

PEOPLE OF THE LAND

Sustaining American Indian Agriculture in
Idaho, Nevada, Oregon and Washington



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PREFACE



This Western Region Sustainable Agriculture Research and Education (WSARE) professional development program addresses the educational needs of agricultural and natural resource professionals working with American Indian agricultural producers within a four-state region in the western United States.¹ While almost every Indian reservation works with agricultural and natural resource professionals, including Cooperative Extension, U.S. Department of Agriculture, Natural Resources Conservation Service, Farm Service Agency and Bureau of Land Management, most programs are not specifically designed for Indians. It is important for agency professionals to acknowledge and understand the “Indian situation” in order to better facilitate adoption of sustainable agricultural and natural resource management practices on Indian reservations.

The Indian situation refers to the results of focus group research conducted by University of Nevada Cooperative Extension (UNCE) professionals in 2003. UNCE professionals interviewed Indian producers on reservations in Nevada and agricultural professionals who attended the 2003 Nevada Indian Agriculture Summit. Agricultural professionals reported that they did not fully understand the issues that agricultural producers face on reservation lands—hence the expression, “Indian situation.”

The focus group research results indicated that both Indian producers and agricultural professionals perceive there are major obstacles to the adoption of sustainable agricultural and natural resource management practices on Indian reservations. This identified gap suggests that in order to work more effectively with Indian individuals and reservation governments, agricultural professionals must improve their understanding and appreciation of individual tribal history, culture, socioeconomic situations and political attributes. They must also acknowledge potential differences in perspectives concerning agriculture and resources on reservation lands.

The research-based information featured in this self-paced curriculum addresses this knowledge gap, focusing on Indian reservations within a select four-state area of the northwestern U.S. This curriculum seeks to increase the capacity of agricultural professionals to work as effectively as possible on Indian lands. The intended outcomes of this curriculum include:

¹ Throughout the curriculum, the authors refer to agricultural and natural resource professionals simply as agricultural professionals.

- Increased agricultural professionals' knowledge and appreciation of the cultural, historical, social, political and economic environments on reservations relevant to developing sustainable agricultural and natural resource education programs on Indian lands;
- Improved program design and outreach that serves Indian producers, land owners and tribal governments, keeping in mind the infinitely unique characteristics that may be found on a given reservation;
- Strengthened and/or increased sustainable agricultural and natural resource management programs and practices on Indian reservations; and
- Increased participation of tribal government and individual Indian agricultural producers and land owners in sustainable agricultural and natural resource management programs.

Chapter 1 provides a geographic boundary for the curriculum, the western range. It delineates Indians of the western range as those tribes who reside in a region of the western U.S. bordered on the west by the Sierra and Cascade Mountains and on the east by the Rocky Mountains. Chapter 1 seeks to increase awareness of the early Indian culture unique to the western range, focusing on the Columbia Plateau and Great Basin. It outlines the four-state area targeted in the curriculum, and highlights the 10 largest Indian reservations located within this four-state area.

In order to understand and appreciate agricultural and natural resource management issues on Indian reservations, it is necessary to acquire at least a rudimentary awareness of federal Indian policy. Chapter 2 provides a brief overview of federal Indian policies spanning two centuries. The role of the Doctrine of Discovery in shaping these policies is considered. More recent federal policies are presented that reflect shifting sociopolitical views of policy makers and the self-determination efforts of Indians.

Chapter 3 discusses the General Allotment Act (1887) and its effects on Indian land tenure, defining the various Indian land tenure types that exist today. It considers the potential challenges that Indian land tenure presents to achieving economically efficient and sustainable natural resource management decisions and actions.

Chapter 4 provides an overview of agricultural irrigation and water rights on reservation lands. Agricultural professionals who desire to work on reservation lands in the western U.S. must have a basic understanding of Indian water rights. This chapter explores the evolution of Indian water rights on reservation lands. It focuses on federally managed irrigation systems, Indian water right settlements and the future demand for water.

Chapter 5 examines the evolution and structure of tribal governance on Indian reservations. It discusses how the structure of tribal governance may differ. This chapter also explores the concepts of trust responsibility and tribal sovereignty and discusses the significance of federal recognition.

Chapter 6 discusses the Indian Self-Governance Initiative made possible through the Indian Self-Determination and Education Assistance Act (1975) and its implementation on reservations. It explains the contracting and compacting processes that allow tribal governments to administer federally funded programs previously administered by the federal government.

Chapter 7 summarizes the results of survey research, conducted between 2005 and 2007, with individuals living on Indian reservations and agricultural professionals working on reservations. The survey results reviewed in this chapter provide a glimpse of reservation quality of life from the eyes of those who live on reservations. Further, those perceptions are compared with those of agricultural professionals working on reservations. It discusses the implications of the survey results for implementing agricultural and natural resource programs on reservations.

Chapter 8 considers how individual perspectives may influence the success of reservation programs. It explores the role of communication in increasing the capacity of agricultural professionals to work more effectively with Indian producers and tribes. Agricultural professionals who understand and appreciate tribal culture and lifestyle can help government agencies implement programs that are tailored to the particular needs and environment of a given reservation. This chapter also highlights the Federally Recognized Tribes Extension Program.

Chapter reviews feature a variety of question formats, such as multiple choice, true/false and short answers. The reviews are designed to provide readers with a tool to measure their progress in comprehending and digesting the information presented in each chapter. The chapter reviews may inspire readers to continue learning about reservation lands and Indians of the western range. A glossary features explanations and definitions of bold-faced words that appear throughout the text.





CHAPTER I

CHAPTER I

American Indians of the Western Range

LORETTA SINGLETARY

Learning Objectives:

- ⊕ Increase awareness of early American Indian culture unique to the western range, focusing on the Columbia Plateau and Great Basin.
- ⊕ Outline the four-state area targeted in the curriculum – Idaho, Nevada, Oregon and Washington – highlighting the 10 largest Indian reservations located within the four-state area.



American Indians of the **western range** reside in a region of the western United States, bordered on the west by the Sierra and Cascade ranges and on the east by the Rocky Mountains. This chapter briefly describes early cultural attributes unique to these indigenous people.

For this pilot curriculum, the authors targeted four contiguous states that lie within the western range and the Western Sustainable Agriculture Research and Education region. They are Idaho, Nevada, Oregon and Washington. Due to the vast size of this region, the authors focused on the 10 largest Indian reservations in these four states.

Documented accounts of early Indian cultures are organized geographically by language and culture prior to and following non-Indian contact. Anthropologists have developed groupings based on discoveries and extensive studies of archaeological artifacts.

Anthropologists, historians and geographers have relied also on information obtained from written accounts by trappers, missionaries, pioneers and early explorers, including Meriwether Lewis and William Clark. Much of the knowledge about early Indian cultures stems from speculative reconstructions by Euro-Americans after contact was established.

This curriculum is intended to motivate the reader to become immersed in the lives, traditions and realities of the people they hope to affect. Professionals who work with people on a given reservation should learn as much as possible about that reservation and its resident tribe(s) with respect to origin, history, culture, tradition, economics and natural resource issues.¹



The Nespelem Indians lived in the Columbia Plateau region.



¹ For supplemental reading concerning the history and economy of particular reservations, the author recommends *Tiller's Guide to Indian Country: Economic Profiles of American Indian Reservations* (Tiller, 2005). For supplemental reading concerning the anthropological accounts of Indian people of the western range, the author recommends the *Handbook of North American Indians, Volume 11: Great Basin* (1986) and *Volume 12: Plateau* (1998). The reservations highlighted in this curriculum provide Web sites with useful information. Several of the reservations featured here also offer museums and cultural centers that provide further opportunities to learn about individual tribes.



Traditional Plateau cultures, such as the Nez Perce, relied on fish supplemented with game.

Handmade boats constructed from tule reeds were used for hunting fowl and collecting bird eggs in marshy areas of the Great Basin.



Western Range: Columbia Plateau and Great Basin

The western range, or **Intermontaine region**, refers to a cultural and physiographic region of the western United States that lies between the Rocky Mountains to the east and the Sierra Nevada and Cascade ranges to the west, and includes large portions of Idaho, Nevada, Oregon and Washington. Anthropologists further recognize Indians of the western range as belonging to one of two distinct cultural and physiographic regions: the **Columbia Plateau** and **Great Basin** (see Figure 1.1). Archaeological evidence indicates that Indian people began living in these regions about 10,000 years ago, roughly the time period following the glacial retreat.

Early American Indian Culture

Early Indians of the western range were a **survivalist culture**, which necessitated they live a **semi-nomadic** lifestyle. During the winter, they resided in permanent lodges and consumed foods they prepared and stored for the cold winter months. During the remainder of the year, they moved among established camps in rhythm with the change of seasons to hunt and gather food.

The Great Basin is primarily high desert, open arid land with alkaline soils. Although the Great Basin receives little precipitation, it provided early Indians with small game as well as nuts and seeds from the tree-lined mountain ranges. Its lowland perennial streams and marshes provided various waterfowl and eggs. Game consisted of jackrabbits, deer and mountain sheep. While northern Great Basin Indians hunted mountain sheep in addition to elk and deer, central Great Basin Indians relied more heavily upon rabbit supplemented occasionally with mule deer.

In contrast, the Columbia Plateau farther north featured a cooler, wetter, more food-abundant environment, ranging from coniferous forests to lush mountain meadows and bunchgrasses. Its rich and diverse resources supplied elk, deer, antelope and bear.

Native plants provided an important food staple for western range people. A variety of wild vegetables were consumed, including wild carrot, onion and spinach. Both Plateau

and Great Basin people relied heavily on roots of the camas plant. They constructed tools to dig for roots, which included wooden sticks, often with antler horns for handles (Chatters & Pokotylo, 1998). Columbia Plateau Indians harvested a large variety of wild berries, including huckleberries, chokecherries and strawberries, while Great Basin Indians harvested primarily seeds and pine nuts (Hunn, Turner & French, 1998).

Figure 1.1. American Indians of the Western Range

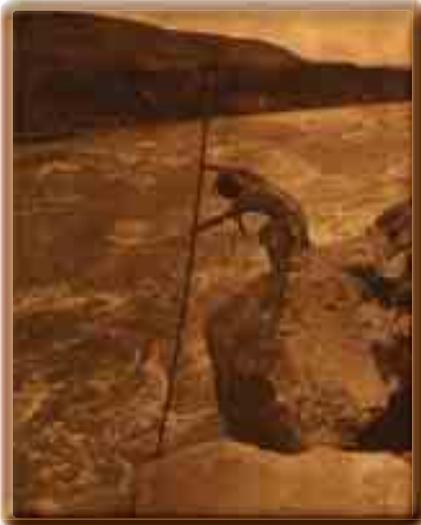


The Walla Walla lived along the Columbia River as well as several of its tributaries, including the Walla Walla, Yakama and Snake rivers.



The Great Basin Walker River Paiute lived along and fished the terminus desert lake of the Walker River.

Source: Woodhead, 1995.



Columbia Plateau Indians speared or used a long-haul dip net to capture a variety of salmon that thrived in the Columbia River and its tributaries.

Archaeological evidence, including artifacts such as handmade hooks, nets and traps, suggests that the majority of early western range Indians relied heavily upon fish (Hewes, 1998). Those located farther upstream and inland relied more upon rabbit, deer and elk. They traded animal skins and camas roots for salmon harvested and dried by tribes located closer to salmon runs (Boyd, 1999).

Similarly, some Great Basin Indians fished the rivers and lakes of their rugged high desert homeland. In northern Nevada, the rivers running through these lands originated as streams fed by snow melt from the surrounding Sierra Nevada. These include the Truckee, Carson and Walker rivers. The people living along these rivers and desert lakes relied upon various species of trout in addition to large sucker fish such as cui-ui.

During the spring, summer and fall, Indians throughout the western range convened at major deltas and similar points along the Columbia River to enjoy bountiful fish harvests. Indians who attended these gatherings traded goods such as herbs, dried meats, animal skins, obsidian arrow heads, hand-made tools, woven baskets, shells and beads. The gatherings also provided a range of social opportunities, including gambling and other games, dancing, courtship, marriage and ceremonies.

Early Indians throughout the western range lived and traveled as bands. Typically these bands consisted of one to a few families related by marriage, or **kin-cliques**.

Accounts of early explorers described the winter lodges or **wickiups** of Great Basin Indians as hemispherical-shaped lodges. To build the support frame, they lashed together native willow saplings, leaving a hole at the top for smoke and an opening at the east side for an entrance. They covered the frame with a thick thatch of dried piñon needles and sometimes covered the thatch with earth, sealing the bottom of the structure with earth and mud. Summer homes near fishing areas included primarily shade houses constructed of willow boughs and sagebrush (Curtis, 1911; Fowler & Liljebald, 1986).



To preserve meats and fish, early Indians used smoking and drying techniques.

Many early Columbia Plateau Indians lived in permanent longhouses, which were rectangular-shaped structures supported with lodgepole pine frames and covered with mats woven from **tule**, native sedge that grew in freshwater riparian areas.



The Columbia Plateau refers to a physiographic region shaped partly by glaciers but largely by volcanic processes. Based on flow volume, the Columbia River is the largest river in North America that flows into the Pacific Ocean. The Columbia River flows for 1,243 miles from its snowpack-fed lake in the Canadian Rockies of British Columbia through Washington and Oregon to the Pacific Ocean, and drains 259,000 square miles over seven states: Oregon, Washington, Idaho, Montana, Nevada, Wyoming and Utah. The Columbia River is fed by 10 major tributaries: the Cowlitz, Deschutes, Kootenay, Lewis, Okanagan, Snake, Spokane, Wenatchee, Willamette and Yakama rivers.



The Columbia River and its large tributaries served as transportation arteries for Columbia Plateau Indians. The Snake River, the largest tributary of the Columbia River, is 1,040 miles long and drains 108,000 square miles as it flows from the Rockies through Wyoming, Idaho, Washington and Oregon.



Wickiups were constructed of willow poles and branches, sagebrush and piñon needles native to the Great Basin.



Smaller, conical shaped structures of tule and pine poles were constructed for single families of the Columbia Plateau.



After adoption of the horse, many Plateau Indians used animal skins and canvas to build lodges.

The tulle reeds provided insulation during the winter and allowed the house to breathe in the summer. Large numbers of families, typically related by marriage, shared these lodges, with each family having a designated area for fire, cooking and sleeping. Smaller, conical-shaped structures of the same materials were also constructed to house nuclear families. After adoption of the horse, many Plateau Indians constructed their lodgings from animal skins and later canvas, instead of tulle mats, which provided a lighter, more easily transportable lodge.



Celilo Falls and the Dalles, located on the lower Columbia River, served as major trade locations for western range Indians. During the summer, Indians traveled to these meeting places from hundreds of miles away to exchange ideas, baskets, clothing, animal skins, beads, dried fish, herbs, canoes, tools, weapons, slaves and eventually horses. Fur trappers who attended these gatherings in the early 1800s described them as encampments with thousands of Indians (Woodhead, 1995).

Basket-Maker Culture

Anthropologists refer to the early Indians of the western range as a **basket-maker culture**. Baskets made by Indians in the Columbia Plateau and Great Basin have been discovered that date back to more than 10,000 years.

Baskets were essential survival tools. Indians used these items as a means to harvest and process plants and seeds, as well as to transport medicine, food and personal belongings. For a culture reliant upon the ability to travel long distances on foot in search of food, baskets were an indispensable part of their semi-nomadic lifestyle. They were woven, using a twining technique, during the long winter months. Basketry also expressed an artistic nature, featuring designs and details that required great skill, patience and creativity.

Western range Indians wove baskets from available native plants. In the northern Great Basin, Indians made their baskets from willows that grew along the riverbanks. They sealed some willow baskets with the pine tar from local piñon trees in order to use the baskets to carry and store water.

For the Columbia Plateau Indians, native plants for basket-weaving included bear grass, cedar root, cedar tree bark, Indian corn husks and hemp. They invested time during the winter producing hemp cord, which they used in the construction of tule mats for housing, bedding, flooring, baskets, bags and hats (Miller, 1998). Soft bags, referred to as **sally bags**, were constructed to collect roots and serve as objects of personal adornment. The women also wove and wore soft yet structured basket hats, which served as protection from cold, wind, dust and rain. They constructed head straps that were used to bear burdens on their backs, such as cradle boards. Basket hats likely served as objects of personal adornment as well (Schlick, 1994).

The middle region of the Columbia River in particular features some of the best examples of Indian basketry in North America. Descendants of this area today are members of the Yakama, Umatilla and Warm Springs tribes (Schlick, 1994).



Baskets were essential survival tools.



Large cone baskets, also called burden baskets, were designed to carry family belongings from one camp to another.



Sally bags were used as objects of adornment by Plateau people.

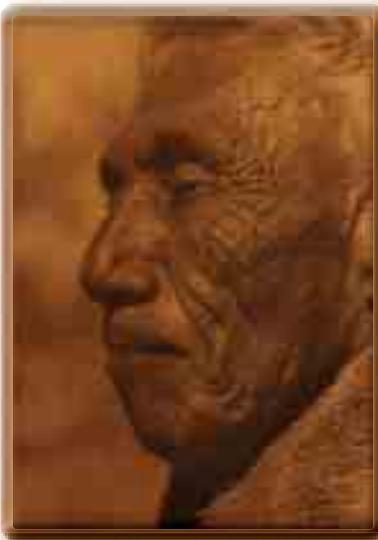


The Nez Perce spoke a dialect of the Sahaptin language family.

American Indian Language

The majority of the early Columbia Plateau Indians spoke a dialect of the **Sahaptin** language family. These included the Klickitat, Umatilla, Yakama, Palouse, Cayuse, Walla Walla and Nez Perce. Speakers of the **Salishan** language family settled to the north and east of Sahaptin speakers in modern-day Canada. Salishan speakers included Lillooet, Shuswap, Okanagon, Thompson and Lake. Farther south, in what is now northeastern Washington and northwestern Idaho, Salishan speakers included Sanpoil, Kalispel, Spokane and Coeur d'Alene (Kinkade et al., 1998).

The Great Basin Indians spoke dialects of the **Uto-Aztecan** language family. Northernmost Uto-Aztecan speakers included the Shoshone and Bannock people who inhabited portions of the Columbia Plateau and Great Basin in present-day Idaho. The Northern Paiute bands, located in northern and central Nevada, comprised a significant number of Uto-Aztecan speakers in the Great Basin. This rather large language family includes languages still spoken by millions of descendants of the ancient Aztec civilization who live in central Mexico and in parts of Guatemala in Central America (Miller, 1986).



Northern Paiute bands spoke dialects of the Uto-Aztecan language family.

As is the case with many Indian tribes, native language is disappearing, with fewer tribal members, mainly elders, able to speak their native tongue. Over the past several decades, tribal governments and schools in the Plateau and Great Basin regions have made concerted efforts to rekindle an interest and pride in cultural heritage with a focus on native languages. Several reservations have established native language programs either as part of their school curriculum or as extracurricular learning programs. Native language instruction exists on the Colville, Warm Springs, Umatilla and Yakama reservations in the Columbia Plateau, and on the Fort Hall, Pyramid Lake and Walker River reservations in the Great Basin.

Establishment of native language programs has been more challenging for reservations with smaller populations and for reservations comprised of confederations of numerous bands speaking different languages. By the mid-1990s, for example, there were only an estimated 50 speakers of Coeur d'Alene. And despite attempts to teach Nez Perce, Colville, or Columbian languages on the Colville Reservation, the number of native speakers of these languages has steadily declined. The Confederated Tribes of the Warm Springs Reservation in Oregon have also implemented language programs. Nevertheless, within the tribal confederation, there are only 50 speakers of Ichishkiin (Walla Walla) and five fluent speakers of Kiksht (Wasco) and Numu (Paiute).

Influence of the Horse

History has proven repeatedly that contrary to stereotyping Indians as unwilling to adapt to change, Indians have been highly adaptive to change and have illustrated a desire to compete actively within mainstream culture (Anderson, 1995). An excellent example of this capacity for change is demonstrated with the adoption of the horse among western range cultures in the 1600s.

Following adoption of the horse, most Indian cultures became much less reliant upon traditional hunting and gathering survival patterns. The horse provided cost-effective transportation, enabling Indians to cover great distances in order to compete in the fur and animal skin trade prevalent in the Columbia Plateau area during the early 1800s (Anderson, 1995).

Some anthropologists attribute many of the significant changes to Plateau Indian culture that occurred between 1600 and 1750 to the influence of the horse rather than interaction with non-Indians (Walker & Sprague, 1998). Horses were honored for their power and treated respectfully as “beasts of burden” (Binnema, 2001). The more horses a tribe possessed, the more powerful and influential it was in establishing stronger trade with other tribes over longer distances. In fact, as a result of the horse and increased mobility, a prolific slave trade began to flourish throughout the western range. Various Plateau tribes on horseback frequently raided small villages to capture and sell Indians to coastal tribes as laborers.

The horse also enabled many Columbia Plateau and some northern Great Basin tribes, the Northern Shoshone and Bannock in particular, to expand their fur trade with tribes as far away as the Great Plains (Stern, 1998). They began to travel greater distances, crossing over mountainous terrain, to hunt bison cooperatively with Great Plains tribes, frequently adopting the customs and dress of Indians with whom they intermingled (Hunn, 1990).



At the turn of the 19th century, European fashion featured felt hats, creating an unprecedented demand for beaver pelts to manufacture the hats. This fashion trend motivated the development of an aggressive fur trade throughout the Columbia Plateau with its abundant streams, rivers and forests. Between 1807 and 1840, Canadian and American fur trade companies competed for control of the fur trade market in the northwestern U.S., establishing a number of trading posts. Fur traders and trappers urged Plateau Indians to trap beavers and exchange the pelts for guns, arrowhead and cloth at the trading posts.





In their search for a hearty and sure-footed breed that could traverse rugged mountains and travel long distances, several Plateau tribes became expert horse breeders, including the Cayuse, Palouse and Nez Perce.

As the Northern Paiute continued their survival existence on foot, they were increasingly vulnerable to a growing Indian slave trade (Woodhead, 1995). Indians on horseback from the north, Utes in particular, periodically raided Paiute camps and either forced them to serve as slaves or sold them into slavery with other Indian tribes or to Spanish colonialists in New Mexico.



The Bareback Horse Relay Race, a featured event of the annual Pendleton Round-Up in Oregon, provides Indian boys and girls the opportunity to demonstrate traditional Indian games and horsemanship skills.

Many Great Basin Indians, particularly the Northern Paiute, were among the last Indian cultures to acquire the horse (Shimkin, 1986). This was due primarily to a lack of water in the Great Basin's arid environment, which consisted primarily of greasewood, sagebrush and piñon-juniper forests. The environment did not support feed quantities needed by the horse, as did the comparatively generous grasslands of the Columbia Plateau farther north. Regional differences among the cultures grew more distinct after the adoption of the horse became widespread among the Columbia Plateau Indians.

By the time Euro-Americans came to settle the Great Basin lands, the Northern Paiute saw them not as invaders but more as a potential alternative to Indian slavery (Blackhawk, 2006). However, once the Great Basin Indians adopted the horse during the 18th century, they too expanded their seasonal hunting patterns and trade activities with tribes far away from their ancestral grounds.

Ultimately, the horse impacted early Indians throughout the entire western range. Their undying love and respect for the horse remains prevalent in the contemporary Indian culture throughout this region. The Indians of the Columbia Plateau, in particular, have been referred to as a **horse culture** with exceptional equestrian and horse breeding skills.

American Indian Reservations of the Western Range

In terms of American Indian culture, the western range remains geographically expansive and culturally diverse, from the forested mountains and great rivers of the Columbia Plateau to the arid, rugged rangelands and desert lakes of the Great Basin. The Columbia Plateau alone is home to more than two dozen different Indian people and two major linguistic groups. The 10 reservations highlighted and discussed in this curriculum are recognized by the federal government and include the following²:

Washington~ Colville Reservation; Yakama Reservation

Oregon~ Umatilla Reservation; Warm Springs Reservation

Idaho~ Coeur d'Alene Reservation; Nez Perce Reservation; Fort Hall Reservation

Nevada~ Pyramid Lake Reservation; Walker River Reservation; Duck Valley Reservation

Colville Reservation

Established by Executive Order in 1872, the Colville Reservation includes 12 Indian bands. These are (alphabetically listed by common French and English names): Chelan, Colville, Entiate, Lakes, Methow, Moses Columbia, Nespalem, Nez Perce, Okanogan (southern), San Poil, Wenatchee and Palouse bands. Combining such a large number of indigenous groups that speak several different languages has produced one of the most culturally and politically complex reservations in the U.S.



Contemporary longhouses on the Colville Reservation, which illustrate the availability of local lumber, are used for various community gatherings including sports, ceremonies and celebrations.

The Colville Reservation comprises more than 1.4 million acres in north central Washington and is bordered on the east, west and south sides by the Okanogan and Columbia rivers. In an effort to re-establish its traditional land base, the tribal government is striving to acquire additional lands. Funds to support these efforts are provided by sales of minerals, timber and hydroelectric rights.

² The information presented for selected reservations is based on *Tiller's Guide to Indian Country: Economic Profiles of American Indian Reservations* (Tiller, 2005). Readers are encouraged to acquire more current information directly from reservation Web sites, libraries, museums and community cultural organizations.



The Omak Suicide Race on the Colville Reservation requires riders to race their horses down a 225 foot-long dirt slope at a 62-degree angle, across the Okanogan River and into a rodeo arena.

Primary resources on the reservation include timber, gaming and tourism. Coulee Dam, constructed in 1938, created Lake Roosevelt, a 150-mile man made reservoir which generates significant tourism revenues.

In the 1990s, the Colville Confederated Tribes began working closely with the Natural Resources Conservation Service (NRCS) to restore 40 miles of historical fish habitat, bringing back the spring Chinook salmon. In addition, the Colville Tribal Fish and Wildlife Department operates a program to rehabilitate its fisheries, hatching and releasing trout into streams and lakes. The hatchery stocks all of north central Washington's streams and lakes.

Currently the reservation's 82,000 acres of farmland, of which 2,000 acres are irrigated, produce alfalfa, wheat, barley and apples. The reservation has substantial open rangelands with potential for expansion of its agricultural industry.

Yakama Reservation

The Yakama Reservation was established through the Treaty of 1855 between the U.S. government and the 14 original tribes and bands of the Yakama Nation who lived in what is today south central Washington. The Confederated Tribes and Bands of the Yakama Reservation include: Yakama, Kah-milt-pah, Klickitat, Klingquit, Kon-was-say-ee, Li-ay-was, Palouse, Pisuouse, Ochechotes, Skin-pah, Shyiks, Se-ap-cat, Wenatchapum and Wish-ham. The Yakama Tribal Council includes a representative for each of these original tribes and bands.

The reservation consists of approximately 1.4 million acres along the eastern side of the Cascade Range. Shortly after the Treaty of 1855 was ratified, the treaty terms were violated, including fishing rights and the encroachment of settlers onto reservation lands. These violations resulted in the Yakama War which lasted until 1859, when the Treaty of 1855 was signed into law.

In addition to retail, services, gaming and manufacturing, the Yakama Reservation possesses a range of natural resource-based enterprises, including commercial salmon and steelhead trout fisheries on the main fork of the Columbia River, traditional Indian fishing grounds. The Yakama Nation Fisheries Management Program manages its extensive and historical fish populations through collaborative efforts with private irrigators located on nearby streams.

The Yakama Reservation is also a part of the fifth largest vegetable-fruit production area in the U.S. The reservation contains over 100,000 irrigated acres, with ongoing tribal efforts to acquire additional land to further develop its agricultural industry. Crops produced on reservation lands include wheat, hops, alfalfa, sugar beets, asparagus, sweet corn, grapes, spearmint and a Yakama brand apple. The Yakama Nation operates a juice beverage manufacturing and bottling plant located off the reservation. Approximately 900,000 acres of reservation land is used for livestock grazing, including a tribally owned buffalo herd. With more than 300,000 acres of timber, the Yakama Nation manages the largest timber stand on an Indian reservation in the U.S.

Umatilla Reservation

The Umatilla Reservation is located in northeastern Oregon and comprises 172,140 acres. Established by the Walla Walla Treaty in 1855, the Confederated Tribes of the Umatilla Reservation include the Walla Walla, Umatilla and Cayuse tribes. During the 1800s, these tribes joined forces to fight the increasing number of white immigrants moving into the area while traveling the Oregon Trail. The treaty officially recognized the tribal confederation, relocating these tribes to their current reservation lands.

Historically, these tribes relied heavily upon salmon and other fish from the Umatilla, Walla Walla and Columbia rivers. The tribes operate the Umatilla Basin Project, which is a federal water exchange program. The purpose of the exchange is to enable irrigation districts to operate while at the same time restore river wildlife habitat and enhance fisheries in the Umatilla and Columbia rivers.

Agriculture is a significant part of the tribal economy with more than 55,000 leased acres producing primarily green peas and dryland wheat. The reservation also contains approximately 83,000 acres of timber.



The Pendleton Round-Up provides Plateau tribes with opportunities to demonstrate their respect for tradition and the horse.



The Kah Nee Ta High Desert Resort and Casino features a swimming pool and conference meeting space.

Warm Springs Reservation

The Warm Springs Reservation, located in north central Oregon east of the Cascade Range comprises 652,994 acres. More than half of this acreage is forested with the rest primarily in rangelands. Established by the Treaty of 1855, the reservation brought together eight bands from the Warm Springs area, formerly the Walla Walla or Ichishkiin (Tenino, Dockspus, Wyam and Taih bands), the Wasco (Dog River, Dalles, Kiksht and Ki-gal-twal-la bands), and in 1879, a single band of the Numu or Northern Paiute that was

relocated from the Yakama Reservation. Although these bands agreed to relocate to the reservation, they negotiated the continuation of their rights to fish and hunt their traditional lands along the Columbia River tributaries.

