SENATE COMMITTEE ON INDIAN AFFAIRS

"INDIAN AGRICULTURE"

Tuesday, February 16,1999

Agenda
Issue in Indian Agriculture Summary
Biographies
Intertribal Agriculture Council Material
1999 Omnibus Indian Agriculture Language

Agenda

Introduction
Paul Moorehead, Majority Staff Director/Chief Counsel

1993 Indian Agriculture Act and other Agriculture Programs
Greg Smitman, Executive Director, Intertribal Agriculture Council

Current BIA Agriculture Policy
Mark Bradford, Chief Soil Conservationist, BIA

Highlights of USDA Report to Congress
Mary McNeil, Director of Native American Programs, USDA

Current Issues and Future Prospects
Ross Racine, Natural Resource Director, Intertribal Agriculture Council

Question and Answer Period
All Panelists

Closing Remarks
Paul Moorehead, Majority Staff Director/Chief Counsel

Issues in Indian Agriculture

Agriculture has been a part of the Native American way of life throughout history. Activities they conducted and still carry out include hunting, fishing and gathering. Agriculture allowed Native Americans to stay in locations to grow crops for consumption and other needs. In modem times, Native Americans use their lands and natural resources to provide staples and other foods for consumption as well as to improve their economic self-sufficiency, agriculture income and reservation employment, through agriculture and

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agribusiness.

Reservation-based Indians tend to be the most rural of any minority group --- geographically isolated, resource-limited, and the least likely of any farm group to receive payments or loans from the United States Government (USG). Indian lands represent some 55 million acres, with nearly 47 million acres made up of range and crop land. Despite such large land holdings, many reservations are checkerboarded or fractionated in their ownership, often preventing productive use of the lands.

In addition to a huge land base, the agricultural sector constitutes the second largest revenue generator and employer to Indian country. According to the U.S. Census, some 70 percent of Indian agriculture production comes from livestock operations. The Indian agricultural sector could conceivably include any number of products including forestry, fishing, bison, wild rice and fruits, cotton, tobacco and other Native-made or grown products.

With federal expenditures for Indians still lagging far behind non-Indian America, and with an employment-based welfare reform system looming on the horizon, it is natural that the Indian agricultural sector is a candidate for tribal and federal focus in terms of improving access to existing federal agricultural, raising farm and lease income, increasing employment, strengthening subsistence agriculture and fishing, promoting Native-made agriculture products and encouraging economic self-sufficiency for Native Americans.

Though many tribes have abundant natural resources to work with, individual operators and farming tribes are in need of capital, more efficient administration of existing federal programs, specialty markets and export promotion, and marketing assistance that non-Indian agriculture producers in the country have access to. Recently passed legislation such as the *Indian Agricultural Resources Management Act of 1993,* a more coordinated federal apparatus, and future work of the Administration and Congress can help to improve the condition of Indian agriculture, and improve the lives of Native Americans nationwide.

BIOGRAPHIES

OF

PRESENTERS

BIOGRAPHY

GREG SMITMAN

Greg Smitman, Executive Director of the Intertribal Agriculture Council (IAC), is a Navy veteran, he also has Bachelor's and Master's of Science degrees in Range and Forest Management from Washington State University, and has been working in Indian Country all of his professional life.

Greg started out as a Range Conservationist on the Fort Belknap Reservation, and was

quickly promoted to Natural Resource Officer for BIA. In this position he administered and supervised over 50 employees from six major BIA branches, including Forest Management, Irrigation Project Management, Range Management, Real Estate Appraisals, Real Estate Services and Soil Conservation. Greg was selected for the Interior Department's Executive Manager Development Program and promoted to the Billings Area Office of the BIA, where he held the position of Special Projects Coordinator. While in this position he was instrumental in creating the National Indian Agriculture Working Group, from which the IAC was founded. Greg left the BIA to become IAC's first Executive Director and has occupied this position since IAC's inception in 1987.

As Executive Director, he has been instrumental in the accomplishments of all of IAC's projects, as well as working with individuals, association, Tribes, and the federal government to help develop working relationships. In addition to his administrative responsibilities, Greg represents the IAC in numerous forums, serves as Congressional Liaison in Indian land, irrigation, and credit issues, and has authored several reports and booklets.

BIOGRAPHY

MARK BRADFORD

Mark Bradford is the Chief Soil Conservationist, Branch of Agriculture and Range for the Bureau of Indian Affairs. He has been in this position since March, 1989. In this position he provides leadership for the development and administration of the Bureau's Agricultural Program.

Since coming to the Bureau of Indian Affairs in 1974, Bradford has served as the Albuquerque Area Forester, 1981-1988; Forest Manager, Olympic Peninsula Agency, 1978-1981; Forester-in-Charge, Neah Bay Field Station 1976-1978; Agency Soil Conservationist, Fort Hall Agency 1974-1976.

During his tenure with the Bureau, Bradford has been involved in the development and initiation of new programs in resource inventories, quality control, and human resource development.

Bradford graduated from the University of Massachusetts with a Bachelor of Science

Degree in Forest Management.

