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DISSERTATION
"SHADOW FEDERALISM:"
NATURAL RESOURCES, NATIVE AMERICANS,
AND NATIONAL INTERACTIONS

Submitted by
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Department of Political Science

In partial fulfillment of the requirements
For the Degree of Doctor of Philosophy
Colorado State University
Fort Collins, Colorado
Summer 2001

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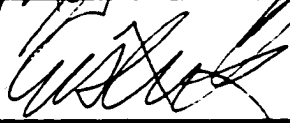
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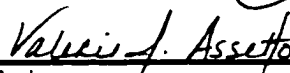
WE HEREBY RECOMMEND THAT THE DISSERTATION PREPARED UNDER OUR
SUPERVISION BY LILIAS JONES JARDING ENTITLED "SHADOW FEDERALISM:"
NATURAL RESOURCES, NATIVE AMERICANS, AND NATIONAL INTERACTIONS BE
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ABSTRACT

"SHADOW FEDERALISM:" NATURAL RESOURCES, NATIVE AMERICANS, AND NATIONAL INTERACTIONS

This research describes and delineates a regime surrounding the concept of relational federalism as it involves Native American and United States governments. This regime is called "shadow federalism." Following regime theory, shadow federalism is an imposed regime with its common norms and values being the centrality of United States laws and forums in the definition and decision of Native American land and resource issues. This study looks at whether the regime changed between 1970 and 1995, the first twenty-five years of the United States' self-determination policy, which called for increased Native American control of Native American lives and lands.

Databases were created using six federal agencies' reservation expenditures, reservation demographic data, decisions of administrative appeals by the Department of the Interior (DOI), media content analysis, and surveys to state and tribal governments. The data analysis indicates that there have been some changes in the regime, including increased tribal government participation in some forums, decreased native participation in DOI appeals, rising and falling conflict, and changes in the Bureau of Indian Affairs' role. However, on the central point of the presence and continued effectiveness of the imposed regime, it is clear that United States forums and laws are still the determining factors in the disposition of Native American lands and resources. Native Americans continue to lose control of land and resources, federal forums are used for decision of conflicts, and United States entities win when native resources are at stake. The imposed regime has been resilient and adaptive.

The data also show the centrality of water issues, the lack of consistent federal policy, the need for variables other than traditional Political Science variables in discussing tribal-federal relations, tribal and state governments' low administrative capacity in this policy arena, and strong regional differences that indicate the shortcomings of a case study approach. For regime theory, this research indicates the importance of widening the discussion to include more research on imposed and long-term regimes. The shadow federalism regime has been characterized by a high level of conflict, an implicit order, and internal inconsistencies. It has also been highly successful.

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Summer 2001**

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CHAPTER ONE: INTRODUCTION

This research describes and delineates a regime surrounding the concept of relational federalism as it involves Native American and United States governments, then looks for changes in that regime. Specifically, it begins by defining an imposed regime surrounding United States laws and policy in the arena of Native American land and natural resources. This regime is named "shadow federalism." Then, following Young's writings on regime theory, I ask whether this regime has been transformed or replaced by the introduction or reintroduction of spontaneous and/or negotiated orders.

To look for regime change, I attempt to identify stability and change in the division of authority among tribal, federal, and state governments involving natural resources and the environment on Native American lands over the period of 1970-1994. This was a period of much change in the tone of federal-state-Native American relationships. The time span is long enough to encompass a number of administrations at all levels, so short-term changes can be placed in perspective and longer-term characteristics can be identified. In addition to providing empirical data on an understudied topic, this effort provides comparative federalists, policy researchers, and regime theorists with information about the nature of shared power in a situation in which the parties see things very differently.

Research Problem

In the past decade, there has been increased public, scholarly, and official discussion of the role and power of Native American governments within United States boundaries. Much of the discussion by non-Indians, led by the media, has assumed that tribal power has increased (New Interest 1993; Tribes urge 1991; Miller, et al. 1988; Dao 1998; Large 1977; Serwer 1993; MacPherson 1993; Reservations 'blooming' 1992; Bingo 1984; Gambling businesses 1991; Stanich 1994; Garner 1993; Bogert 1994; Castile 1998; Cornell and Taylor 2000). Some Native Americans agree with this assessment, but many disagree, citing a history of short-term gains and long-term losses in indigenous control over land and resources (Deloria 1985; 1991; Robideau 1993; Jaimes 1992b; Morrin 1994; D. Lester 1994; Campobasso 1994; Gover 1987; Barsh in Legters and Lyden 1994).

Despite all the discussion, no one has attempted to systematically identify variables that are important to the outcomes of interactions among tribal, state, and United States authorities. This void is particularly important in the context of issues involving land and natural resources, because they have been at the center of Native American-United States relations for over five hundred years. Evidence of the continuing centrality of those issues is the fact that the House of Representatives' Native American Subcommittee is situated in the Natural Resources Committee.

