice a copy of each item of such informational materials disseminated or caused to be disseminated during this 6 month reporting period? Yes No

23. Did you label each item of such informational materials with the statement required by Section 4(b) of the Act? Yes No

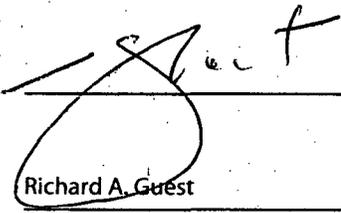
12 The term informational materials includes any oral, visual, graphic, written, or pictorial information or matter of any kind, including that published by means of advertising, books, periodicals, newspapers, lectures, broadcasts, motion pictures, or any means or instrumentality of interstate or foreign commerce or otherwise. Informational materials disseminated by an agent of a foreign principal as part of an activity in itself exempt from registration, or an activity which by itself would not require registration, need not be filed pursuant to Section 4(b) of the Act.

VI - EXECUTION

In accordance with 28 U.S.C. §1746, the undersigned swear(s) or affirm(s) under penalty of perjury that he/she has (they have) read the information set forth in this registration statement and the attached exhibits and that he/she is (they are) familiar with the contents thereof and that such contents are in their entirety true and accurate to the best of his/her (their) knowledge and belief, except that the undersigned make(s) no representation as to the truth or accuracy of the information contained in the attached Short Form Registration Statement(s), if any, insofar as such information is not within his/her (their) personal knowledge.

(Date of signature)

(Type or print name under each signature¹³)



Richard A. Guest

¹³ This statement shall be signed by the individual agent, if the registrant is an individual, or by a majority of those partners, officers, directors or persons performing similar functions, if the registrant is an organization, except that the organization can, by power of attorney, authorize one or more individuals to execute this statement on its behalf.

UNITED STATES DEPARTMENT OF JUSTICE
FARA REGISTRATION UNIT
NATIONAL SECURITY DIVISION
WASHINGTON, D.C. 20530

NOTICE

Please answer the following questions and return this sheet in triplicate with your Supplemental Statement:

1. Is your answer to Item 16 of Section V (Informational Materials – page 8 of Form NSD-2, formerly Form CRM-154 Supplemental Statement):

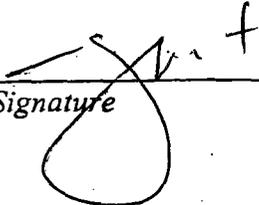
YES _____ or NO _____

(If your answer to question 1 is "yes" do not answer question 2 of this form.)

2. Do you disseminate any material in connection with your registration:

YES _____ or NO _____

(If your answer to question 2 is "yes" please forward for our review copies of all material including: films, film catalogs, posters, brochures, press releases, etc. which you have disseminated during the past six months.)


Signature

03-04-09
Date

Richard A. Guest
Please type or print name of
Signatory on the line above

Staff Attorney
Title



U.S. Department of Justice

National Security Division

Washington, DC 20530

THIS FORM IS TO BE AN OFFICIAL ATTACHMENT TO YOUR CURRENT SUPPLEMENTAL
STATEMENT - PLEASE EXECUTE IN TRIPLICATE

SHORT-FORM REGISTRATION INFORMATION SHEET

SECTION A

The Department records list active short-form registration statements for the following persons of your organization filed on the date indicated by each name. If a person is not still functioning in the same capacity directly on behalf of the foreign principal, please show the date of termination.

Short Form List for Registrant: Native American Rights Fund

<u>Last Name</u>	<u>First Name and Other Names</u>	<u>Registration Date</u>	<u>Termination Date</u>	<u>Role</u>
Guest	Richard A.	03/01/2006		



U.S. Department of Justice

National Security Division

Washington, DC 20530

SECTION B

In addition to those persons listed in Section A, list below all current employees rendering services directly on behalf of the foreign principals(s) who have not filed short-form registration statements. (Do not list clerks, secretaries, typists or employees in a similar or related capacity). If there is some question as to whether an employee has an obligation to file a short-form, please address a letter to the Registration Unit describing the activities and connection with the foreign principal.