The Warm Springs Reservation has pursued gaming and tourism as a revenue source and provides numerous outdoor recreation opportunities to tourists. These include self-guided camping, hiking, horseback riding, kayaking, rafting and fishing. The tribe also owns the Kah Nee Ta High Desert Resort and Casino, which features an 18-hole golf course, hotel, spa, dining options, tennis courts, biking paths and guided tours.

Agriculture focuses on dryland winter wheat and range-fed elk, deer, cattle and horses. The tribe is working to strengthen its salmon and steelhead populations in protected rivers and streams running through the reservation. The tribal division of natural resources is comparatively large with more than 200 employees. It manages the reservation's native plants, foods of cultural significance, waterways, fish, timber and wildlife.

Coeur d'Alene Reservation

The Coeur d'Alene Reservation comprises three bands of family-based villages within the region: the Coeur d'Alene Lake band, which includes 16 Hayden Lake villages; the Coeur d'Alene River band, which includes 11 villages; and the St. Joe River band, which includes six villages. The Salishan name for the Coeur d'Alene is Schitsu'umsh or "The Ones that were Found Here." The French-speaking fur traders called them Coeur d'Alene meaning "heart of an awl," referring to the ability of the people to negotiate a good trade for their pelts.

Established by Executive Order in 1873, the original reservation contained 590,000 acres. The discovery of silver deposits, increasing pressure to open the land to settlement, land cessions, allotments and forced allotment sales all worked to reduce these landholdings over time to approximately 345,000 acres.

Agriculture plays an important economic role, employing approximately 10 percent of tribal members. The reservation owns a 6,000-acre farm that produces peas, barley, wheat, canola and lentils. The tribe also produces Kentucky bluegrass seed on 30,000 acres, while logging provides another natural resource-based revenue.

The Coeur d'Alene Casino Resort Hotel provides income from gaming and tourism. Outdoor recreational activities include big game hunting, boating, fishing, mountain climbing and snow skiing.

Nez Perce Reservation

Originally known as the Nimilpuus, French trappers renamed these people Nez Perce or "Pierced Nose," although this naming is inappropriate since the tribal members were not known to pierce their noses. The Treaty of 1855 established the Nez Perce Reservation to include 7.5 million acres. After gold was discovered in this region, however, the reservation was reduced in 1863 to 750,000 acres. Due to land lost through the allotment process, which opened surplus lands to non-Indian settlers, only 12 percent of reservation land is owned by either the tribe or its members.

Located in north central Idaho, the Nez Perce hopes to expand its recreation and tourism industry. The Nez Perce National Park, which attracts nearly 40,000 tourists annually, is located partially on reservation lands. The reservation is near Clearwater National Forest and Hell's Canyon, both prominent outdoor recreation sites. The tribe is developing a tourist map that features significant rock formations along rivers that run through the reservation. The gaming industry is also important to the tribe's tourism industry with two casinos that generate \$2 million to \$3 million in annual net revenues.



The Nez Perce horse breeding program teaches tribal youth about economic opportunities in the horse industry in addition to horsemanship skills.

Approximately 37,639 acres of reservation land is under cultivation, primarily in wheat. Additional crops include lentils, bluegrass seed, dry peas, barley, canola and alfalfa. Improvement of fisheries is important to the tribe, with 17 watershed projects and three salmon and trout hatcheries established to restore and recover fish populations.

The Nez Perce, Palouse and Cayuse are thought to be the only Indian tribes to practice selective horse breeding in an effort to develop an exceptional endurance horse. The Nez Perce have attempted to re-establish the 18th century famed endurance horse through a breeding program, producing an Appaloosa-Akahl-Teke cross.

Fort Hall Reservation

Located in southeastern Idaho on the plain of the Snake River, the Fort Hall Reservation was established by Executive Order in 1867 and confirmed by the Fort Bridger Treaty of 1868. The Fort Hall Shoshone-Bannock Tribes include the Northern Shoshone and the Bannock. The Bannock formerly were Northern Paiute who left

Nevada for southern Idaho and began traveling with the Shoshone in the 1600s to hunt buffalo.



Potatoes are harvested on the Fort Hall Reservation.

The reservation comprises 547,570 acres. The tribe's economy is based on revenue from gaming, leased agricultural lands, right-of-way agreements and taxes on utility businesses conducted on reservation lands.

The reservation contains little forested land but has excellent agricultural acreage, making agriculture a major source of reservation revenue. Major crops include alfalfa, potatoes and small grain. In addition, the Shoshone-Bannock Buffalo Enterprise raises approximately 250 buffalo. It sells live animals, and also sells meat and robes at tribal restaurants and stores. The reservation also boasts a premier fishing area, the Fort Hall Bottoms.

Duck Valley Reservation

The Duck Valley Reservation comprises 297,787 acres that cross state borders and encompass 453 square miles. Approximately 144,274 acres are in northern Nevada contiguous to 145,545 acres which are in southern Idaho. The reservation was established by Executive Order in 1877 for the Western Shoshone. To accommodate nearby Northern Paiute who were relocated to the reservation in 1885, Executive Orders issued in 1886 and 1910 added more acreage. The Duck Valley Reservation remains shared by both the Western Shoshone and Northern Paiute.

Natural resources provide tribal revenue. The tribe generates a steady income from the sale of permits to fish the Owyhee River and the reservation's four sport fisheries: Wild Horse, Sheep Creek, Billy Shaw and Mountain View reservoirs. These man-made lakes make outdoor recreation on the reservation a significant tourist attraction. The Duck Valley Reservation is also located along the Pacific Flyway and draws bird-watchers.



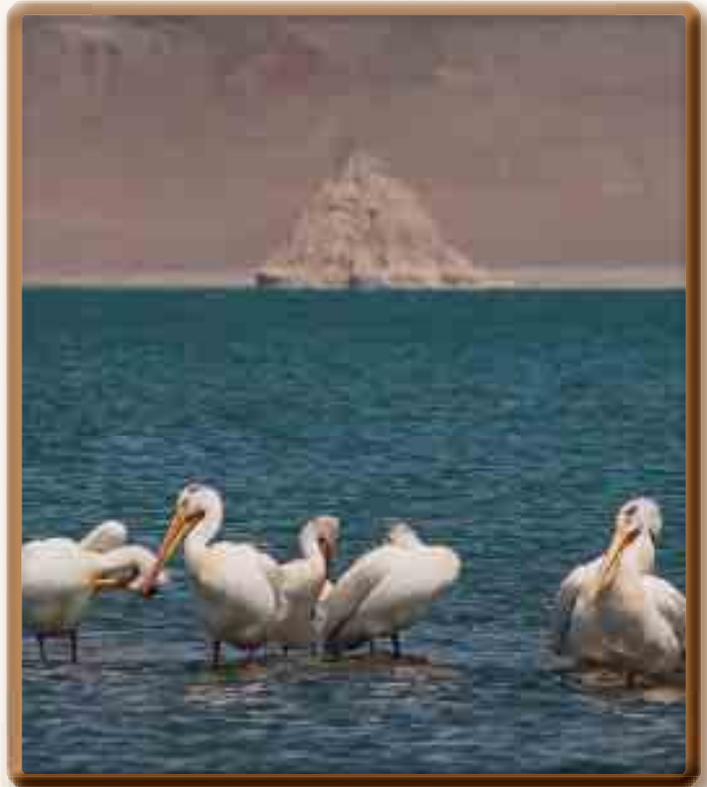
Cattle and agriculture are mainstays of the reservation economy. The majority of reservation acreage is rangeland that is used to graze horses and approximately 4,000 head of cattle owned by tribal members. The Wild Horse Dam provides about 73,500 acre-feet of water for irrigation. The Duck Valley Tribal Farm produces alfalfa and grass hay.

Cattle and agriculture are important to the Duck Valley Reservation.

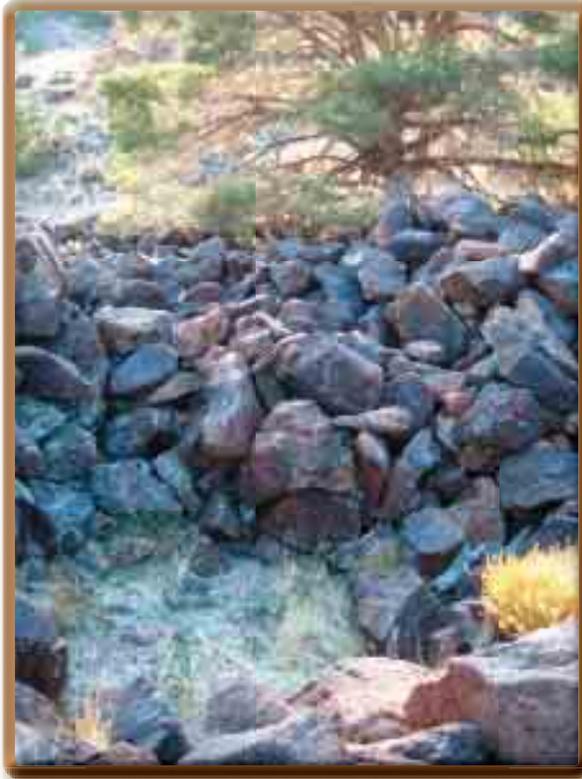
Pyramid Lake Reservation

The Pyramid Lake Reservation was created in 1859 in an effort to resolve hostilities between the Paiute and non-Indian settlers. In 1864 an Executive Order was issued that confirmed the reservation. The reservation comprises 479,742 acres. Located in northwestern Nevada 40 miles from Reno, the reservation is primarily high desert terrain. The reservation is named for its 30-mile long and roughly 11-mile wide terminus desert lake which has 112,000 surface acres. Pyramid Lake is fed by the Truckee River, which is fed by snow runoff originating high in the Sierra Nevada.

The Northern Paiute who inhabit Pyramid Lake Reservation were known originally as the Kooyoee Tukaddu, or Cu-Yui Ticutta, which translates to cui-ui eaters. Cui-ui is a type of sucker fish unique to Pyramid Lake.



Pyramid Lake, as early explorers referred to it, was named for one of the ancient tufa stone sculptures at the lake shoreline.



This roasting pit was traditionally used to process pine nuts. On the third weekend in September, the Walker River Reservation hosts the Annual Pine-nut Blessing Ceremony.

Historically, the reservation relied on Pyramid cutthroat trout and cui-ui fish as its major source of income. However, due to upstream federal reclamation projects constructed in the early 1900s and excessive sports trophy fishing during the 1920s to 1940s, the Pyramid cutthroat trout had become extinct and the cui-ui population endangered.

Since 1974, the Pyramid Lake Tribe has worked to recover the cui-ui and introduce Lahontan cutthroat trout to Pyramid Lake through a cooperative agreement with the U.S. Fish and Wildlife Service and the development of three reservation fish hatcheries. Annually, the hatcheries supply nearly a half million cutthroat fingerlings to national programs. They have successfully recovered the cui-ui as well.

Pyramid Lake generates tourism revenue related to fishing and other water and wildlife activities. Anaho Island, situated in Pyramid Lake, contains

the nation's largest nesting colony of white pelicans. The reservation economy relies primarily on cattle production and the tribe oversees nearly 366,600 acres of its rangeland for grazing purposes. The tribe also produces hay and pasture forage on 1,093 irrigated acres.

Walker River Reservation

Set aside in 1859 and confirmed through an Executive Order in 1874, the Walker River Reservation comprises 323,386 acres, of which 313,690 acres are tribally owned. The reservation is located in western Nevada.

The people of the Walker River Reservation are a band of the Northern Paiute originally known as the Agai Dicutta (Trout Eater) at the north end of Walker Lake and the Pugwi Ticutta (Fish Eater) at the south end of the lake. Although they lived on the lake shores and along the river delta, many of these Northern Paiute also traveled throughout the Pacific Northwest, intermingling with other tribes.

Due to its relatively remote location, tourism associated with Walker Lake has not generated significant revenue for the tribe. The tribal government and Indian Health Services are the primary employers of tribal members.

The Walker River Reservation contains the gravesite of Wovoka, a tribal member who conceived of and taught others the Ghost Dance religion. The religion featured special chants or songs and a precise dance pattern. Wovoka traveled great distances to preach the religion to Indians to help them deal with their conflicts over land with non-Indian settlers. Many western Indian tribes, including the Sioux, adopted the Ghost Dance religion in the 1880s and 1890s (Bailey, 1970).



Summary

American Indians of the western range, refers to Indians who reside in a region of the western U.S., bordered on the west by the Sierra Nevada and Cascade Range and on the east by the Rocky Mountains. The western range includes the Columbia Plateau and Great Basin.

This curriculum targets four contiguous states that lie within the western range and the Western Sustainable Agriculture Research and Education region. These states, Idaho, Nevada, Oregon and Washington, comprise the majority of the western range area. This chapter provides a brief overview of the 10 largest Indian reservations in this four-state area. These are the: Colville, Yakama, Umatilla, Warm Springs, Coeur d'Alene, Nez Perce, Fort Hall, Duck Valley, Pyramid Lake and Walker River reservations.

Early Indians of the western range were a survivalist culture, necessitating a semi-nomadic lifestyle. They resided in permanent lodges during the winter and moved among established camps to fish, hunt and gather food during the other seasons. Archaeological artifacts indicate that many early western range Indians relied heavily upon fish. They supplemented a fish diet with game animals and native plants.

Winter lodges, or wickiups, of Great Basin Indians were hemispherical-shaped lodges of native willow saplings, brush, piñon thatch and tule bulrush. Summer homes near fishing areas were primarily shade houses constructed of willow boughs and sagebrush. Columbia Plateau Indians lived in rectangular-shaped longhouses of pine poles and tule mats. Several families shared longhouses. In fact, early Indians throughout the western range lived and traveled as small bands related by marriage.

Indians of the western range were a basket-maker culture. Baskets were essential tools used to harvest and process plants and seeds as well as to transport medicine, food and personal belongings. Baskets were an indispensable part of their semi-nomadic lifestyle.



Early Indians regarded horses respectfully as "beasts of burden".

The majority of the early Columbia Plateau Indians spoke a dialect of the Sahaptin language family. Other Plateau Indians spoke a dialect of the Salishan language family. Great Basin Indians spoke dialects of the Uto-Aztec language family. Northernmost Uto-Aztec speakers included the Shoshone and Bannock people who inhabited portions of the Columbia Plateau and Great Basin in present-day Idaho. Many reservations in the western range have initiated native language programs in an attempt to revive and preserve native languages.

Some anthropologists attribute many of the significant changes to Columbia Plateau Indian culture that occurred between 1600 and 1750 to the influence of the horse rather than interaction with non-Indians. Columbia Plateau Indians were able to travel greater distances to hunt bison cooperatively with Plains tribes, frequently adopting the customs and dress of Indians with whom they intermingled. Due to the lack of available water, Great Basin Indians adopted the horse comparatively later, during the 18th century. However, once they adopted the horse, Great Basin Indians expanded their seasonal hunting patterns and trade activities with tribes far away from their ancestral grounds.



Chapter One Review

1. In this curriculum, American Indians of the western range refers to those Indians who reside in a region in the western U.S. that lies between the Rocky Mountains to the east and the Sierra Nevada and Cascade Range to the west.
 - True
 - False

2. Ethnographers recognize Indians of the western range as belonging to:
 - a) Columbia Plateau
 - b) Great Basin
 - c) Descendents of the southwestern pueblos
 - d) Columbia Plateau and Great Basin

3. Early Indians of the western range were a survivalist culture that necessitated a nomadic lifestyle, constantly moving throughout the entire region raiding other Indian villages and hunting large game in order to survive.
 - True
 - False

4. The horse provided cost-effective transportation, enabling Indians to cover great distances in order to compete in the fur and animal skin trade.
 - True
 - False

5. The arid, high desert environment of the northern Great Basin resulted in slower adoption of the horse, which impacted the socioeconomic development of Great Basin Indians.
 - True
 - False

6. Great Basin Indians wove baskets from:
 - a) Dampened sagebrush
 - b) Willow
 - c) Tule bulrush
 - d) Both b and c

7. Columbia Plateau Indians wove baskets from:
- a) Bear grass
 - b) Cedar root and cedar tree bark
 - c) Indian corn husks and hemp
 - d) B and C only
 - e) All of the above
8. Most examples of western range Indian basketry, particularly the Mid-Columbia Plateau region, are primitive-looking because they were designed for function, not decoration.
- True
 - False
9. A majority of early Indians in the Columbia Plateau region spoke dialects of the:
- a) Salishan language family
 - b) Uto-Aztec language family
 - c) Sahaptin language family
 - d) All of the above
10. Despite widespread efforts to rekindle interests in learning native languages, establishment of successful native language programs has been difficult on reservations with small populations or numerous diverse tribes.
- True
 - False
11. In terms of North American Indian culture, the Columbia Plateau region remains one of the most diverse with:
- a) More than 100 different Indian people
 - b) More than 76 different Indian people
 - c) More than 24 different Indian people
 - d) More than 48 different Indian people
12. The winter lodges of early Great Basin Indians were hemispherical-shaped and constructed of willow poles and branches, sagebrush and piñon needles.
- True
 - False

13. Winter lodges of early Columbia Plateau Indians could best be described as:
- a) Long underground pits covered with tule mats
 - b) Rectangular-shaped pole frames with tule mats
 - c) Conical-shaped pole frames with tule mats
 - d) Both b and c
14. Many early western range Indians depended on fish as a diet staple.
- True
 - False
15. The Nez Perce, Cayuse and Palouse became known for their ability to selectively breed horses for endurance.
- True
 - False
16. Early Indians of the western range lived and traveled together as family bands or kin-cliques.
- True
 - False
17. Agriculture is the primary economic development engine on all 10 western range reservations featured in this curriculum.
- True
 - False



CHAPTER 2

CHAPTER 2

Federal Indian Policy: A Brief Overview

LORETTA SINGLETARY

Learning Objectives:

- ⊕ Examine the history of federal Indian policy.
- ⊕ Consider the roles of the Doctrine of Discovery and Manifest Destiny in shaping federal Indian policy.
- ⊕ Explore recent policies that reflect the self-determination efforts of American Indians.



An understanding of current Indian quality of life issues requires an awareness of the history of federal Indian policy. This chapter provides a brief overview of these policies spanning two centuries. The roles of the Doctrine of Discovery and Manifest Destiny in shaping federal Indian policy are considered. Recent policies are presented that reflect the self-determination efforts of Indians and shifting sociopolitical views of policy makers.



Trade and Intercourse Era: 1790 to 1830¹

Federal Indian policies enacted between 1790 and 1830 sought to establish peaceful government-to-government relations with sovereign Indian nations (Johansen, 2005). Based upon the **Doctrine of Discovery**, the primary goal of early policy was to engage in diplomatic relations with Indians while controlling trade and commerce and restricting the sale of tribal lands to the federal government exclusively. The Doctrine of Discovery, rooted in ancient European law, rationalized that the first European country to discover new lands was granted sole power over all lands explored and all resources found within these lands. Early American presidents, including Washington, Jefferson and Madison, held firm in these beliefs, and federal policies enacted during this period reflect this thinking (Miller, 2006).

The Doctrine of Discovery essentially authorized European conquests of lands occupied by Indians. Federal Indian policies were based upon the ethnocentric belief that indigenous people were inherently inferior. In much later writings, policy makers referred to this philosophy toward Indians as **Manifest Destiny** (Venables, 2004a).



Early federal Indian policy goals sought to establish peaceful relations with sovereign Indian nations.

¹ The role of the Doctrine of Discovery and Manifest Destiny in shaping federal Indian policy is outlined in detail in Robert J. Miller's publication (2006), *Native America, Discovered and Conquered: Thomas Jefferson, Lewis & Clark, and Manifest Destiny*. Many historians view federal Indian policies as belonging to one of seven distinct eras. This discussion borrows from this chronological policy grouping, adding discussion concerning the Indian New Deal Era.

According to Miller (2006), the Doctrine of Discovery featured 10 elements that must be understood in order to appreciate the direction of early federal Indian policy. These were:

- First discovery entity of lands unknown to other European countries gained rights and claim of title to the lands.
- Occupancy followed the first discovery title claim and enabled complete title to the land through physical possession.
- Preemption enabled the discovering European country the sole right to purchase lands from native inhabitants and prevented another government from making this purchase.
- Indian title referred to the loss of property rights by indigenous people who occupied discovered lands.
- Limited tribal sovereignty and commercial rights followed first discovery, meaning that native people were required to trade and negotiate exclusively with their discoverers.
- Contiguity referred to the implicit right of Europeans to claim lands near settlements or occupied lands.
- Terra nullius is a term to describe lands that European discoverers considered “unused” and available for claims, based upon their definition of “proper use.”
- Christianity referred to the predominant role that religion played in the Doctrine of Discovery and implied that those non-Christian people discovered were not eligible for the same rights as Christians.
- Civilization referred to the concept that European discoverers must teach their customs and behaviors, including religion and education, to indigenous people and that God assigned to them a paternalistic role over indigenous people.
- Conquest is a term that refers to powers of discovery and enabled the federal government to describe its rights to properties gained after first discovery to include restricted indigenous rights.

The **Trade and Intercourse Act** of 1790 initiated this policy era. This law required the federal government to authorize all sales of Indian lands and granted the government managerial power over all trade and commerce involving Indians. Subsequent federal Indian policies during this period illustrate the philosophy underlying the Doctrine of Discovery. Increasing numbers of land disputes were heard in the U.S. Supreme Court. The Court determined that the Doctrine of Discovery "...gave the discoverer the exclusive right to extinguish Indian title either by purchase or by conquest" (Miller, 2006). In this context, Indian people were not regarded as landowners, but simply occupants of lands discovered. Once Indian nations relinquished their title to lands through occupancy or use, they granted preemptive power to the U.S. government.

Between 1774 and 1855, this firmly held belief fueled expansion from America's original 13 colonies to eventually extend to the Pacific Northwest. The expedition of explorers Lewis and Clark in the early 1800s culminated the advance of the Euro-American empire from the Atlantic to the Pacific Oceans (Johansen, 2005).

In 1775, the federal government created the **Office of Indian Affairs**, predecessor of today's **Bureau of Indian Affairs (BIA)**. This office was created to discourage the development of alliances between Indians and British forces in preparation for the Revolutionary War. In its early years, the duties of this office were primarily to negotiate treaties between the federal government and Indian tribes (Pritzker, 2000).

Six years after the Revolutionary War, in 1789, Congress created the Department of War to which it subsequently transferred the Office of Indian Affairs. A period of years followed whereby Indian matters went largely unaddressed since the office had no real authority within the Department of War.



Manifest Destiny was comprised of three components. It was based on the belief that Euro-Americans possessed certain moral traits and virtues that no other culture possessed. It maintained that Euro-Americans must teach others around the world the concept of republican government. Finally, the concept of Manifest Destiny was firmly rooted in the belief that the federal government, and the religion and race of its citizens, were superior to all others, including the indigenous people discovered (Miller, 2006; Venables, 2004a).



Removal Era: 1830 to 1850

Following the American Revolution, increases in the emigrant population increased the demand for land resources. The federal government continued to interact with Indian tribes via government-to-government relations. Treaties forged during this



Following the American Revolution, treaties forged recognized limited tribal sovereignty.

period recognized only limited tribal sovereignty and established a clear federal trust responsibility to tribes. The federal government recognized the rights of tribes only to use and occupy land. No official recognition of Indian land ownership existed during this period.

In the 1820s the Five Civilized Indian Nations became the center of land controversies. The Cherokee adopted a constitution that claimed they had complete jurisdiction over their own territory in the state of Georgia. Lawmakers in Georgia then tried to make it illegal for an Indian to bring legal action against a white man. Meanwhile, the Seminole in Florida were in land disputes

with settlers while the Creek were fighting the U.S. Army in Alabama and Georgia. The Chickasaw and Choctaw were embroiled in land disputes with settlers in Mississippi (Thornton, 1987).

In 1830, Andrew Jackson, who had won the U.S. presidency through his promises to land-seeking settlers to remedy these land disputes, convinced Congress, by a slim margin, to pass the **Indian Removal Act**. President Jackson conceived of and promoted the concept of an **Indian reservation** as an area of land reserved or set aside for Indian use and occupancy but which remained under federal trust. Federal policy makers who supported Jackson viewed Indian removal as necessary to resolve land disputes, accommodate national development and continue expansion (Blackhawk, 2006). This legislation targeted the Five Civilized Indian Nations who had assimilated very successfully into white culture practicing large-scale agriculture. In exchange for lands in the territory of Oklahoma, these eastern tribes would relinquish their native homelands.

Indian tribes in the eastern U.S. were pressured to accept the land exchange treaties. Those tribes who did not voluntarily agree were no longer provided physical protection or funding from the federal government (Foreman, 1989).

Historical accounts describe the forced relocation of Indians from their homes to relocation camps as devastating. Between 1830 and 1840, approximately 50,000 to 100,000 Indians relocated to lands west of the Mississippi River in a 2,200-mile long journey known as the **Trail of Tears** (Johansen, 2005). Approximately 25 percent of those removed, mainly the elderly and children, died from disease, starvation and exposure during the march or shortly after reaching the Oklahoma territory (Johansen, 2005).



In a speech to promote the concept of Indian reservations, Andrew Jackson argued that the Indian Removal Act would “...separate the Indians from immediate contact with settlements of whites; enable them to pursue happiness in their own way and under their own rude institutions; will retard the progress of decay, which is lessening their numbers, and perhaps cause them gradually, under the protection of the government and through the influences of good counsels, to cast off their savage habits and become an interesting, civilized, and Christian community.”

Reservation Era: 1850 to 1887

The California Gold Rush and the settlement of fertile farmland in the Oregon Territory during the 1840s and 1850s led to increased demands for lands in the western U.S. to be opened for settlement. The Indian Removal Act (1830) ushered in the Reservation Era which emphasized the idea that the creation of Indian reservations would resolve increasing land disputes between Indians and settlers.



A family poses in front of their home on the Warm Springs Reservation.



In 1824 the Office of Indian Affairs was recreated as the Bureau of Indian Affairs (BIA) to oversee the removal of Indian nations to the reservations that were created (Venables, 2004b). Today the BIA is a federal agency within the U.S. Department of the Interior. It administers and manages 55.7 million acres of lands held in trust by the U.S. government for Indians. It currently provides education services to approximately 48,000 Indian students. Responsibilities assigned to BIA include developing infrastructure on Indian lands, leasing assets, overseeing agricultural programs, protecting land and water rights, developing forested lands and promoting economic development (U.S. Bureau of Indian Affairs, 2007).



The **Indian Appropriations Act** of 1851 authorized the U.S. government to set aside additional lands for Indian reservations in Oklahoma and farther west. These reservations were designed to restrict Indian movement and hunting activities, by military force if needed, to specific and often remote areas of the western U.S.

In an effort to further resolve increased conflicts in western territories, President Grant initiated what became known as the **Peace Policy** (Venables, 2004b). The Peace Policy required religious leaders, Quakers in particular, to oversee an Indian agency on each reservation and to teach the Indian people Christian religion and customs. An underlying goal of the Peace Policy was to “civilize” Indians and prepare them for U.S. citizenship (Venables, 2004b; Prucha, 1984).

The Peace Policy also implied that Indians practice agriculture on reservation lands in order to feed themselves, although the lands set aside were not always suitable for agriculture. The creation of reservations and treaties often stipulated that the federal government provide goods and services to Indians. However, implementation of the Peace Policy and reservation treaties was problematic and uneven depending on the integrity and efficiency of Indian agency officials. Often, the agreed upon stipends were never received (Venables, 2004b).

Although many Indian tribes and bands ignored federal orders to occupy reservation lands, the U.S. Army effectively restricted their movement. This military initiative resulted in several deadly Indian wars, including the Nez Perce War of 1863. The Peace Policy that President Grant established was largely considered to be a leading cause of several of the bloodiest confrontations between Indian tribes and the federal government. By the late 1870s, President Hayes began to phase out the Peace Policy so that by 1882 all religious affiliations on reservations were required to transfer their authority directly to federal Indian agencies.

Allotment and Assimilation Era: 1887 to 1934²

Land grant policies implemented during the mid-1800s successfully increased the numbers of emigrants seeking land in the western U.S. Land-hungry settlers often objected to the size of Indian reservations within proximity to homestead land grants.

The pressure to open reservation lands to non-Indian settlement was one of the motivating forces behind the Allotment and Assimilation Era of federal Indian policy, which takes its name from the goals of the **General Allotment Act** of 1887 (Miller, 2006). This legislation represented a dramatic change in federal Indian policy in that it removed the rights of Indian people to live upon reservation lands communally.

The General Allotment Act authorized the federal government to allocate to individual Indians reservation land parcels. This policy sought to more fully assimilate Indians into Euro-American culture by requiring individuals and families to farm their allotments. Indians who farmed land allotments were to be granted U.S. citizenship (Pritzker, 2000; Rusco, 2000).

However, most Indian allottees did not adapt well to subsistence agriculture. Quality of life on most reservations deteriorated dramatically, characterized by poverty, disease, despondency and alcoholism (Rusco, 2000).



Senator Dawes saw the General Allotment Act as a way to secure land ownership for Indians.



*The **Citizenship Act** (1924) granted all Indians U.S. citizenship.*

² The General Allotment Act and its effect on Indian land tenure are discussed in greater detail in Chapter 3.

The Indian New Deal recognized the rights of Indian tribes to govern themselves as sovereign nations.



