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Saturday, March 03, 2001 09:35 AM  
**'THE ABSENTEE CHIEF': ROSS O. SWIMMER**

The Cherokee Observer obtained a copy of the following letter written to then President Ronald Reagan, in May of 1985, blasting the nomination of former Principal Chief of the Cherokee Nation, attorney Ross O. Swimmer, as Assistant Secretary of the U.S. Interior Department. The writer, Thomas Mack Crossland makes some very serious allegations concerning Ross Swimmer's ties to the local banks while he was the Principal Chief of the Cherokee Nation that should have been investigated by the Federal Bureau of Investigation in 1985. If not, the FBI should investigate the allegations in 1998.

May 23, 1985  
United States of America  
White House Bldg  
Washington, D. C.

Mr. Donald Hodel, Secretary  
U.S. Department of the Interior  
Washington, D. C.,

Sen. Don Nickells  
U.S. Senate Office Bldg  
Washington, D.C.,

Gentleman:

Re: Attached Newspaper Article from the Muskogee Daily Phoenix, May 20, 1985.

After reading the attached article and listening to the nightly news about the possibility of Chief Ross Swimmer of the Cherokee Nation of Oklahoma, being named Assistant Secretary of the Interior, I can no longer remain silent.

Chief Ross Swimmer could become another great embarrassment to you Mr. President, Mr. Hodel and to you Senator Nickells, if you are one of his supporters for this position. Because it is a public office being considered, I feel that I have a right as a citizen of the U.S., and a Cherokee tribal member to make the following comments:

Chief Ross Swimmer has been under criminal investigation by the Federal Bureau of Investigation (Eastern Oklahoma District) and the file is not closed, for conspiracy to defraud the Federal Government. His various criminal activities were purported to be connected with land schemes and use of Department of Housing and Urban Development public housing funds. It is common knowledge to many that while serving as counsel for the Cherokee tribe that he knowingly altered financial documents in order to secure allotments of Indian housing for the Cherokee Nation Builders, Inc., a tribal entity that lost hundreds of thousands of dollars because of fraud and poor management.

Chief Swimmer, upon being elected Chief by absentee balloting, was immediately hired and promoted to bank president with the stipulation that all Cherokee tribal funds, Federal grant and trust monies, and any new money be placed on deposit at the First National Bank of Tahlequah, Oklahoma, where his mentor Mr. Peter Manhart [Deceased] was chairman of the Board and major stock holder.

Mr. Swimmer was then sold enough stock in the bank by Mr. Manhart to make him a legal stockholder despite the unethical nature of the transaction. This practice has continued until today. Despite the fact that Mr. Swimmer is no longer President of the First National Bank of Tahlequah, and has moved out of the Cherokee Nation to Tulsa, Oklahoma, he still has stock in the bank and continues to rotate funds through the bank with profitable results. This practice, depositing of all funds to FNB of Tahlequah, has made him a multi-millionaire in ten short years.

continued in next issue

**Congress members meet with BIA director about Cherokee Nation freedmen issue**

By The Associated Press

TULSA, Okla. -- Members of Congress plan to send a letter to the director of the Bureau of Indian Affairs seeking clarification on the status of the Cherokee Nation freedmen descendants and why the agency has not done more to end the controversy.

Four lawmakers, including U.S. Rep. Diane Watson, met last week with BIA director Carl Artman.

Watson, D-Calif., has been the most vocal congressional critic of the Cherokee Nation and its efforts to deny citizenship to descendants of former slaves. She said the tribe and the BIA need more oversight on the issue and told the Tulsa World's Washington bureau that she is concerned the freedmen descendants are being treated as temporary members of the tribe.

They are not being issued cards they could use to receive certain benefits, she said.

"From what I understand they haven't issued one," Watson said.

A tribe spokesman said the descendants still have access to services.

Another issue raised at last week's meeting with Artman involved what some see as different approaches by the BIA on the issue with the Cherokee and Seminole nations.

Watson has introduced legislation to strip the Cherokee Nation of its federal funding to get the tribe to give up on its efforts to rescind citizenship of the freedmen descendants.

Last year, nearly 77 percent of Cherokee voters decided in a special election to amend the nation's constitution to remove the freedmen descendants and other non-Indians from tribal rolls.

Critics of the vote, however, noted that only 9,000 of the tribe's 270,000 membership cast ballots.

Reps. John Conyers, D-Mich., chairman of the House Judiciary Committee; Barney Frank, D-Mass., chairman of the House Financial Services Committee; and Mel Watt, D-N.C., a key player on the issue for the Congressional Black Caucus, also attended the meeting with Artman.