Name	Function	Date Hired

Signature: [Handwritten Signature]

Date: 03-04-09

Title: STAFF ATTORNEY

Richard Guest

From: Richard Guest [richardg@narf.org]
Sent: Wednesday, December 10, 2008 10:15 AM
To: 'Mossman, Kawe (Inouye)'
Cc: 'Dawn'
Subject: RE: Next Congress
Attachments: STATEMENT CAN POT updated (RAG revisions).doc; ARP09005_xml.pdf

Kawe:

Thanks for forwarding the draft bill and statement for the 111th Congress. The bill is fine as drafted, but I have made a few red-line changes to the draft statement (copy attached). In particular, I have changed the fourth paragraph to read as follows (tracking the language in the bill):

"The bill I introduce today is to authorize the payment of those funds that the United States has concluded would be `fair, just and equitable" to satisfy this legal claim from amounts appropriated under section 1304 of title 31 of the United States Code. If enacted, this bill will finally achieve a measure of justice for a tribal nation that has for far too long been denied.

This slight change may help us in the Senate Judiciary Committee with their concerns regarding whether this a new appropriation, or whether payment will be made by Treasury from existing appropriations already made to the Judgment Fund (31 USC 1304) for the payment of claims against the United States. I plan to bring on a young Native staff attorney, Dawn Baum, to assist me in putting on a full court press to get this bill through the 111th Congress. I will once again look to you for guidance, and hope that Senator Inouye's elevation to the Chair of Senate Appropriations will work in our favor.

CRM/REGISTRATION UNIT
 2008 DEC 17 AM 8:25

Please let me know if you have any questions or concerns.

Richard A. Guest, Staff Attorney
 Native American Rights Fund
 202-785-4166 (office)
 202-907-3765 (cell)
richardg@narf.org

From: Mossman, Kawe (Inouye) [mailto:Kawe_Mossman@inouye.senate.gov]
Sent: Monday, December 08, 2008 1:23 PM
To: richardg@narf.org
Subject: Next Congress

Hi Richard,

I am preparing all the bills that we have introduced in the 110th for the 111th attached is the draft bill along with the Senator's draft statement. Could you please take a look at them and let me know if they are good to go. I just recycled the statement from the last time and made a few changes. In taking a look at the statement I was wondering if we needed to keep the historical background in the statement or if we can take it out. Let me know what your thoughts are on this.

Kawe

2/6/2009

111TH CONGRESS
1ST SESSION

S. _____

To provide relief to the Pottawatomi Nation in Canada for settlement of certain claims against the United States.

IN THE SENATE OF THE UNITED STATES

Mr. INOUE introduced the following bill; which was read twice and referred to the Committee on

A BILL

To provide relief to the Pottawatomi Nation in Canada for settlement of certain claims against the United States.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SETTLEMENT OF CERTAIN CLAIMS.**

4 (a) **AUTHORIZATION FOR PAYMENT.**—Notwith-
5 standing any other provision of law, subject to subsection
6 (b), the Secretary of the Treasury shall pay to the
7 Pottawatomi Nation in Canada \$1,830,000 from amounts
8 appropriated under section 1304 of title 31, United States
9 Code.

1 (b) PAYMENT IN ACCORDANCE WITH STIPULATION
2 FOR RECOMMENDATION OF SETTLEMENT.—The payment
3 under subsection (a) shall—

4 (1) be made in accordance with the terms and
5 conditions of the Stipulation for Recommendation of
6 Settlement dated May 22, 2000, entered into be-
7 tween the Pottawatomi Nation in Canada and the
8 United States (referred to in this section as the
9 “Stipulation for Recommendation of Settlement”);
10 and

11 (2) be included in the report of the Chief Judge
12 of the United States Court of Federal Claims re-
13 garding Congressional Reference No. 94-1037X,
14 submitted to the Senate on January 4, 2001, in ac-
15 cordance with sections 1492 and 2509 of title 28,
16 United States Code.

17 (c) FULL SATISFACTION OF CLAIMS.—The payment
18 under subsection (a) shall be in full satisfaction of all
19 claims of the Pottawatomi Nation in Canada against the
20 United States that are referred to or described in the Stip-
21 ulation for Recommendation of Settlement.