Indian New Deal Era: 1934 to 1945

In 1926, the Secretary of the Interior commissioned a study on the condition of Indians and administration of federal Indian policy to date. Known as the **Miriam Report** for its director Lewis Miriam, the study described living conditions on reservations as deplorable. Infant mortality rates on reservations were three times that of Euro-Americans, with large numbers dying from measles and tuberculosis. The average life span of Indians during this time was 44 years (Johansen, 2005). The Miriam Report also determined that Indians had been deprived of their land rights through the General Allotment Act. It criticized Indian boarding schools and health programs and alleged that government agents had wrongfully appropriated federal funds targeted for Indians.

Congress deliberated these results and ultimately stopped the allotment process by enacting the **Indian Reorganization Act** in 1934. John Collier, Commissioner of Indian affairs during the 1930s recognized that ending the allotment process was critical to preserving what remained of Indian lands (Rusco, 2000). Collier referred to the Indian Reorganization Act as the **Indian New Deal**, because instead of “civilizing” and “assimilating” the Indians to fit into white culture, the legislation explicitly recognized Indian tribes as independent, sovereign nations (Philp, 1977).

This policy restored to Indian tribes the authority to manage their reservation holdings communally (Philp, 1977; Rusco, 2000). It also provided federal assistance to reacquire previously allotted lands and improve quality of life on Indian reservations through economic development planning. The legislation called for the establishment of a credit system, home rule rights, the right to form businesses and provision to improve access to vocational and higher education (Venables, 2004b).

Termination Era: 1945 to 1965

John Collier left office in 1946, and his philosophy towards federal Indian policy was replaced by a post-World War II reformist philosophy. Reformists sought to “emancipate” Indians from their status as “wards” of the federal government and viewed the federal trust responsibility to tribes as a key obstacle to their economic and personal success

(Philp, 1999). The Cold War, which firmly took hold during this period, was considered a threat to Americans. Many federal policy makers believed that all Americans had to stand together, which meant all Americans should be treated roughly the same, and that Indians should be integrated into the broader national society (Philp, 1999). Additionally, some viewed tribal governments as a veiled form of communism because they fostered the concept of socialist democracies, featuring communal land ownership and cooperative associations (Philp, 1999).

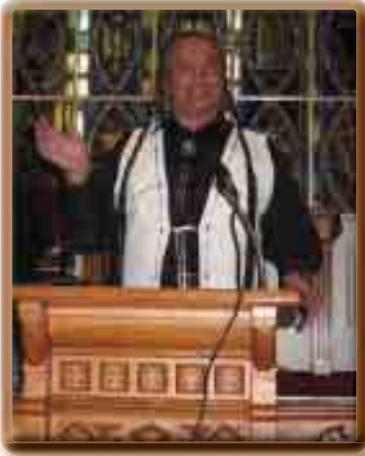


By the 1940s, Indian cowboys were commonplace on reservations in the western U.S.



Two tribes that were successfully terminated during this policy era, the Menominee of Wisconsin and the Klamath of Oregon, both experienced a severe decline in living standards following termination. Their experiences were so negative that other listed tribes strongly and vocally resisted termination.

The Menominee tribe was terminated in 1961. Tribal property was transferred to Menominee Enterprises, Inc., and the Menominee Reservation became Menominee County, Wisconsin. Even though the Menominee were comparatively economically successful, due to their lumber mill, Menominee County became Wisconsin's newest, poorest and least populated county. Its tax base was insufficient to provide basic public needs, such as waste disposal and police services. The lumber mill could not expand adequately to provide additional jobs and required renovations that could not be afforded. The federally funded reservation hospital and schools were forced to close. When the Menominee were slated for termination in 1954, their cash assets were valued at more than \$10 million. By 1964, just four years after official termination, their cash assets were \$300,000 (Peroff, 2006; Clarkin, 2001).



Lakota activist Russell Means was one of the early leaders of the American Indian Movement.

In 1946, Congress passed the **Termination Act** to terminate the federal trust relationship with Indian tribes and reverse the goals of tribal sovereignty established by the Indian Reorganization Act (Philp, 1999). The Termination Act had four major goals: 1) repeal discriminatory laws that granted Indians different status than other Americans; 2) disband the BIA and transfer its duties to tribes or local and state governments; 3) end federal supervision of individual Indians; and 4) end federal trust responsibilities to Indian tribes (Peroff, 2006; Philp, 1999).

During the Termination Era, another policy goal emerged to accelerate assimilation and absorption of individual Indians into white culture. The **Relocation Act** of 1956 provided economic incentives to Indians living on reservations to relocate to urban areas to seek employment. This policy allocated funds to the BIA to create a **Voluntary Relocation Program**, which relocated more than 31,000 Indians from reservations

to urban areas (Philp, 1985). By 1960, 30 percent of Indians nationwide were relocated from reservations to cities such as Los Angeles, Dallas, Denver and Salt Lake City.

Proponents of termination thought voluntary relocation would better the lives of Indians living on remote reservations with little to no access to employment

or education. Other policy analysts, however, viewed termination and the relocation efforts that followed as a throwback to 19th century removal policies that only accelerated the dissolution of tribal governments and additional loss of Indian reservation lands (Philp, 1985). The Termination Era integrated Indian lands into state and local jurisdiction, and allowed those lands to be taxed. Additional reservation lands were allotted and more allottees transferred land



The Colville Reservation currently provides an Indian boarding school that accepts youth from various reservations across the U.S.

titles to non-Indians (Fixico, 1986). Between 1953 and 1970, 1,362,155 acres of reservation lands were taken out of federal trust and sold to non-Indians (Indian Land Tenure Foundation, 2006).

Self-Determination Era: 1965 to Present Day

The Self-Determination policy era evolved partly in response to the Termination Era and partly out of a larger national social movement that emerged during the 1960s. A heightened social awareness, featuring President Kennedy's "war on poverty" and a growing Civil Rights movement, provided an atmosphere whereby Indians demanded more input into national policies that affected them (Castile, 1998).

For example, in 1968, the **Indian Civil Rights Act** was passed. Similar to the Bill of Rights, this legislation required tribal governments to respect basic rights of Indians as well as non-Indians. Such rights included, for example, freedom of speech, freedom from unreasonable search and seizure and freedom to practice religion. The Indian Civil Rights Act stemmed from Congressional hearings in the 1960s to assess the conduct of tribal governments. These hearings produced testimony from tribal members describing abuses from incompetent and corrupt tribal officials.

Indian activism, including the American Indian Movement (AIM) and Women of All Red Nations (WARN), developed and strengthened during this same time. Much of AIM's activity was designed to attract public attention to past federal Indian policies and reservation living conditions. In 1968, Indian occupation of Alcatraz Island garnered national attention to the Red Power Movement. Then in 1973, on the Pine Ridge Reservation in South Dakota, AIM members became involved in a 10-week standoff with federal law enforcement agents. This incident was known as Wounded Knee II (Venables, 2004b). These and additional organized activist efforts demonstrated that Indians had become increasingly effective in attracting national attention to their policy goals and demanded more control over the federal policy-making process (Clarkin, 2001).

In 1975, the federal government enacted the **Indian Self-Determination and Education Assistance Act** in an effort to reverse the previous 30 years of federal Indian policy (1945 to 1975) that sought to terminate federal treaty obligations to Indian tribes. This legislation essentially authorized tribal governments to oversee their own social service programs.³



The Indian Gaming Regulatory Act (1988) established operation terms for tribal gaming.

³ Chapter 6 discusses the Indian Self-Determination and Education Assistance Act in greater detail.



Indian gaming has enabled many tribes to improve their overall quality of life.

Additional policy efforts to promote the individual rights of Indians included the **American Indian Religious Freedom Act** of 1978. This legislation protects and preserves the right of Indians to practice traditional religions which includes access to sacred sites, the right to possess sacred objects and the right to worship through the use of traditional rites and ceremonies (Prucha, 2000; Venables, 2004b). Expanding on the concept of religious freedom, the **Archaeological Resources Protection Act** of 1979 requires that tribal governments grant permission for archaeological excavations on reservation lands. Similarly, the **Native American Graves Protection and Repatriation Act** (1990) reinforces the recognition of Indian religious freedom by protecting Indian graves on federal lands. This legislation called for the return to tribal governments any religious artifacts, including skeletons and burial objects, found on federal or tribal lands or in the possession of federally funded institutions (Prucha, 2000; Venables, 2007).

Pursuing additional legislation to fuel Indian self-determination via economic development on reservations, the U.S. Supreme Court determined in 1987 that federally recognized tribes were allowed to conduct tax-exempt gaming free of state regulatory controls. In 1988, the **Indian Gaming Regulatory Act** was enacted to establish terms for how tribal gaming facilities were to operate. The legislation enables tribes to utilize gaming-generated revenues to “provide for the general welfare of the Indian tribe and its members; to promote tribal economic development; to donate to charitable organizations; or help fund tribal agency operations” (National Indian Gaming Commission, 2007).

Revenues from Indian gaming have increased steadily since 1988. Recent revenue statistics reported 387 tribal gaming operations nationwide operated by approximately 220 federally recognized tribes generating billions of dollars of revenues annually (National Indian Gaming Commission, 2004). The most successful Indian casinos tend to be located near metropolitan areas (Johnson, 2006).

Indian gaming has enabled many tribes, particularly those well-situated geographically, to improve their overall quality of life through significant improvements in public services and infrastructure on Indian land. Indian gaming has also elicited controversy, however. Issues include an increase in groups of questionable Indian descent requesting federal tribal recognition in order to qualify for tax exempt status to operate a gaming facility. Occasionally tribes compete with one another for casino establishment. The availability of gambling on reservations has also led to compulsive gambling behavior and related criminal activities on and off reservations.

These issues, in addition to constant growth in gaming revenues, have attracted the attention of state and federal courts, policy makers and the media (Rand & Light, 2006). In 2006, Congress passed legislation to determine where casinos can be located and to place tighter regulatory controls on the Indian gaming industry.



Summary

This chapter provides a brief, cursory overview of federal Indian policies implemented from the 1700s to present day. The roles of the Doctrine of Discovery and Manifest Destiny were considered in the context of shifting sociopolitical views that helped to shape federal Indian policies over time.

Seven distinct policy periods or eras were discussed. These include: Trade and Intercourse Era (1790-1830); Removal Era (1830-1850); Reservation Era (1850-1887); Allotment and Assimilation Era (1887-1934); Indian New Deal Era (1934-1945); Termination Era (1945-1965); and Self Determination Era (1965-present day).

With the exception of the Indian New Deal Era, or Indian Reorganization Act, federal Indian policy remained uniform for nearly two centuries in its efforts to assimilate Indians into Euro-American culture (Castile, 1998). These policies had lasting effects on Indian culture and the tribal natural resource base and quality of life.

However, beginning in the 1960s, prompted by the Civil Rights movement and Indian activism nationwide, federal Indian policy shifted again. Policies enacted since the 1970s have largely supported efforts of tribal governments to stimulate economic growth on reservations to strengthen public services for Indian individuals and protect religious and cultural traditions.

Chapter Two Review

1. During the Trade and Intercourse Era, federal Indian policy sought to establish peaceful government-to-government relations with Indian nations.
 - True
 - False
2. The Doctrine of Discovery, rooted in ancient European law, asserted that the first European country to discover new lands had sole power over those lands and all resources found therein.
 - True
 - False
3. The Trade and Intercourse Act of 1790 required the federal government to authorize all sales of Indian lands and granted the government managerial power over all _____ involving Indians.
 - a) Land agreements
 - b) Trade and commerce
 - c) Water right allocations
 - d) A and C only
4. The predecessor of today's Bureau of Indian Affairs was created in 1775 as the Office of Indian Affairs primarily to secure Indian allegiance prior to the Revolutionary War.
 - True
 - False
5. When Congress transferred the Office of Indian Affairs to the Department of War, a period of years followed whereby Indian matters, which were few in number at that time, were attended to effectively.
 - True
 - False
6. The federal government recognized Indian land ownership during the Removal Era.
 - True
 - False
7. In 1824, the Office of Indian Affairs was recreated as the _____ in order to oversee the removal of Indian nations to newly created reservations.
 - a) Office of Indian Land Treaties
 - b) U.S. Cavalry
 - c) Bureau of Indian Affairs
 - d) B and C only

8. The Trail of Tears describes the journey made by 50,000 to 100,000 Indians who were forcibly relocated to lands west of the Mississippi River.
- True
 - False
9. The Indians Appropriations Act firmly established _____ in an effort to reduce conflicts between Indians and settlers.
- a) Reservations created by executive order
 - b) The Removal Era
 - c) The Allotment and Assimilation Era
 - d) The Reservation Era
10. President Grant's _____ required religious leaders to oversee reservations and prepare Indians for U.S. citizenship.
- a) Education and Assistance Act
 - b) American Immigration and Citizenship Act
 - c) Peace Policy
 - d) None of the above
11. Relations between Indians and settlers improved significantly with the establishment of the Peace Policy.
- True
 - False
12. The Allotment and Assimilation Era takes its name from the goals of the General Allotment Act, which represented a dramatic shift in federal Indian policy in that it authorized tribes to:
- a) Establish governments
 - b) Create a constitution
 - c) Practice limited tribal sovereignty
 - d) None of the above
13. The Meriam Report released during the 1920s reported that:
- a) Federal funds targeted for Indian reservations had been misappropriated
 - b) Infant mortality rates on reservations were three times that of Euro-Americans
 - c) Large numbers on reservations were dying of measles and tuberculosis
 - d) A and C only
 - e) All of the above

14. The Indian Reorganization Act:
- a) Restored the authority of Indians to manage their lands cooperatively
 - b) Allocated large land parcels on reservations to encourage tribal farming
 - c) Provided federal assistance to acquire previously allotted lands
 - d) A and C only
 - e) All of the above
15. Reformists sought to free Indians from being wards of the federal government, viewing the federal trust relationship with tribes as a barrier to economic growth.
- True
 - False
16. Major goals of the Termination Act were to:
- a) Disband BIA and transfer its duties to tribes or local and state governments
 - b) End federal trust responsibilities to Indian tribes
 - c) Repeal discriminatory laws granting Indians different status than other Americans
 - d) A and B only
 - e) All of the above
17. The Relocation Act (1956) encouraged Indians to relocate from rural to urban reservations in order to pursue higher education.
- True
 - False
18. The Self-Determination Era featured a major shift in federal Indian policy that was precipitated by the:
- a) American Indian Movement
 - b) Indian Civil Rights Act
 - c) Red Power Movement
 - d) Women of All Red Nations
 - e) All of the above
19. Reservations located in remote, rural areas have not benefitted as much from Indian gaming as have reservations located near large metropolitan areas.
- True
 - False

20. The Native American Graves Protection Repatriation Act (1990) requires that religious artifacts found on tribal lands be excavated only by federally funded museums.
- True
 - False
21. The Indian Gaming Regulatory Act (1988) was enacted to establish tribal gaming operation guidelines that included:
- a) Using gaming revenue to provide for general welfare of the Indian tribe and its members
 - b) Promoting tribal economic development
 - c) Donating revenue to charitable organizations
 - d) Helping fund tribal agency operations
 - e) All of the above



The Colville Reservation in northeastern Washington is endowed with panoramic vistas. Tourism, recreation and gaming have become increasingly important to reservations.



CHAPTER 3

CHAPTER 3

American Indian Land Tenure



LORETTA SINGLETARY

Learning Objectives:

- ④ Understand the effects of the General Allotment Act (1887) on Indian land tenure.
- ④ Define and distinguish various Indian land tenure types that exist today.
- ④ Given the complex issues surrounding Indian land tenure, consider the potential for agriculture and natural resource management challenges on Indian reservation lands.



The federal government enacted several land grant policies in the mid-1800s to motivate economic development and settlement of the western U.S. For American Indians, that federal land grant policy was the General Allotment Act. The General Allotment Act (1887) would influence Indian land tenure for generations. This chapter discusses the effects of this policy on Indian land tenure. It defines and distinguishes various Indian land tenure types that exist today that present challenges to achieving sustainable agriculture and natural resource management.



General Allotment Act: A Federal Policy to Settle the Indians

In efforts to motivate westward expansion and settlement, the U.S. government implemented several key policies in the mid-1800s. The primary goal of these policies was to develop the western U.S. through land grants to emigrants and thus grow the nation's economy. These policies included, among others, the **Donation Land Claim Act** (1850), the **Homestead Act** (1862) and the **Desert Land Entry Act** (1877).

Similarly, in response to increasing social concerns over the plight of Indians, Senator Henry L. Dawes (Massachusetts) introduced, into multiple sessions of Congress, legislation to redistribute Indian reservation lands by granting individual Indians land ownership. The **General Allotment Act** of 1887 (Dawes Severalty Act) was promoted as a solution to widespread poverty on Indian reservations. Proponents of the legislation included Friends of

the Indians and the Indian Rights Association, as well as Indian rights activist, Sarah Winnemucca Hopkins (Thocmetony), daughter of Chief Winnemucca of the Northern Paiute bands. According to the 1890 Commissioner of Indian Affairs, Thomas J.



Land grants to emigrants were key to national economic development strategies.



Sarah Winnemucca Hopkins was born Thocmetony (Shell Flower) sometime around 1844 at Humboldt Sink, Nevada. Winnemucca's grandfather, Chief Truckee, and her father, Chief Winnemucca, taught her that assimilation and peaceful relations with whites were essential to survival. Winnemucca became fluent in English, Spanish and several Indian languages. She later served as an interpreter for Indian reservation agencies and the U.S. military. She became a well known Indian rights activist and in 1880 traveled to Washington, D.C., to appeal for U.S. citizenship for Paiute Indians. Winnemucca traveled throughout the eastern U.S. and some parts of Europe, giving more than 300 lectures on the unfair treatment of Indian people by reservation agents (Senier, 2001).

At the urging of Senator Dawes and others, Winnemucca published an autobiography, "Life Among the Paiutes: Their Wrongs and Claims" (1883). In her book, she described her first encounters with whites, the plight of Indians living on reservations, numerous conflicts that she witnessed (including the Bannock War) and the forced relocation of Northern Paiute bands to the Yakama Reservation in Washington Territory. This was the first book written in English by an Indian woman.

Winnemucca returned to Nevada to start an Indian school that focused on Indian language and culture (Kilcup, 2000). The school closed shortly after passage of the General Allotment Act (1887) that required Indian children to learn English and attend boarding schools. Winnemucca died from tuberculosis in 1891.



Morgan, this policy sought to “break up reservations, destroy tribal relations, settle Indians upon their own homesteads, incorporate them into the national life, and deal with them not as nations or tribes or bands, but as individual citizens” (Nebraska Studies, 2007).

The General Allotment Act authorized the federal government to divide reservation lands into parcels and allocate parcels to individual Indians. Indians who agreed to live upon and farm an allotment for 25 years would receive U.S. citizenship. Initially, allotments ranged in size from 40 to 160 acres. Each head of household received 160 acres for grazing or 40 acres for farming. During latter years of the allotment period, allotments granted in the western U.S. were as large as 320 acres for grazing. These determinations were based in part on geography and climate conditions. Where irrigation water was required to farm Indian reservation land, the Secretary of Interior was authorized “to secure a just and equal distribution.” In these cases, allotments were as small as 20 acres (Oklahoma State University Edmon Low Library, 2008).



The legislation allowed individual Indians to select their allotments if they had already improved the land. Federal Indian agents selected allotments for those individuals who had not made a selection within four years of implementation of the law. For Indians without designated reservations or with insufficient lands, and for those who did not live on reservations, the law secured allotments on public lands (Indian Land Tenure Foundation, 2006).

The General Allotment Act supported the belief that individual land ownership would motivate Indians to become more self-sufficient within their reservation boundaries. Self-sufficiency implied that individuals and families would produce their own food and perhaps even generate the income necessary to improve quality of life.

Congress failed to produce enough votes to pass the law unless it stipulated that **surplus lands** be made available for sale to “actual and bona fide settlers” in tracts of 160 acres or less (Oklahoma State University Edmon Low Library, 2008). Indian rights proponents envisioned that the proceeds from sales of these surplus lands could be used to purchase plows, tools and other farm implements the Indians needed to

The allotment process occurred over a period of years. Some reservations in the western United States, including the Walker River Reservation, were not allotted until after the turn of the century.

practice agriculture (Hagan, 2003). Since settlers were encroaching along the borders of Indian reservation lands, and in many cases the lands appeared to settlers to be unused, opening surplus lands for settlement seemed to policy makers a reasonable outcome. Hence, Indian rights advocates worked alongside land developers and policy makers to assure that President Grover Cleveland signed the bill in 1887.



Indian rights proponents hoped that Indians would become self-sufficient farmers.

After the government granted allotments to Indians, it declared hundreds of thousands of acres of Indian lands as surplus. These lands quickly sold to settlers. The ultimate effect of the General Allotment Act was a dramatic reduction in Indian land holdings. In 1881, Indians held nearly 156 million acres. By 1900, Indians held half that, only 78 million, with 5.4 million of those acres allotted (Prucha, 1984). Others claim that of the 138 million acres owned by

Indians at the beginning of the allotment period, only one third or 48 million acres remained by the end of the period (Indian Land Tenure Foundation, 2006).

Ironically, the General Allotment Act, which was intended by Indian rights activists to remedy poverty, actually worsened quality of life on Indian reservations. Some critics of the legislation argued that the parcels were either too small or unsuitable for agriculture (McChesney, 1992). A lack of proper farm implements and other needed inputs and a lack of knowledge of agricultural management techniques discouraged adoption of agriculture on Indian reservations. By 1891, Congress had approved leasing allotments to non-Indians to farm, such that leasing rather than farming one's own allotment quickly became the norm on many reservations (McChesney, 1992). In addition, despite the federally mandated period to prevent alienation of lands, many Indians lost their allotments. Without allotments or communal tribal lands, these poorest Indians sank further into poverty.

The General Allotment Act permanently influenced the social order of Indian culture. Tribal land was allotted to individual Indians, with a preference for Indian men. Policy makers believed that assimilation into the Euro-American way of life translated to men being farmers and women being farm wives. Since reservation hunting lands were eliminated, the traditional role of Indian women tending the home and practicing basic agriculture while the men hunted for game was no longer possible (Stremiau, 2005).

American Indian Land Tenure: A Primer

As a result of the General Allotment Act, and its amendments, land tenure patterns found on Indian reservations today present significant and ongoing civil, regulatory and criminal judiciary issues, in addition to natural resource management challenges. In order to appreciate the complexity of Indian land tenure, it is important to have a basic working knowledge of terms commonly used in Indian country.

The concept of **Indian trust land** or **restricted Indian land** derives from **Trust Doctrine** and expresses a fundamental principle of federal Indian policy, particularly the General Allotment Act. Trust Doctrine is tied directly to the Doctrine of Discovery. In terms of Indian land tenure, Trust Doctrine describes the federal government's assumed role to act as trustee for Indian tribes and, as such, assume a fiduciary responsibility. That is, the federal government acts as guardian of Indian affairs and is authorized to make decisions on behalf of "dependent Indian people and their governments" (Miller, 2006). Indian trust or restricted Indian land is Indian-owned land, the title to which is held in trust by the federal government. That is, Indian people and tribes have use of the land, but the ultimate control over the land remains in trust with the federal government (Indian Land Tenure Foundation, 2006).

Indian trust land may include **tribally owned land**, or land owned by a particular Indian tribe or an organized confederation of tribes. Tribal governments possess authority to manage this land. Oftentimes, however, tribal politics can influence or simply delay crucial resource management decisions. For this reason, tribally owned land may face significant obstacles to achieving sustainable resource management and agricultural profitability than other types of land tenure (Anderson & Lueck, 1992).

For example, the federal government typically prohibits tribal governments from mortgaging tribally owned land. This restriction severely limits a tribe's ability to secure financing for desired construction or improvement projects. In addition, federal trust authority may restrict leasing and other land use decisions on tribally owned lands.

Tribal governments may arbitrarily assign to an individual Indian tribal member a specific number of acres or parcel to manage for the duration of his/her lifetime or a specified amount of time. These parcels are referred to as **assigned lands**. The assignee, however, does not receive title to the land, only the privilege to use it for a period of time. In fact, tribal governments can retract assignments at any time. Given the political nature of governments, assigned lands present an uncertain and unstable tenure that may discourage assignees from investing in long-term improvements necessary to achieve agricultural productivity and manage the resource base sustainably.

A **trust allotment** refers to restricted Indian land granted to an individual Indian through the General Allotment Act. A **trust patent** was issued to each allottee certifying that the allottee possessed beneficial ownership of a specific parcel while the federal government held the legal title in trust. Figure 3.1 provides a recent conveyance of a deed to an individual trust allotment on the Walker River Reservation in northwest Nevada. The name of the original allottee, Jennie Sam, appears in the upper right corner of the deed.



Funds from the sales of surplus lands were intended for the establishment of federal Indian schools. Indian orphans and many Indian children who were separated from their parents attended Indian boarding schools to complete

the socialization process. Policy makers believed that young Indian people could assimilate more quickly if they were immersed in the knowledge and values of dominant American society and kept away from tribal influences and traditions. This approach to assimilation coined the phrase, “Kill the Indian and save the man.” Indian girls were taught to cook and sew, while Indian boys were taught agricultural techniques.

Between 1880 and 1920, the Indian boarding school movement spread throughout the U.S. In order to educate more children at lower costs, however, the federal government created reservation boarding schools and day schools. The exact portion of proceeds from Indian surplus land sales that was used to fund these schools is unknown (Pritzker, 2000).



To prevent Indians from alienating their allotments through sales, the General Allotment Act originally required the federal government to hold the legal title in trust for 25 years or one generation. After that time, a trust patent could be converted to **fee patent** status. Fee patent is **fee simple** land and refers to land tenure status in which the owner holds the legal title. Fee simple land tenure guarantees the owner the right to sell, donate, or pass the land to heirs with specifications or conditions. Fee simple land can be used as collateral for loans (Goetting & Rupel, 2007).



In 1891, Congress approved trust allotment leasing to non-Indians for farming. Leasing allotments quickly became the norm.

Despite the earlier mandated 25-year period prohibiting the transfers of trust allotments, the **Burke Act** (1906), amended the General Allotment Act by authorizing the federal government to issue fee patents to those Indian allottees classified as **competent**. The criteria used by the federal government to determine competency varied among reservation agencies, but typically involved education, social habits, physical appearance and blood quantum. Those Indians with less than one-half Indian blood were presumed competent (Forbes, 1997). On some reservations, competency was based on whether or not the allottee could speak English, understand basic math and could presumably handle their farm business affairs. Those individuals deemed competent were issued a fee patent, which meant that they were free to sell their allotment and many allottees did so immediately. Additional legislation in 1907 enabled even full-blooded Indians and those individuals deemed “incompetent to farm” to be issued a fee patent (Prucha, 1984).

Given the impoverished conditions of allottees on Indian reservations at the turn of the 20th century, in addition to lack of credit available to Indians to make needed improvements to their trust allotments, many allottees sought to convert their allotment to fee simple status in order to sell it. Fee simple land is subject to county, state and

federal taxes. Many Indian landowners did not understand the concept of property taxation and the consequences of unpaid property taxes. Some were away serving in the military and others were simply unable to pay taxes. As a result it is estimated that approximately 27 million acres of Indian trust patents were lost to voluntary sales and foreclosure sales due to unpaid taxes (Russell, 2000).

Figure 3.1. Deed to Restricted Indian Land

5-5446

(DO NOT WRITE IN THIS SPACE)

Land being conveyed was
Allotted to Jennie Sam WR-233

**UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS**

DEED TO RESTRICTED INDIAN LAND

THIS INDENTURE, made and entered into this 10th day of February, 2006
by and between Rob Ervin Lewis Unal, Paiute of the Walker River Paiute Reservation, Schurz,
Nevada, party of the first part, and THE UNITED STATES OF AMERICA IN TRUST FOR Staci
Kay Finn Unal, Paiute of the Yerington Paiute Tribe, Yerington, Nevada, party of the second
part:

WITNESSETH, That said party of the first part, for and in consideration of the sum of
\$1.00 and other considerations, the receipt of which is hereby acknowledged, does hereby grant,
bargain, sell, and convey unto said party of the second part the following-described real estate and
premises situated in Mineral County, State of Nevada, on the Walker River Paiute
Indian Reservation, more particularly described as: all my 1/1 interest in Walker River Allotment
WR-233 described as follows: W1/2NW 1/4NE1/4, Section 8, Township 12, North, Range 29 East,
MDR&M, Nevada, containing 20 acres more or less. This land is located within the Walker River
Indian Irrigation Project, Nevada. Any unpaid irrigation charges which have accrued or may accrue
against this land constitute a first lien thereon in favor of the United States of America as created by
the Act of March 7, 1928 (45 Stat. 210) and amended by the Act of July 1, 1932 (47 Stat. 564).
Subject to all valid existing rights of way of record. This conveyance is made in accordance with the
provisions of the Act of June 18, 1924 (48 Stat. 984)
together with all the improvements thereon and the appurtenances thereunto belonging. And the said
party of the first part, for himself and his heirs, executors, and
administrators, do es hereby covenant, promise, and agree so and with the said party of the
second part, its successors, heirs and assigns, that they will forever warrant and defend the said
premises against the claim of all persons, claiming or to claim by, through, or under them only.

To have and to hold said described premises unto the said party of the second part, its
successors, heirs, executors, administrators, and assigns, forever.

IN WITNESS WHEREOF, That said party of the first part has hereunto set his hand
and seal the day and year first-above written.

WITNESSES:

Rob Ervin Lewis [SEAL]
Rob Ervin Lewis [SEAL]

656-001-06

Checkerboard land is one result of the General Allotment Act and the Burke Act. Checkerboard refers to the land tenure pattern on and near Indian reservations that randomly combines restricted Indian land and fee simple land. Fee simple land may belong to one of several different entities, including individual Indians, non-Indians, tribes, county, state and federal governments (Russell, 2000). Checkerboard lands

Figure 3.1. Deed to Restricted Indian Land (continued) ...