BIOGRAPHY

MARY N. MCNEIL

Mary McNeil was appointed as the U.S. Department of Agriculture's Director of Native American Programs in March 1996. In this role she serves as the principal adviser and representative on all matters related to USDA policy and programs which affect and are

available to American Indians and Alaska Natives. Ms. McNeil worked at the White House Office of Presidential Personnel from January 1997-May 1997 on a special assignment from USDA.

Mary McNeil is an enrolled member of the Winnebago Tribe of Nebraska. Before joining USDA, she worked extensively with American Indian and Alaska Native social, cultural, educational, philanthropic, and community planning issues and concerns in Alaska and Washington State. During the early 1980's, Ms. McNeil worked for the State of Alaska as a planner and was responsible for providing state community planning assistance to several Alaska Native and Alaskan communities. Thereafter she was employed by an Alaska Native non-profit charitable foundation which was established to award educational scholarships to Alaska Natives and American Indians residing in Southeast Alaska and to preserve and maintain the cultures and heritage of Southeast Alaska Natives. From 1987 to 1991, Ms. McNeil worked for United States Senator Brock Adams in his Washington State office. On Senator Adams' behalf, she helped constituents resolve issues which they encountered with the Federal Government in the areas of labor, immigration, the U.S. Department of State, customs, equal employment, and American Indian affairs. Prior to her appointment at USDA, Ms. McNeil worked as a consultant for the Mashantucket Pequot Tribal Nation and the Council on Foundations.

Mary McNeil received her B.A. degree in Anthropology from Stanford University and

her J.D. degree from Stanford Law School.

BIOGRAPHY

ROSS R. RACINE

Ross R. Racine, Natural Resource Director, Intertribal Agriculture Council (IAC), is an enrolled member of the Blackfeet Tribe, Browning, Montana, the eldest of 11 children, and a veteran of the US Marine Corps. Ross was born and raised on a ranch, worked for ranches in the Browning area while in high school and upon his discharge from the Marines as the family ranch was no big enough to support all of the kids who wanted to stay on.

Ross graduated from Montana State University with a degree in Agriculture/Animal Science in 1982 with enough soils and range credits to qualify for any federal soils or range positions. His professional career began with the Bureau of Indian Affairs, Browning, Montana as a Soil Conservationist then a Range Conservationist. In those positions he administered 91 0 farm leases and 328 grazing permits, all covering over 1 million acres. He transferred to Wan-n Springs, Oregon, where he served as a Soil Conservationist then as Range and Agriculture Coordinator. This involved the development and administration of over 450,000 acres of land.

While at Warm Springs, Ross received the Intertribal Timber Council's Northwest Regional Award for his leadership in the preparation of the first Integrated Resource Management Plan on the Indian forest land. Ross was also recognized by Oregon State University for the development of an agreement which established an accredited training program for individuals working within Warm Springs Natural Resource Department.

Since September 1991, Ross has served as the Natural Resource Director for IAC. One of his primary functions with this organization is to work with USDA in the delivery of programs to Indian people and to oversee the development, passage and implementation of the American Indian Agriculture Resource Management Act. His whole professional career has been spent working with Indian farmers and ranchers in the development and management of their resources.

MATERIALS SUBMITTED

BY PRESENTERS

Indian Agriculture

YESTERDAY, TODAY , AND TOMORROW

Prepared for the
Senate Committee on Indian Affairs
By the Intertribal Agriculture Council
February 16, 1999

Despite what you have heard or read through the media about all the money being pumped into reservations by gambling, we, at the reservation level know our future lies within our renewable natural resources, especially through the Indian use of Indian resources.

The concept of this type of resource usage is not new to us. Popular media has portrayed all Indians as nomadic people who did nothing but chase buffalo on the backs of horses. Indians have strong traditional and economic ties to agriculture. History reveals that many different Indian Nations across this country were engaged in cultivation of agricultural crops long before the first contact with European immigrants.

Beginning with the agriculture practices in Arizona and Northern Mexico by the Hohokum, Pima, and Maricopa Indians, the primitively constructed devices for delivery of water to crop fields have evolved into the highly-engineered dams and canals of today. A historical sketch of the Western Anasazi shows devices such as terraces, linear grids, field borders, and check dams appeared in Northwestern Arizona at about 1200 AD; and in the Mesa Verde area of Southwestern Colorado about I 100 AD.

Prior to 1000 AD. irrigation in the form of simple ditch networks trapping seasonal stream flows was very important to the Havasupai Indians of Cataract Arizona. The system of this tribe involved summer agriculture in the canyon, winter hunting and berry/nut gathering on the adjacent plateau. Corn, beans, and squash were raised in abundance with the aid of the hoe, the digging stick, and a simple network of irrigation ditches. East of the junction of Gila and Salt Rivers lie irrigation canals which date to 800 AD. These canals delivered water to terraces several miles away and 25 to 50 feet above the level of the stream. The Pima-Maricopa Indians cultivated and irrigated maize, beans, and squash while gathering

cactus fruit and mesquite brush beans and hunting for diet supplements.