Nedra Darling, a spokeswoman for Artman, confirmed that the meeting with the four lawmakers took place but said some of the issues raised by the lawmakers should be addressed by the Cherokee Nation.

As for the Seminole Nation, Darling said that tribe sued the BIA over the freedmen descendants issue and did not have its own court system, unlike the Cherokee Nation.

Last year, Artman said an 1866 treaty between the United States and the Cherokee Nation affirmed the citizenship rights of the freedmen, adding that the government would consider taking the tribe to court to make sure it lives up to that treaty.

Cherokee Nation spokesman Mike Miller said the 2,867 freedmen descendants who were reinstated last year pending the outcome of ongoing litigation continue to receive health care and other services. They also have the right to vote, Miller said.

"CDIB cards are given out by the U.S. government," he said. "Only people who can show documentation of degrees of Indian blood can receive them by federal law."

**Cherokee Nation sues company for \$2.3 million**

BY MONICA KEEN, STAFF WRITER - Sequoyah County Times

Cherokee Nation is suing a Norman company that formerly operated the tribe's now-closed landfill in an attempt to recover nearly \$2.3 million in losses. The tribe alleges the company committed multiple breaches of contract over the landfill's operation, including failure to pay specified funds and failure to comply with certain environmental requirements at the landfill.

The lawsuit was filed in Cherokee Nation District Court in January against Indian Country Investments LLC (ICI). In the suit, the tribe alleges six causes of action. An April 18 hearing has been set in the case.

When asked what the reason was for the suit, Mike Miller, tribal spokesperson, said Wednesday, "ICI was in breach of its contract with the Cherokee Nation and refused to do what they said they would do in the contract. Cherokee Nation went to court to hold ICI accountable for their breach of contract."

The tribe's only landfill opened in 1982, and ICI took over operations of the landfill in 2005. The landfill shut down in October after the landfill reached capacity.

Among the allegations are that ICI failed to pay \$1 per ton of waste accepted into the landfill for a special landfill closure trust fund since about September 2005. The tribe claims that ICI owes \$583,114.13 that should have been paid into that fund. The tribe alleges that because ICI failed to pay into that fund, the tribe was required to deposit \$248,316.06 into the fund account "in order to bring the account to an amount sufficient to satisfy the financial assurance amount calculated by ICI's engineers," according to the suit.

The suit alleges that ICI accepted sole responsibility for the landfill's compliance with environmental rules and permits, including a compliance that required that leachate liquid in the leachate pond be removed to prevent leachate from overflowing from the pond. The tribe claims that ICI ceased removing leachate from the pond in October 2007. The tribe also alleges that ICI failed to establish an on-site leachate storage, violating the contract with the tribe. The tribe claims it incurred costs of about \$63,000 in costs incurred from hauling the leachate.

The lawsuit also lists a breach of contract in connection with storm water run-off collection. The suit alleges that ICI had installed a pump system to remove unauthorized collected water to an impoundment, but ICI removed that pump in October, causing the tribe to purchase a pump for \$12,476.

**Gidner Names Dale Morris as BIA Pacific Regional Office Director**

WASHINGTON, D.C. - Bureau of Indian Affairs Director Jerold L. "Jerry" Gidner today announced that he has named Dale Morris as Regional Director of the BIA's Pacific Regional Office in Sacramento, Calif. Morris, an enrolled member of the Cherokee Nation of Oklahoma, had been serving as chief of the regional office's natural resources division since 2004. His new appointment became effective on April 27, 2008. The Pacific Regional Office oversees four agencies serving the 102 federally recognized tribes located within the State of California.

"Dale Morris is an experienced Federal manager who brings tremendous leadership qualities to the Pacific Region," Gidner said. "He is a welcome addition to my regional management team."

Morris began his career with the BIA as a forester at the Bureau's Central California Agency in Sacramento in February 1993. He has held several positions within the Pacific Region since then, including serving as Regional Fire Management Officer from 1993 to 1998 and Regional Natural Resources Officer from 1998 to 2004. He also served as acting superintendent of the Palm Springs Agency in 2002 and Central California Agency in 2005.

The tribe alleges that ICI failed to complete required quarterly environmental testing at the landfill, which caused the tribe to incur \$16,047 in expenses.

But O. Joseph Williams, an attorney with Pitchlynn & Associates in Norman representing ICI, said Wednesday that those environmental deficiencies would have been corrected had the tribe cooperated with ICI over the expansion of the landfill.

Williams said one of the issues in dispute relates to environmental deficiencies at the landfill. He said ICI came in not only to make more profit, but also to correct environmental deficiencies that pre-existed before ICI came on board. He said it is not easy to distinguish what was pre-existing and what wasn't.