In light of the increased attention paid to Native American governments, there is a need to develop ways of more adequately

addressing their roles, statuses, relationships, and power--both as individual units and as they relate to the governments that make up the United States. The incorporation of Native American governments is important for scholars of public administration, policy, federalism, international relations, comparative politics, and law, as well as for those working in the substantive areas of most importance to Native American-United States interaction. The latter include the interconnected arenas generally separated for policy purposes into natural resources, environmental issues, health, economic sustainability, spirituality, and education.

This research delineates and describes an imposed regime surrounding tribal-state-federal relationships with respect to Native American natural resource issues. Empirical data are used to identify patterns of stability and change over the study period. Identifying these patterns will be critical to determining whether the imposed regime has been transformed or replaced in recent years.

This process includes the identification of variables that are important when tribes lose, maintain, or gain authority over situations involving natural resources. This is part of a larger need to identify the variables that are important when political actors lose, maintain, or gain power.

The identification of these patterns of interaction and power sharing is particularly important in a policy arena whose complexity resists easy generalization, and whose history is full of policy failures. Because issues involving Native Americans are often counter-examples to the assumptions of mainstream scholars, the insights provided may also be extended to

other intergovernmental and nongovernmental relationships, both nationally and internationally, with important results for the discipline as a whole.

"Shadow" Federalism

Before looking at these types of questions, however, we need to further define the reasoning behind the use of the term "shadow" federalism. The use of the term shadow federalism springs from a number of sources.

Most simply, relationships between Native American and United States governments in this century have taken place in the shadows in the sense that they are obscured or unknown. Little is written about tribal governments or issues involving Native Americans. This situation exists for a number of reasons, some of which will be dealt with later. The key point here is that one goal of this research is to shed some light on Native American-United States relations in the latter third of the Twentieth Century.

The concept of shadow federalism may also be used in the sense that relationships between Native American governments and United States governments are hard to grasp and unstable, even ephemeral. They vary, like one's shadow changes with changes in the texture of the ground's surface or with the coming and going of clouds. None of the branches of U.S. government has had a consistent policy toward Native Americans over the last twenty-five years, and each has operated independently of the others. This instability is exacerbated by the huge variation among native nations, both internally and in their relations with the United

States and other tribes. This variation, which will arise throughout this research, warns against generalizing from a few case studies to draw conclusions about Native American-United States relations as a whole.

The third manner in which the concept of shadow federalism is useful is that relationships between the indigenous and immigrant nations provide examples of what might be called the dark side of United States history. Part of the reason that most historical and political works written in the United States offer shallow coverage of relationships with Native Americans is that the resulting portrait is not flattering.

Like persons of other nationalities, authors in the United States are generally socialized to consider their homeland in a positive light, and they consciously or unconsciously resist negative characterizations of their country's history and current situation (Woodard 1996). Yet, as a few authors have noted, acknowledging shortcomings can help us become able to see where a better future may lie. Quoting Snipp, et al., Wilkins (1993, 413) observed "the study of indigenous peoples, like other economically disadvantaged groups...is important 'because...[t]he hardships of these groups make a profound statement about the actual conditions of American society suggesting unmet needs, unachieved goals, and areas of further development'."

Another reason for the use of the term shadow federalism is, as Pommersheim has noted, that "In the context of Indian law, history looms not just as a colorful backdrop, but rather as an inescapable shadow" (Pommersheim 1993, 338). Similarly, law casts a shadow across discussions of political relationships between

Native Americans and Euro-Americans. The legal statuses of Native Americans as groups and as individuals are very different from those of others living on the continent. The failure to understand and acknowledge this, again following Pommersheim, "inevitably threatens to blot out understanding and resolution" of issues (Pommersheim 1993, 338). So the discussion of political issues involving Native Americans takes place under the shadows of the disciplines of law and history.

Fifth and last, the idea that there can be such a thing as shadow federalism, as opposed to some other form of federalism, is an indication of the cultural differences that distinguish what are generally considered the Euro-American and Native American world views. If "shadow" is seen as opposed to "light," we are thinking in a European manner, which tends to separate the world along dualistic lines. The separation of darkness and light, especially in Christian texts, is commonly seen as a construct that has had major repercussions for relations between the colonizers and the colonized on the American continents (Deloria 1973; Jennings 1976).

Along the same line, the concept of dualism encourages us to acknowledge the existence of critical and central differences among the people involved in any discussion of Native American-United States relations. The reality, however, is considerably more complex than a dualistic discussion would suggest. There is no consensus among scholars, between Euro-American and Indian populations, or among Native Americans as to the nature--real or desired--of shadow federalism's relationships.

Acknowledging these complexities means dealing with native

nation-United States relationships from more than one angle, which has repercussions for the use of terms that are usually used as if everyone understands them. As discussed below, the term "federalism" is used in a limited fashion. Other terms that need to be treated carefully include sovereignty, colonization, trust status, ethnocide, constitution, nation, and law.