Similar evidence reveals that the Ohio River Valley was highly cultivated and produced corn, beans, various squashes, and tobacco in the year 500 AD. The Huron Indians of the Lake Erie-Lake Michigan region transported tobacco and maize up the Great Lakes to trade for furs with hunting Indian Tribes. Tribes of the Missouri River Basin including Mandan, Arikara, and Hidatsa practiced a very successful agriculture which utilized irrigation waters along the Missouri River shorelines. Their stable crop surpluses fueled the western fur trade.

In tribute to the agriculture prowess of the American Indian, reports from several early European colonies indicate that their survival was possible only through the training and assistance in agriculture techniques provided by the resident Indian Tribes. The national holiday of Thanksgiving Day originated with the celebration of the survival of the Pilgrims of Massachusetts Bay Colony. The Pilgrims were taught to grow and eat corn by Squanto, and celebrated the first Thanksgiving Day feast in November of 1621. Massasoit and 90 members of his tribe brought deer and other food stuffs to supplement food for the colony in its first harvest feast. By teaching agriculture to the pilgrims, they are credited in the early records of this colony with the responsibility for its survival.

From earliest colonial times, the Creek-Chickasaw-Choctaw and Cherokee nations conducted prosperous stock raising and agriculture in South Carolina, Georgia, Alabama and Mississippi. A census taken among the Cherokee Tribe in Georgia revealed that in 1825 they possessed 33 grist mills, 13 sawmills, one powder mill, 69 blacksmith shops, 762 looms, 2486 spinning wheels, 172 wagons, 2923 plows, 7683 horses, 22,531 black cattle, 46,732 swine and 2566 sheep.

Native Americans cultivated and perfected crops which have now become mainstays of world diet. Many different varieties of potatoes, tomatoes, corn, popcorn, summer and winter squash, bananas, pineapples, avocados, plums, various cherries, walnuts, chestnuts, pecans, and filberts are just a few examples of their contributions. It is estimated that 52% of the world's foodstuff has Indian origins.

Indian cultures continue to reflect the importance of agriculture in the daily and spiritual lives of the descendants of America's earliest farmers. In Indian country today, agriculture plays a major role in the social, cultural and economic well-being of the Indian communities.

As was true a 1000 years ago, Indian agriculture varies greatly from one region to another, and currently parallels off-reservation agriculture in kind if not in scale. Ancient and traditional agriculture pursuits are practiced throughout Indian Country, as is illustrated by the gathering of berries and root crops, and by the subsistence farming practiced through out the country.

Modern commercial agriculture is also common throughout Indian Country. Examples of private commercial Indian agricultural enterprises include livestock and dryland farming of small grains in the Northern Great Plains; intense production of high value table crops, cotton and citrus under irrigation in the southwest; fruit, nut, vegetable, hop, and small grain production under both irrigation and dryland conditions in the Pacific Northwest; and cattle and citrus fruit production in the Southeast. In a recent National Cattlemen's publication, the

Seminole Tribe is listed as the 13th largest cow-calf producer in the US. Fifty percent of the cotton used in Hanes underwear is produced by the Indians of the Southwest.

Tribal governments are involved in a wide array of agribusiness pursuits, such as meat packing plants, hydroponics greenhouses, nut orchards, tribally-owned farms and ranches such as the Arapaho Ranch on the Wind River Reservation, or the Navajo Agricultural Enterprises. Tribal governments also lease millions of acres of tribally owned lands to individual farmers and ranchers for agricultural use.

In the period between 1890 and 1934 an additional 90 million acres of Indian lands were given to the homesteaders and large cattle ranchers through various allotment acts. It is ironic that this group of people is the very group that fought to put Indians on reservations just 30 years earlier. Since 1934, the acres of Indian ownership has remained fairly static. 54.4 million acres of Indian homelands remaining in the contiguous United States today contain nearly 47 million acres of agricultural lands used for the production of crops, livestock, or both. In 1984, agricultural

products grown on Indian lands were valued at $548.6 million. As a comparison, commercial forests occupy 5.8 million acres of Indian lands and generate stumpage values of $61.5 million, and mineral income totals $230.7 million from all sources; including oil, gas, coal, and minerals. To further illustrate present Indian agriculture, there are:

34,474,856 acres of rangelands

10,279,735 acres of forest land also used for grazing

3,283,862 acres of dry farmland

1,404,544 acres of irrigated farmland

1, 106,3 89 acres of potentially irrigable farmland

When the 42 million acres of Alaska Native lands are added to the Indian owned lands in the contiguous US, a land base is created that would constitute the 4th largest state in the Union. This land base would only be smaller than the states of Alaska, Texas, and California. This is a fact to consider when one looks at funding inequity within the various federal departments charged with land management.