22 (d) NONAPPLICABILITY.—Notwithstanding any other
23 provision of law, the Indian Tribal Judgment Funds Use
24 or Distribution Act (25 U.S.C. 1401 et seq.) does not
25 apply to the payment under subsection (a).

STATEMENT OF
SENATOR DANIEL K. INOUE
ON THE INTRODUCTION OF A BILL

TO PROVIDE RELIEF FOR THE POTTAWATOMI NATION IN CANADA

Mr. President, almost fourteen years ago, I stood before you to introduce a bill "to provide an opportunity for the Pottawatomi Nation in Canada to have the merits of their claims against the United States determined by the United States Court of Federal Claims."

That bill was introduced as Senate Resolution 223, which referred the Pottawatomi's claim to the Chief Judge of the U.S. Court of Federal Claims and required the Chief Judge to report back to the Senate and provide sufficient findings of fact and conclusions of law to enable the Congress to determine whether the claim of the Pottawatomi Nation in Canada is legal or equitable in nature, and the amount of damages, if any, which may be legally or equitably due from the United States.

Nine years ago, the Chief Judge of the Court of Federal Claims reported back that the Pottawatomi Nation in Canada has a legitimate and credible legal claim. By settlement stipulation, the United States has taken the position that it would be "fair, just and equitable" to settle the claims of the Pottawatomi Nation in Canada for the sum of \$1,830,000. This settlement amount was reached by the parties after seven years of extensive, fact-intensive litigation. Independently, the Court of Federal Claims concluded that the settlement amount is "not a gratuity" and that the "settlement was predicated on a credible legal claim." Pottawatomi Nation in Canada, et al. v. United States, Cong. Ref. 94-1037X at 28 (Ct. Fed. Cl., September 15, 2000) (Report of Hearing Officer).

Deleted: Thereafter, b

Deleted: c

The bill I introduce today is to authorize the payment of those funds that the United States has concluded would be "fair, just and equitable" to satisfy this legal claim from amounts appropriated under section 1304 of title 31 of the United States Code. If enacted, this bill will finally achieve a measure of justice for a tribal nation that has for far too long been denied.

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For the information of our colleagues, this is the historical background that informs the underlying legal claim of the Canadian Pottawatomi.

The members of the Pottawatomi Nation in Canada are one of the descendant groups--successors-in-interest--of the historical Pottawatomi Nation and their claim originates in the latter part of the 18th century. The historical Pottawatomi Nation was aboriginal to the United States. They occupied and possessed a vast expanse in what is now the States of Ohio, Michigan, Indiana, Illinois, and Wisconsin. From 1795 to 1833, the United States annexed most of the traditional land of the Pottawatomi Nation through a series of treaties of cession--many of these cessions were made under extreme duress and the threat of military action. In exchange, the Pottawatomis were repeatedly made promises that the remainder of their lands would be secure and, in addition, that the United States would pay certain annuities to the Pottawatomi.

In 1829, the United States formally adopted a Federal policy of removal--an effort to remove all Indian tribes from their traditional lands east of the Mississippi River to the west. As part of that effort, the government increasingly pressured the Pottawatomis to cede the remainder of their traditional lands--some five million acres in and around the city of Chicago and remove themselves west. For years, the Pottawatomis steadfastly refused to cede the remainder of their tribal territory. Then in 1833, the United States, pressed by settlers seeking more land, sent a Treaty Commission to the Pottawatomi with orders to extract a cession of the remaining lands. The Treaty Commissioners spent 2 weeks using extraordinarily coercive tactics--including threats of war--in an attempt to get the Pottawatomis to agree to cede their territory. Finally, those Pottawatomis who were present relented and on September 26, 1833, they ceded their remaining tribal estate through what would be known as the Treaty of Chicago. Seventy-seven members of the Pottawatomi Nation signed the Treaty of Chicago. Members of the "Wisconsin Band" were not present and did not assent to the cession.