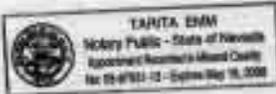
Acknowledgments must be in accordance with the forms prescribed by the State in which the land is situated.

STATE OF Nevada)
COUNTY OF Mineral)

BE IT REMEMBERED, That on this 10th day of February A.D. 2006
before the undersigned, a Notary Public in and for the County and State aforesaid,
personally appeared Rob Ervin Lewis

to me personally known to be the identical person who executed the within instrument of writing,
and such person duly acknowledged the execution of the same.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my seal on
the day and year last herein above written.

 *Tanta Emh*
Notary Public
(Title)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
WESTERN NEVADA AGENCY
CARSON CITY, NV 89706

"The within Deed To Restricted Indian Land is hereby approved pursuant to authority delegated to the Assistant Secretary-Indian Affairs by 209 DM 8, 230 DM 1, and to the Western Regional Director by J IAM 4 (Release No. 95-03), and to the Superintendent/Field Representative by 10 BIAM 11, as amended by Western Region Release No. 97-1, and any further delegations needed to effectuate the reorganization embodied in DM Releases dated April 21, 2003, and the applicable provisions of Title 25 Code of Federal Regulations".

Date: FEB 13 2006

Robert H. Smith
Acting Superintendent, Bureau of Indian Affairs
Western Nevada Agency, Carson City, Nevada

90-100-069

create complex civil and criminal jurisdictional issues, including the provision and execution of local, state and federal law enforcement and the coordination of basic public services. Figures 3.2 and 3.3 illustrate the checkerboard pattern for the Nez Perce and Coeur d'Alene Indian reservations.¹ Non-Indians today



From the discovery and colonization of America, the federal government used the concept of “blood quantum” to delineate between whites and those individuals with African and Indian ancestry. Blood quantum was used also to determine who qualified for inclusion in the “Dawes Roll,” the enrollment of individual Indians qualified to receive a land allotment through the General Allotment Act. The terms “full-blooded” and “half-blooded” Indian were commonly used during this time. Blood quantum also played a critical role in “competency hearings” to determine whether an Indian person was becoming in fact a responsible farmer of his allotted land (Shanley, 2003). It was an accepted belief that individuals who possessed more white than Indian blood were “more competent.”

The greater amounts of white blood that an Indian possessed, the greater the privileges granted. These privileges included the right of Indians to be issued a fee patent for their allotment (Shanley, 2003). Fee simple land had and continues to have a distinct advantage as compared with trust patent land, in that it can be used as collateral for a loan. This advantage motivated many Indian allottees who wished to borrow operating funds to develop their ranch, for example, to request competency hearings in order to transfer their trust allotments to fee simple status.

Many historians believe that Indian individuals, when enrolling for allotments, may have exaggerated their amount of white ancestry. Individuals lacking white ancestry were “restricted,” and the BIA assumed the authority to oversee and manage their finances (Forbes, 1997; Saunt, 2005). Blood quantum remains a commonly used method by Indian Health Services (for example), to determine who qualifies for benefits and awards.

own nearly 20 percent (11 million acres) of land located within all reservations. Forty-six percent of the population on reservations is comprised of non-Indians (Russell, 2000).

¹ Figures 3.2 and 3.3 reprinted with permission from the Nez Perce and Coeur d'Alene tribes.

Figure 3.2. Checkerboard Land Tenure Pattern: Nez Perce Indian Reservation.

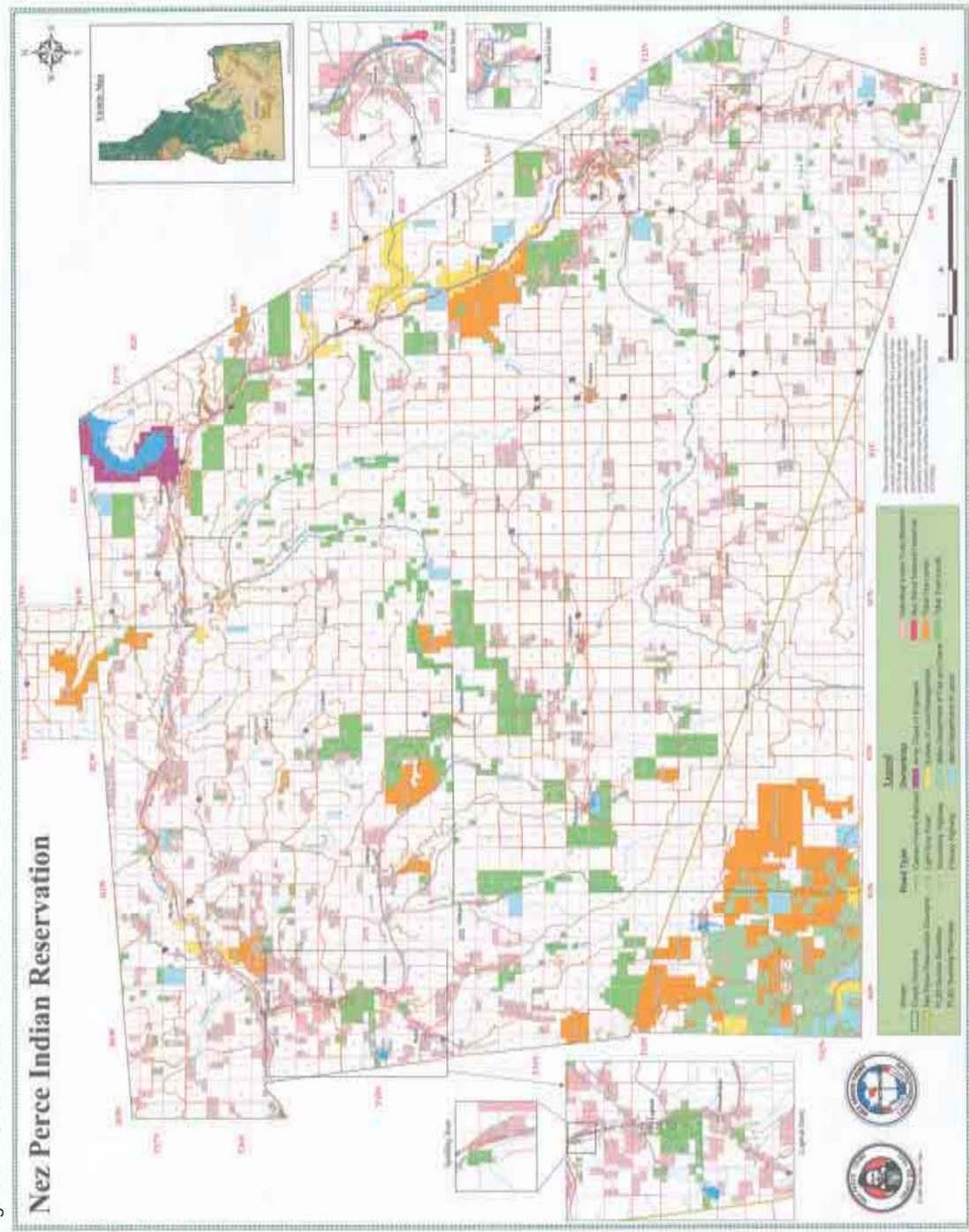
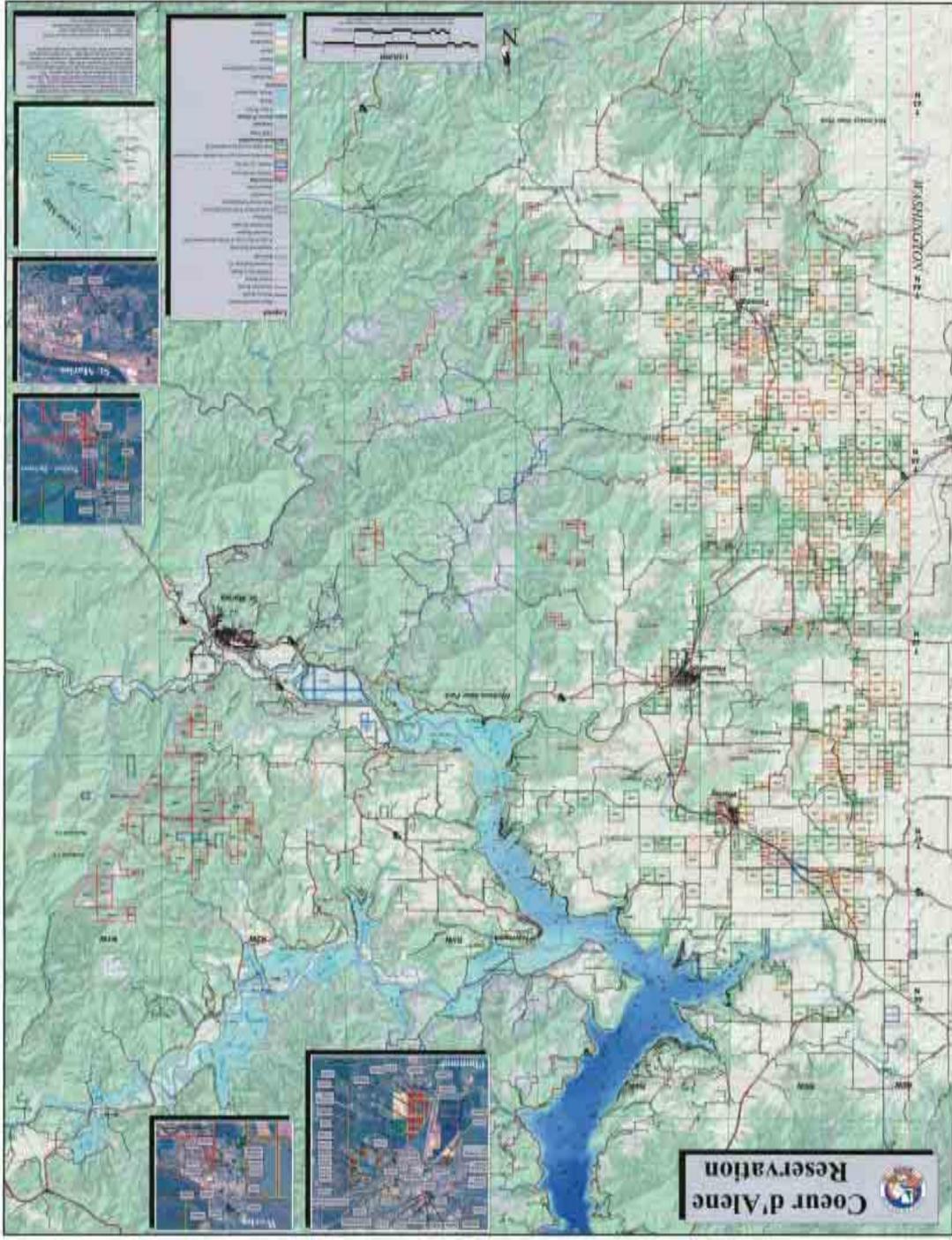


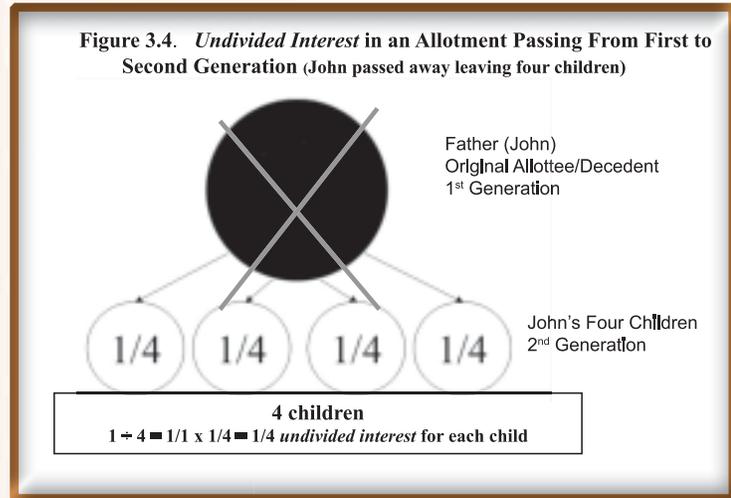
Figure 3.3. Checkerboard Land Tenure Pattern: Coeur d'Alene Indian Reservation.



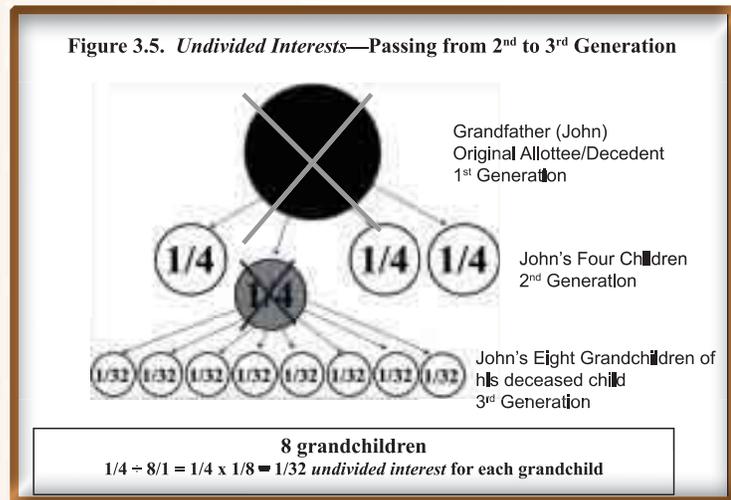
Another significant outcome of the General Allotment Act is **fractionated land**, allotments with multiple heirs (owners). That is, historically when an original allottee died, the federal government distributed ownership of the allotment equally among heirs, but as shared interest rather than as individual tracts.

The process of **fractionation** created **undivided interests** in allotments co-owned by other heirs. With each generation, the number of undivided interests increased over time, resulting in **highly fractionated parcels**. A highly fractionated parcel is defined as “one with 50 to 99 co-owners with no individual holding an undivided interest greater than 10 percent or 100 or more owners” (Goetting & Ruppel, 2007). Many allotments can have as many as 500 or more co-owners (Goetting & Ruppel, 2007).

Figure 3.4 illustrates fractionation, beginning with the death of the original allottee, John (decedent).² Without a written will or surviving spouse, John’s 320-acre allotment is divided equally among his four surviving children (descendants), each receiving 25 percent (1/4) of the allotment. Figure 3.5 illustrates fractionation over the second and third generations of John’s descendants. If John’s son, for example, dies without a surviving spouse, his eight surviving children, John’s grandchildren, each inherit 1/32 of their father’s 1/4 undivided interests.



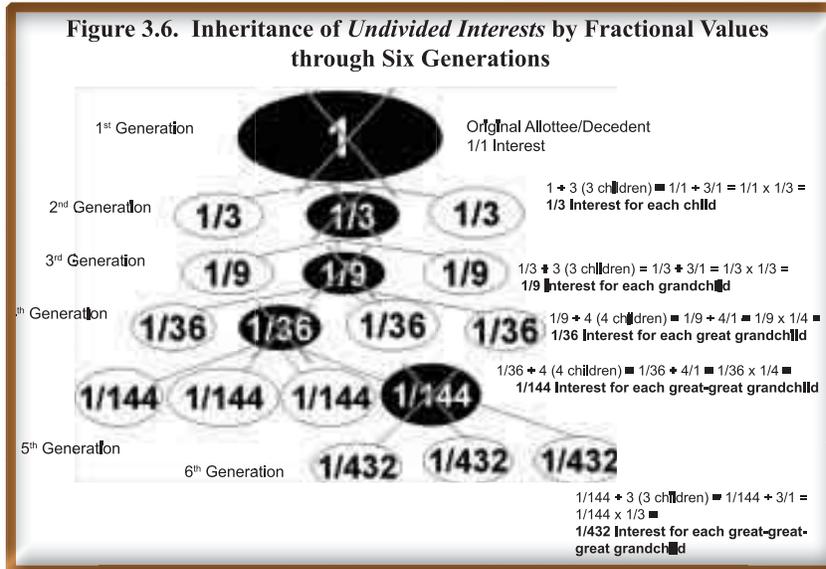
Source: Goetting & Ruppel, 2007.



Source: Goetting & Ruppel, 2007.

² Figures 3.4 through 3.7 are reproduced with permission from Goetting and Ruppel (2007), authors of *Fractionation: Inheriting Undivided Interests*, Fact Sheet #2 of the 14 fact sheet series titled *Planning for the Passing of Reservation Lands to Future Generations series*, available online at <http://www.montana.edu/indianland>. The accompanying text provided here for Figures 3.4 through 3.7 summarizes parts and reprints parts of this publication’s excellent, detailed discussion concerning fractionation.

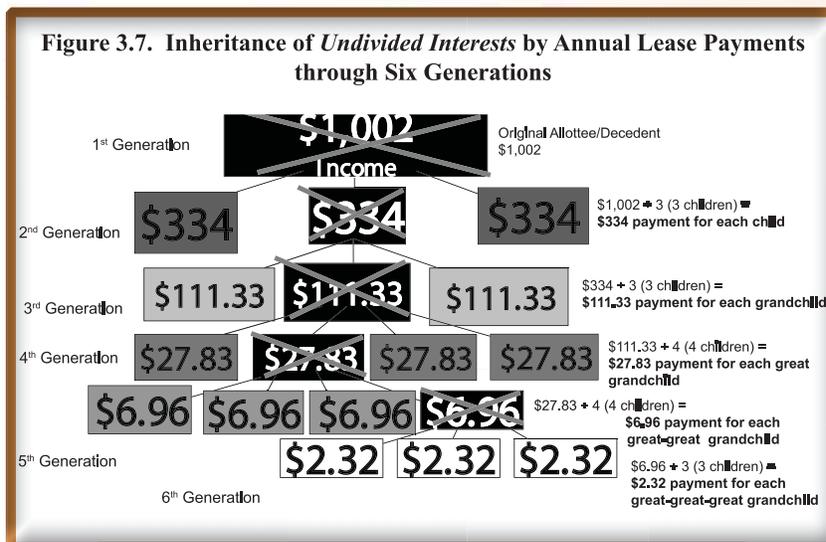
Figures 3.6 and 3.7 illustrate a six-generation example of the inheritance of an undivided interest using values listed on an **Individual Trust Interest (ITI) Report** provided annually by the BIA to the undivided interests of allotments.



Source: Goetting & Ruppel, 2007.

Looking at Figure 3.6, note that by the sixth generation, each of the surviving three great-great-great grandchildren equally inherit a 1/432 undivided interest of each acre in the original allotment (1/3 of the 1/144 interest held by the fifth generation family member). This does not necessarily mean that there are 432 owners, but rather 13 descendants who are co-owners of John's original allotment.

Figure 3.7 illustrates a six generation example of inheritance of undivided interests by lease payment values. Due to fractionation, an annual lease payment of \$1,002 to the original allottee is reduced to \$2.32 for the three members of the sixth generation. That is, these three great-great-great grandchildren equally divide a lease payment of \$6.96 that would have been paid to their parent. Each great-great-great grandchild receives \$2.32 annually ($\$6.96 \div 3 = \2.32).



Source: Goetting & Ruppel, 2007.

Figure 3.7 illustrates a six generation example of inheritance of undivided interests by lease payment values. Due to fractionation, an annual lease payment of \$1,002 to the original allottee is reduced to \$2.32 for the three members of the sixth generation. That is, these three great-great-great grandchildren equally divide a lease payment of \$6.96 that would have been paid to their parent. Each great-great-great grandchild receives \$2.32 annually ($\$6.96 \div 3 = \2.32).

Table 3.1 illustrates the number of allotments and average number of ownership interests per allotment for each of the official BIA regions nationwide. Regions that include the four-state study area are highlighted and feature the northwest (Idaho, Oregon and Washington) and western regions (Nevada).

Table 3.1. Fractionated Interests on Indian Allotment and Tribal Tracts in the U.S.

BIA Region	Number of allotment/tribal tracts	Average number of ownership interests per allotment
Great Plains	59,093	21.1
Midwest	9,042	26.1
Southern Plains	11,142	17.4
Rocky Mountains	37,982	24.2
Southwest	1,941	5.7
Western	13,291	24.2
Navajo	5,883	37.2
Northwest	34,040	10.7
Pacific	3,838	10.9
Alaska	4,790	2.9

Source: Goetting & Ruppel, 2007.

An obvious problem that arises from fractionation, in addition to the large numbers of co-owners, is that no co-owner owns a specific location within the allotment. Thus, in order to farm the land, build a home, or to keep livestock on the property, a co-owner must secure permission from a majority of the allotment co-owners.³

Highly fractionated interests affect land use decisions that include leasing restricted Indian land. In order to lease a trust allotment, a majority of the fractionated interests must agree to the lease. In the case that a majority of the fractionated interests cannot be located to make a determination, the BIA has the authority to grant the lease after a 90-day notice period (see Figure 3.8).

Fractionation raises issues concerning crucial resource management decisions and actions on Indian lands that benefit adjacent property owners, as well as the common good, such as noxious weed control and wildfire fuels reduction. Economists have shown that when compared with fee simple land, the more severe the fractionation, the lower the relative agricultural output (Anderson & Lueck, 1992). Also, in cases involving highly fractionated parcels, opportunity costs of time involved to locate co-owners in order to make strategic decisions or complete real estate transactions lowers the economic value of the property (Anderson & Lueck, 1992; Indian Land Tenure Foundation, 2006).



³ The BIA requires majority agreement, typically defined as greater than 50 percent, although this may vary depending on the extent of fractionation involved.

Figure 3.8. Sample 90 Day-Notice

<i>SAMPLE 90 DAY-NOTICE AUTHORITY TO GRANT FARM AND/OR PASTURE LEASES OF ALLOTTED LANDS</i>			
AGENCY		RESERVATION	
NAME OF LANDOWNER/ADDRESS		IDENTIFICATION NO.	
<p>THIS IS A NOTIFICATION TO YOU THAT THE LISTED ALLOTMENT (TRACTS) BELOW IN WHICH YOU OWN A TRUST INTEREST ARE AVAILABLE FOR NEGOTIATION OF A LEASE. THE TERMS ON WHICH THE LESSORS AND PROSPECTIVE LESSEE(S) OF YOUR CHOICE HAVE AGREED, MUST BE SUBMITTED TO THIS AGENCY FOR REVIEW AND APPROVAL.</p> <p>YOU ARE ADVISED THAT THE AMERICAN INDIAN AGRICULTURAL RESOURCES MANAGEMENT ACT.[25USC3701-3705] AUTHORIZED THE OWNER(S) OF A MAJORITY INTEREST (GREATER THAN 50 PERCENT) IN SAID TRACT(S) TO ENTER INTO AN AGRICULTURAL LEASE OF THE SURFACE INTEREST AND SUCH LEASE SHALL BE BINDING UPON THE OWNERS OF THE MINORITY INTERESTS IN SUCH LAND IF THE TERMS OF THE LEASE PROVIDE SUCH MINORITY INTERESTS WITH NOT LESS THAN FAIR MARKET VALUE FOR SUCH LAND.</p> <p style="text-align: center;">“OR”</p> <p>IF NO ACCEPTABLE LEASE HAS BEEN PRESENTED TO THIS AGENCY BY THE LESSORS AND PROSPECTIVE LESSEES WITHIN 90 DAYS FROM THE DATE OF THIS NOTICE, THE SUPERINTENDENT MAY ADVERTISE SUBJECT TRACTS FOR SEALED BIDS. IF AN ACCEPTABLE BID IS RECEIVED, A LEASE MAY BE GRANTED ON BEHALF OF YOU AND THE REMAINING CO-OWNERS UNDER THE AUTHORITY OF THE ACT OF JULY 8, 1940 (54 STAT. 745; U.S.C. 380) AND TITLE 25, CODE OF FEDERAL REGULATIONS, 162.209.</p> <p>IF WE AWARD A LEASE PURSUANT TO AN ADVERTISEMENT, WE WILL APPROVE THAT LEASE ON THE TRACTS WHICH ARE LISTED IN THIS NOTICE. IF YOU DECIDE TO APPEAL THIS DECISION YOU MAY APPEAL THE DECISION TO THE REGIONAL DIRECTOR, IN ACCORDANCE WITH THE REGULATIONS CONTAINED IN THE <i>CODE OF FEDERAL REGULATIONS</i>, TITLE 25, PART 2. YOUR NOTICE OF APPEAL MUST BE SIGNED BY YOU OR YOUR ATTORNEY AND MUST BE MAILED WITHIN 30 DAYS OF THE DATE OF RECEIPT OF THIS DECISION. IT SHOULD CLEARLY IDENTIFY THE DECISION BEING APPEALED. IF POSSIBLE, ATTACH A COPY OF THIS DECISION. YOU MUST SEND COPIES OF YOUR APPEAL TO 1) REGIONAL DIRECTOR, <u>INSERT ADDRESS</u>; 2) EACH INTERESTED PARTY KNOWN TO YOU; AND THIS OFFICE, YOUR NOTICE OF APPEAL TO THE REGIONAL DIRECTOR MUST CERTIFY THAT YOU HAVE SENT COPIES TO THESE PARTIES. (25 CFR 152.214 (B)).</p>			
TRACT	DESCRIPTION	SEC.	TWP. RGE. INTEREST

Source: U.S. Bureau of Indian Affairs, 2006.

In short, land tenure complexities pose barriers to economic development on Indian reservations. Allotment size, trust status and fractionation of Indian lands increase the costs of acquiring and managing agricultural inputs when compared with fee simple tenure. In addition, due to the increased costs associated with managing these lands, leasing these lands for minerals, oil and other resources may be limited (Anderson & Lueck, 1992).

In 1983, federal Indian policy attempted to address these land tenure issues through the **Indian Land Consolidation Act**. This policy aspired to prevent Indian lands from passing out of trust status and to reduce the problems associated with fractional interests. The Indian Land Consolidation Act also required the BIA to provide estate planning education and assistance to Indian landowners. Additionally, in 1991, members of the Confederated Tribes of the Umatilla Reservation, the Northwest Renewable Resources Center and the First Nations Development Institute established the **Indian Lands Working Group**. This group has played an important, proactive role in bringing the attention of federal policy makers to reservation land tenure issues. This group also conducts land issue educational meetings and workshops and has produced an Indian Land Consolidation Manual (Russell, 2000).

In 2001, the **Indian Land Tenure Foundation**, a nonprofit organization, was established to support tribal and individual Indian efforts to acquire and effectively manage land. The foundation distributes donations to Indian land programs with these goals in mind. The Indian Land Tenure Foundation mission statement features the following four strategies:

1. Educate Indian landowners about land management, ownership and land transference issues to empower them with the knowledge to make sound decisions regarding land assets.
2. Increase the economic assets of Indian landowners by acquiring and controlling Indian lands while creating financially sound models to leverage land for Indian owners.
3. Utilize Indian lands to assist Indian people in rediscovering and maintaining their heritage and culture.
4. Reform those legal mechanisms required to recapture land as economic assets for Indian people and thus strengthen Indian land sovereignty (Indian Land Tenure Foundation, 2006).

A major focus of the Indian Land Tenure Foundation has been to promote federal policies that seek to reverse the effects of earlier policies that produced the complex Indian land tenure problems that exist today. Their efforts in part inspired the

Indian Probate Reform Act (AIPRA, 2004), which affects those who pass away on or after June 20, 2006. The legislation establishes a nationwide probate code for all reservation lands with the exception of Alaska, the Five Civilized Tribes and the Osage. In order for a tribe to become involved in probate settlement, it must have its own probate code approved by the Secretary of Interior.



The AIPRA allows non-Indian spouses of Indians to inherit an individual interest and receive a life estate, the right to occupy and receive income from a trust allotment for the duration of his/her lifetime. The purpose of a life estate is to keep Indian lands in Indian trust.

The legislation clarifies probate with respect to Indian trust or restricted Indian lands, with the ongoing goal to reduce fractional ownership issues (Tribal Law and Policy Institute, 2007). This legislation stipulates who is eligible to inherit Indian trust property and emphasizes the importance of a written will for Indian trust land owners. This facilitates the probate process specifically for Indian trust lands (Indian Land Working Group, 2003; Goetting & Ruppel, 2007).⁴

According to AIPRA, non-Indian heirs to restricted Indian land may only qualify for a **life estate**, or the right to occupy, use, or receive income from the property for the duration of their lifetime. The purpose of a life estate is to keep Indian lands in Indian trust, yet benefit those heirs, such as non-Indian spouses, who are not blood relatives. The

person who receives the life estate, the **life tenant**, has the right to receive income from the property and may remain in the family home until they die. A **remainder interest** is created for surviving blood relatives. At the time of the life tenant's death, the remainder interest must go to an Indian heir. If no Indian heirs exist, an Indian co-owner is allowed to buy the remainder interest. Finally, if no offer is made to purchase the remainder interest, the land passes to the tribe (Goetting and Ruppel, 2007; Tribal Law and Policy Institute, 2007).⁵ The provisions outlined in AIPRA also apply to **public domain allotments**, or trust allotments created on public lands.

In 2007, the Indian Land Tenure Foundation piloted a program to educate Indian landowners about the importance of estate planning in light of AIPRA. This project also provides legal training on AIPRA and direct estate planning services in selected regions of the U.S. (Indian Land Tenure Foundation, 2007).



⁴ Goetting and Ruppel (2007) have authored a fact sheet series titled Planning for the Passing of Reservation Lands for Future Generations. This series, published by Montana State University Extension, explains the AIPRA (2004) in detail. The author encourages readers to learn more about AIPRA. The fact sheets can be accessed at <http://www.montana.edu/indianland>.



Summary

This chapter examined the complex structure of Indian land tenure and loss of Indian lands resulting from the General Allotment Act and its amendment, the Burke Act. One important and lasting impact of these policies is the checkerboard land tenure pattern that exists today. Land on and near Indian reservations may be owned by tribes, individual Indians, non-Indians, or county, state and federal governments. These complex ownership patterns, within the boundaries of Indian reservations, create numerous and ongoing jurisdictional and resource management issues.