In 1986, the Bureau of Indian Affairs and the Department of the Interior were directed to submit to the Congress a report on the effectiveness of Federal and tribal agriculture and range programs nationally. This report was submitted to the Congress in September of 1986. The report was developed through direct consultation with and the active participation of Indian tribes. The Bureau of Indian Affairs formed an "Indian Agriculture Working Group comprised of tribal representatives with experience in agriculture and ranching. The working group conducted a review of national policies on Indian agriculture and examined the effectiveness of agricultural programs in Indian country. Hearings were held in each of the 12 Bureau of Indian Affairs areas where many of the problems effecting Indian agriculture were identified. The 1986 Report developed by the BIA and the Indian Agriculture Working Group contained 32 recommendations to improve the management of Indian agriculture and range lands. These recommendations concerned programs

administered by the Bureau of Indian Affairs, the Department of Agriculture, and the Department of the Interior. Some of the recommendations contained in the

report include increasing tribal participation in the management of Indian agricultural lands, modification of existing Federal regulations pertaining to leasing and permitting of trust lands, providing an Indian preference in the leasing of Indian agricultural lands, allowing owners of a majority interest in a trust allotment to negotiate their own leases, and providing scholarships and other educational opportunities for Indian students in agriculture and natural resources. A complete list of the specific recommendations is as follows:

1. The mission statements, policies and objectives of the Bureau's agriculture program, as rewritten in this report to balance the Federal trust responsibility with promotion of Indian self-determination, should be adopted at all levels of the Bureau and used as the basis for future program development.

2. To rectify the identified conflicts between Federal trust obligations in land management and Indian self-determination, the Congress must clarify its intent, and monitor the preparation of new regulations.

3. The Bureau's agriculture programs should be designed to enhance and sustain the productivity of Indian lands and promote Indian self-determination. Innovative approaches to land management, with sufficient program support, are necessary. The direction of the Bureau's programs must reflect traditional as well as innovative state of the art approaches to land management, and frequent seminars or workshops must be conducted to ensure Bureau and Tribal employees are well versed in their professions.

4. The Federal Government should formulate a coherent and coordinated agriculture program throughout its various agencies, which meets the needs of Indian communities by clearly defining the roles and expectations of all the Federal agencies involved.

5. Bureau leasing and permitting regulations must be rewritten to recognize the Indian use of Indian lands, the long-term benefits that accrue to the land owners from this use, and the contributions of these lands to the overall reservation economy.

6. Provisions in both statute and regulation are required that grant authority to the Secretary to negotiate and lease highly fractionated undivided interest heirship lands in order to reduce idle land acreage and insure income, when no single individual can claim majority ownership.

7. Rental Rates charged for agricultural lands should reflect the local economy and provide an opportunity for success to the agricultural lessee, while providing a reasonable rate of return to the landowner.

8. The requirement for surety and performance bonds on agricultural leases and permits is overly restrictive on Indian operators, and should be discretionary at the local level.

9. The tenure period for agricultural leases and permits should be extended to 10

years to allow lessees and landowners to access USDA farm programs and commercial credit opportunities.

10. Preference in the issuance of agricultural leases should be given to Indian operators, and renewal capability on existing leases should be included to stabilize successful enterprises.

11. The Bureau should conduct a study comparing its agriculture funding and staffing levels with those of other Federal land management agencies. This should be accomplished on a per acre basis for like resources, while considering the additional requirements of trust responsibility, government-to-government relationships, and increased costs associated with fractionated heirship lands.

12. Tribal governments and landowners must be encouraged to exercise their self-determination rights. This can be facilitated through the creation of tribal zoning ordinances and land use plans, which provide long-term direction for local programming, and reflect Tribal and landowner goals.

13. Inventories of Indian resources, which have been ongoing for several decades, must be finally completed to provide for meaningful Tribal planning and program implementation.

14. The Geographical Information System should be expanded and include provisions for direct access by Tribal governing bodies, or their staff, to facilitate management decision making.

15. Agricultural Extension Agents must be re-established at the agency or reservation level. The existing Memorandum of Understanding between the Bureau of Indian Affairs and the Cooperative Extension Service must be re-implemented to provide technical assistance and training in agricultural practices, financing, record keeping, farm and ranch management, and to facilitate 4-H, FFA, and other youth oriented activities.

16. Since the private sector has not met the credit needs of Indian agricultural enterprises, the Federal government must strengthen its credit program to meet these needs.

17. The Bureau's credit program should be redesigned to recognize the high-risk nature inherent in its role as a lender of last resort. The entire credit system must be standardized and streamlined, with approval authorities at the local level, to eliminate the existing long delays in approval actions.

18. Financial specialists should be hired at the local level to provide assistance and training in all aspects of financial management to individual Indian clients.

19. A specific agriculture title should be established by Congress in the Indian Finance Act to provide direct loans to individuals and assist tribes in acquiring lands in danger of foreclosure.

20. Bureau loans to Tribal relending programs should be consolidated or restructured

to provide uniform interest rates throughout the country. These new rates should provide for relending at a rate which provides a reasonable prospect of success to the Indian landowner or lessee.

21. A consistent policy must be established in the administration of the Bureau Grant Program.

22. Loan officers of the FMHA, who service reservations, should maintain an on-reservation office, and be present on the reservation periodically, proportionate to the percentage of Indian clients they serve.