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In exchange for their land, the Treaty of Chicago provided that the United States would give to the Pottawatomis 5 million acres of comparable land in what is now Missouri. The Pottawatomi were familiar with the Missouri land, aware that it was similar to their homeland. But the Senate refused to ratify that negotiated agreement and unilaterally switched the land to five million acres in Iowa. The Treaty Commissioners were sent back to acquire Pottawatomi assent to the Iowa land. All but seven of the original 77 signatories refused to accept the change even with promises that if they were dissatisfied "justice would be done." Treaty of Chicago, as amended, Article 4. Nevertheless, the Treaty of Chicago was ratified as amended by the Senate

in 1834. Subsequently, the Pottawatomis sent a delegation to evaluate the land in Iowa. The delegation reported back that the land was "not fit for snakes to live on."

While some Pottawatomis removed westward, many of the Pottawatomis--particularly the Wisconsin Band, whose leaders never agreed to the Treaty--refused to do so. By 1836, the United States began to forcefully remove Pottawatomis who remained in the east--with devastating consequences. As is true with many other American Indian tribes, the forced removal westward came at great human cost. Many of the Pottawatomis were forcefully removed by mercenaries who were paid on a per capita basis government contract. Over one-half of the Indians removed by these means died en route. Those who reached Iowa were almost immediately removed further to inhospitable parts of Kansas against their will and without their consent.

Deleted: ¶
Treaty of Chicago, as amended, Article 4. Nevertheless, the Treaty of Chicago was ratified as amended by the Senate in 1834. Subsequently, the Pottawatomis sent a delegation to evaluate the land in Iowa. The delegation reported back that the land was "not fit for snakes to live on." ¶

Knowing of these conditions, many of the Pottawatomis including most of those in the Wisconsin Band vigorously resisted forced removal. To avoid Federal troops and mercenaries, much of the Wisconsin Band ultimately found it necessary to flee to Canada. They were often pursued to the border by government troops, government-paid mercenaries or both. Official files of the Canadian and United States governments disclose that many Pottawatomis were forced to leave their homes without their horses or any of their possessions other than the clothes on their backs.

By the late 1830s, the government refused payment of annuities to any Pottawatomis groups that had not removed west. In the 1860s, members of the Wisconsin Band--those still in their traditional territory and those forced to flee to Canada--petitioned Congress for the payment of their treaty annuities promised under the Treaty of Chicago and all other cession treaties. By the Act of June 25, 1864 (13 Stat. 172) the Congress declared that the Wisconsin Band did not forfeit their annuities by not removing and directed that the share of the Pottawatomis Indians who had refused to relocate to the west should be retained for their use in the United States Treasury. (H.R. Rep. No. 470, 64th Cong., p. 5, as quoted on page 3 of memo dated October 7, 1949). Nevertheless, much of the money was never paid to the Wisconsin Band.

In 1903, the Wisconsin Band--most of whom now resided in three areas, the States of Michigan and Wisconsin and the Province of Ontario--petitioned the Senate once again to pay them their fair portion of annuities as required

by the law and treaties. (Sen. Doc. No. 185, 57th Cong., 2d Sess.) By the Act of June 21, 1906 (34 Stat. 380), the Congress directed the Secretary of the Interior to investigate claims made by the Wisconsin Band and establish a roll of the Wisconsin Band Pottawatomis that still remained in the East. In addition, the Congress ordered the Secretary to determine "the [Wisconsin Bands] proportionate shares of the annuities, trust funds, and other moneys paid to or expended for the tribe to which they belong in which the claimant Indians have not shared, [and] the amount of such monies retained in the Treasury of the United States to the credit of the claimant Indians as directed the provision of the Act of June 25, 1864."

In order to carry out the 1906 Act, the Secretary of Interior directed Dr. W.M. Wooster to conduct an enumeration of Wisconsin Band Pottawatomis in both the United States and Canada. Dr. Wooster documented 2007 Wisconsin Pottawatomis: 457 in Wisconsin and Michigan and 1550 in Canada. He also concluded that the proportionate share of annuities for the Pottawatomis in Wisconsin and Michigan was \$477,339 and that the proportionate share of annuities due the Pottawatomis Nation in Canada was \$1,517,226. The Congress thereafter enacted a series of appropriation Acts from June 30, 1913 to May 29, 1928 to satisfy most of money owed to those Wisconsin Band Pottawatomis residing in the United States. However, the Wisconsin Band Pottawatomis who resided in Canada were never paid their share of the tribal funds.