A second confounding impact is fractionation, which allows multiple descendants to inherit undivided interests in trust allotments that are already co-owned by other heirs. That is, an individual allotment may be divided repeatedly over time among heirs so that today an individual allotment may have hundreds of co-owners. Fractionation lowers the economic value of the property and raises important issues concerning a lack of efficacy or ability to manage fractionated lands in a cohesive and sustainable way. Federal legislation and Indian estate planning by owners are needed to reverse the trend toward increasing fractionation.

An understanding of the background and complexities of Indian land tenure may assist those working with Indian agricultural producers to appreciate land-use decisions and motivations behind the decisions as well as the absence of decision-making. It may also help to determine producers' participation rates in natural resource education and agriculture and resource assistance programs involving the reservation land base.



Agriculture has become important to many western range reservations. Livestock production plays a key role, as do rodeo sports.

Chapter Three Review

1. With the goal to develop the nation's economy during the 1800s, the federal government enacted the:
 - a) Homestead Act
 - b) General Allotment Act
 - c) Desert Land Entry Act
 - d) A and C only
 - e) All of the above

2. When Senator Henry L. Dawes promoted the General Allotment Act as a solution to widespread poverty on reservations, he was supported by Indian rights activists, including Sarah Winnemucca, daughter of Chief Winnemucca of the Northern Paiute.
 - True
 - False

3. According to Thomas J. Morgan, Commissioner of Indian Affairs (1890), the General Allotment Act sought to:
 - a) Settle Indians upon their own homesteads
 - b) Incorporate Indians into national life
 - c) Deal with Indians not as tribes or bands but as individual citizens
 - d) Break up reservations
 - e) All of the above

4. Using forced assimilation as the rationale, the General Allotment Act was designed to mold Indians into self-sufficient farmers.
 - True
 - False

5. In the early years of allotment legislation, a reservation allotment always consisted of:
 - a) 640 acres
 - b) 320 acres
 - c) 160 acres
 - d) None of the above

6. For Indian individuals without designated reservations and those not living on reservations:
 - a) Allotments were created from federally owned lands
 - b) Public domain allotments were created
 - c) Both A and B
 - d) None of the above

7. Toward the latter years of the allotment period, reservation allotments granted in the western U.S. ranged in size from:
 - a) 5 to 500 acres
 - b) 5 to 320 acres
 - c) 20 to 320 acres
 - d) All of the above

8. For Congress to pass the General Allotment Act, the law had to stipulate that surplus lands on reservations be made available for purchase by settlers.
 - True
 - False

9. Indian rights proponents who supported the General Allotment Act had envisioned that proceeds from sales of surplus lands could be used to purchase clothing for allottees to hasten the assimilation process.
 - True
 - False

10. Shortly following implementation of the General Allotment Act, which of the following occurred?
 - a) Programs were implemented to teach Indians effective farming practices
 - b) Indian land holdings were reduced by 50 to 66 percent
 - c) Income levels increased dramatically after the 25-year waiting period
 - d) None of the above

11. In 1891, Congress approved the leasing of allotments to non-Indians to farm, and subsequently leasing rather than farming allotments quickly became the norm.
 - True
 - False

12. The federally mandated 25-year period to prevent alienation of allotted lands was successful in that few Indians lost or sold their allotments.
- True
 - False
13. Unless a trust patent is converted to fee patent status, allotment owners are beneficial owners, which means they may occupy the land for their beneficial use while the federal government holds the legal title in trust.
- True
 - False
14. The Burke Act amended the General Allotment Act in 1906 by authorizing the federal government to issue fee patents to those allottees deemed as competent to farm.
- True
 - False
15. Fee patents were issued to Indian allottees based on their proven competency to farm their land, which varied among agencies and included:
- a) Physical appearance
 - b) Social habits, which included whether allottees attended church
 - c) Blood quantum, with a preference for white blood
 - d) Ability to speak English, perform basic math, and manage their business
 - e) All of the above
16. The Burke Act, and the subsequent dramatic increase in fee patents issued in the early 1900s, increased the number of Indian landowners.
- True
 - False
17. Many allottees lost their allotments once they converted to fee simple status as they did not understand the concept of property taxes and/or were unable to pay annual property taxes.
- True
 - False

18. A result of the General Allotment Act is the land tenure pattern on and near Indian reservations, referred to as checkerboard lands, that are a:
- a) Random combination of trust lands and park lands
 - b) Random combination of fee simple, trust allotments and tribal lands
 - c) Random combination of allotments and assigned lands
 - d) None of the above
19. Currently, non-Indians own nearly 20 percent of land located within reservations and comprise about 46 percent of the population on reservations.
- True
 - False
20. The federal government holds legal title to individual trust allotments, which are not subject to city, county, state or federal taxes, such as property taxes, and typically cannot be used as collateral for loans to purchase housing and farm equipment.
- True
 - False
21. Fee simple or fee patent lands are subject to county, state and federal taxes, including annual property taxes, and can be used as collateral for loans.
- True
 - False
22. Indian trust or restricted Indian lands include:
- a) Assigned land and tribally owned land
 - b) Tribally owned land
 - c) Assigned land and allotted land
 - d) All of the above
23. Today, trust allotments may have as many as 500 or more co-owners, greatly devaluing the parcel in terms of income generated from lease payments.
- True
 - False

24. In cases involving highly fractionated parcels, land use and transfer decisions must be agreed upon by at least 25 percent of the co-owners.
- True
 - False
25. Assigned lands are reservation lands that:
- a) Any undivided interest can occupy, provided they receive BIA approval
 - b) Tribal governments may issue to Indian individuals to occupy and use
 - c) Remain as trust or restricted Indian lands
 - d) A and C only
 - e) B and C only
26. Land tenure issues pose serious barriers to economic development on Indian reservations, partly due to the inability to finance improvements on individual trust allotments and highly fractionated lands.
- True
 - False
27. A goal of the Indian Land Tenure Foundation is to secure federal policy to remedy the negative effects of earlier policies that produced the complex tenure issues effecting reservations today.
- True
 - False
28. The primary goal of the Indian Lands Working Group is the improvement of farming practices to sustain long term economic development on reservations.
- True
 - False

29. The Indian Land Tenure Foundation seeks to:
- a) Use Indian lands to help Indian people rediscover and maintain their heritage and culture
 - b) Educate Indian landowners about land management, ownership and transfer issues to empower their decision-making concerning land assets
 - c) Increase economic assets of Indian landowners by acquiring and controlling Indian lands
 - d) A and C only
 - e) All of the above
30. A major goal of the American Indian Probate Reform Act (AIPRA, 2004) is to preserve the trust status of Indian lands.
- True
 - False
31. The AIPRA, effective for individuals who pass away on or after June 20, 2006, diminishes the importance of written wills and estate planning.
- True
 - False
32. The AIPRA defines eligible heirs to trust property as the decedent's children, grandchildren, great-grandchildren, full siblings, half siblings by blood and parents who meet the AIPRA legal definition of Indian.
- True
 - False



CHAPTER 4

CHAPTER 4

Agricultural Irrigation and Water Rights on Reservations

STACI K. EMM

Learning Objectives:

- ⊕ Define the Winters Doctrine.
- ⊕ Understand Indian agricultural irrigation on reservations.
- ⊕ Consider who is permitted to farm reservation lands.
- ⊕ Explore Indian water rights conflict and negotiated settlements.



Agriculture professionals who desire to work with American Indians must have a basic understanding of water rights on reservation lands in the western U.S. This chapter provides an overview of Indian water rights as they have evolved on reservation lands. Water rights issues on reservation lands are as complex as land tenure issues. This chapter examines the complexities of these issues in order to raise awareness of the challenges to irrigated agriculture on reservation lands.



Below Weber Dam on the Walker River Reservation.

Water Rights in the West

A water right encompasses who has the right to use water, what it is used for, and where it is used (Emm, 2003). Water rights and western land settlement are tied together by Prior Appropriation Doctrine, a legal concept that evolved to regulate scarce water resources. Prior Appropriation Doctrine allocated water rights based on seniority, “first in time, first in right.” Those who were first to arrive and stake claims to mines or land also staked a claim to the water resources. As long as they could prove a beneficial use for the water, they acquired and maintained the “prior” or “senior” right to water resources.

During the 1800s, beneficial uses were considered primarily gold and silver mining, food production and lumber production. Water right holders had to make continuous beneficial use of their water right in order not to lose it.

Indian Water Rights

The **Winters Doctrine**, also referred to as the **Reserved Water Rights Doctrine**, was the result of a Supreme Court ruling in the case of *Winters v. U.S.* (1908). The court case evolved from a situation in Montana's Milk River Valley involving the Fort

Belknap Reservation. Diversion of water by upstream off-reservation irrigators had hampered the development of agriculture on the reservation. The federal government filed claims for water rights specifically for agricultural irrigation on behalf of the Fort Belknap Reservation. The Winters Doctrine, in simplistic terms, reserved federal water rights to fulfill the purpose of why the federal government established Indian reservations.

The Winters Doctrine set a precedent for how water rights on Indian reservations would be determined and defined. It represented a pivotal landmark in western water law because it reserved Indian water rights based upon the date a reservation was established. Thus, these reserved rights maintained a senior priority date.

A later court case, *Arizona v. California* (1963), reaffirmed Indian reserved water rights. This court decision conflicted with

Prior Appropriation Doctrine, which had established state authority over adjudicated water rights (Kipp, no date). It reallocated water rights from non-Indian irrigation uses to reservation lands and other federally owned properties.

Adjudication, when it refers to water rights, is the quantification and distribution of water resources through a judicial decision or Congressional action. Indian reserved water rights, through the Winters Doctrine, does not necessarily guarantee that water rights have been adjudicated on a given reservation. Indian water rights that have not been adjudicated complicate increasing demands for water. Litigation and legislation continue to serve as primary methods for addressing conflict surrounding Indian water rights (Shurts, 2000).



A Court ruling concerning *Winters v. U.S.* (1908) asserted that it was the policy of the federal government to create the Ft. Belknap reservation and develop agriculture. The development of agriculture was intended to change the cultural habits of Indians and enable the Indians, through training and encouragement, to conform to habits of industry and to promote civilization and improvement. Since 1889, the United States and the Indians on the Ft. Belknap reservation diverted river waters. It is alleged with detail that all of the water of the river are necessary for the purpose for which the reservation was created. The government's power to reserve waters is not denied and is exempt from appropriation under state laws. (*Winters v. U.S.* Case Number 158: WyoState Law Library, 2007).



Indian Agricultural Irrigation Projects

During the early 1900s, to promote agricultural entrepreneurship on reservations, the federal government built **Indian irrigation works** on reservations which received low amounts of natural precipitation. Currently there are more than 100 irrigation works on reservation lands, primarily in the western U.S. The Bureau of Indian Affairs (BIA) refers to these irrigation works as either “**irrigation projects**” or “**irrigation systems**” (U.S. General Accounting Office, 2006). Irrigation systems are operated collaboratively by the BIA, tribes and various water users. The BIA does not collect operation and maintenance fees for irrigation systems. This is not the case with irrigation projects, however.

During the period of investment in Indian irrigation projects, the federal government did not determine a method for reimbursement of construction costs. Funding for the construction of Indian irrigation projects was often tied to other earmarked appropriations. Often, construction was not fully completed and resulted in structural deficiencies (U.S. General Accounting Office, 2006). Lack of a long-term, cost-recovery plan caused the federal government to legislate, in a piecemeal fashion, efforts to recover this investment.

In 1920, the federal government implemented legislation that required Indians on reservations with irrigation projects to repay operation and maintenance costs on an established fee-based structure. The fee structure recognized that each Indian irrigation project differed in size and costs. It also considered the economic status of farmers on reservation lands on a case-by-case basis.

Table 4.1 illustrates, for seven projects, irrigation fees charged to Indian and non-Indian water users through 2006. Looking at the Walker River Reservation in northwest Nevada, for example, Indian water users paid an average irrigation fee of \$7.32 per acre. In contrast, non-Indian water users farming within the same



According to the U.S. Federal Register (2007), “Without the necessary rate increases, the impact to projects as a result of the lack of adequate operation and maintenance funds could result in the inability to deliver water and maintain irrigation system components adequately.”



Bureau of Indian Affairs personnel monitor and operate Weber Reservoir, a Bureau of Indian Affairs irrigation project on the Walker River Reservation in Nevada.

Table 4.1. Indian Irrigation Projects Fee Schedules Per Acre (up to 2006)

Reservation	Total Acres in Project	Average Acres Irrigated	Indian	Non-Indian
Chiu Chu, AZ**	3,445	290	\$26.00	\$250
Duck Valley, ID/NV	12,000	9,396	\$5.30	\$22.73
Fort Belknap, MT	13,320	10,427	\$6.25	\$12.50
Pyramid Lake, NV	6,437	1,179	\$3.60	\$16.56
San Carlos, AZ	2,326	527	\$5.00	\$17.81
San Xavier, AZ**	2,026	296	\$60	\$100
Walker River, NV	4,980	1,846	\$7.32	\$15.29

Source: National Irrigation Committee, 1988.

**Denotes area not irrigated since 1982 due to lack of water.

irrigation project paid an average fee of \$15.29 per acre through the 2006 irrigation season. The lower fee charged to Indian water users was based on the ability to pay.

Historically, the BIA absorbed the operation and maintenance costs for specific Indian irrigation projects receiving limited funding but have lacked adequate funds to do this effectively. Overtime, operation and maintenance costs have steadily increased. The BIA no longer has discretionary funding available to subsidize and maintain these projects and many projects are in poor condition (U.S. Federal Register, 2007). Thus, effective Jan. 1, 2007, the BIA increased fees for both Indian and non-Indian water users so that fees are nearly equal (see Table 4.2).

Table 4.2. Rate Adjustments for Indian Irrigation Projects Per Acre

Reservation	Final 2006 rate per acre	Final 2007 rate per acre	Final 2008 rate per acre
Duck Valley	5.30	5.30	5.30
Fort Belknap	Trust Land - 8.50 Fee Simple - 17.00	Trust Land - 13.88 Fee Simple - 18.50	Trust Land - 20.00 Fee Simple - 20.00
San Carlos (Joint Works)	30.00	30.00	21.00
San Carlos (Indian Works)	77.00	70.00	To be determined
Uintah	12.00	12.00	12.50
Walker River	Indian - 7.32 Non-Indian - 15.29	Indian - 10.00 Non-Indian - 16.00 <i>Deferred for 2007</i>	Indian - 13.00 Non-Indian - 16.00

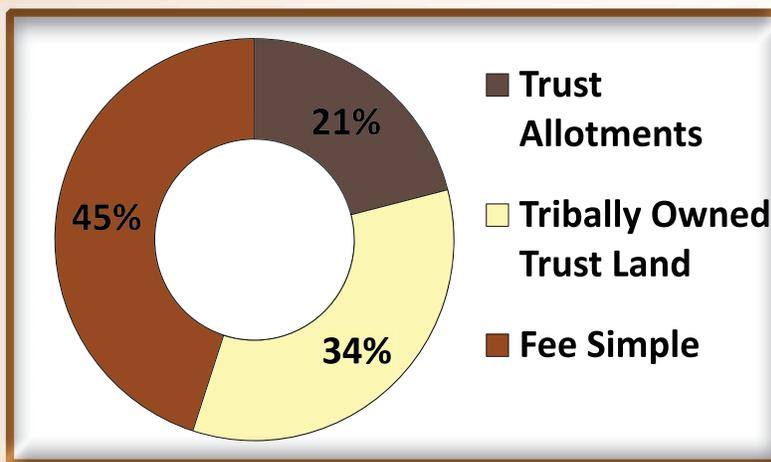
Source: U.S. Federal Register, 2007; 2008.

Who Farms Irrigated Indian Lands?

As land tenure on Indian reservations remains complex, due to highly fractionated interests and checkerboard issues, the question many Indian leaders ask is “who benefits from Indian irrigation works?” Today, Indian irrigation water serves all land tenure categories on reservations, including fee-simple parcels owned by non-Indians. Indian irrigation works originally built to encourage Indian agriculture on reservations is one BIA program that provides significant benefits to non-Indian agriculture due to the evolving complexity of reservation land tenure.

Figure 4.1 illustrates land tenure status served by Indian irrigation infrastructure. In some cases, the operation and maintenance of these works are funded by the water users, the majority of whom are non-Indian. This situation presents additional issues to address when considering the fate of irrigated agriculture on Indian Lands.

Figure 4.1. Land Tenure Status Served by Indian Irrigation Infrastructure



Source: National Irrigation Committee, 1988.

Water Rights Pose Obstacle for Expansion of Indian Agriculture

Most Indian irrigation works have contributed substantially to reservation economies, in some instances generating millions of dollars in crop value annually (U.S. Federal Register, 2007). Indian tribes successful in pursuing an agricultural-based economy have understandably attempted to expand their farming operations. The obvious issue involves increases in demands for water among diverse water users, including Indian farmers, tribal farming operations, non-Indian farmers, municipal developers, wildlife agencies and natural resource agencies.

For example, the Walker River Basin (see Figure 4.2) has endured a decades-old conflict involving farmers, environmentalists, the Walker River Paiute Tribe and federal and state agencies. Over time the conflict has spawned lawsuits, academic studies, Farm Bill funding allocations and environmental impact studies.

The Walker River Reservation's tribal government once viewed agriculture as a key to economic development. Of the 10,000 acres of 20-acre trust and fee simple allotments on the reservation, only 2,117 acres are served by an irrigation project based on federal decree C-125. Some of the Indian trust allotments are highly fractionated.

Figure 4.2. Walker River Basin



Source: U.S. Geological Survey, 1995.



Walker Lake, a rare terminus desert lake.

In 1992, on behalf of the Walker River Paiute Tribe, the federal government filed legal claims against upstream irrigators for recognized storage water rights for Weber Reservoir, an Indian irrigation project completed in 1933. Claims were also filed for senior water rights to irrigate lands returned to the reservation in 1936 that were part of the original reservation boundaries established in 1859. Mineral County in Nevada filed a motion to intervene in an effort to increase water flow to Walker Lake, one of the world's rare terminus desert lakes.

Negotiations involving stakeholders to settle the water conflict failed. In the 2002 Farm Bill, \$200 million in appropriations were earmarked to protect desert terminus lakes. Approximately \$70 million was allocated to Nevada System of Higher Education to fund the Walker Basin Project. The project involves environmental and economic research as well as the acquisition of water rights from willing sellers in the Walker River Basin.

In addition, the Walker River Paiute Tribe received \$10 million for a water rights lease and purchase program. In 2007 and 2008, the Walker River Reservation allottees elected to lease their water rights and fallow their croplands in exchange for monetary payment from the Walker River Paiute Tribe. Due to reservation land tenure issues, the program required BIA oversight.

Under the water leasing program, Indian land owners served by the irrigation project were paid \$900 per acre for irrigation water. Interest holders of highly fractionated allotments were paid based on the interest they held in the allotment. The problems associated with fractionation discussed in Chapter 3 continue to plague the leasing program. Although some Indian allottees will continue to farm, the future of irrigated agriculture on the Walker River Reservation remains unclear.

Indian Water Right Settlements

Increasingly negotiated settlements are sought to mitigate conflict involving Indian water rights. A well-known example involves the Pyramid Lake Reservation in Nevada, which is home to one of the nation's other rare desert terminus lakes, Pyramid Lake. The diversion of water from the Truckee and Carson rivers and the restoration of Pyramid Lake are the focus of the dispute.

In 1905, U.S. Bureau of Reclamation (BOR) undertook its first project. It diverted Truckee River water away from Pyramid Lake to join the Carson River in order to provide water for agricultural irrigation in west central Nevada (see Figure 4.3). Reservation lands set aside for the Pyramid Lake Paiute Tribe in 1859 restricted their semi-nomadic way of



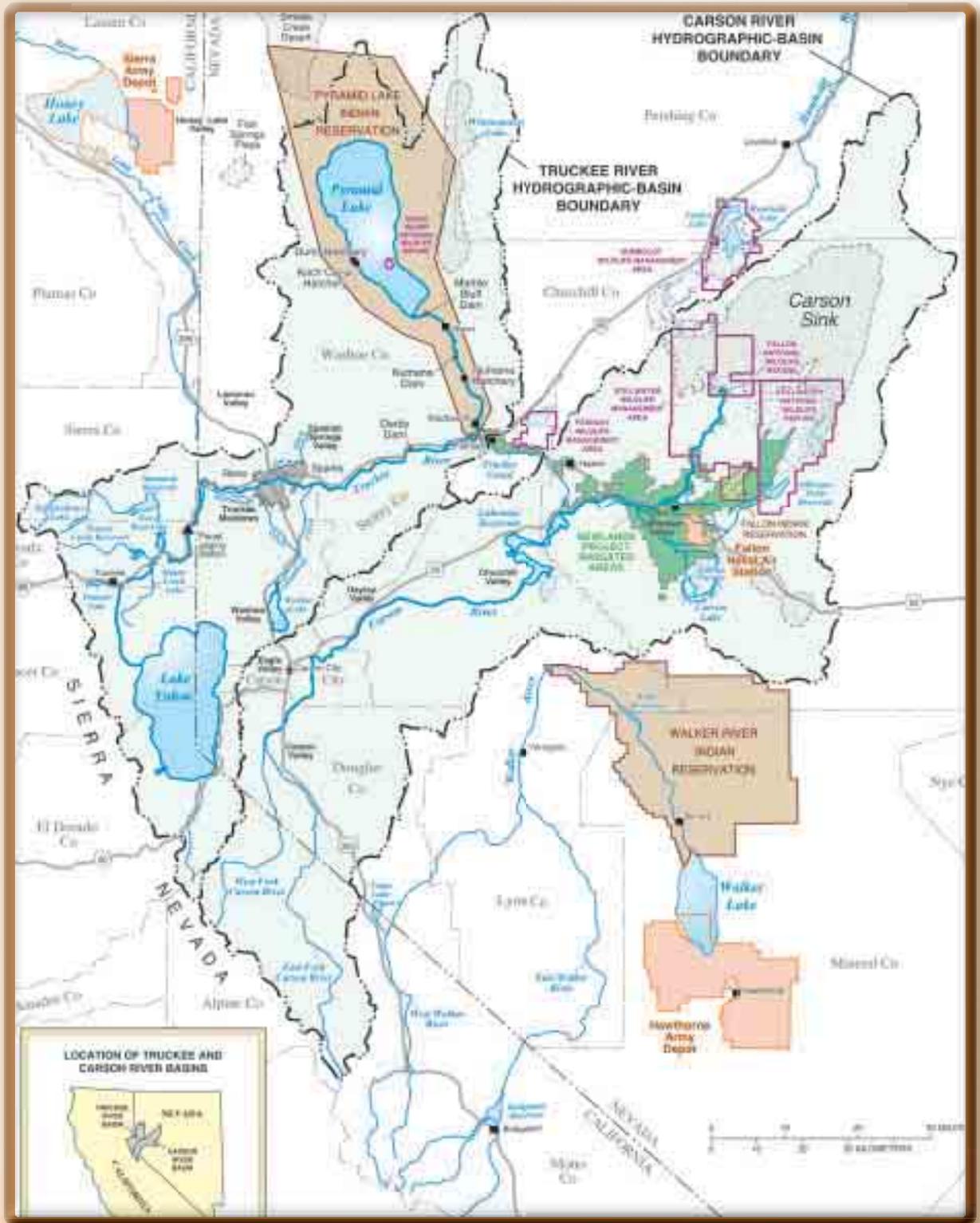
The "Needles" on the Pyramid Lake Reservation in Nevada.

life. The Pyramid Lake cutthroat trout provided ample food for the tribe, and the reservation's agricultural production contributed to the reservation's economy. Diversion of water from the Truckee River between 1918 and 1970 averaged about 250,000 acre-feet, or 50 percent of flow, which decreased lake levels, threatening the ecosystem of Pyramid

Lake (Trionfante & Peltz, 1994; Wagner, 2004). In 1967, after the passage of the Endangered Species Protection Act (1966), the cui-ui, a food source for the Lahontan cutthroat trout, was listed as an endangered species. In 1968, the Pyramid Lake Paiute Tribe filed the first of a series of legal actions claiming that water was being illegally diverted into the Carson River through the Derby Dam project.

In 1973, the BOR issued an order to deliver more water from the Truckee River into Pyramid Lake. In 1982, a federal court ruled that water from Stampede Reservoir, located near the Truckee River headwaters, was to be used to help re-establish Pyramid Lake as a fishery for cui-ui and stocked Lahontan cutthroat trout. The key piece of the negotiated settlement process, beginning in 1988, was a Congressional action titled the Truckee River Negotiated Settlement. The focus of the settlement, the Truckee River Operating Agreement (TROA), required that Truckee River water be

Figure 4.3. Truckee and Carson River Basins in Nevada.



Source: U.S. Geological Survey, 1994.

reallocated to Pyramid Lake under the constraints of the National Environmental Protection Act (NEPA) and Endangered Species Act (ESA) (Wagner, 2004).

Following years of negotiations, in September 2008 all parties signed the operating agreement at a ceremony along the banks of the Truckee River. This agreement provides for operation of the Truckee River reservoirs and other such reservoir operations subject to conditions which include: allocations between California and



Umatilla way of life on the Umatilla Reservation in Oregon (CTUIR, 2008).

Nevada; enhance fish, wildlife and recreational uses of water within the Truckee River Basin; maintain existing water rights; provide for the enhancement of spawning flows for fisheries in the lower Truckee River and Pyramid Lake; satisfy safety and flood control requirements; and minimize federal costs associated with operation and maintenance of Truckee River irrigation water delivery (U.S. Bureau of Reclamation, 2008). Upon signing the agreement, the Pyramid Lake Paiute Tribe received \$40 million in economic development funds (Water Education Foundation, 2001).

Another example involves the Umatilla Indian Reservation in Oregon. In 1855, a federal treaty with the Cayuse, Umatilla and Walla Walla Indian tribes in Washington established the Confederated Tribes of the Umatilla Indian Reservation. This treaty effectively reduced by millions of acres the original reservation lands set aside for each of these individual tribes. The Confederated Tribes of the Umatilla Reservation maintained their treaty rights for hunting, fishing,

livestock grazing and the gathering of food and medicinal plants. During the early 1900s, the BOR built an irrigation project in the Umatilla River Basin, intended to boost and support the agricultural economy for the basin's farmers. The numerous upstream irrigation diversions directly impacted the salmon fishery in the Umatilla River and reduced their numbers significantly (CRITFC, 2007).

In 1980, in an effort to protect their original reservation treaty rights, the Confederated tribes initiated the Umatilla Basin Salmon Recovery Project. Their intent was to defend and protect original treaty rights and to restore river flow to maintain and protect their salmon fishery. To address the increasing level of conflict between Indians and non-Indians on the river system, the goal of the project was to increase in-river flow on the Umatilla River while also sustaining the primarily non-Indian local agricultural economies (CTUIR, 2008). Their collaborative efforts resulted in over 112,000

salmon added to the river fishery and additional employment for tribal members (Tiller, 2005). It is important to note that the success of the Umatilla Basin Salmon Recovery Project is twofold in that it restored the salmon species to the river system while also sustaining a local agricultural economy (George, 2002).

As these examples demonstrate, Indian water right conflicts are addressed in a number of ways. Legal fees associated with court cases involving Indian-reserved water rights are substantial, and litigation is time consuming. Increasingly, stakeholders in these conflicts are encouraged to negotiate settlements that address these complex and contentious issues instead of relying upon litigation.

During the past four decades, a number of Indian tribes have filed legal claims in an effort to have water rights either restored to a reservation or protected for Indian use. Indian water claims involve substantial water resources with the potential to exceed 45 million acre-feet of water per year. In 1989, nearly 75 percent of these claims were in litigation while about 13 percent were in negotiations. In 1992, the market value of this water was estimated to be somewhere between \$20 billion and \$50 billion (Smith, 1992). Increasingly, tribal governments and individual tribal members work at the local, state and national levels to protect water resources on reservation lands. Negotiated settlements continue to play an important role in efforts to mitigate water rights claims for Indian reservations.



Farming operation on the Umatilla Reservation.



An EQIP project on the Umatilla Reservation in Oregon.

Figure 4.3 illustrates an example of a recent agreement reached in the Snake River Basin through the water rights settlement process involving the Nez Perce Tribe, the federal government, state of Idaho and local water users in Idaho.



Figure 4.3. Snake River Water Agreement

Fact Sheet on Snake River Water Agreement

May 15, 2004

- Since 1998, the Nez Perce Tribe, the United States, the State of Idaho, and local communities and water users in Idaho have engaged in mediation as part of the Snake River Basin Adjudication (SRBA) to resolve the claims of the Nez Perce Tribe in the Snake River.
- The SRBA is the legal inventory of about 150,000 water rights in 38 of Idaho's 44 counties. The Nez Perce dispute has been the biggest outstanding dispute in the Snake River Basin.
- The parties have now agreed on a "Term Sheet" that will guide the settlement of this case, and that provides the responsibilities of the parties over the 30 year term of the agreement.
- The components in the Term Sheet as follows:
 - **NEZ PERCE TRIBAL COMPONENT** which, among other things, quantifies the Tribe's on-reservation, consumptive use reserved water right at 50,000 acre feet a year with a priority date of 1855; establishes a \$50 million multiple-use water and fisheries resources trust fund; provides \$23 million for the design and construction of a water supply and sewer system on the reservation; transfers management authority of Kooskia National Fish Hatchery to the Tribe; and transfers a portion of Bureau of Land Management-administered land within the reservation valued at \$7 million to the Tribe.
 - **SALMON/CLEARWATER HABITAT MANAGEMENT AND RESTORATION INITIATIVE** which, among other things, provides that instream flows will be established and held by the Idaho Water Resources Board for selected streams of importance to the Tribe; requires the State of Idaho to administer a cooperative agreement under the Endangered Species Act; and establishes a Habitat Fund to provide funding for habitat improvement projects.
 - **SNAKE RIVER FLOW COMPONENT** which, among other things, provides that certain minimum flows will be decreed by the SRBA Court to the ID Water Resources Board; requires the State of Idaho to extend the provisions of State law for the term of the agreement to allow the Bureau of Reclamation to lease up to 427,000 acre feet of water from ID water banks for flow augmentation; and allows Reclamation to acquire up to 60,000 acre feet of consumptive natural flow water rights from the Snake River, with compensation to local communities for impacts caused by this acquisition.
- State and Federal legislation and Tribal approval will be necessary to implement the provisions of the Term Sheet. In addition, a final consent decree must be entered by the SRBA court.