23. FMHA clients who are currently overfinanced should be assigned to the Bureau at either the fair market value or capitalization rate.

24. The Direct Loan Program of the FMHA should not be discontinued.

25. The Bureau and the FMHA should cooperate to identify mortgaged Indian land in danger of foreclosure, and restructure these loans where feasible. Special funding should be available to the Tribes to purchase foreclosed lands where restructuring is not possible.

26. Trust land which is foreclosed by FMHA should be offered to the tribes or other Indian people prior to obtaining a patent in fee.

27. The Bureau should establish a program to take the place of the FMHA land acquisition program which is being phased out,

28. A public information and public relations effort should be undertaken by both the Bureau and the FMHA to inform Indian people and commercial lenders of the various programs available and how they are administered.

29. Market research and other assistance should be provided to assist in the orderly commercialization of Alaskan Native Agriculture Enterprises.

30. Commercialization of the Alaskan Natives reindeer herds can be accomplished if USDA meat inspection policies are interpreted to reflect the necessities of reindeer slaughter in Alaska.

31. Alaskan Natives engaged in reindeer herding and other agricultural pursuits should be fully informed on available Bureau credit programs through a public information campaign and local contact by the BIA Superintendents.

32. The USDA and USDI should cooperate in a review of existing policies and authority regarding USDA committees, and recommend changes necessary to promote Indian involvement on local boards.

This report documents another startling statistic important to these discussions, "In 1983, 38 percent of the Indian-owned farmlands were actually farmed by Indians. Just 2 years later in 1985 that percentage had decreased to 35 percent. The same trend is occurring in the Indian livestock industry. In 1983, Indians used 95 percent of the grazing lands on reservations, but

by 1985 this figure had decreased to only 85 percent. For both farming and ranching, Indian land use fell off a full 10 percent in those 2 years alone."

The 1986 report was the last significant measurement of agricultural activities on Indian lands he recommendations made in the report were never carried out administratively thus Indian

Tribes participating in farming and ranching turned to the Congress to solve the documented problems experienced in Indian agriculture programs. The turn to Congress resulted in legislation which includes the specific Indian language in the Food, Agriculture, Conservation, and Trade Act of 1990 (P. L. 101-624) and the American Indian Agricultural Resource Management Act of 1993 (P. L. 103-177).

Specific Indian provisions in P. L. 101-624 pertinent to this discussion include:

> A requirement that trust land foreclosed by Farmers Home Administration (FMHA) prior to enactment of the 1987 Farm Credit Act but still in the agriculture inventory remain in trust.
>
> The authorization for reservation extension agents who provide extension agriculture and 4H youth programs on reservations through the Cooperative Extension Service. Presently this program is called the Extension Indian Reservation Program.
>
> An increase in the FMHA Indian Land Acquisition program from $2 million to $8 million and a reduction in the interest rate on loans from II percent to the 5 percent socially disadvantaged rate.
>
> Requiring the Agriculture Stabilization Conservation Service (now the Farm Service Agency), the Soil Conservation Service (now the Natural Resource Conservation Service) and Farmers Home Administration (now Farm Service Agency, Farm Lending) to be present on reservations at least one day per week or at a time determined by the respective Tribe.

The required presence of USDA agencies on reservations stems from a 1940 agreement between the Department of Interior BIA and the Department of Agriculture which required the Department of Interior BIA to fumish to Indians the programs furnished to every land owner in the US by the Department of Agriculture. The following document (a reproduced copy of the Inter-Agency Memorandum-28) references in the second paragraph the 1940 agreement.

> UNITED STATES DEPARTMENT OF AGRICULTURE
> SOIL CONSERVATION SERVICE, P.O. Box 2890 July 1, 1977
> Washington, D.C. 20013
>
> INTER-AGENCY MEMORANDUM
> From: R. M. Davis, Administrator
> Re: Policy for Soil Conservation Service Assistance to Indians under U.S. Department of the Interior Jurisdiction and to the Bureau of Indian Affairs
>
> This memorandum states Soil Conservation Service (SCS) policy in providing assistance under

authority of Public Law 74-46 to (1) Indians who are owners or users of land that is under the jurisdiction of the U.S. Department of the Interior (USDI) and who are cooperators of soil and water conservation districts; and (2) to the USDI 8ureau of Indian Affairs (BIA).

Former interpretations prohibited SCS from assisting Indian owners or users whose land is held in trust by USDI. The cited prohibition was reorganization Plan No. IV of 1940, which transferred certain conservation functions to USDI from USDA. To insure that SCS policy, as outlined in Districts Memorandum-1 (Rev. 2), is equally applied to all land owners or users, the Office of the General Counsel of USDA was asked to revie%v this legal prohibition. After consultation with the legal counsel for BIA, the USDA Office of the General Counsel has advised us of the following with respect to Indian lands held in trust by USDI.

Districts Memorandum-1 (Rev. 2), dated July 24, 1975, outlines SCS policy regarding working relations with conservation districts. Under existing policies, SCS may assist any Indian land owner or user whose land is held in trust by USDI according to the following guidelines.