Since that time, the Pottawatomis Nation in Canada has diligently and continuously sought to enforce their treaty rights, although until this congressional reference, they had never been provided their day in court. In 1910, the United States and Great Britain entered into an agreement for the purpose of dealing with claims between both countries, including claims of Indian tribes within their respective jurisdictions, by creating the Pecuniary Claims Tribunal. From 1910 to 1938, the Pottawatomis Nation in Canada diligently sought to have their claim heard in this international forum. Overlooked for more pressing international matters of the period, including the intervention of World War I, the Pottawatomis then came to the U.S. Congress for redress of their claim.

In 1946, the Congress waived its sovereign immunity and established the Indian Claims Commission for the purpose of granting tribes their long-delayed day in court. The Indian Claims Commission Act (ICCA) granted the Commission jurisdiction over claims such as the type involved here. In 1948,

the Wisconsin Band Pottawatomis from both sides of the border--brought suit together in the Indian Claims Commission for recovery of damages. *Hannahville Indian Community v. U.S.*, No. 28 (Ind. Cl. Comm. Filed May 4, 1948). Unfortunately, the Indian Claims Commission dismissed Pottawatomi Nation in Canada's part of the claim ruling that the Commission had no jurisdiction to consider claims of American Indians living outside territorial limits of the United States. *Hannahville Indian Community v. U.S.*, 115 Ct. Cl. 823 (1950). The claim of the Wisconsin Band residing in the United States that was filed in the Indian Claims Commission was finally decided in favor of the Wisconsin Band by the U.S. Claims Court in 1983. *Hannahville Indian Community v. United States*, 4 Ct. Cl. 445 (1983). The Court of Claims concluded that the Wisconsin Band was owed a member's proportionate share of unpaid annuities from 1838 through 1907 due under various treaties, including the Treaty of Chicago and entered judgment for the American Wisconsin Band Pottawatomis for any monies not paid. Still the Pottawatomi Nation in Canada was excluded because of the jurisdictional limits of the ICCA.

Undaunted, the Pottawatomi Nation in Canada came to the Senate and after careful consideration, we finally gave them their long-awaited day in court through the congressional reference process. The court has now reported back to us that their claim is meritorious and that the payment that this bill would make constitutes a "fair, just and equitable" resolution to this claim.

The Pottawatomi Nation in Canada has sought justice for over 150 years. They have done all that we asked in order to establish their claim. Now it is time for us to finally live up to the promise our government made so many years ago. It will not correct all the wrongs of the past, but it is a demonstration that this government is willing to admit when it has left unfulfilled an obligation and that the United States is willing to do what we can to see that justice--so long delayed is not now denied.

Finally, I would just note that the claim of the Pottawatomi Nation in Canada is supported through specific resolutions by the National Congress of American Indians (the oldest, largest and most-representative tribal organization here in the United States), the Assembly of First Nations (which includes all recognized tribal entities in Canada), and each and every of the Pottawatomi tribal groups that remain in the United States today.

I ask unanimous consent that the text of this bill be printed in the Record.

Richard Guest

From: Richard Guest [richardg@narf.org]
Sent: Wednesday, April 02, 2008 2:30 PM
To: 'Teehee, Kimberly'
Subject: RE: canadian potts

Under the language of the bill, the authorization of payment of the \$1.83 million is from amounts already appropriated under 31 U.S.C. 1304, the permanent judgment fund administered by the Department of Treasury. Based on this fact, I am not sure what "paygo problem" may exist with this bill since it is neither a spending program or revenue measure, but payment of a judgment against the United States pursuant to a settlement agreement recommended by the U.S. Court of Federal Claims for approval by Congress under the congressional reference process.

And that, in part, is why legislative approval is necessary – under the congressional reference process, the court does not have the authority to enter judgment against the United States; the court can only make a recommendation to Congress. The report of the review panel submitted to the Congress by the Chief Judge states: "It is therefore the recommendation of the panel that legislation be enacted awarding the Pottawatomie Nation in Canada the sum of \$1,830,000, the payment of which is to be made in strict accordance with the terms of the parties proposed settlement as set forth in paragraph 26(A) (1) of the "Stipulation for Recommendation of Settlement," dated May 22, 2000" (emphasis added).