Summary

The federal government introduced irrigated agriculture to Indians living on reservations in the West in an attempt to assimilate them into an agrarian-based economy. Indians who have made progress adapting to an agricultural-based economy have, understandably, attempted to expand their farming operations. Increasingly, Indian tribes are taking legal actions to protect their water rights for agriculture use, wildlife and the management of natural resources on reservation lands.

The fate of water rights originally appropriated for Indian reservation lands remains a confounding issue of the 21st century. Conflict is likely to increase concerning the competition among diverse water users for water rights that have been over-adjudicated over time. This is particularly true in the western U.S. where water is crucial for continued growth and development.

Prior Appropriation Doctrine established and allocated water rights based on the concept of “first in time, first in right.” The Winters Doctrine reserved federal Indian water rights to fulfill the purpose of the establishment of reservations. However, some Indian water rights have never been adjudicated. Today, tribal leaders work diligently to protect water rights reserved for reservation lands. With increasing competition for water resources, water rights security for agricultural irrigation on reservation lands will likely face challenges. This is due, in part, to the expense and time required to resolve water rights claims in the courts. Currently, water right holders are encouraged to explore negotiated settlement processes to resolve conflict surrounding competing and diverse demands for water.



A view of agriculture and water resources on the Coeur d'Alene Reservation in Idaho.

Chapter Four Review

1. Indian irrigation projects were created to help Indians on reservation lands become reliant on farming as a major source of income and food.
 - True
 - False
2. Funding for the construction of Indian irrigation projects was often commingled with other federal legislation or earmarked appropriations without much thought of long-term economic feasibility.
 - True
 - False
3. Fees are charged to water users on Indian irrigation projects and include both _____.
 - a) Indian and non-Indian farmers
 - b) Fee simple land and trust lands
 - c) Both A & B
4. Most Indian irrigation works in the U.S. contribute substantially to the local economies of reservations, in some instances contributing _____ in crop value annually.
 - a) Trillions of dollars
 - b) Thousands of dollars
 - c) Millions of dollars
5. A water right defines who has the right to use water, what it is used for, and where it is used.
 - True
 - False
6. Indian water rights are defined in common law precedent known as the _____.
 - a) Winters Doctrine
 - b) Doctrine of Discovery
 - c) Prior Appropriation Doctrine

7. On all Indian reservations in the western U.S. Indian reserved water rights have been adjudicated.
- True
 - False
8. During the past four decades, several Indian tribes in the western U.S. have filed legal claims in an effort to have water rights either returned to the reservation or protected.
- True
 - False
9. Indian tribes are encouraged to settle water right claims through negotiated settlements, and in other cases _____.
- a) Tribal courts
 - b) State law
 - c) Congressional actions
10. Agricultural irrigation on reservation lands will likely face more challenges with increased demands for scarce water resources by diverse interests.
- True
 - False
11. The BIA refers to irrigation works as _____.
- a) Irrigation projects
 - b) Irrigation systems
 - c) Both A & B



CHAPTER 5

CHAPTER 5

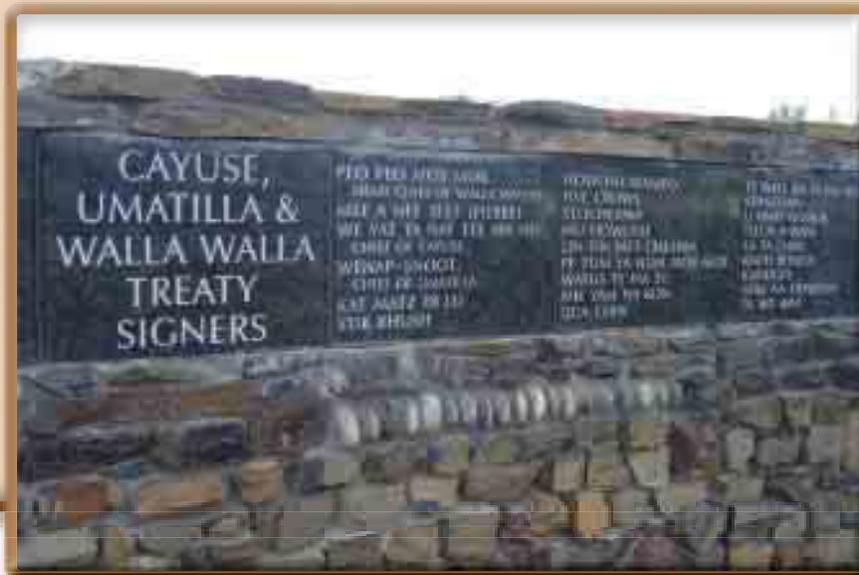
Tribal Governance and the Federal Relationship



STACI K. EMM

Learning Objectives:

- ⊕ Examine the evolution and structure of tribal governments.
- ⊕ Discover how the structure of individual tribal governments may differ.
- ⊕ Explore the concepts of Federal trust responsibility and tribal sovereignty.
- ⊕ Understand the significance of federal recognition of Indian tribes.



From the beginning of the Reservation Era, socioeconomic conditions steadily declined on Indian reservations. By the 1920s, living conditions on Indian reservations were described as deplorable. Also, social conflicts among Indians had emerged on reservations where numerous and often very different bands were forced to live together. The federal government recognized a need for tribal governance to help manage daily reservation activities and affairs.

The Indian New Deal Era provided Indian tribes with the opportunity to establish tribal governance and exercise some degree of sovereignty. This chapter examines the evolution of tribal governance and how governance structure may differ among tribes. It also explores the concepts of federal trust responsibility, tribal sovereignty and discusses the significance of federal recognition.



Evolution and Structure of Tribal Governance

The Indian Reorganization Act (IRA) of 1934 allowed Indian tribes to organize tribal governments. Key components of the legislation authorized tribes to: 1) create and adopt a tribal government constitution; 2) restore to tribal governments the authority to conduct government-to-government negotiations with local, state and federal governments; and 3) receive a majority of approval from tribal members prior to negotiating land sales or exchanges. The IRA was intended to slow the loss of Indian lands due to the allotment process. It also sought to decrease poverty on reservation lands by establishing a revolving fund to make loans to Indian corporations or governments. The policy also gave the BIA authority over tribal forest and range management. (Rusco, 2000).



Confederate tribes at Warm Springs First Tribal Council.

Tribes were given the choice to adopt the IRA proposed outline for governance, which created the entity “tribal government.” More than 100 tribes or tribal confederacies adopted the IRA policy, along with written constitutions. BIA officials assisted tribes in this process and influenced the design of centralized secular governments elected by the majority (Goldberg-Ambrose, 1994).

The Confederated Tribes of the Warm Springs Reservation, for example, organized its government under the IRA in 1937 (Confederated Tribes of Warm Springs Reservation, 2007). The treaty which established the Warm Springs Reservation (1859), forced



Nespelem, Washington is the headquarters of the Confederated Tribes of the Colville Reservation.

eight bands of Indians to live within the boundaries of one reservation. The reservation initially brought together three Chinook-speaking Wasco bands of the Columbia River and four Warm Springs bands of the Columbia tributaries, who spoke Sahaptin. In 1879, 28 Shoshone-speaking Paiutes were relocated to the Warm Springs Reservation from the Yakama Reservation.

Other tribes used the IRA-proposed constitution framework to establish some version of tribal government (Mason, 1998). That is, not all tribes adopted the IRA provisions, which required that tribal constitutions be ratified by the Department

of Interior. For example, the Confederated Tribes of the Umatilla Reservation, composed of Cayuse, Umatilla and Walla Walla bands, created its constitution and bylaws in 1949. It established a tribal government not organized under the IRA, rejecting the 1934 legislation (Tiller, 2005). Also, while some tribes organized governments, not all tribal governments developed a written constitution (Wilkins, 2006).

Tribal Governance Structure

A **tribal government** is the official entity that makes judgments and decisions concerning programs and services conducted within Indian reservation boundaries. The structure of a tribal government typically features a **tribal council** which acts as the governing board and is recognized as the authoritative power under both federal guidelines and tribal constitutions and bylaws.

A tribal council includes a specified number of elected tribal members. The service terms of tribal council members may vary among tribal governments. In some cases, tribal council members are appointed.

A tribal council oversees various departments that operate various tribal programs that include, for example, agriculture and natural resources, health care, social services and roads. The tribal council leader holds the title of tribal chairman. The tribal chairman’s position may be open for competition in a democratic election, or the chairman may

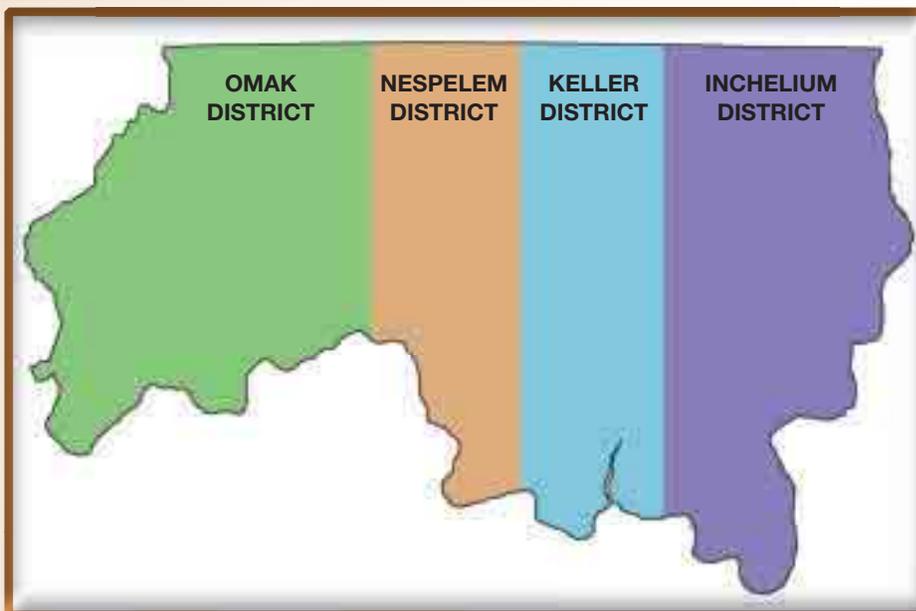
be elected from within the tribal council member ranks. Due to land tenure issues, the jurisdictional authority of a tribal council can vary widely by reservation. Some tribal governments have created corporations to oversee the details of tribal business affairs. The particularities of this business model is determined by the tribal council on a given reservation.

Although tribal governments may have similar structural features, variations exist on a given reservation. For example, the Confederated Tribes of the Warm Springs Reservation appoints three chiefs for life to represent the three different tribes of the confederation. The remaining eight tribal council members are elected every three years and represent voting districts or lands traditionally associated with the eight separate bands.

In contrast, the Confederated Tribes of the Colville Reservation created a constitution in 1938 under the IRA, which established a 14-person tribal business council that acts as the reservation governing body. The confederation represents 12 aboriginal tribes which include the Okanogan, Methow, Chelan, Entiate, Wenatchee, Columbia, Palous, San Poil, Nespelem, Colville, Lakes and the Chief Joseph Band of Nez Perce.

All members of the Colville Business Council are elected for two-year terms and represent four voting districts within the reservation boundaries based on the aboriginal territories that run north to south diagonally across the reservation. The districts are the Omak, Nespelem, Keller and Inchelium (see Figure 5.1). Registered tribal voters may also choose to vote by an established absentee voting method.

Figure 5.1. Colville Reservation District Voting Map



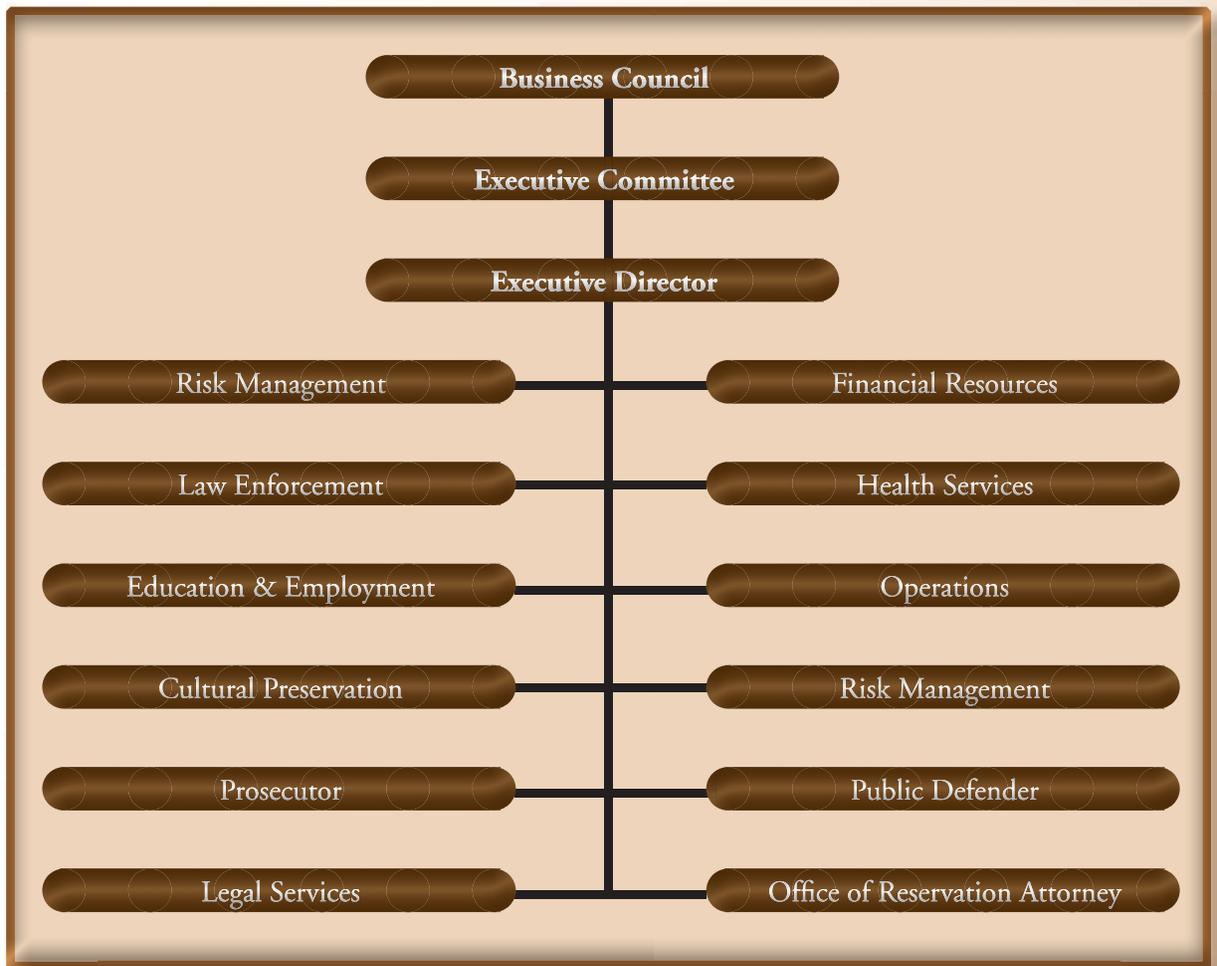
Source: Confederated Tribes of the Colville Reservation, 2007.

There are seven annual open business council positions upon which eligible adult tribal members may vote. In addition, eligible adult Colville tribal members may become certified candidates in a yearly election to select seven of the 14 two-year council terms. The election process includes a primary election held in May prior to the general election in June.

Immediately following the general election, a reorganization meeting is held for the new candidates. The 14-member Colville Business Council selects its executive committee (chairman, vice-chairman and secretary) and the chairpersons for each of the committees that will govern tribal operations during the year (see Figure 5.2). Each business council member receives a salary.

In 1984, the Confederated Tribes of the Colville Reservation took steps to secure its economic future by creating the Colville Tribal Enterprise Corporation (CTEC).

Figure 5.2. Organizational Chart of the Confederated Tribes of the Colville Reservation.



Source: Confederated Tribes of the Colville Reservation, 2007.

The CTEC manages a number of tribal enterprises that include gaming, recreation, tourism, retail, construction and wood products, as well as a program that issues loans to tribal members. The CTEC is the most diverse Indian-owned operation in the state of Washington and generates over \$120 million in revenues each year while employing close to 1,000 people. The revenues from the enterprises finance governmental and social services for the members of the Colville Confederated Tribes.



The Confederated Tribes of the Colville Reservation logging operation.

Federal Trust Responsibility and Tribal Sovereignty

The **federal trust responsibility** is an idea that has evolved over time and underlies the majority of federal Indian policies implemented since the Trade and Intercourse Era (Meeds, 1976). The **Marshall Trilogy** clarified the federal government's trust responsibility to Indian tribes through a series of Supreme Court cases (1823, 1831 and 1832). Chief Justice Marshall's ruling in the second court case (1831), involving the Cherokee Nation, depicted the relationship between the tribe and the federal government as a "ward to his guardian" (Harvard Law Review Association, 1984). In simple terms, a tribe is a nation within a nation claiming and receiving the protection of the more powerful (Harvard Law Review Association, 1984). This relationship was reinforced through numerous treaties that the federal government forged with Indian groups. Marshall's ruling in the third court case, however, reasserted the concept of **tribal sovereignty** or tribal nations acting as independent, self-governing units (American Indian Policy Center, 2007).

While the Marshall Trilogy established that the federal government has a trust responsibility to tribes, it also reasserted the idea of tribal sovereignty. The definition of trust responsibility and tribal sovereignty remains ambiguous and subject to congressional legislation, court decisions and individual interpretation (Meeds, 1976).

For example, since the Trade and Intercourse Era the federal government has held money in trust for Indians (Cohen, 1945). The American Indian Trust Fund Management Reform Act of 1994 gave official responsibility to the Secretary of Interior to account for the balances of Indian trust funds for tribes and individual Indians.

A recent class-action court case, *Cobell v. Kempthorne*, brought by Eloise P. Cobell and other Indian individuals against the Secretary of Interior, alleged that the federal government misappropriated revenues collected from Indian lands. The plaintiffs requested \$45 billion in compensation for the alleged errors in individual Indian trust accounts (U. S. Department of Justice, 2008).



“By definition sovereignty is supreme and complete political independence and self-government. A sovereign nation must have the ability to defend its borders, exercise authority over its citizens and conduct its business free from outside interference.”

“Tribal sovereignty is a paradox because the U.S. government, while recognizing the tribes as domestic sovereign nations, has perpetuated a relationship of tribal dependence on the government.” (Russell, 2000).



In 2008, a U.S. court decision awarded \$445 million instead of the \$45 billion requested. Plaintiffs may appeal the decision. The Office of Special Trustee (OST) was created to improve accountability and management of Indian trust accounts. OST handles appraisals, probate, and individual Indian money (IIM) accounts.

When the IRA sought to re-establish the concept of tribal sovereignty by authorizing tribes to reorganize as self-governing entities, it controlled the reorganization process (Wilkins, 2006). The courts have concluded repeatedly that Indian tribes have all the powers of self-governance and sovereignty, if the powers in question have not been modified or repealed by Congress (Cohen, 1945).

The essence of tribal sovereignty continues to be a hotly debated topic among federal policy makers, tribal governments and tribal members. Tribal sovereignty is considered by many Indians as the right of Indian tribes to govern themselves on all matters. How this concept plays out in reality, however, raises many jurisdictional issues as tribes seek to be sovereign nations within a sovereign

nation (Anderson, 1995). Serious disputes have involved, for example, whether a tribe can allow gaming that is prohibited by the state within which the reservation lies, whether states can tax natural resources owned by a tribe and whether local off-reservation zoning authorities can regulate land use on reservations (Anderson, 1995).

Since the federal government exercises a trust responsibility to tribes, including issues surrounding land tenure, health services and education, it raises the question: which sovereign government has final authority? History has shown that when it chooses, the federal government can intervene in tribal government affairs (Haddock & Miller, 2006).

Felix Cohen, Chairman, Board of Appeals, Department of the Interior, stated the following in the Handbook of Federal Indian Law (1945):

"...the courts have concluded that Indian tribes have all the powers of self-government of any sovereignty except insofar as those powers have been modified or repealed by act of Congress or treaty. Hence over large fields of criminal and civil law, and particularly over questions of tribal membership, inheritance, tribal taxation, tribal property, domestic relations, and the form of tribal government, the laws, customs and decision of the proper tribal governing authorities have, to this day, the force of law."



Coeur d'Alene Tribal Casino in northern Idaho.

Federal Recognition of American Indians

In 2006, the BIA reported 562 federally recognized Indian tribes which include 337 Indian tribes and 225 Alaskan native village corporations (U.S. Bureau of Indian Affairs, 2008). However, several other Indian tribes that are not recognized by the federal government are recognized by the state in which they reside.

Federal recognition of Indian tribes is overseen by the BIA, Office of Federal Acknowledgment. The procedures to establish that an “American Indian group exists as an Indian tribe” is documented in the U.S. Code of Federal Regulations, Part 83 of Title 25. The acknowledgment process requires an Indian group to petition to satisfy the acknowledgement regulations, which includes a public notice and comment period (U.S. Office of Federal Acknowledgment, 2008).

Federal recognition is important to tribes because it grants tribal governments the opportunity to obtain federal funding for services. Federal recognition also determines if tribes in states that already allow a particular class of gaming can receive permission to operate a casino on tribal land (Smithsonian Institute, 2007). A 2005 government accountability report acknowledged that the recognition process was ill-equipped to respond to the backlog of requests. While steps have been taken to improve the recognition process, it still can take four or more years for a petition to be reviewed (U.S. General Accounting Office, 2005).



Presenting traditions and culture during the Pendleton Round-Up in 2007.



Summary

The federal trust responsibility to Indians developed during the infancy of the U.S. and has changed over time. The IRA of 1934 acknowledged sovereign governmental powers for Indian tribes and empowered tribes to establish governmental units with the authority to govern within reservation boundaries.

The structure of tribal government typically features a tribal council or a tribal business council. Each tribal government has the authority to design its own unique governing structure. In most cases, a democratic process is used to elect tribal members to the tribal council. The tribal council typically governs all activities and programs on a given reservation, sets laws, enforces laws, and directs government provided services and programs. The tribal council usually works closely with federal agencies responsible for funding Indian programs and services.

The majority of tribes in the U.S. are recognized by the federal government, with few receiving only state recognition. When a tribe is federally recognized, it receives benefits obligated by the federal trust responsibility.

It is imperative that service providers and professionals working with Indian tribes understand how governance works on a given reservation. The structure and operational details of tribal governance may differ substantially from reservation to reservation.

Many tribes provide resources, including books and Web sites, that include information about their governance structure. In addition, tribal governments may provide special personnel to assist those who desire to learn about how their particular tribal government functions.



Cowboys from the Duck Valley Reservation in Nevada and Idaho in the winter of 2008.

Chapter Five Review

1. The Indian Reorganization Act:
 - a) Restored the authority of Indians to manage their lands cooperatively
 - b) Created an opportunity to adopt a tribal constitution recognized by the federal government
 - c) Received a majority of approval from tribal members prior to negotiating land sales or exchanges
 - d) A and C only
 - e) All the above

2. The Indian Reorganization Act of 1934 authorized the Indian tribes to establish self-governing units.
 - True
 - False

3. Each tribal government shares the exact same structure.
 - True
 - False

4. Tribes hold democratic elections to determine their tribal council members in which _____ may vote.
 - a) Tribal members
 - b) Residents on the reservation and enrolled members
 - c) All American Indians

5. All Indian tribes have taken steps to secure their economic future by creating an enterprise corporation.
 - True
 - False

6. The structure of tribal government on any two given reservations may differ significantly.
 - True
 - False

7. _____ was clarified in Chief Justice Marshall's opinion in a court case involving the Cherokee Nation that described the tribal and federal relationship as a "ward to his guardian."
- a) Manifest Destiny
 - b) Self-Determination
 - c) Trust Responsibility
8. The federal government has a trust responsibility to Indians and Indian tribes, although the exact definition of trust responsibility remains vague.
- True
 - False
9. While the Marshall Trilogy reaffirmed the federal trust responsibility, it also reasserted the idea of tribal sovereignty.
- True
 - False
10. The federal courts have concluded that Indian tribes have all the powers of self-governance as any sovereign nation except insofar as those powers have been modified or repealed by acts of Congress or Treaty.
- True
 - False
11. According to the BIA, in 2008 there were _____ federally recognized Indian tribes.
- a) 450
 - b) 789
 - c) 231
 - d) 562
12. When a tribe is federally recognized, it receives benefits obligated by federal trust responsibility.
- True
 - False
13. Some Indian tribes are recognized by the state in which they reside, but not by the federal government.
- True
 - False



CHAPTER 6

CHAPTER 6

Indian Self-Determination Contracting and Compacting

STACI K. EMM

Learning Objectives:

- ⊕ Examine the Indian Self-Governance Initiative made possible through the Indian Self-Determination and Education Assistance Act of 1975.
- ⊕ Understand the importance of the contracting and compacting processes to Indian self-governance.
- ⊕ Recognize the significance of contracting and compacting to Indian self-determination and self-governance.



Removing Indians to reservations created a lasting dependence on the federal government (Goldberg-Ambrose, 1994). Although the Indian New Deal Era created the opportunity for tribal governance, the federal government continued to manage Indian affairs for decades. However, in 1975, federal Indian policy shifted in an effort to promote Indian self-governance. This chapter discusses this policy shift. It also explains the contracting and compacting processes which enable tribes to manage federally funded programs historically managed by the federal government.



Indian Self-Determination

A key goal of the Self-Determination Era of federal Indian policy (1965-present) is that Indians provide more input and direction to those federally funded programs that impact them. Between 1969 and 1973 this concept was championed further by Commissioner of Indian Affairs Louis R. Bruce, the second American Indian to hold this post. Bruce promoted the idea of autonomous tribal governance, specifically in decision-making that impacted Indian reservation lands and tribes (Quetone, 1984). Bruce's service to the Nixon administration coincided with a number of violent confrontations between Indians and non-Indians across the country. Indians demanded reforms within the Bureau of Indian Affairs (BIA). Indian activists desired to see the BIA change its role from that of manager of Indian affairs and service provider to that of provider only of financial resources. The civil unrest helped to motivate a major shift in federal Indian policy, resulting in the Indian Self-Determination and Education Assistance Act of 1975.



Education and agriculture is an important part of culture on the Walker River Reservation in Nevada.

The goal of this legislation was to increase Indian participation in planning and implementation of service programs, enabling these programs to become more responsive to the needs of tribal communities (U.S. Federal Register, 1996). The legislative language emphasized that Indian self-governance and self-determination depends upon the education of Indian people in order to increase the capacity of Indian individuals to assume leadership roles. In short, it stated that the tribal community and parents must control the reservation's education process to insure the success of Indian people.



Group discussion in Umatilla about agriculture on the reservation.

Title I of the legislation, authorized Indian tribes to **contract** and operate federal service programs within the BIA and Indian Health Services (IHS). This allowed tribes to oversee their education and social programs using federal funds. Title II allowed Indian parents to provide increased input regarding their children's education by guaranteeing their participation in the education process on reservations.

Amendments to the Indian Self-Determination and Education Act in 1988 added Title III, which created a tribal self-governance demonstration

project to consider the feasibility for tribes to enter into a **compact** to contract several federal programs simultaneously. Additional amendments in 1994 made tribal self-governance permanent and established Title IV. Title IV provided for a self-governance feasibility study that increased the number of self-governance demonstration projects.

The 1975 legislation and subsequent amendments have allowed tribes to use BIA funds to address education, social and health service program needs directly (Castile, 1998). By 2000, self-determination contracts comprised nearly 50 percent of BIA tribal funding obligations. Tribal governments have used these funds to develop such services as mobile health clinics, alcohol and drug abuse clinics and diabetes programs (Clarkin, 2001). By 2006, more than 90 percent of all federally recognized Indian tribes either contracted individual programs from the federal government or compacted federal services becoming a fully self-governing tribe (Sinclair, 2004).

Contracting and New Legislation

The contract for an Indian service program is called a **self-determination contract** or, as it is better known today, a **638 contract**. A 638 contract entered into under Title I of the 1975 legislation exists between a defined tribal government and the Department of Interior. The 638 contracting process was in place for more than 10 years before problems became evident. There were mixed views about the problems from tribal and federal perspectives. The tribes wanted more money and flexibility in the use of it. Some tribes wanted more oversight, while others wanted no oversight. The federal government wanted a better system to plan for budgets. It also became apparent that the BIA and IHS each had its own set of regulations governing 638 self-determination contracts. This made the contracting process even more confusing. Overall, tribes and federal agencies desired an easier contracting process.