On the request of an Indian land owner or user to a consei-xation district, either individual, group, or tribe (unit of government), and whose land is included within the boundaries of. a conservation district, SCS may provide assistance for planning and implementing measures of a soil and water conservation program in the same manner, with the same requirements, that assistance is provided to any other land user.

If BIA requests assistance for services required in the performance of its overall trust management responsibility, SCS may provide such services on a reimbursable basis, either by transfer of funds or by cooperative agreement pursuant to a Memorandum of Understanding between the U.S. Department of Agriculture and the U.S. Department of the Interior.

(signed)

R. M. Davis
Administrator

One must also note the last paragraph of this inter-agency memorandum. The inference that the SCS does not have "trust management responsibility" is in violation of Indian Policy of every President since and including President Nixon. As quoted from the Senate Report 03-186, "The trust responsibility of the United States for Indian Lands and resources and for the protection of property is unquestioned." Eleven years after the issuance of the inter-agency memorandum (1988) the Department of Interior and the Department of Agriculture entered into a Memorandum of Understanding which delineates mutual responsibilities as reproduced below:

AGREEMENT IN PRINCIPLE BETWEEN U.S. DEPARTMENT OF

THE INTERIOR AND U.S. DEPARTMENT OF AGRICULTURE

The U.S. Government is the trustee of most American Indian lands and maintains a government-to-government relationship with Indian tribes. The U.S. Department of the Interior (USDI) and the U.S. Department of Agriculture (USDA) have a common objective of helping to promote the highest and best use of trust lands. The USDI is the lead agency of the Federal Government for the administration and protection of Indian trust land and resources and the enforcement of treaties, laws, and regulations pertaining to the welfare of American Indians. The agency is also responsible for implementing self-determination policies for these groups.

The USDA is the lead agency of the Federal Government for providing effective and efficient coordination of Federal agriculture and rural development programs. In providing its services, USDA recognizes its responsibilities with regard to American Indians. USDA recognizes that

these entities possess the right to govern themselves and manage their resources.

USDI and USDA, in recognition of their respective responsibilities, enter into this agreement as a foundation for their endeavors in promoting the objectives of meeting the needs of American Indians. Through this agreement, USDI and USDA will work- in partnership to improve the delivery of programs and services to better meet the needs of American Indians.

DONALD PAUL HODEL, *Secretary of the Interior*
RICHARD E. LYNG, *Secretary of Agriculture*

Every arm of the Federal Government has trust responsibility. The paradigm illustrated above still permeates the federal sector as most think only the BIA is responsible for the management of all natural resources on Indian lands. Coupled with the erroneous paradigm is over the past 20 years, the Indian agricultural program in the BIA, which has responsibility for the leasing of farm and range lands, has become increasingly ineffective. "Over the same period, funding levels for the management of Indian agricultural resources have significantly declined due to inflation and increased administrative costs. The number of BIA personnel engaged in agricultural or natural resource management activities has dropped off dramatically and does not commensurate with the number of Federal employees providing comparable natural resource services on Federal lands. In addition, the BIA has not adequately developed educational programs and other opportunities for American Indians and Alaska Natives to pursue educational and training opportunities in the natural resource field. The decline in the Bureau of Indian Affairs agricultural resource program can be tracked by an examination of program trends since 1975. In 1975, the Bureau of Indian Affairs agricultural resources program was budgeted at $22 million. In 1990, the actual dollar funding for this program was $24 million. In 1975, the Bureau of Indian Affairs employed 91 range conservationists, by 1990 the Bureau of Indian Affairs had 77 range conservationists. In 1975, the Bureau of Indian Affairs employed 210 soil conservationists, by 1990 Bureau of Indian Affairs had only 62 soil conservationists. In 1975, there were approximately 1,205 persons in the Bureau of Indian Affairs agricultural resources program. In 1993, the Bureau of Indian Affairs had 654 funded positions in the agricultural resources program many of which were unfilled or detailed to the other programs. The fiscal year 1994 budget request of the Bureau of Indian Affairs proposed funding levels of $22.3 million and approximately 340 FTE for the agricultural resources program. In addition, it has been reported that within the next ten years, approximately 80 percent of the positions in the Bureau of Indian Affairs agricultural program will be open because of retirements. These figures indicate that the program trends since 1975 in Indian agriculture will continue. The Committee is very concerned that the failure of the Bureau of Indian Affairs over the last 18 years to ensure that the agriculture program is adequately staffed and funded has resulted in a severe decline in the condition of Indian agriculture." (page 1O - 11 House Report No. 103-367)

H.R. 103-367 goes on to state, "In addition, the Bureau of Indian Affairs has failed to develop proper agricultural and natural resource base line data to indicate the condition and current productivity on Indian lands. The Federal government has developed similar data for all other Federal lands, but has failed to develop this badly needed information for Indian lands. Currently 12 million acres of Indian agricultural lands do not have the basic soil and range inventories necessary to develop tribal management plans for Indian reservations. The Bureau of Indian Affairs proposes to conduct soil inventories for only 1,000 acres during fiscal year 1994. The BIA has also proposed, as part of its Fiscal year 1994 Budget, to complete range inventories for 3,000,000 acres. At the current pace, it will be many years before the Bureau of Indian Affairs has completed soil inventories for Indian

lands. The Committee expects the Bureau of Indian Affairs to aggressively pursue the completion of soil and range inventories for all Indian lands. The Committee intends this legislation to provide the necessary authority to complete these inventories and to develop base line data on Indian lands comparable to the data developed

for all other Federal lands. The Committee directs the Secretary to provide the necessary technical assistance and support for these efforts by the Bureau of Indian Affairs from the other Bureaus within the Department and other appropriate Federal departments."