Finally, my understanding is that the Tribal Judgment Funds provision/language was included in the bill in order to ensure that there was no reduction in funds for Indian tribes in the United States in effectuating the payment to the Pottawatomie Nation in Canada. I believe this was a compromise reached in the drafting of the Senate bill. Please let me know if you need further clarification on these or any other issues. Call me on my cell phone if you need a response right away.

Richard Guest, Staff Attorney
 Native American Rights Fund
 richardg@narf.org
 202-785-4166 (office)
 202-907-3765 (cell)

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From: Teehee, Kimberly [mailto:Kimberly.Teehee@mail.house.gov]
Sent: Wednesday, April 02, 2008 11:26 AM
To: Richard Guest
Subject: RE: canadian potts

Remind me how the authorization of payment would not present a paygo problem. Where's the payment coming from? And why there is a provision that the Indian Tribal Judgement Funds Use or Distribution Act would not be applicable? And, what your understanding is of the situation with regard to legislative approval—your conversation with judiciary (?) staff of the need to have a bill or something other type of measure introduced? Also, please do not cc others on my emails. I have a small window of opportunity here and the fewer people who know about it the better. Thanks

—Original Message—

2/6/2009

From: Richard Guest [mailto:richardg@narf.org]
Sent: Wednesday, April 02, 2008 11:08 AM
To: Teehee, Kimberly
Cc: 'Larry Rosenthal'
Subject: RE: canadian potts

Kim:

Thanks for the heads up. Attached is a pdf copy of the draft House bill from the 108th Congress. I have also attached a draft statement for Congressman Kildee which includes a quote from Chairman Miller, Pokagon Band of Potawatomi Indians, in his August 22, 2006 letter of support.

Again, I appreciate all the assistance you continue to provide to us on this matter. Please let me know if you have any questions or concerns.

Richard Guest, Staff Attorney
Native American Rights Fund
richardg@narf.org
202-785-4166 (office)
202-907-3765 (cell)

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From: Teehee, Kimberly [mailto:Kimberly.Teehee@mail.house.gov]
Sent: Tuesday, April 01, 2008 6:23 PM
To: Richard Guest
Subject: canadian potts

Hey Richard, would you send me the bill language again, ASAP. I may have an opportunity to get this issue considered by the resources committee in terms of a hearing next week and may even be included in a larger bill but need to get it over to the committee first thing in the morning. thanks. No promises but I brought the issue up today with the committee and they seemed agreeable.

2/6/2009

[1075620]

(Original Signature of Member)

108TH CONGRESS
1ST SESSION

H. R. _____

To For the relief of the Pottawami Nation in Canada for settlement of
certain claims against the United States.

IN THE HOUSE OF REPRESENTATIVES

Mr. KILDEE introduced the following bill; which was referred to the
Committee on _____

A BILL

To For the relief of the Pottawami Nation in Canada for
settlement of certain claims against the United States.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SETTLEMENT OF CERTAIN CLAIMS.**

4 (a) **AUTHORIZATION FOR PAYMENT.**—Subject to sub-
5 section (b), the Secretary of the Treasury shall pay to the
6 Pottawatomi Nation in Canada, notwithstanding any



1 other provision of law, \$1,830,000 from amounts appro-
2 priated under section 1304 of title 31, United States Code.

3 (b) PAYMENT IN ACCORDANCE WITH STIPULATION
4 FOR RECOMMENDATION OF SETTLEMENT.—The payment
5 appropriated under subsection (a) shall be made in accord-
6 ance with the terms and conditions of the Stipulation for
7 Recommendation of Settlement dated May 22, 2000, en-
8 tered into between the Pottawatomi Nation in Canada and
9 the United States (in this Act referred to as the “Stipula-
10 tion for Recommendation of Settlement”) and included in
11 the report of the Chief Judge of the United States Court
12 of Federal Claims regarding Congressional Reference No.
13 94–1037X submitted to the Senate on January 4, 2001,
14 pursuant to the provisions of sections 1492 and 2509 of
15 title 28, United States Code.