"Unfortunately, it's a mess," he said.

Aside from the environmental deficiencies, the lawsuit also alleges two other contract breaches, including that ICI failed to pay the tribe the full amount of host fees for the month of May 2007 and had not paid any fees since July, amounting to \$174,050.62. The suit alleges that ICI failed to reimburse the tribe for payments on a loan made by Cherokee Nation Enterprises for cell development. While ICI reimbursed the tribe for a portion of that loan, ICI failed to pay the balance of the note, which is about \$1.2 million.

In total, the tribe is asking to be awarded injunctive relief in the amount of \$2,297,818.90 for the alleged breaches of contract, the lawsuit indicates.

ICI files suit

While Cherokee Nation is suing ICI, ICI has in turn filed suit against the tribe. Williams said ICI filed a breach of contract against Cherokee Nation in Cleveland County in January.

"Both lawsuits are still pending," he said.

Williams said the gist of the lawsuit against the tribe is that under the contract, Cherokee Nation was supposed to coordinate and cooperate with ICI over the landfill.

"Through various delays and failure to issue permits by Cherokee Nation Environmental Protection Commis-

sion, ICI could not move forward with operating the landfill and had to shut down," Williams said.

He said the council's failure to approve various legislation prevented that cooperation.

"The Cherokee Nation was to be a partner with ICI on this project," Williams said, adding that the tribe was to cooperate with ICI's plan for development.

"Cherokee Nation simply failed to cooperate and assist ICI with development," Williams said.

In the suit against the tribe, ICI alleges, "ICI's managing member, Gary S. Pitchlynn, put the Nation on notice and communicated with various representatives of the Nation, including Principal Chief Chad Smith, as well as with Nation attorneys at various times concerning the Nation's lack of cooperation in assisting ICI obtaining the proper permit to continue operating the landfill and other issues; however, only minimal and cursory cooperation and assistance was given to ICI by the Nation.

"As a result of the CNEPC issuing ICI only a conditional interim-operating permit, ICI was unable to competitively market the services of the landfill or to timely obtain sufficient funding to effectively maintain the capacity necessary to continue to receive waste from customers; consequently, ICI was forced to cease to accept waste at the Landfill on Oct. 6, 2007."

ICI also alleges that the EPC "identified alleged deficiencies at the landfill, most of which were pre-existing and caused by the tribe's prior operation and development, and in spite of the good faith efforts of ICI to timely address and correct those for which it was responsible, chose to aggressively pursue punitive administrative action in order to force ICI out of the business by providing ICI with notices of violation and, subsequently, by assessing unfounded, inappropriate and excessive fines for the alleged violations, whether gauged by the nature of the alleged violations, or the reasonable financial capacity of ICI to pay."

ICI is facing over a million dollars in fines relating to those environmental violations at the landfill. The fines were levied by the EPC and related to how the landfill was operated on a day-to-day basis. ICI is appealing those fines, but a hearing has not been held, Miller said Wednesday.

Cookson Hills Publishers, Inc.

My dear friends, cousins and fellow Cherokees,

As many of you know, I have started a collection of photographs of Cherokee citizens listed on the Dawes Rolls. You can see the collection thus far by visiting my profile on MySpace by clicking [www.myspace.com/cherokeeseventstar](http://www.myspace.com/cherokeeseventstar).

The purpose of this collection is to have photos in one place where people can see what the citizens of the Cherokee Nation looked like whose names are inscribed for all time upon the Final Rolls of the Cherokee Nation.

Already, one of the photos now in the collection no longer exists in original hard copy, as the original was destroyed in a fire the week after it was scanned and placed in the collection. The collection will also be a place where your family can share their ancestral photos with other family members. While the photo will be cropped to show only the face of the enrollee, the original scanned photo is stored and will be shared with permission of the owner.

Please take a few moments to scan your historic photos so that other Cherokee citizens, interested individuals and our future generations can see the beautiful faces of our ancestors.

I am also collecting photos of Cherokee citizen who died before the Dawes Roll was created. If you have photos, portraits and/or charcoal drawings of your ancestors predating the Dawes Roll (pre-1902), scan those and send in as well.

My goal is to eventually have a web site for the Cherokee Nation Dawes Roll where these photos and the names of our ancestors are honored, treasured and preserved.

Those of you who have already sent in your photos, I thank you very much and encourage you to post comments under the photo with biographical and historical data. And I encourage all of you to speak to your Cherokee family and friends and encourage them to participate in this project.

Wado

David Cornsilk

**Check out back issues of the Cherokee Observer - goto [www.cherokeeobserver.org](http://www.cherokeeobserver.org) and click on the back issue link.**