

INITIAL REPORT OF THE AMERICAN INDIAN  
LEADERS ADVISORY COUNCIL

In order to have a meaningful way of communicating with the incumbent administration it is necessary to assemble a representative group of recognized leaders of the American Indian population which is approximately 1,000,000 people. This 1/2 of 1% of the national population has been beset with problems unique to it since the birth of this country.

To take the initiative, those enumerated below have voluntarily assembled as an unpaid Council which it is hoped will become the means for explanation and discussion of the more immediate national problems and needs of the American Indian.

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In briefest form, our concerns may be set forth as follows:

1. Government to Government Communications.
2. Development of Indian owned Energy Resources.
3. Federal budget changes as they affect the American Indian.
4. Preservation, protection and quantification of our inherent and reserved water rights.
5. Preservation of treaty obligations.
6. Respect for our tribal sovereignty.
7. Active enforcement of trust responsibilities.

This brief listing could hardly be considered exhaustive of the many difficult and complex problems facing the approximately 400 federally recognized tribal governments and the concerns of urban Indians; however, it may be considered a compendium of

those problems of breadth faced by all tribal governments and American Indian Citizens. These are subjects that all American Indians recognize, without substantial dissent, as being first line priorities.

One of the hazards incurred in compiling any such list of issue and policies is that other matters are necessarily omitted and that other concerns will, from time to time, be voiced as if they were of paramount importance. That is the nature of the political process, be it Indian or non-Indian. Nevertheless, almost all major Indian problems can be discussed within the context of these seven categories.

We would be the first to concede that many times our sector of America is ignored simply because our people sometimes speak with too many voices. Many times just a very few of us or even one well intentioned but misguided individual prevents the implementation of a program or policy that in reality would have been beneficial to the vast majority of American Indians.

What we hope to do is to provide a responsible framework from which the federal government may review the many and varied requests made for a federal response.

#### 1. Government to Government

One of the reasons that we have listed "government to government" communications is that the Carter administration, in particular, together with other prior administrations often used non-elected American Indian individuals as the means of ascertaining a particular reservation's needs. Many times that

individual, who was responsible to no one, would successfully maintain that his personal predilections were the will of his particular tribe, when, in fact, the tribal government was diametrically opposed to the individual's position.

We have representative governments elected by the people who are thereby represented in the same fashion as state and local governments. Those who are duly elected should be the contact points on all matters which concern the particular electorate.

In October of 1980 President Reagan stated:

"The traditional relationship between the United States and Indian governments is a 'government to government relationship.' History tells us that the only effective way for Indian reservation, and Indian communities, to develop is with local Indian leadership. Bearing in mind the legal and historical background, tribal governments must play the primary role in Indian affairs. State and non-Indian local governments can at best play only a secondary role."

## 2. Development of Indian Owned Resources

Tribal lands in the "lower 48" contain approximately 50% of the country's privately owned uranium; 15% of the nation's total coal reserves and 30% of all western low sulfur-strippable coal; 4% of all oil and natural gas reserves; and a substantial

portion of the nation's oil-shale and geothermal reserves. Alaskan Native Americans hold title to land containing substantial additional energy reserves. The 25 tribes have banded together to form the Council of Energy Resource Tribes (CERT) in recognition of the need to gain top quality technical assistance in developing these resources.

In 1979, total energy production on tribal land increased 52 percent -- the energy equivalent of nearly one million barrels of oil per day or 12 percent of total foreign oil imports in 1979. This increase stems in part from the work of CERT, in part from the tribal-federal-industry partnership that has begun to emerge.

The Federal commitment to tribal energy development ranks as one of the nation's most cost effective investments in expanding our country's domestic energy production. But equally, it is to be justified in terms of the increase in tribal self-sufficiency and the future reduction of dependence upon direct federal assistance for our people's day to day well-being. Energy resource development is, where feasible, one of the most promising ways to secure the emergence of a viable private sector on the reservation.

In President Reagan's words "Tribal governments should have the right to determine the extent and methods of developing the tribe's natural resources. . . . My Administration would encourage fair and just partnership among the tribal governments,

the private sector, and the federal government in meeting the tribe's identified development needs."

3. Federal Budget Changes as They Affect the American Indian.

While we fully understand the need to reduce government spending on an overall basis, we believe that the last area to be affected should be the American Indian. As the "poorest of the poor" we are not large in number but remain large in need. That condition has remained for over a hundred years simply because one misguided federal policy after another has been forced upon us. Only on very few occasions have we been able to make our voice heard on federal fiscal matters as they affect us even though by law we are supposed to have a say in the preparation of the BIA budget. What has happened over the years is that substantially over half of the federal funds subject to control by the BIA are absorbed by that same bureaucracy before they ever reach our people. Overhead and administrative costs far out pace the benefits we receive. For years we have asked for funds to be channeled through federally administered block grants in order to increase the actual delivery of goods and services. Very seldom have we succeeded.