Self-Determination Contract (638-Contract):

A Self-Determination contract was created under the original Indian Self-Determination and Education Assistance Act of 1975 (P.L. 93-638). These contracts can also be known as a “638 Contract.” Under this Act, a federally recognized tribe has the ability to contract for a program otherwise operated by the Bureau of Indian Affairs and Indian Health Service. The 1988 Amendments also extended contracting options to non-Bureau of Indian Affairs agencies within the Department of Interior (U.S. Code of Federal Regulations, 2006).

Annual Funding Agreement (AFA):

A document that represents the negotiated amount the Secretary agrees to fund, on an annual basis, for a program or services contracted by a tribe.

The Indian Self-Determination Amendments Act of 1988 sought to increase tribal government participation in contracting programs and make the contracting process easier by removing federal administrative barriers and stabilizing contracted programs. The BIA and IHS developed joint regulations and contracting federal agencies were issued timelines for acting on contract requests. Contracting opportunities were extended to non-BIA eligible programs within the Department of Interior. **Mature contracts** were defined as having three successful years of existence (U.S. Bureau of Land Management, 2006).

Self-Governance: Established under the Indian Self-Determination Amendments Act of 1988 in the Self-Governance demonstration project for the Bureau of Indian Affairs and Indian Health Service. Self-Governance allowed an approved tribe to enter into a Compact with the Secretary of Interior to take over multiple federal programs and responsibilities. A tribe must meet a certain criteria to be a Self-Governance tribe and have entered into the Compact with the Secretary (U.S. Code of Federal Regulations, 2006).

Compact: An executed document that affirms the government-to-government relationship between a self-governance tribe and the United States. A compact is different from an annual funding agreement in that parts of the compact apply to all bureaus within the Department of the Interior and an annual funding agreement applies to one bureau.

1988 Amendments and Self-Governance

The biggest change brought about by the 1988 amendments was the establishment of a self-governance demonstration project in order for the BIA and IHS to improve the federal government-to-government relationship. Self-governance took self-determination contracting one step further. Under self-governance, a compact is entered into between a tribe and the Secretary of Interior. The tribe then has the ability to contract several programs and services at the same time. Because self-governance was a new concept, six years passed with continual complications before additional legislation was created (U.S. Bureau of Land Management, 2006).

1994 Amendments and Self-Governance

Tribes successfully lobbied for the Indian Self-Determination Act Amendments of 1994 due to dissatisfaction with the way the contracting and compacting processes were working. The final rule for the amendments was published in the Federal Register June 24, 1996. Under the 1994 amendments, a contract was to be awarded within a 90-day period unless it was declined based on specified criteria. Title IV made self-governance permanent under the Department of Interior (U.S. Bureau of Land Management, 2006).

As more tribal governments began to participate in self-determination contracts and self-governance, they began to administer reservation programs, such as law enforcement, road maintenance, irrigation systems, land and natural resources, mental health, dental care, hospitals and clinics. Regulations specified that tribal contractors receive funding for administration equivalent to the sum that each of the federal agencies would have



Senior housing on the Coeur d' Alene Reservation in northern Idaho.

received if they had administered the programs. In addition, tribal contractors were to receive funding for the reasonable cost of activities they had to manage during the program's contract, referred to as **program support costs**.

According to a 1999 report to Congressional committees by the U.S. General Accounting Office, program support costs between 1975 and 1999 had grown considerably and federal funding appropriations had fallen short of the amounts required. The Indian Self-Determination Act specified language that contract funding is subject to the availability of federally appropriated funds. However, tribal contractors and the IHS are litigating this provision to determine whether there is a breach of contract with tribes based on the failure of the federal government to provide full funding (U.S. General Accounting Office, 1999).

In 1999, the U.S. General Accounting office reported:

Tribes' allowable contract support costs have tripled from 1989 through 1998 - increasing from about \$125 million to about \$375 million. This increase occurred for two principal reasons. First, the total amount of program dollars contracted by tribes - upon which contract support costs are based - has increased. Second, the total costs of tribes' administration of contracts have increased. Although the amounts appropriated for contract support costs have increased, the Congress has not funded contract support to keep pace with these increases, resulting in funding shortfalls (GAO/RCED, 99-150).

Contracting on Reservations

The concept that tribal governments have the ability to contract federal government programs is important. Agricultural professionals who wish to implement USDA programs must be able to access information on irrigation systems, land tenure and natural resources on a reservation. If a tribe has a 638 contract for a land office which oversees all land responsibilities that historically fell under the BIA, this affects implementation of USDA Farm Service Agency (FSA) and Natural Resources Conservation Service (NRCS) programs on the reservation. Agricultural professionals must work directly with the reservation's tribal land office to implement a cost-share conservation program or encumber collateral for a FSA loan. If additional information is needed, the BIA will also need to be involved. Jurisdiction will be determined by the tribe's 638 contract, land tenure and whether or not a tribe has established land use codes.





Summary

Each tribe may conduct self-governance differently. A tribe may be fully self-governing, contracting several programs at once. Another tribe may contract their land office, but not their irrigation system. Another tribe may elect not to contract any natural resource programs. Agricultural professionals must work with tribal departments to determine which programs are contracted and the extent of tribal jurisdiction and self-governance.

The federal government encourages Indians to administer programs previously administered by the federal government under the Department of Interior. The Indian Self-Determination and Education Assistance Act of 1975 authorizes Indian tribes to enter into a self-determination contract (638 contract) for a particular federal program. Alternatively, a tribe may elect self-governance and choose to compact and implement several different 638 contracts simultaneously. An annual funding agreement stipulates how much federal money an Indian tribe receives to operate a program. Full federal funding is not guaranteed for contract support costs.

The philosophy underlying Indian self-determination is that Indians have the right to oversee those federal programs that impact them. Essentially, Indians now have the authority and responsibility to operate their own federally funded programs.



2007 Summer Cattle Round-up on the Duck Valley Reservation.

Chapter Six Review

1. The Indian Self-Determination and Education Assistance Act of 1975 represented a shift in federal policy authorizing tribal governments to contract individual programs previously administered by the Bureau of Indian Affairs and Indian Health Service.
 - True
 - False
2. Discussions leading to approval of the Indian Self-Determination and Education Assistance Act of 1975 focused on how to reduce the _____ of the Bureau of Indian Affairs.
 - a) Dishonesty
 - b) Power
 - c) Corruptness
3. The goal of the Indian Self-Determination and Education Assistance Act of 1975 was to limit Indian participation in planning and implementation of service programs provided to reservation communities.
 - True
 - False
4. The concept of Indian self-determination asserts that self-determination was and is dependent upon the _____ of the Indian people, ensuring that qualified individuals could fulfill leadership roles.
 - a) Educational process
 - b) Commitment process
 - c) Leadership process
5. There are currently two amendments to the Indian Self-Determination and Education Assistance Act of 1975 that facilitate the contracting process between the federal government and tribes.
 - True
 - False
6. The 1988 Amendments to the Indian Self-Determination and Education Assistance Act of 1975 give tribes the ability to contract several programs at the same time.
 - True
 - False

7. Tribal governments inspired the 1994 Amendments due to the dissatisfaction with the way contracting processes were working on reservations.
- True
 - False
8. Under the amendments that allowed contracting and compacting, tribes were to receive _____ costs to manage the programs that previously they had contracted from the federal government.
- a) Indirect
 - b) Allowable
 - c) Contract Support
9. According to Congressional committees, the costs to manage federal programs on reservations are increasing and Congressional appropriations have fallen short of the amounts required.
- True
 - False
10. Indian tribal governments operate all of their contracting programs the same way.
- True
 - False
11. Self-governance was made permanent in the _____ Amendments to the Indian Self-Determination and Education Assistance Act.
- a) 1994
 - b) 1988
 - c) both 1988 and 1994
12. When a tribe contracts several programs at once, meeting specific criteria, and has entered into a _____ with the Department of Interior, the tribe is recognized under self-governance.
- a) Compact
 - b) Contract
 - c) Memorandum of Agreement



CHAPTER 7

CHAPTER 7

Quality of Life on Reservations: Results of a Four- State Survey

LORETTA SINGLETARY

Learning Objectives:

- ⊕ Explore quality of life on Indian reservations in the four-state study area.
- ⊕ Examine survey results comparing perceptions of individuals living on Indian reservations with those of agricultural professionals working on reservations.
- ⊕ Discuss implications of survey results for agricultural professionals working on reservations in terms of implementing effective programs.



In order to facilitate sustainable agricultural and natural resource management practices on reservation lands, agricultural professionals may benefit from examining the perceptions of those who live on reservation lands. These insights pertain to quality of life, including agricultural and natural resource issues. The research presented in this chapter provides a glimpse of reservation life from the eyes of those who live on reservations. Further, their perceptions are compared with those of agricultural professionals working on Indian reservations.



Quality of Life Research Overview

This chapter briefly summarizes the results of research conducted between 2005 and 2007, using data collected from survey interviews with individuals living on the 10 largest Indian reservations in the four-state study area, including agricultural producers, tribal government officials and other tribal leaders. Between 2005 and 2007, an identical survey was made available via the Internet to agricultural professionals working on reservations in the targeted four-state area. Professionals invited to voluntarily complete the internet survey included those employed with the Natural Resources Conservation Service (NRCS), Cooperative Extension, Federally Recognized Tribes Extension Program (FRTEP) and Farm Service Agency (FSA). The purpose of conducting two surveys was to: 1) compare perceptual differences between Indian reservation residents and professionals who work on reservations concerning reservation life, and 2) increase awareness of quality of life issues on Indian reservations in the four-state study area.



Families from reservations in Oregon and Washington participate in the Pendleton Round-Up Parade.

The survey featured 60 questions to assess perceptions of quality of life and identify obstacles and opportunities for implementing sustainable agricultural practices. Each question used a five-point equal-weighted Likert-type scale. These questions were developed using an eclectic mix of conceptual frameworks from rural sociology, economic and community development, and natural resource management literature and practice (Hart, 2006; Theodori, 2001; McLaughlin, 2002; Lichter, Roscigno & Condrón, 2003; Singletary, Clinehans & Goodyear, 2003; Williams & Bloomquist, 1997).



Intertribal Agriculture Council Board of Directors member James McCuen hauls hay to his horses on the Colville Reservation.

The resulting conceptual framework included the following categories of quality of life indicators: 1) economic and community development priorities; 2) agricultural and natural resource concerns; and 3) access to education and information. The final questionnaires were reviewed by a panel of three university-based faculty members in Nevada familiar with both public opinion and perceptual survey methodology. The questionnaires were also pre-tested with officers of the Indian Agriculture Council and selected Indian tribal government officials who were omitted from the study sample. The purpose of these reviews was to identify missing question items and to check for clarity and comprehension of survey questions.

Results

The majority of the 278 reservation respondents who voluntarily completed this survey live on Indian reservations in Washington (64.5 percent). This was followed by Nevada (20.7 percent), Idaho (8.3 percent) and Oregon (6.5 percent). In descending number of survey respondents, reservations represented in the results are: Colville; Walker River;

Duck Valley; Coeur d'Alene; Warm Springs; Pyramid Lake; Umatilla; Yakama; Nez Perce; and Fort Hall.



Intertribal Agriculture Council outreach representative Katherine Minthorne-Goodluck (left) works with agriculture producers on the Umatilla Reservation.

The majority of the 214 agricultural professionals who voluntarily completed the survey worked in Idaho (43.5 percent), followed by Nevada (29.4 percent), Washington (18.6 percent) and Oregon (8.5 percent). The majority of agricultural professionals (63.4 percent) worked for FSA, while 24.6 percent of the survey respondents worked for Cooperative Extension, 9.8 percent worked for NRCS and 2.2 percent indicated "other."

Comparison of Perceptions

Survey respondents were asked to rate the extent to which 18 economic and community issues were perceived a priority on a reservation, using a scale of one being not a priority to five being a high priority.

Table 7.1 features the ranked mean scores for the 18 economic and community development priorities. Reservation respondents' ranked mean scores are shaded in red while agricultural professionals' ranked mean scores for those same items are shaded in green. The number of respondents who answered each question is also included.

Both groups rated their top priority to conserve historic and cultural resources on reservations. This is somewhat surprising given the array of items from which survey respondents could select for ways to improve quality of life. This result indicates that both agricultural professionals and reservation respondents are keenly aware of the historic and cultural value of these lands and the Indian people that inhabit them.

Agricultural professionals ranked as second priority to conserve natural resources on reservations. In contrast, reservation respondents rated as second priority to improve quality of K-12 education on reservations. Similarly, reservation respondents rated their third priority to improve access to higher education.

Table 7.1. Economic and Community Development Priorities on Indian Reservations in Idaho, Nevada, Oregon and Washington, 2005-2007: Ranked Mean Scores for Reservation Respondents Compared with Agricultural Professionals

Economic and Community Development on Reservations	Reservation Respondents			Agricultural Professionals		
	Rank	Mean	Number	Rank	Mean	Number
Conserve historic and cultural resources on reservations	1	3.97	270	1	4.15	199
Improve quality of education on reservations, grades K through 12	2	3.95	269	5	3.76	199
Improve access to higher education on reservations	3	3.94	270	8	3.54	199
Create long-term economic development strategies	4	3.91	269	3	3.90	193
Conserve natural resources on reservations	5	3.85	274	2	3.92	199
Tribal government should involve reservation citizens in planning growth	6	3.82	269	6	3.62	193
Encourage overall economic growth on reservations	7	3.78	264	4	3.87	193
Create/increase Extension programs for youth on reservations	8	3.70	270	7	3.61	199
Create/increase Extension programs for adults on reservations	9	3.54	270	11	3.43	199
Protect existing agricultural industry on reservations	10	3.51	270	6	3.62	199
Create land-use regulations for reservations	10	3.51	265	9	3.48	193
Create partnerships between tribal government and USDA agencies	11	3.46	273	10	3.45	199
Recruit high-tech jobs to reservations	12	3.36	268	15	3.00	193
Continue growth in Indian tribal gaming industry	13	3.35	268	13	3.26	193
Help expand agricultural industry on reservations	13	3.35	262	12	3.33	199
Promote tourism industry on reservations	14	3.32	265	14	3.05	193
Recruit manufacturing jobs to reservations	15	3.24	272	16	2.98	193
Recruit mining/timbering jobs to reservations	16	2.67	263	17	2.79	193

Rating Code: 1 = not a priority; 5 = high priority

Table 7.2. Agricultural and Natural Resource Issues on Reservations in Idaho, Nevada, Oregon and Washington, 2005-2007: Ranked Mean Scores for Reservation Respondents Compared with Agricultural Professionals

Agricultural and Natural Resource Issues on Reservations	Reservation Respondents			Agricultural Professionals		
	Rank	Mean	Number	Rank	Mean	Number
Preventing wildfire on reservations	1	4.02	266	14	3.35	185
Conflict among tribal government officials	2	3.99	268	4	3.68	188
Invasive weed control	3	3.96	268	1	3.91	188
Lack of organization among tribal governments	4	3.94	269	6	3.51	188
Responding to wildfire on reservations	5	3.93	260	15	3.29	185
Lack of leadership among tribal governments	6	3.92	269	13	3.36	188
Water quality management on reservations	6	3.92	262	4	3.68	185
Availability of loans to American Indians to buy reservation land	7	3.86	265	24	3.01	186
Tribal support of individual/family businesses	8	3.73	259	7	3.49	186
Riparian area management on reservations	9	3.73	258	2	3.72	185
Availability of loans to American Indians to develop/expand reservation farms	10	3.69	266	23	3.05	186
Create sustainable agriculture plan for reservations	10	3.69	263	3	3.69	186
Parental support of reservation youth involved in agriculture	11	3.68	265	8	3.47	186
Availability of water for agricultural irrigation	12	3.59	263	12	3.38	185
Tribal government support of reservation youth involved in agriculture	13	3.57	265	8	3.47	186
Tribal support of agriculture	14	3.56	262	8	3.47	186
Increase use of NRCS programs	15	3.53	258	16	3.25	186
Availability of loans to American Indians to buy farm equipment	16	3.51	263	21	3.11	186
Grazing land previously burned by wildfire	17	3.49	265	18	3.23	185
Cost of farm equipment	18	3.48	264	9	3.44	186
Livestock herd management practices	18	3.48	263	8	3.47	186
Wildlife management on reservation farms	18	3.48	263	16	3.25	185
Ability of reservation farm families to pay bills	19	3.47	262	5	3.55	186
Improve access to Extension agricultural programs	20	3.45	260	17	3.24	186
Marketing American Indian alternative agricultural products	21	3.39	265	22	3.06	186
Marketing American Indian hay crops	22	3.38	261	28	2.83	188
Availability of veterinary services on reservations	23	3.37	262	20	3.12	186
Availability of farm loans for reservation youth	24	3.35	263	25	2.98	186
Marketing American Indian cattle	25	3.32	265	26	2.87	188
Quality of veterinary services on reservations	26	3.30	264	24	3.01	186
Time management skills of reservation farm families	27	3.29	261	11	3.40	186
Farm families' abilities to manage finances	28	3.25	264	10	3.43	188
Wild horse herd management on reservations	29	3.21	262	19	3.14	185
Costs of grazing (fees) livestock on reservations	30	3.18	264	29	2.71	188
Threat of BSE (Mad Cow Disease) in U.S.	31	3.13	266	30	2.62	188
Potential for National Animal Identification System	32	3.01	266	27	2.86	188

Rating Code: 1 = Not a concern; 5 = Major concern

Survey respondents were asked to rate the extent to which agricultural and natural resource issues were a concern on reservations, using a scale of one being not a concern to five being a major concern. Table 7.2 illustrates a comparison of these ratings with the top 10 issues of concern for reservation respondents noted. Reservation respondents rated the majority of the 36 issues differently from agricultural professionals. For example, the top concern for reservation respondents, preventing wildfire on reservations, was ranked 14th by agricultural professionals. Similarly, reservation respondents rated as fifth responding to wildfire on reservations, while professionals rated this item 15th.

However, the two groups rated several items similarly and these should be noted. Invasive weed control ranked among the top three concerns for both groups and was the top concern for agricultural professionals. Similarly, reservation respondents rated conflict among tribal government officials as the second concern, and professionals rated this item fourth. Additionally, reservation respondents ranked lack of organization among tribal government officials as fifth, and agricultural professionals ranked this item sixth.

The agricultural professionals demonstrated a clear commitment to agriculture and natural resource management by ranking riparian area management on reservations as the second greatest concern, whereas reservation respondents rated this item ninth. Similarly, agricultural professionals ranked as their third concern create sustainable agricultural plan for reservations, whereas reservation respondents ranked this item 10th. Additionally, agricultural professionals ranked as fifth ability of reservation farm families to pay bills, while reservation respondents ranked this item 19th.

As a final quality of life indicator, the survey included items that measured perceived access to education and information on reservations. These items refer primarily to programs provided historically to improve quality of life through agricultural and natural resource management. Ratings ranged from one being poor to five being excellent.

Table 7.3 illustrates that perceptions between the two groups were nearly identical. However, the scores that reservation respondents assigned to education and information access were much lower overall than scores that agricultural professionals assigned to the same items.

Table 7.3. Access to Education and Information on Indian Reservations Idaho, Nevada, Oregon and Washington, 2005-2007

Access to Education and Information on Reservations	Reservation Respondents			Agricultural Professionals		
	Rank	Mean	Number	Rank	Mean	Number
Access to NRCS programs	1	3.14	272	1	3.68	214
Access to University Extension programs,	2	3.08	267	2	3.46	214
Access to BIA programs	3	2.96	267	3	3.55	214
Access to Farm Service Agency programs	3	2.96	267	4	3.36	214
Access to colleges/vocational schools	4	2.91	267	5	3.19	214
Access to state agricultural programs	5	2.76	266	6	3.08	214

Rating Code: 1 = Poor; 5 = Excellent

Summary and Discussion

The research results presented here provide a glimpse of quality of life issues perceived as important to individuals living on Indian reservations in Idaho, Nevada, Oregon and Washington. The perceptions of reservation respondents were compared

with perceptions of agricultural professionals working on reservations in this four-state area. These comparisons provide insight useful to agricultural professionals in planning and implementing agricultural and natural resource programs on Indian reservations in this four-state area.



The Colville Confederated Tribes work with Washington State University Extension in using bioagents to control noxious weeds, including dalmatian toadflax, a priority target.

Implications for Economic and Community Development

The results of the quality of life survey suggest that reservation respondents prioritize improving the quality of and access to education on reservations over natural resource conservation.

Implications of these results for agricultural professionals suggest an increase in outreach efforts that raise awareness of the role that natural resource conservation can play in reservation education. These may include an increase in youth range camps and 4-H youth development programs on reservations. New program directions might include development of curricula that emphasize biodiversity and ecology concepts that compliment and honor the Indian cultural heritage unique to particular reservations.

Implications for Agricultural and Natural Resource Programs

Reservation respondents and agricultural professionals appeared equally concerned about the conflict that exists among tribal government officials. Given land tenure complexities on reservations, collaborative decision-making among tribal officials rather than conflict is necessary to implement natural resource programs consistently and effectively.

Reservation respondents rated the majority of agricultural and natural resource issues differently than agricultural professionals. These discrepancies may be due in part to the fact that agricultural professionals do not typically live on reservations, which likely influences perceptions. Also, agricultural professionals often are directed to implement specific programs, which may or may not be aligned with tribal priorities.



The survey results indicate that lack of coordinated and collaborative decision-making behaviors on the part of tribal government officials in the four-state area is a concern with regards to agricultural and natural resource programs on reservations.

Communication is a two-way street. Tribal governments may need to raise awareness of specific concerns by talking directly with agricultural professionals working on reservations. In turn, professionals may respond to specific concerns with more tailored education programs.

Agricultural professionals also face challenges in conveying the importance of riparian area management on reservations since reservation respondents rated this item much lower in importance. Similarly, agricultural professionals ranked as their third concern create a sustainable agricultural plan for reservations, whereas reservation respondents ranked this item 10th, based on ranked mean scores for the 36 items.

Agricultural professionals will likely have to increase their outreach efforts to bring attention to these topics. This may include partnering with agencies that have had some documented success with outreach education, including Cooperative Extension and NRCS.

Outreach educational programs strive for but do not guarantee changes in behavior. It may be necessary, in some cases, to develop various incentives to encourage higher participation rates in reservation agricultural and resource management programs. Participation rate measures include attendance at trainings as well as changes in behaviors resulting in targeted changes on the landscape. Incentives may range from simple gestures, such as formal recognition and awards, to economic incentives including costs-sharing and subsidies.

Finally, agencies, tribal officials and Indian producers, must consider jointly their vision for the future of agriculture on Indian reservations. With an increased focus on the casino industry as an economic development tool, and increasing demands for water resources for uses other than agriculture, it may be necessary for Indian producers and tribal governments to develop specific goals to sustain agriculture on reservations. If agricultural activities diminish in the four-state area, plans must still be made for implementing sustainable natural resource management activities on reservation lands.



Agricultural professionals may need to increase their outreach efforts to emphasize the importance of riparian area management and planning for sustainable agriculture. Similarly, in the four-state area, Indian producers and tribal government officials may need to communicate their concerns to professionals about the threat of wildfire and their ability to respond to wildfire on reservations.



With an increased focus on Indian gaming as an economic development tool, and increasing demands for water resources for uses other than agriculture, it may be necessary for Indian producers and tribal governments to develop specific goals to sustain agriculture on reservations.

Access to Agricultural and Natural Resource Programs

Perceptions concerning access to agricultural and natural resource programs were nearly identical between the two groups. That is, both groups rated program access in the same order, from high (excellent access) to low (poor access). However, agricultural professionals tended to rate program access slightly higher than reservation respondents.



The threat of wildfire and the ability to respond to wildfire are major concerns on the Colville Reservation.

These results suggest that agricultural professionals may need to improve reservation access to all agricultural and natural resource education programs. This may entail an aggressive campaign to advertise program availability, including special seminars and workshops. Reservation television, radio and newspapers are obvious venues for information distribution, as is visibility at community cultural and sporting events. Reservation respondents indicate that the most preferred method for receiving information is printed material, followed by seminars, workshops or classes. Agricultural professionals may consider increasing the amount of information delivered to reservation clients through the Internet since the majority of reservation survey respondents (70.6 percent) have computer access and 72.7 percent reported using the Internet.

It is important to note 44.2 percent of the agricultural professionals who responded to the four-state survey are not engaged in reservation work on a daily, weekly or monthly basis. Further, in terms of years of overall experience working on reservations, the majority of agricultural professionals (55.2 percent) reported five or less years of experience. These results suggest that, for this four-state area, agricultural and natural resource professionals working on reservations are fairly inexperienced and spend relatively little time on reservations.

Nevertheless, if low program participation, including workshop attendance, is an issue, agricultural professionals should consider ways to increase individualized face-to-face interaction with producers and tribal officials. This may seem a daunting task for those professionals who are new to reservation work.

Tribal government officials and Indian producers must lead initiatives to sustain agriculture and implement natural resource conservation plans on reservations. Agricultural and natural resource professionals can support these efforts through one-on-one consultation in addition to formal educational seminars.



Tribal government officials and Indian producers must lead efforts to sustain agriculture on western range reservations.

Chapter Seven Review

1. The Quality of Life survey was conducted on Indian reservations in the four-state area to:
 - a) Compare the perceptions between individuals who live on reservations with those of agricultural professionals working on reservations
 - b) Identify similarities and differences concerning issues perceived important to quality of reservation life
 - c) Understand that if perceptual differences exist, agricultural professionals may benefit from an awareness of these differences
 - d) All the above

2. Refer to Table 7.1 to complete the following using the space provided.

- a) List the top 10 items that reservation respondents rated as economic and community development priorities on reservations:

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____

- b) List the top 10 priorities rated by agricultural professionals:

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____

c) Examining the differences and similarities in ratings, explain the potential implications for how agricultural and natural resource programs on reservations may factor into economic and community development initiatives on reservations in your state/area:

3. Refer to Table 7.2 to complete the following using the space provided.

a) List the top 10 agricultural and natural resource issues that reservation respondents noted as important:

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____

b) List the top 10 priorities rated by agricultural professionals:

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____

c) Explain possible reasons for differences and similarities in ratings and d) Discuss the implications of the survey results for agricultural and natural resource programs on reservations in your state/area.

4. Examine the results illustrated in Table 7.3. Explain the implications for agricultural and natural resource programming on reservations in your state/area.

5. Given the perceptions of reservation respondents in the four-state area, agricultural professionals and agencies may need to strategize outreach education efforts on reservations to focus greater attention on:

- a) Creating sustainable agricultural plans for reservations
- b) Implementing an animal identification system
- c) Improving quality of veterinarian services on reservations
- d) Riparian area management on reservations
- e) A and D only

6. Conflict and lack of organization among tribal government officials are perceived as important concerns in terms of agricultural and natural resource management issues on reservations.
- True
 - False
7. With an increase in casinos and tourism on reservations and increasing demands for water resources for uses other than agriculture, it may be necessary for Indian producers and tribal governments to develop specific goals for agricultural practices and natural resource management on Indian lands.
- True
 - False
8. Agricultural professionals perceive wildfire prevention and responding to wildfire as critical issues on reservations in the four-state area.
- True
 - False
9. According to the survey results, many agricultural professionals working on reservations in the four-state area are fairly new to this work. In light of this finding, suggest ideas to help new professionals implement successful programs on reservations.



CHAPTER 8

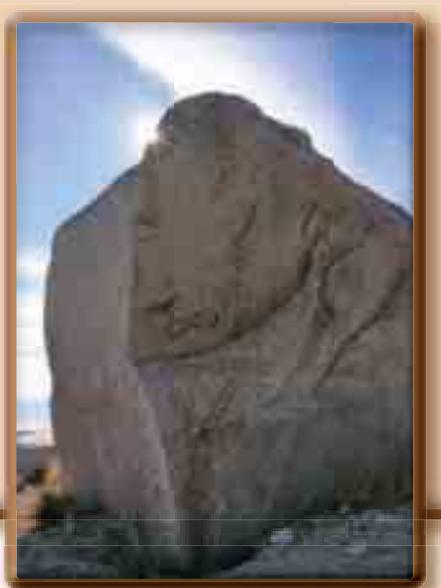
CHAPTER 8

Implementing Agriculture and Natural Resource Programs

STACI K. EMM

Learning Objectives:

- ⊕ Consider how individual perspectives may influence the likelihood of meeting agricultural and natural resource challenges on reservations.
- ⊕ Explore the roles of communication and relationship-building in improving the success of reservation programs.



American Indian reservations can differ significantly in terms of agricultural and natural resource challenges. This chapter considers how individual perspectives might influence the likelihood of recognizing and addressing these challenges. It examines the potential for improving the success of agriculture and natural resource programs through improved communication and relationships with tribal officials and Indian producers.



A Matter of Perspective

Although culture is symbolized by dress, food, language and customs, it extends beyond these symbols to include strong characteristics that represent group identity. Culture includes underlying currents that shape individuals and influence who they are and what they believe is important. Culture influences **perspective** or one's personal world view (LeBaron, 2003).

To work effectively in reservation environments requires an understanding and appreciation of the Indian people on that reservation, including culture and individual perspectives (Payne, 1996). One effective way to broaden individual perspective is to collaboratively seek new ways of looking at old problems. This often requires redefining the problem in order to see it more objectively from different points of view. Redefining a problem may necessitate jointly collecting factual information in order to create a new conceptual framework from which to view the problem. These efforts also help to introduce objectivity into the situation. Objectivity helps to expand a perspective or a subjective view. The expansion of perspective increases creativity when dealing with challenging agriculture and natural resource issues facing tribes and individual Indian producers.



Winter cattle drive on the Duck Valley Reservation.

Communication

Similar to perspective, personal communication style stems from our cultural background and experience. When two individuals communicate, a relationship begins to take shape, whether positive or negative. When two individuals communicate, they define themselves as well as the subject they discuss. Obstacles to effective communication include spoken words, nonverbal behavior, attitudes, beliefs and perspectives (Chaitin, 2003).

