Tunica-Biloxi Tribe land settlement still up in the air

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WASHINGTON, La. — In 1982, attorneys for the Tunica-Biloxi Tribe were optimistic that a settlement could be reached in a land claim involving 17,000 acres of property in Ascension and Rapides parishes. But 1982 passed, and three years later there still is no settlement.

The Louisiana tribe, now located in the Marksville area, has laid claim to 17,000 acres, which are to a large extent the ancestral homeland of their tribe and includes a collection of Tunica-Biloxi ancestral burial grounds. Because the tribe is federally recognized, also involved in the negotiations are the U.S. Department of the Interior and the Bureau of Indian Affairs, and the state of Louisiana, which is represented by Baton Rouge attorney Fred Benton. Through its land claim the tribe is not seeking actual ownership of the 17,000 acres of property, but does want financial retribution for the loss of the land. The tribe's attorneys also indicated that the possible acquisition of a certain amount of state-owned land and increased support by the state and federal governments for health, education and welfare programs for the tribe could be included in a settlement.

However, reaching a settlement has eluded the Tunica-Biloxi Indians.

"There's a light at the end of the tunnel," said one of the tribe's attorneys, "but we're not sure what it is." According to Sockerson, the tribe's attorneys have worked with the federal government to get the status of the tribe's land claim. If Louisiana could get its financial house in order, it would help their case, but Louisiana's financial difficulties make it more difficult to establish any (financial) share by the state.

In Indian land-settlement claims, the federal government requires "considerable" involvement by the affected state, Sockerson said. Ideally, the federal government likes to see a 50-50 sharing of the agreed settlement, he added.

Because of Louisiana's severe economic status, "we're working with the state on an in-kind and maybe cash settlement," Sockerson said. "It may not be 50 percent, but maybe it would be significant enough to get Congress to approve the settlement." Sockerson declined to give a settlement figure that would be acceptable by the tribe, and said: "I don't think anyone can say what it will be because we're still negotiating figures." In the past, Lacklor said the tribe possibly would accept a settlement of $44 million, which is the estimated fair market value of the property.

Sockerson said the tribe's case basically hinges upon a 70 statute "still on the books," mandating that Indian titles cannot be transferred unless Congress approves such action.

The Trade and Nonintervention Act was passed by Congress in 1804 to include the Louisiana territory and its Indian tribes.

The tribe has claimed that the Louisiana Purchase agreement of 1803, which included federal grants and concessions made by the Spanish to the Tunicas before 1805, and Juneau also has claimed that the 1804 Land Claims Act, which protected people holding imperfect land titles to file claims with the registrar of public lands, never clearly stated whether claims were included in the requirement.

Rick Dauphinais, with NARF, and Juneau told the Advocate recently that a congressional delegation is needed to settle the land-claim matter. Without such a resolution, Juneau said, "we could litigate forever" because the U.S. Supreme Court has ruled the Indian land claims are not subject to any statute of limitations.

Sockerson added that, once a settlement is agreed upon by all sides, it would then take an act of Congress to extinguish the tribe's land claim and approve the transfer of the title from the Indians to the current landowners. The settlement would be the price of the tribe's agreeing to the extinguishing of title, he said.

Although the state "has been supportive in the past year or so," Sockerson said, its financial problems are hindering efforts to reach a settlement.

Benton said the state has been asked to produce between $2 million and $3 million in a package deal to purchase the settlement along, but "the state is not financially strapped for money it can't come up with $2 million to $3 million." If a settlement cannot be reached, Benton said, the tribe could begin litigation by suing the state or involving the state in a suit. Tri-attorneys previously have indicated that litigation is possible if a settlement cannot be reached out of court.