16 (c) FULL SATISFACTION OF CLAIMS.—The payment
17 made under subsection (a) shall be in full satisfaction of
18 all claims of the Pottawatomi Nation in Canada against
19 the United States referred to or described in the Stipula-
20 tion for Recommendation of Settlement.

21 (d) NONAPPLICABILITY.—Notwithstanding any other
22 provision of law, the Indian Tribal Judgment Funds Use
23 or Distribution Act (25 U.S.C. 1401 et seq.) shall not
24 apply to the payment appropriated under subsection (a).



Statement of the Honorable Dale E. Kildee

**A BILL FOR THE RELIEF OF THE POTAWATOMI NATION
IN CANADA FOR SETTLEMENT OF CERTAIN CLAIMS
AGAINST THE UNITED STATES**

[DRAFT 02/22/07]

Mr. KILDEE: Mr. Chairman, I rise today to introduce a bill that is simply about fundamental fairness and integrity – or in the words of Supreme Court Justice Hugo Black that “Great Nations, like great men, should keep their word.” *FPC v. Tuscarora Indian Nation*, 362 U.S. 99, 142 (1960) (Black, J. dissenting). These words ring with peculiar resonance in regard to the long struggle of the Pottawatomi Nation in Canada – a tribe that has sought justice from the United States government for over 150 years. They have done all that we asked in order to establish their claim. Now it is time for Congress to finally live up to the promise we made so many years ago. This legislation will not correct all the wrongs of the past, but it is a demonstration that the United States is willing to do what we can to see that justice – so long delayed – is not now denied.

This present legislation is the result of Senate Resolution 223, a congressional reference bill passed by the U.S. Senate in 1994 to “provide an opportunity for the Pottawatomi Nation in Canada to have the merits of their claims against the United States determined by the United States Court of Federal Claims.” After seven years of extensive, fact-intensive litigation, the United States, by settlement stipulation through the U.S. Department of Justice, took the position that it would be “fair, just and equitable” to settle the claims of the Pottawatomi Nation in Canada for the sum of \$1,830,000. In the report to Congress recommending legislation approving the settlement stipulation, the Court found that the Pottawatomi Nation in Canada has a legitimate and credible legal claim. The Court concluded that the settlement amount “is not a gratuity” and that the “settlement amount and terms are in the interests of justice.” *Pottawatomi Nation in Canada, et al. v. United States*, Cong. Ref. 94-1037X at 28 (Ct. Fed. Cl., September 15, 2000).

Further, this bill is non-controversial, supported through specific resolutions by the National Congress of American Indians (the oldest, largest and most-representative tribal organization here in the United States), the Assembly of First Nations (which includes all recognized tribal entities in Canada), and each and every of the Pottawatomi tribal groups that remain in the United States today. I am proud to say that four of the Pottawatomi bands – the Hannahville Indian Community, the Pokagon Band of Potawatomi Indians, the Nottawaseppi Huron Band of Potawatomi and the Match-E-Be-Nash-She-Wish Band of Potawatomi – reside within my home state of Michigan. In a recent letter of support, Chairman John Miller of the Pokagon Band of Potawatomi Indians writes:

We also write to express our firm and continued support of our brethren of the Pottawatomi nation in Canada as we are common descendants of the Historic Pottawatomi Nation, who were a part of the aboriginal peoples of this country and

who held title to a vast expanse of land east of the Mississippi in what are now the States of Ohio, Michigan, Indiana, Illinois and Wisconsin.

* * *

The members of the Pottawatomi Nation in Canada are American Indians who were displaced from their traditional lands in the United States. But because they are American Indians, the Canadian government does not extend treaty fishing and hunting rights to our brethren on the same basis as Canadian Indians. In fact, many members of the Pottawatomi Nation in Canada have served honorably in the U.S. military in every major conflict, from World War II to the present Iraq War.