Cross-cultural communication recognizes that different cultures may communicate differently. Skills in cross-cultural communication focuses on understanding one's own perspectives while learning to appreciate another's perspectives. The goal is to understand and appreciate one another's differences and to look for similarities in perspectives (Kimmel, 2000).



Range plan brainstorming session on the Pyramid Lake Reservation with NRCS and the University of Nevada Cooperative Extension.

Effective and **open communication** seeks a safe place where no one feels coerced to participate and the meeting location is comfortable. No one person asserts power over another. Information sharing begins with **empathic listening**. Empathic listening allows a person to listen and respond accurately based on mutual understanding, respect and trust. Empathic listening is perhaps the most important and also most challenging skill to practice in today's hectic work world.

Empathic listening may take time to develop, but has the capacity to help build relationships. For example, among many Indian cultures, silence and a lack of eye contact are deemed acceptable communication styles. These communication styles may also reflect that a person is unable to share their thoughts, ideas and feelings with another person they do not know (Chaitin, 2003). Awareness, patience and respect for different communication styles demonstrated by different Indian cultures create the foundation for successful relationships.

Direct Problems into Opportunities

When faced with the multi-faceted challenges of working on Indian lands, the agricultural professional initially may feel powerless. Redefine the problem. Consider the complex land tenure issues that reservations must address. Become familiar with the tribal governance of the reservation. Learn about the culture of the tribe(s). Ask the producer about personal goals (Jones, 2007). Find opportunities to customize agricultural assistance programs to better fit the needs of a particular reservation environment, tribal culture and the individual Indian producer.

Knowledge is power. Indian producers and agricultural professionals must seek ongoing education on Farm Bill programs and related legislation affecting Indian producers. The BIA has the trust responsibility to ensure that Indians are receiving their lawful entitlements in the form of program implementation. However, at the same time, the BIA must encourage Indian self-determination (Russell, 1997).

Difficult questions must be asked; “Why are things done this way? How can this be done better?” Responding to these questions thoughtfully and creatively may make all the difference in getting a successful program on the ground (Jones, 2007). This involves focused efforts to strengthen relationships with Indian producers and tribal governments. Stronger relationships require effective communication skills (Covey, 2004).

A Hypothetical Example

Dorothy, a 50-year-old Shoshone Indian, walks into the local Extension office. Dorothy has lived on the reservation her entire life and has worked for the tribal government. She has seen the difficulties that the tribe faces concerning land tenure issues. Dorothy feels that she must constantly battle with the BIA over land use decisions on her 80-acre trust allotment. Dorothy has little faith in government. She has surprised herself by visiting the local Extension office, but her son told her they may be able to help. She tells the Extension educator that she needs information about the grasshoppers that have recently devastated her alfalfa field. She says she needs financial assistance to deal with the problem because she has no money to invest in the field.

The Extension educator tells Dorothy to come into his office and have a seat. “What can I help you with?” he asks. Dorothy tells him that she lives on the reservation and has ugly grasshoppers everywhere eating everything. She tells the Extension educator that her first crop of alfalfa hay was down two tons per acre. The Extension educator tells Dorothy that he would like to look at the property and collect samples of the grasshoppers to identify them. “Let’s find out what we are dealing with,” he tells Dorothy.



The Warm Springs FRTEP Agent discusses management of the 4-H Cattle Club with the 4-H adult leader on the Warm Springs reservation.



Discussion on agriculture sustainability on the Pyramid Lake Reservation in Nevada with reservation cattlemen.

Focus on the Problem

He visits the property, looks at the grasshoppers and determines that grasshoppers are migratory and will eat everything green if left uncontrolled. He tells Dorothy that he can provide educational information about the grasshoppers, but he can not offer any financial support to get rid of the grasshoppers. The Extension educator explains the details of a chemical used to control the grasshoppers and gives her written information about the techniques to treat the infestation.

Focus on the Person

He visits the property and asks Dorothy questions about the reservation. The reservation has always intrigued him but every time he has tried to offer educational programming he feels ignored. He looks at the grasshoppers, telling Dorothy that they are migratory and will eat everything. This is a problem for everyone on the reservation. The Extension educator tells Dorothy about his first efforts to make

contacts on the reservation. Dorothy tells him that he was talking with the wrong people. She tells him about the tribe and the way governance works on the reservation. She tells him that the people on the reservation do not know him and do not trust anyone they do not know.

Dorothy tells the Extension educator that she will help him make contact with other tribal members. The Extension educator explains to Dorothy that his job is education and he will provide support under this umbrella anyway he can. He also informs Dorothy that the State Department of Agriculture should be contacted and may be able to offset some of the costs of controlling the grasshoppers.



Refreshment crew during a summer roundup on the Duck Valley Reservation. These children are the next generation of Indian cattle producers.

The Extension educator dials the phone number for the State Department of Agriculture and puts the phone on speaker for Dorothy while he explains the situation. The State Department of Agriculture informs Dorothy that they can offset the costs of spraying using a 60 percent state/40 percent producer ratio.

Dorothy offers to give the Extension educator a tour of the reservation at any time. She tells him that he has not seen the last of her because she will be back if these grasshoppers do not go away. The Extension educator laughs and tells Dorothy he hopes to see her again even if the grasshoppers are gone. He gives Dorothy his card to pass along to other residents on the reservation that may have a similar problem.

Reaching for Potential

The two different responses featured in the hypothetical example produce very different results even though the Extension educator is doing his job in both scenarios. Dorothy had a problem and it took courage for her to walk into the office in the first place. In the first example, the Extension educator focuses on the problem. Identifying the problem is his job and he does it well. In the second example, the Extension educator focuses on the person. He identifies the grasshoppers, but asks questions about the reservation culture. He indicates to Dorothy that he wants to work with producers on the reservation.

The difference between the examples is the quality of communication that occurs that helps to build a relationship between the two individuals. When the Extension educator took the time to listen to Dorothy, ask questions about the reservation culture and to diagnose the problem, he was successful in establishing trust and building a relationship.

Greek philosophy viewed relationship-building from the perspective of ethos, pathos and logos. Ethos is competency and integrity, pathos is empathy and logos is logic (Covey, 2004). The first scenario focused on the logistics of the grasshopper problem and on the competency of the Extension educator to identify the problem. While there is nothing wrong with what was done, the interaction did not build a relationship.

In the second scenario, the educator also focused on the logistics of problem and identified the problem, but also empathized with Dorothy. He wanted to know more about her culture. The educator took advantage of the opportunity to get to know Dorothy, to build a relationship and to create an opportunity to return later.

Missed opportunities occur on reservations when professionals fail to appreciate the culture and consider the perspective of the client. Ideally, professionals should apply the ethos, pathos and logos philosophy to facilitate the greatest potential for building relationships and solving problems. Tribal politics and land tenure complexities can influence the success of agricultural and natural resource programs on reservations. It is very important to build trust and relationships through effective communication and appreciation of culture and perspectives.



Fara Ann Brummer, FRTEP Extension educator, on the Warm Springs Reservation.





Laura Laumatia, FRTEP Extension educator on the Coeur d' Alene Reservation.

Federally Recognized Tribes Extension Program (FRTEP)

In 1988, the Intertribal Agriculture Council (IAC) and the Southwest Indian Agriculture Association (SWIAA) lobbied Congress and federal agencies to fund Cooperative Extension outreach programs on Indian reservations. IAC, SWIAA and 70 Indian tribes were successful in adding language to the Farm Bill that authorized the creation of the Extension Indian Reservation Program (EIRP). Although the program was initially authorized for \$8 million, funding was appropriated for \$1 million. The funds created Extension education positions on federally recognized Indian

reservations (Hiller, 2005). This program has grown over time. Currently, it funds 31 positions with a budget of approximately \$2 million (Indian Country Extension, 2007).

In 2005, EIRP changed its name to Federally Recognized Tribes Extension Program (FRTEP). The name change eliminated confusion between FRTEP and the 1994 Tribal College and University programs. Using FRTEP funding, Extension educators conduct outreach programs on reservations across the U.S. These Cooperative Extension programs are designed to fit reservation culture and lifestyle, tribal governance structure and community needs. The program has been successful because it seeks to build awareness and appreciation for social, economic and political environments on reservations. However, the program suffers from limited funding (Indian Country Extension, 2007).



Randy Emm (standing), FRTEP Program Coordinator on Nevada Indian reservations.



Summary

Multiple perspectives must be taken into consideration in order to redefine problems as opportunities. In looking for opportunities, agricultural professionals must consider different perspectives shaped by reservation culture. The challenge remains how to tailor outreach programs to fit a specific reservation's culture, governance, environment and needs.

Both Indian producers and agricultural professionals must seek ongoing education regarding federal assistance programs available to reservation lands. Procedures required to implement federal assistance programs established for agricultural producers nationwide must be customized for restricted Indian lands because of land tenure complexities as well as limited access to working capital available to many Indian agricultural producers. FRTEP, a federally funded program, has been successful because it has focused on tailoring its outreach programs to individual reservation natural environments, tribal culture and tribal governance.

It takes courage and commitment on the part of both tribal members and agricultural professionals to build positive working relationships. Knowledge and practice of effective communication skills is key to this process. Also critical, is an awareness and appreciation of the role that individual perspective plays in tackling tough problems.



Danielle Gunn, FRTEP Extension educator on the Fort Hall Reservation.



Linda McLean, FRTEP Extension educator on the Colville Reservation.

Chapter Eight Review

1. Indian reservations share the same culture and lifestyle.
 - True
 - False
2. Subjective views influence our _____.
 - a) Perspectives
 - b) Laws
 - c) Potential
3. Federal programs easily fit most reservation environments, tribes and individual Indians.
 - True
 - False
4. Although culture is symbolized by dress, food, language and customs, it extends beyond those symbols to include strong underlying characteristics that represent group identity.
 - True
 - False
5. A relationship begins as soon as two people begin to _____.
 - a) Recognize problems
 - b) Communicate with one another
 - c) Seek counseling
6. Silence and a lack of eye contact as part of one's communication style may reflect culture, or may indicate that a person is unable to share their thoughts, ideas and feelings with another person they do not know.
 - True
 - False
7. Knowledge is _____.
 - a) Important
 - b) Useful
 - c) Power

8. Focusing on the problem will get the job done, however, focusing on the person will get the job done and build relationships.
- True
 - False
9. There must be a continuing _____ process regarding agricultural and natural resource assistance programs available to tribes and individual Indians.
- a) Consultation
 - b) Education
 - c) Legal
10. The BIA has the trust responsibility to ensure that Indians are receiving their lawful entitlements in the form of programs. However, at the same time, the BIA must support tribal self-determination and independence.
- True
 - False
11. Everyone can respond to windows of opportunity even without building a relationship.
- True
 - False
12. Seek first to understand the person, rather than to simply be understood.
- True
 - False
13. Building personal relationships on reservations requires that the unique _____ be understood and appreciated.
- a) Culture
 - b) Lifestyle
 - c) Culture and lifestyle

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GLOSSARY



Adjudication: The quantification and distribution of water rights through a judicial decision or congressional action.

American Indian Probate Reform Act (AIPRA): Federal legislation enacted in 2004 which affects those who pass away after June 20, 2006. The AIPRA clarifies probate with respect to Indian trust or restricted Indian lands, with the ongoing goal to reduce fractional ownership.

American Indian Religious Freedom Act: Federal legislation enacted in 1978 to protect and preserve the right of Indians to practice traditional religions which includes access to sacred sites, the right to possess sacred objects and the right to worship through the use of traditional rites and ceremonies.

Annual Funding Agreement: A document that represents the negotiated amount the Secretary of Interior agrees to fund, on an annual basis, for a specific program or service contracted by a tribe.

Archaeological Resources Protection Act: Federal legislation enacted in 1979 that requires that tribal governments grant permission for archaeological excavations on reservation lands.

Assigned Lands: Land parcels on Indian reservations that tribal governments may arbitrarily assign to an individual tribal member to manage and live upon for the duration of his/her lifetime or specified amount of time.

Basket-Maker Culture: Early American Indians who created baskets as a survival tool, primarily to gather, prepare and store food. Some baskets were covered with resin or pitch so they could hold water. Basketry techniques were also used to make floor and house coverings, mattresses, clothing and fishing traps. Materials included strips of wood or bark, roots, reeds, canes, vines and grasses.

Bureau of Indian Affairs (BIA): Established in 1849, the agency of the United States Department of Interior that administers federal policy for American Indians that includes technical assistance to tribal governments. Responsibilities of BIA include developing infrastructure on Indian lands, leasing assets, overseeing agricultural programs, protecting land and water rights, developing forested lands and economic development.

Burke Act: Also referred to as the Forced Patenting Act (1906), this federal legislation amended the General Allotment Act (1887) by authorizing the federal government to issue fee patents to those allottees classified as competent.

Checkerboard Land: Refers to the land tenure pattern on and near Indian reservations that randomly combines restricted Indian land with fee simple land.

Citizenship Act: Federal legislation enacted in 1924 which granted all American Indians U.S. citizenship.

Columbia Plateau: Physiographic upland region in the northwestern United States that is a wide flood basalt plateau between the Rocky Mountains on the east and Cascade Range on the west, cut through by the Columbia River; also referred to as the Columbia River Basin. It includes southern Washington State, eastern Oregon, western Idaho and a small portion of the northwestern corner of Nevada.

Compact (Compacting): An executed document that affirms the government-to-government relationship between a self-governance tribe and the United States. A compact is different from an annual funding agreement in that parts of the compact apply to all bureaus within the Department of the Interior and an annual funding agreement applies to one bureau.

Contract (Contracting): See Self-Determination Contract.

Competent: Authorized by the Burke Act (1906), also known as the Forced Patenting Act, refers to the condition used by the federal government to determine if Indian allottees could be issued a fee patent for their trust patent land. Criteria used by the federal government to determine competency varied among reservation agencies but typically involved education, social habits, physical appearance and blood quantum.

Cross-cultural Communication: A field of study utilizing the disciplines of anthropology, cultural studies, psychology and communication to analyze how different cultures communicate and interact with each other.

Desert Land Entry Act: Enacted in 1877, this legislation promoted the development of arid and semiarid public lands in the western United States.

Doctrine of Discovery: Rooted in ancient European law, asserted that the first European country to discover new lands was granted sole power over all lands explored and all resources found within these lands.

Donation Land Claims Act: Enacted in 1850, this federal legislation promoted development of the Pacific Northwest territory by granting land tracts to white settlers.

Empathic Listening: A way of listening which allows a person to listen and respond accurately based on mutual understanding, respect and trust.

Fee Patent (Patent-in-Fee): The title document issued by the U.S. government to terminate the trust patent first issued to Indian allottees per the General Allotment Act (1887).

Federal Trust Responsibility: Refers to the relationship between the federal government and Indian tribes. The Marshall Trilogy clarified the federal government's trust responsibility to Indian tribes through a series of Supreme Court cases. The court case in 1831 involving the Cherokee nation depicted the relationship between the tribe and the federal government as a "ward to his guardian."

Federally Recognized Tribes Extension Program (FRTEP): Federally Recognized Tribes Extension Program (FRTEP) which places extension personnel through existing University cooperative extension systems on federally recognized reservations in the United States.

Fee Simple: Land tenure status in which the owner holds legal title to the land.

Fractionated Land: Refers to restricted Indian land allotments (trust patents) with multiple heirs.

Fractionation: The process that allows heirs to inherit undivided interests in restricted Indian land allotments (trust patents) that are co-owned by other heirs.

General Allotment Act: Also referred to as the Dawes Severalty Act for its sponsor Sen. Henry L. Dawes of Massachusetts, this legislation in 1887 authorized the federal government to allocate to individual Indians reservation land parcels. Intended to assimilate Indians into non-Indian culture, the policy required Indians to farm their land allotments and stipulated a 25-year waiting period to transfer the title to their allotted land. Indians who received allotments were also granted U.S. citizenship.

Great Basin: Physiographic region of inland drainage in the western United States, between the Wasatch Range on the east and the Sierra Nevada and Cascade Range on the west. It includes most of Nevada and portions of Utah, Oregon, Idaho and California, with a total area of 210,000 square miles.

Highly Fractionated Parcel: Refers to an allotment that is divided repeatedly over time among heirs to the extent that it may have 50 to 99 co-owners with no individual holding an undivided interest greater than 10 percent--or 100 or more owners.

Homestead Act: Federal legislation enacted in 1862 that granted legal title to 160-acre parcels to any white man who could clear and farm the land for a five year period.

Horse Culture: Refers to cultural traits unique to American Indians for whom adoption of the horse dramatically impacted their lives. The Indians of the Columbia Plateau, in particular, have been referred to as a horse culture; possessing exceptional equestrian and animal husbandry skills.

Indian Appropriations Act: Enacted in 1851, authorized the United States government to set aside additional lands for Indian reservations in Oklahoma and farther west in order to reduce the growing number of conflicts between settlers and Indians.

Indian Civil Rights Act: Enacted in 1968, this federal policy prevented tribal governments from creating or enforcing laws that violated specific individual rights and required tribal governments to respect freedom of speech, freedom from unreasonable search and seizure, and freedom to practice religion.

Indian Gaming Regulatory Act: Federal legislation enacted in 1988 to establish terms for how tribal gaming facilities were to operate, enabling tribes to utilize gaming-generated revenues to benefit the welfare of Indian tribes, promote tribal economic development, fund tribal agency operations or donate to charitable organizations.

Indian Irrigation Works: The federal government built agricultural irrigation delivery works in areas of the United States with low amounts of natural precipitation to help Indians become more reliant on farming. There are 73 federally-funded agricultural irrigation delivery systems nationwide servicing some 1,155,131 acres on land.

Indian Land Consolidation Act: Federal legislation enacted in 1983 to prevent Indian lands from passing out-of-trust status and to reduce the problems associated with fractional interests and tenancy in common ownership. The policy requires Bureau of Indian Affairs to provide estate-planning education and assistance to Indian landowners.

Indian Land Tenure Foundation: Established in 2001, this nonprofit organization supports tribal and individual Indian efforts to acquire and effectively manage land. A major focus has been to secure federal policies that seek to remedy the negative effects of earlier policies that produced the complex land tenure problems that exist in Indian country.

Indian Lands Working Group: Established in 1991, this American Indian group has played a proactive role in bringing the attention of federal policy makers to reservation land tenure issues. The group also conducts land issue educational meetings and workshops and has produced an Indian land Consolidation Manual.

Indian New Deal: A name given to the Indian Reorganization Act of 1934 because this legislation recognized Indian tribes as sovereign nations.

Indian Removal Act: Enacted in 1830, this legislation set aside lands west of the Mississippi River in exchange for lands in the eastern United States occupied by the Five Civilized Indian Nations.

Indian Reorganization Act: Enacted in 1934, this federal legislation terminated the Indian reservation land allotment process, slowed the loss of Indian reservation lands, and restored to tribes the authority to manage reservation lands communally. The legislation recognized Indian tribes as sovereign nations and required Indian tribes to organize tribal governments.

Indian Reservation: An area of land reserved or set aside by the United States government for Indian beneficial use. Reservations were created through treaties or by the federal government by executive orders and are subject to federal trust responsibility.

Indian Self-Determination and Education Assistance Act: Enacted in 1975, this legislation authorized tribal governments to oversee their own social programs.

Indian Trust Land: See Restricted Indian Land.

Individual Trust Interest Report (ITI): A report provided annually by the Bureau of Indian Affairs to the undivided interests of trust allotments that reports lease payment values.

Intermontaine Region: A cultural and physiographic region of the western United States that lies between the Rocky Mountains to the east, and the Sierra Nevada and Cascade Mountains to the west and includes large portions of Idaho, Nevada, Oregon and Washington.

Irrigation projects: An irrigation works operated and maintained by the Bureau of Indian Affairs. There are currently 16 projects in the U.S. and the Bureau of Indian Affairs collects operation and maintenance (O & M) fees for the project.

Irrigation system: An irrigation works operated and maintained collaboratively by the Bureau of Indian Affairs, tribes and various water users. The Bureau of Indian Affairs does not collect operation and maintenance (O & M) fees for the system.

Kin-clique: Band of early American Indians consisting of one to a few families related by marriage.

Life Estate: Refers to the right of non-Indian heirs to restricted Indian land to occupy, use, or receive income from the property for the duration of their lifetime.

Life Tenant: Refers to the non-Indian heir to a life estate on restricted Indian land.

Longhouses: Rectangular-shaped permanent houses constructed by Columbia Plateau Indians using native plants such as lodge pole pines and mats woven from tule bulrush.

Manifest Destiny: Belief that Euro-Americans possessed certain moral traits and virtues that no other culture possessed and its religion and race were superior to all others, including the indigenous peoples discovered.

Marshall Trilogy: Three Supreme Court cases (1823, 1831 and 1832) clarifying the federal government's trust responsibility to Indian people and tribes. These cases also reaffirmed and redefined American Indian law and tribal sovereign powers.

Mature Contract: A successful 638 contract which existed for three years or more.

Miriam Report: A federal study commissioned in 1926, named for its director Lewis Miriam, which reported that federal government agents had, over time, wrongfully appropriated funds targeted for Indians.

Native American Graves Protection and Repatriation Act: Federal legislation enacted in 1990 that reinforces the recognition of Indian religious freedom by protecting Indian graves on federal land.

Office of Indian Affairs: Predecessor of the Bureau of Indian Affairs, this office was created in 1775 to secure neutrality from American Indian tribes and to discourage Indian alliances with British forces in preparation for the Revolutionary War. In its early years, the duties of this office were primarily to negotiate treaties between the Federal government and Indian tribes.

Open Communication: The sharing of information and resources with anyone. During open communication processes, no one person asserts power over another.

Peace Policy: A label used for programs implemented under President Grant's administration in efforts to reform Indian affairs. The policy required Indians to remain on reservations or face military punishment and established religious leaders on each reservation to teach the Indian people Christian religion and customs.

Perspective: A personal world view of an environment, situation or issue.

Program Support Costs: Funding tribes receive from the federal government for the additional costs of managing a program during a 638-contract term.

Public Domain Allotments: Land parcels from public lands historically allotted to Indian individuals without designated reservations.

Relocation Act: Enacted in 1956, this legislation provided economic incentives to encourage American Indians living on reservations to relocate to urban areas to seek employment.

Remainder Interest: The AIPRA (2004) requires that when a life estate is created for a non-Indian heir, an undivided interest must be created for surviving blood relatives of the Indian decedent. If no Indian heirs exist, an Indian co-owner is allowed to buy the remaining interest. If no offer is made to purchase the remainder interest, the land passes to the tribe.

Reserved Water Rights Doctrine: See Winters Doctrine.

Restricted Indian Land (Indian Trust Land): Refers to land that Indians have the right to occupy for their beneficial use while the federal government holds legal title to the land in trust.

Sahaptin: Language family belonging to the Penutian group of Native American languages; spoken by the Klickitat, Umatilla, Yakama, Palouse, Cayuse, Walla Walla and Nez Perce.

Salishan: Language family spoken by American Indians settled to the north and east of Sahaptin speakers extending into modern-day Canada. Salishan speakers included Lillooet, Shuswap, Okanagon, Thompson and Lake. Farther south, in what is now northeastern Washington and northwestern Idaho, Salishan speakers included Sanpoil, Kalispel, Spokane and Coeur d'Alene.

Sally Bags: Soft bags, hand-woven of hemp twine, used to collect roots and as objects of personal adornment.

Self-Determination Contract (Contracting) (638 Contract): A Self-Determination contract was created under the original Indian Self-Determination and Education Assistance Act of 1975 (P.L. 93-638). These contracts are also known as a "638 Contract." Under this Act, a federally recognized tribe had the ability to contract for a program otherwise operated by the Bureau of Indian Affairs and the Indian Health Service. The 1988 Amendments also extended contracting options to non-Bureau of Indian Affairs agencies within the Department of Interior.

Self-Governance: Established under the Indian Self-Determination Amendments Act of 1988 in the Self-Governance demonstration project for the Bureau of Indian Affairs and Indian Health Service. Self-Governance allowed an approved tribe to enter into a compact with the Secretary of Interior to take over multiple federal programs and responsibilities. A tribe must meet a certain criteria to be a Self-Governance tribe and have entered into a compact with the Secretary of Interior.

Semi-nomadic: People who move seasonally from place to place to search for food and water, usually returning to the same sites each season.

Surplus Lands: Refers to Indian reservation lands that remained after federally authorized allotments were granted to individual Indians.

Survivalist Culture: Culture whose existence is based on hunting and gathering food, some of which is stored for later use.

Termination Act: Passed in 1946, this legislation terminated the federal trust responsibility to American Indian tribes and reversed the goals of tribal sovereignty established by the Indian Reorganization Act.

Trade and Intercourse Act: Initiated in 1790, this law required the Federal government to authorize all sales of Indian lands and granted the government managerial power over all trade and commerce involving Indians.

Trail of Tears: Refers to a more than 2,000-mile-long journey that occurred between 1830 and 1840, where approximately 50,000 to 100,000 American Indians relocated to lands west of the Mississippi River. Approximately 25 to 30 percent of those relocated Indians died from disease, starvation and exposure to harsh weather.

Tribally Owned Land: Indian trust land owned by a particular Indian tribe or an organized confederation of tribes for beneficial use. Tribal governments possess authority to exercise and manage the land for beneficial use, but the federal government retains trust responsibility.

Tribal Council/Tribal Business Council: The governing board of the reservation recognized as the authoritative power under federal guidelines and tribal constitutions and bylaws.

Tribal Government: The official entity that makes judgments and decisions concerning programs and services conducted within reservation boundaries.

Tribal Sovereignty: Refers to the right of American Indian tribes to govern themselves on all matters.

Trust Allotment: Parcel of reservation land allocated to an individual Indian to live upon and farm, with legal title to the land remaining under federal trust.

Trust Doctrine: Stems from the Doctrine of Discovery and refers to the federal government's assumed role to act as trustee for American Indian tribes and, as such, assume a fiduciary responsibility. The federal government acts as guardian of Indian affairs and is authorized to make decisions on behalf of Indian people.

Trust Patent: The title document issued by the U.S. government to an Indian allottee to verify that their land, as allotted through the General Allotment Act (1887), was held in trust by the federal government.

Tule: Giant species of sedge in the plant family Cyperaceae, native to freshwater marshes in North America.

Undivided Interests: Refers to the process of fractionation that allows heirs to inherit unspecified but equal shares in trust allotments that are co-owned by other heirs.

Uto-Aztecan: Language family that includes the Shoshone and Bannock peoples, who inhabited portions of the Columbia Plateau and Great Basin in present-day Idaho, and the Northern Paiute bands, located in northern and central Nevada. This language family includes languages still spoken by millions of descendants of the ancient Aztec civilization who live in central Mexico and in parts of Guatemala, Central America.

Voluntary Relocation Program: As part of the Relocation Act of 1956, this program provided funds to relocate more than 31,000 Indians from reservations to urban areas.

Western Range: A region of the western United States, bordered on the west by the Sierra and Cascade Mountains and on the east by the Rocky Mountains, and includes the Columbia Plateau and Great Basin cultural and physiographic areas.

Wickiups: Hemispherical-shaped lodges constructed by Great Basin Indians using native plants such as willows, sagebrush and piñon needles.

Winters Doctrine: A Supreme Court ruling in the case of *Winters v. United States* (1908) which reserved federal water rights to fulfill the purpose of why the federal government established the Fort Belknap Reservation in Montana. This landmark case established a reserved water rights doctrine setting precedent for all future Indian water right disputes.



 **CHAPTER REVIEW ANSWERS** **CHAPTER ONE**

1.-T, 2.-D, 3.-F, 4.-T, 5.-T, 6.-D, 7.-E, 8.-F, 9.-C, 10.-T, 11.-C, 12.-T, 13.-D,
14.-T 15.-T, 16.-T, 17.-F

CHAPTER TWO

1.-T, 2.-T, 3.-B, 4.-T, 5.-F, 6.-F, 7.-C, 8.-T, 9.-D, 10.-C, 11.-F, 12.-D, 13.-E,
14.-D, 15.-T, 16.-E, 17.-F, 18.-E, 19.-T, 20.-F, 21.-E

CHAPTER THREE

1.-E, 2.-T, 3.-E, 4.-T, 5.-D, 6.-C, 7.-C, 8.-T, 9.-F, 10.-B, 11.-T, 12.-F, 13.T,
14.-T, 15.-E, 16.-F, 17.-T, 18.-B, 19.-T, 20.-T, 21.-T, 22.-D, 23.-T, 24.-F,
25.-E, 26.-T, 27.-T, 28.-F, 29.-E, 30.-T, 31.-F, 32.-T

CHAPTER FOUR

1.-T, 2.-T, 3.-C, 4.-C, 5.-T, 6.-A, 7.-F, 8.-T, 9.-C, 10.-T, 11.-C

CHAPTER FIVE

1.-E, 2.-T, 3.-F, 4.-A, 5.-F, 6.-T, 7.-C, 8.-T, 9.-T, 10.-T, 11.-D, 12.-T, 13.-T

CHAPTER SIX

1.-T, 2.-B, 3.-F, 4.-A, 5.-T, 6.-T, 7.-T, 8.-C, 9.-T, 10.-F, 11.-A, 12.-A

CHAPTER SEVEN

1.-D, 2.-See Instructor, 3.-See Instructor, 4.-See Instructor, 5.-E, 6.-T,
7.-T, 8.-F, 9.-See Instructor

CHAPTER EIGHT

1.-F, 2.-A, 3.-F, 4.-T, 5.-B, 6.-T, 7.-C, 8.-T, 9.-B, 10.-T, 11.-F, 12.-T, 13.-C

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