House Report 103-367 accompanied HR-1425 which passed the House on November 16, 1993 and Senate Report 103-186 accompanied HR-1425 which passed the Senate November 19, 1993. HR-1425 when signed into law became P. L. 103-177, the American Indian Agricultural Resources Management Act, (AIARMA) the second piece of legislation caused by Indian Tribes turning to Congress to correct the problems facing Indian Agriculture.

Senate Report 103-186 states, "The purpose of H.R. 1425 is to provide for the establishment of a viable system for the management and administration of Indian owned agricultural lands; to enhance the capability of Indian ranchers and farmers to produce crops and products from such lands; to affirm the authority of the Indian tribal governments in the management and regulation of Indian agricultural lands; and to enhance the educational opportunities for Indian students in I the management of Indian natural resources. The purpose of this legislation is not to establish .1 new responsibilities for the Secretary of the Interior. Rather, it is to streamline and make more efficient the administration of the programs currently administered by the Secretary and to assist the Indian tribal governments to assume a greater role in the management of these programs."

One could take the 32 recommendations put forth by the National Indian Agriculture Working Group (listed above) and overlay it on the AIARMA and clearly see the intent of this law. AIARMA specifically requires agriculture and integrated resource management plans; requires the recognition of tribal laws; addresses a process for Indian agriculture lands trespass; provides for a comparison between Indian land management and the management of comparable federal lands managed by the federal government; addresses a process for the leasing of Indian agricultural lands which is in concert with many of the USDA programs; and establishes the much needed education and training program for Indian and Alaska Native students in agriculture and associated resources and related management activities.

Resource management plans are intended to be the basis for the management and administration of Indian lands by the Secretary and Indian tribal governments. These plans are further intended to be the foundation for Tribal laws addressing land use and zoning. The planning documents will also serve to identify staffing and funding needs within Interior and within the respective Tribes. These plans are to be based on information and comments provided in public meetings with all affected parties. This section requires the Secretary to provide the respective Tribe any pertinent information and documents to assist in the development of these plans. Additionally, Tribes are to draw on other federal agencies, Tribal Colleges, and land grant universities for data in the development of plans.

The recognition of tribal laws section requires the Secretary to conduct all land management activities in a manner consistent with tribal laws and priorities. The Secretary is directed to conduct all land management activities in accordance with approved management plans

except in specific instances where such compliance would be contrary to federal law or the trust responsibility of the US. This section also requires the Secretary to assist tribal governments in the enforcement of their laws to persons or entities undertaking activities on Indian lands.

Indian agricultural lands trespass provides the Secretary and tribal governments with the authority necessary to prevent further theft, waste or loss from trespass. The assessment of Indian agriculture management programs provides for the gathering of reliable data on the funding and development need for Indian agricultural lands; identify barriers to Indian access to federal or private programs relating to agricultural development; and to provide a comparison between Indian agricultural lands and comparable federal lands owned or managed by the federal government. It is interesting to note that this assessment was due in Congress within 18 months after the enactment of AIARMA, passed in December, 1993.

The purpose of the Leasing of Indian Agricultural lands section is to implement recommendations of the National Indian Agriculture Working Group addressing lease terms in concert with USDA programs, access to credit and encouraging conservation development; leasing at rates less than the federal appraisal when in the best interest of the land and landowner; waiver of bond requirements; establishes Indian preference; and recognizes tribal authorities to develop local definitions of majority interest in the leasing of fractionated lands.

The education and training section of AIARMA establishes a cooperative education program; an internship program; a scholarship program; and a method for those Indian resource students who have graduated to repay student loans. This section also requires the establishment of an agricultural resource education outreach program and to administer the education and training section until an adequate number of qualified, professional Indian agricultural resource managers are available to manage Bureau and tribal resource programs.

The many irrigation issues and concerns associated with Indian irrigation projects or Indian owned irrigated lands are not addressed in AIARMA. The many people responsible for this Act as well as Congress felt irrigation issues are deserving of close scrutiny and separate legislation. It was the intention of Congress to address irrigation issues in the next session of Congress. However, it should be noted that the inclusion of irrigated lands and pastures in the definition of "farm-land" provides an opportunity for the Secretary and Indian tribal governments to address irrigation issues in the agricultural management plans.

Indian Tribes have dedicated time, effort and resources to attain correction of the many problems facing Indian agriculture. The 1990 FACT Act and the 1993 American Indian Agriculture Resource Management Act of 1993 discussed here are primary examples. However, these efforts have not come to fruition, they are being ignored or are very slow in being implemented.