The "wholesale - across the board" proposed cuts in items like food stamps and CETA Public Service Employment will have an unintended magnified impact on Indian reservations. Here are but two examples:

A. The monthly food stamp benefit is based on the assumption that all meals for the family are eaten at home.

For students who receive both food stamps and free school meals, the Federal Government subsidizes four rather than three meals per day. Eligible families with students lacking access to subsidized school meals will not have their allotments changed. It is not clear what happens if the child has access to a free school meal but is sick, stays home or does not actually get the meal.

B. CETA Public Service Employment. Title IID and Title VI of the Comprehensive Employment and Training Act (CETA) will be phased out. Budget figures compiled by the Indian and Native American CETA Coalition indicate that overall this means a cut of \$63.5 million out of a total \$182.5 million in CETA funding levels for Indian programs. However, on reservations the cut will amount to more than a 50% cut; non-reservation Indian prime sponsors receive youth employment and summer moneys but not public service moneys so that the main brunt of the cut will be felt on reservations. Thus, for instance, on the Navajo reservation Title IID and Title VI allocations for FY 81 totalled over \$17 million out of a total CETA allocation for Navajos of \$30 million.

In our first contacts with OMB we did not have the feeling that there was a clear understanding of the magnitude of the impacts of the proposed budget cuts. We believe that an in-depth discussion should take place before irrevocably reducing funds formerly available to Indian recipients.

We also think it is important to note that the administrative costs of funds provided through DOL were substantially lower than any funding processed through BIA. Thus, any cuts in DOL funding have a greater impact on Indian recipients.

4. Preservation, protection and qualification of our inherent and reserved water rights.

President Reagan has said and we believe that:

"the inherent water rights of the Indian tribes is a vital key to true and lasting economic development for Indian reservations . . . that quantification of water rights must be achieved in the future; but quantification must not be to the detriment of the Indian tribes.

The best protection of Indian water rights is the perfection of those rights through beneficial usage of the water by the Indian people."

There are 83 million acres of Indian land in the United States which contain valuable resources, including croplands, forests, watersheds, rivers, lakes, wild and open lands, cattle and sheep ranges, recreational areas, mineral lands, power sites, and land for urban growth.

Although the past has seen ranges over-grazed, and timber and minerals removed too cheaply, the potential of Indian land remains largely undeveloped. Indian lands have not been benefitted by the large federal reclamation projects of



the West. Thus, while having the potential for wealth and self-sufficiency, Indians are the poorest ethnic group in this country. They have the highest suicide rate, and the poorest health of any such group.

The development of Indian lands and resources, according to the wishes of the tribes, is in the best interest of the tribes and the United States.

The key to that development is water. Indian tribes have unique legal status as dependent sovereigns. Many have valid existing treaties with the United States. They are the only ethnic group specifically mentioned in the Northwest Ordinance and the U.S. Constitution. Indian water rights are likewise unique.

However, there is fierce competition for water and resources (including fishing rights) in the fast-growing West. It is in the best interest of the United States and the tribes to protect Indian and federal water rights for Indian land and resource development, thereby enhancing the potential for employment, energy, food and other resources for a growing nation and world.

Our specific concern is that there will be an attempt to provide us with "dollars for water" just as the federal government did when it took our land. The establishment of an "Indian Claims Commission" to pay us for our water rights is not an acceptable solution. We do not want and will not accept dollars for the most vital resource that we have possessed since our beginning.

At present there is no effective mechanism with the Department of Interior to deal in any meaningful way with Indian water rights. With the exception of one attorney in the Solicitor's Office who is assigned to such problems the DOI is without a staff to provide any real assistance. Thus, many tribes have been compelled to use their meager funds for matters that are firmly the responsibility of the federal trustee.

5. 6. & 7. Preservation of treaty Obligations, Respect for Tribal Sovereignty and Active Enforcement of Trust Responsibilities.

Tribal Sovereignty

The Indian peoples are more than social clubs, more than voluntary organizations, more than quaint relics of the American past. The Indian peoples form political nations. The sovereignty exercised by these Indian nations has its roots in the primeval development of Indian tribes within the area now known as the United States.

Tribal sovereignty is no different from that of any other people. Tribal sovereignty at its most basic means the inherent power of the tribe to control persons, property and resources within the geographical boundaries of the tribe's lands.

Tribal sovereignty -- or control -- in its pre-Columbus form contained no limits other than those imposed by the tribal members themselves upon their leadership.

Whether American history is learned from school textbooks or from the oral histories handed down by the elders of our tribes, it is known that this unfettered tribal sovereignty was severely modified with the coming of the white man. Recognition by our forefathers of the superior military force of your forefathers meant that tribal sovereignty would cease to exist in some areas -- we lost, for example, the power to enter into treaties with foreign nations -- and that sovereignty not extinguished by your superior force was to be permitted to flourish solely within the geographical confines of the lands set aside for the tribes by the Congress or the Presidents.