Yes, the merits of the Pottawatomi claim are firmly rooted in this Nation's history. Through a series of treaties of cession – many of which were made under extreme duress and the threat of military action – the United States annexed most of the traditional lands of the Historical Pottawatomi Nation. In exchange, the Pottawatomis were given promises that the remainder of their lands would be secure and, in addition, that the United States would pay certain annuities to the Pottawatomi. The claim of the Pottawatomi Nation in Canada stems from the failure of the United States to provide the protection and to make annuity payments as promised.

In 1833, Treaty Commissioners were able to use the threat of war to convince the Pottawatomi to sign what became the Treaty of Chicago. In exchange for their traditional lands, the Treaty of Chicago provided that the United States would give to the Pottawatomis five million comparable acres of land in what is now the State of Missouri and would provide certain annuity payments. The United States unilaterally switched the land promised for less desirable land located in what is now the State of Iowa and, as a result, many of the Pottawatomis refused to relocate. The court record in this matter includes a letter from Che-che-be-quay, et al., to Andrew Jackson, President of the United States, in 1835 which reads:

When you sent your commissioners, some two or three years ago, to make a treaty with us, we were glad to see them. We are always glad to see the officers of our great father. But when they proposed to give us lands beyond the great river, we told them that we were strangers to that country, and that we must send a deputation to see that land before we could treat with them. They answered us and said that we must make a treaty, that the land was good, was better than our old hunting grounds, and that we might send a deputation after the treaty, and if we did not obtain good lands, that our great father would do us justice hereafter.

By 1836, the United States began to forcefully remove Pottawatomis who remained east of the Mississippi – with devastating consequences. As is true with many other American Indian tribes, the forced removal westward came at great human cost. Aware of these devastating consequences of removal, many of the Pottawatomis, including many who lived in what is now the State of Michigan and most of those in the Wisconsin Band, vigorously resisted forced removal. In their efforts to avoid federal troops and mercenaries, much of the Wisconsin Band ultimately found it necessary to flee to Canada – oftentimes pursued to the border by government troops, paid mercenaries or both.

As part of their efforts, the U.S. government then refused payment of annuities to any Pottawatomie groups that had not removed west including those who fled to Canada. In the 1860s, members of the Wisconsin Band – those still in their traditional territory and those forced to flee to Canada – petitioned Congress for the payment of their treaty annuities promised under the Treaty of Chicago and all other cession treaties. By the Act of June 25, 1864 (13 Stat. 172), the Congress declared that the Wisconsin Band did not forfeit their annuities by not removing and directed that the share of the Pottawatomie Indians who had refused to relocate to the west should be retained for their use in the United States Treasury. (H.R. Rep. No. 470, 64th Cong., p. 5, as quoted on page 3 of memo dated October 7, 1949). Nevertheless, much of the money was never paid to the Wisconsin Band.

In 1903, the Wisconsin Band – most of whom now resided in three areas, the States of Michigan and Wisconsin and the Province of Ontario – petitioned the Senate once again to pay them their fair portion on annuities as required by the law and treaties. (Sen. Doc. No. 185, 57th Cong., 2d Sess.) By the Act of June 21, 1906 (34 Stat. 380), the Congress directed the Secretary of the Interior to investigate claims made by the Wisconsin Band and make a roll of the Wisconsin Band Pottawatomis that still remained in the East. Dr. W.M. Wooster enumerated the Wisconsin Band Pottawatomie in both the United States and Canada, documenting 2007 Wisconsin Pottawatomis – 457 in Wisconsin and Michigan and 1550 in Canada. He also concluded that the proportionate share of annuities for the Pottawatomis in Wisconsin and Michigan was \$477,339 and that the proportionate share of annuities due the Pottawatomie Nation in Canada was \$1,517,226. The Congress thereafter enacted a series of appropriation acts from June 30, 1913 to May 29, 1928 to satisfy most of money owed to those Wisconsin Band Pottawatomis residing in the United States. However, the Wisconsin Band Pottawatomis who resided in Canada were never paid their share of the tribal funds.

Since that time, the Pottawatomie Nation in Canada has diligently and continuously sought to enforce their treaty rights, although until this congressional reference, they had never been provided their day in court. The United States Court of Federal Claims has now reported back to us that their claim is meritorious and that the payment that this bill would make constitutes a “fair, just and equitable” resolution.