What do we have to do?

Again, we realize our future will come from the Indian uses of Indian resources. There has never been a society in the history of the world that has survived without the ability to feed itself. A return to our proud stature will come through the ability to sustain ourselves on what we have left of our homelands. The use of those lands must come as goals set by the

individual reservations and be done in a manner prescribed by the respective residents.

The vitality of agriculture endeavors within Indian Reservations affects all sectors of the economy, both Indian and non-Indian, on and off the reservations, including farm supply stores, farm implement dealers, and transportation and distribution centers. Full utilization of Indian lands and trust resources is not just an Indian issue. It is an issue of importance to all persons who reside in the communities on or near reservations.

One of the primary purposes of PL 103-177 American Indian Agriculture Resources Management Act was to establish a policy for the BIA to carry out in the management of Indian trust lands, such a policy has been and is still absent. The absence of management policy was identified in the Report to Congress: BIA Agriculture-Range Programs. September 1986.

The P. L,103-177 mandated assessment and comparison between federal management of trust lands and BIA management of Indian lands which will provide budgeting and staffing targets necessary to carry out prudent management of Indian resources. Until this assessment is completed, Congress and the Departments will not have clear direction in their responses to the Indian demand to rectify the problems. Procrastination will only prolong the problems and increase the cost of repair.

Immediate appropriation of Congressional Budget Office estimates to carry out the implementation of 103-177. To date we have not seen even a budget request from the department to fulfill the intent of Congress with the passage of the law or enhance the management of Indian resources and educate future resource managers.

Regulations which promulgate the transfer of loans from Farm Service Agency to the BIA at fair market value of loan value which ever is least. The 1996 Food Agriculture Improvement Reform Act set forth an opportunity for an Indian borrower who is facing foreclosure the opportunity to transfer his loan to either the BIA or their respective Tribe. Such transfers are not accomplishable under present BIA policy or regulations. Approximately 60,000 acres of Indian trust lands are in danger of being moved out of trust through foreclosure, thus regulations must be promulgated immediately.

Accurate census data is not available on the number of Indians involved in agriculture nor is there accurate data on the products grown on Indian lands. It proves very frustrating for an organization such as the Intertribal Agriculture Council to prepare information for audiences such as this and accurate data is not available. The 1986 BIA Report to Congress stated there were 33,000 Indians involved in agriculture. 1994 correspondence from the BIA to USDA states farming and ranching provides the primary source of entrepreneurial opportunity to the Indian people with 162,589 individual enterprises. 162,589 times the average family size of 3.9 would equate 634,097 Indian men women and children involved in commercial or subsistence agriculture. A 1994 USDA National Agriculture Statistics Service (NASS) intensive census done on the seven Montana documents there are twice the number of agriculture produces in Montana than what is indicated in BIA data. This NASS census survey also documents that Indian owned cattle in Montana accounts for 20% of the total cattle production in the whole state. The upcoming census will not address this data shortfall. Special appropriations are necessary to get Congress, the departments and most of all the agriculture community aware of Indian contributions to the national economy.

As stated earlier in this report, irrigation issues deserve and warrant their own legislation. Infor-mation gathering and preparation of legislation is a timely process. During this preparation process specific actions should be carried out to prevent the bankruptcy of the Indian irrigation projects. First, the federal government must pay their contractual operation and maintenance obligations to the irrigation projects. This obligation has not been met in the last several years.

The legality of the federal government encumbering Indian lands has not been determined, thus immediate relief from the Debt Collection Act must be implemented on the irrigation debts. Other irrigation action needed is the rehabilitation of irrigation projects through nonreimbursable funding and a stay put on any attempts to turn irrigation projects over to water users,

This is not a totally comprehensive list of actions which you as Congress can assist Indian agriculture. Several of the topics included in this report warrant further explanation and in fact could fill several volumes with their background. We have attempted to put forth a document which only highlights some of the problems facing Indian agriculture. We look forward to working with you to further explain the issues and take corrective action.

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ADDITIONAL MATERIALS

105th Congress 2nd Session
House of Representatives
Report 105-825

MAKING OMNIBUS CONSOLIDATED AND EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 1999

Conference Report
To Accompany
H.R.4328

October 19, 1998. - Ordered to be printed

(Page 955)

TITLE I--AGRICULTURAL PROGRAMS

PRODUCTION, PROCESSING, AND MARKETING

OFFICE OF THE SECRETARY

The conferees understand the trust responsibility the U.S. has toward Indians and Alaska Natives and directs the Department of Agriculture to report to the Congress no later than February 1, 1999, on the progress made with Indian agriculture, Federal inter-agency coordination, and the level of Indian usage of Federal programs and initiatives outlined to benefit Indian agriculture.

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BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

The Committees are concerned with the lack of progress made by the Bureau and the Department in the assessment of Indian agriculture and therefore direct the Bureau to complete by no later than February 1, 1999 the study of Indian agriculture through the implementation of the American Indian Agriculture Resource Management Act.

End of Document