In 1981 as our energy resources light a gleam in the eyes of American industry the sovereignty which we have exercised over our lands and the people who come upon them has become an impediment to the rapid development of our natural resources by those companies whose foreign sources are drying up. Tribal sovereignty has survived Manifest Destiny and it has survived the good intentions of assimilationists but it will take all our will and all your support to resist the pressures now brought to bear upon us. Tribal sovereignty must not be drowned by the oil which lies beneath our lands.

#### Treaty Obligations

Many of the Indian Nations came to terms with the newly created United States through the execution of treaties, although in later years the cessation of hostilities was often formalized not by such a document of intergovernmental relations

but rather by the setting aside of land for the permanent use and occupancy of a particular tribe.

These treaties represent the sacred promise of the United States to allow the Indian people to live in peace, to follow the traditions and customs of their own cultures and to control and benefit from the development of the natural resources found within tribal lands. These treaties represent the sacred promise of the United States to permit the Indian peoples to maintain a humane existence, to better their economic conditions and to live in dignity.

In 1981 America the sacred promises of the 1800 America carry a hollow ring for many. Solemn promises of land in 1800 are met in 1981 with the concentrated efforts of non-Indians to divert the water so necessary to make this land fit for human existence and for cultural growth. Solemn promises of education for our children in 1800 are met in 1981 with the concentrated efforts of non-Indians to refuse state funding for schools for Indian children and with the monumental indifference of the federal government to the special educational needs of our people. At a time when so many Americans worry about the future of a country that "modifies" its treaty with Panama (or, for that matter, "forgets" its commitments to Nationalist China), we Indian leaders must be forgiven a cynical acceptance of such national policies -- we have long known how easily a nation's sacred promises can be swept away by the winds of economic and political change.

We have not forgotten our treaty promises. We ask that you, as leader of the United States, do not forget yours. It may be true that enforcement of our treaty rights will be costly and unpopular, but our lives and, in fact, the very life of our cultures depends upon the preservation of these treaty obligations.

#### The Trust Relationship

When the founding fathers of the United States made the decision to come to terms with the Indian Nations as governments rather than to eradicate the Indian peoples as competitors for the resources of this land, a fundamental course of action was charted to protect and preserve the separate Indian cultures within the politically more-powerful government of the United States.

The trust relationship -- intended as a nurturing and protective relationship -- was established to permit the more educated and more economically advanced Western European culture of the fledgling United States to act as guardian for the lives and property of the Indian peoples who were soon consigned to limited, defined reservations of land.

The trust relationship has served as the structural basis for the period of transition from active warfare between the Indian Nations and the United States to a time in the not-yet-foreseeable future when the Indian tribes will be able to stand alone against the insistent demands of the non-Indians for their land, water, minerals and other resources and survive.

The federal government -- its Courts, Congress and Presidency -- have carried out the trust relationship with an enthusiasm that has unfortunately varied tremendously depending upon the strength of non-Indian political pressures which were brought to bear.

Many of us owe our "modern" form of tribal government to the federal trustee's eagerness to obtain "official" tribal approval for oil and gas leases which were to last far beyond the lifetimes of those whose consent was sought. With such a past, it is little wonder that we Indian leaders demand recognition by the federal government in 1981 of its responsibility to ensure the welfare of the Indian tribes when it approves or arbitrates matters that affect our people and our lands.

The trust relationship does not mean that the federal government is to act as an impartial buffer between the desires of a tribe and those of the non-Indian citizens. Rather, the trust relationship means that the federal government is on our side, in our corner, fighting for our rights.

Only sporadically has the federal government taken such a view and unfortunately its actions taken on "behalf" of Indians often take into account the personal views of all concerned except the views of the tribe whom the trustee is so busy "helping." Economic progress is a goal each of us has for his people but federally-initiated progress at the cost of Indian cultural identity makes a mockery of the federal trust relationship. Thus, for example, federal support for Indian education

is welcome, but where the schools take the children from their families, their language, their religion, their homeland, it is hard for us to see what great benefit is obtained.

We know full well that in a nation of multi-millions the needs of the first Americans may seem to pale in light of the louder cries of others. We know full well how limited your time can be too when so many seek your aid, for we too are leaders of a people. Without your compassion, your decency, your sense of American honor, the Indian peoples may be swallowed up by the problems which beset you. We ask only that you remember that we come to you not on behalf of snail darters or automobile manufacturers, that we are not selling military hardware or importing oil, but that instead we come to you as the representatives of living and breathing people who have inhabited and cherished this land you too now love since time immemorial. We ask that you continue to support your views expressed in 1980:

"I support tribal sovereignty and self-determination for federally recognized American Indian tribal governments."

Any enumeration of the needs of the American Indian could go on infinitely, but to do so would only inhibit the limited relief that we seek. We believe that we have made an initial communication of our needs with great moderation, but we also believe that, at the bottom of this limited agenda, we are placing before the new administration that, in the words of Justice Black, "Great nations, like great men, should keep their word."