Shadow federalism, then, is a concept that encourages us to approach Native American-United States relationships with the understanding that they are complex, culturally and historically loaded, unstable, legally unique, and generally not adequately specified. Each of these ideas will arise again as we delve into the subject of Native American-United States relations in the area of land and natural resources.

CHAPTER TWO: THEORETICAL AND LITERATURE REVIEW

Background

This research attempts to identify patterns in interactions among tribal, state, and federal governments and nongovernmental actors. The substantive focus is on natural resource and environmental issues.

The attempt to identify such patterns is important not only for scholarly reasons, but because those participating in this set of interactions operate from a series of different national, legal, and cultural assumptions. While some assume that treaty law should be the basis for interaction, others assume that United States law should set the boundaries. While some assume that several hundred native cultures should continue to operate within their own parameters, others assume that a "melting pot" is desirable or inevitable.

Because the focus is on patterns in relationships, this project begins by using regime theory, which has been adapted by a few other authors to the North American context, including in the environmental and Native American issue arenas (Crawford 1994; Redifer and Davis; Stoker 1989; Lipschutz and Conca 1993; Drost and Brooks 1998; Young and Osherenko 1993). Before talking specifically about that theory, however, some general background is necessary.

It is important to realize at the outset that much current political science theory and literature excludes Native Americans. This is a result of both what is talked about and how the

discussion is framed. The fact of exclusion is not a condemnation of the discipline, but a fair statement of the starting point of this research and an indication that there is work to be done.

One reason for this exclusion is that beginning to understand this policy arena, as any other policy arena, takes an investment of time. Because of well-ingrained stereotypes and because this policy arena has been largely ignored in the past, most scholars do not have even a meager base on which to build their knowledge of Native American issues. For example, most have no understanding of the United State-native nation treaty process, have never been on a reservation, and did not read about tribal governments until at least their undergraduate years. So study of these issues, particularly by non-Indian scholars, involves more work than beginning the study of, say, health care or education policy. Particularly because of this arena's complexity, this lack of basic information makes study of native issues seem daunting to those scholars who do develop an interest in the subject.

For now, an example of the process that excludes native issues will help illustrate how this situation has been perpetuated. At a conference, I was introduced to a scholar because we had a common interest in environmental issues involving Native Americans. This scholar told me about the presentation she was to give the next day--a scholarly paper about environmental issues along the Canada-United States border. She explained that she was going to talk about the role of native nations in those issues, but confessed that she had not read any of the secondary literature on Native Americans. Trying to make conversation, I

asked her what she had found out about the roles of the Jay Treaty and of Indian Reorganization Act governments in the issues she had studied. She had never heard of either the Treaty or the Act.

To her credit, she realized her own ignorance when asked about these two fundamental documents. The next day, she found me and let me know that, rather than talk about a topic she knew nothing about, she had omitted Native Americans from her presentation. Because she did not have basic information on native nation issues, the result was exclusion of those issues. In addition, those who heard her presentation remained ignorant of Native American roles in environmental issues along the United States-Canada border, because she did not talk about them. Thus ignorance perpetuated ignorance.

Native American issues have also received little study because they do not fit the most common starting point for those who research political issues involving the United States. It is common in the study of United States government to begin with pluralism, or what Lowi characterized as the paradigm of "interest group liberalism" (Lowi 1967). Most political scientists attempt to deal with issues involving Native Americans within the pluralist paradigm, treating them as one United States interest group (McCulloch 1989; Wilmer, et al. 1994; Ashley and Jarratt-Ziemski 1999).

This approach ignores native nations' diversity and their unique legal, historical, and governmental statuses and instead attempts to place them within discussions of civil rights. However, indigenous peoples are not interest groups and do not generally focus on civil rights. They are national units that

predate the founding of the United States, retain the characteristics of nationhood, and generally focus on either indigenous or treaty-based rights (Baylor 1996; Affigne, et al. 1994; Sills 1993; Wilkins 1993; Barsh and Henderson 1980, viii; Alfred 1995).

Deloria and Wilkins (1999) have suggested that political scientists' lack of attention to Native Americans can be used to the discipline's benefit. They point out that the social sciences that have paid attention, such as anthropology, sociology, and psychology, have succeeded mainly in alienating native people due to "the continuing odor of colonial arrogance that infects the concepts and academic establishment of the above-mentioned social sciences" (70). They suggest that political science can become "midwife" to the full incorporation of the insights of non-whites and is "the best hope for resolving the perennial American dilemma of racism" (70).

The confusion about Native American statuses in the literature arises largely because they are what Wilkins calls "recognized, if not always respected, sovereign nations" (Wilkins 1993, 415). Native American land bases are recognized under international law and treaties as sovereign nations and by some aspects of United States policy as independent governments. For example, the federal Ninth Circuit Court of Appeals recently recognized Native American nationhood in a decision holding that federal civil rights law that bans discrimination based on national origin extends to discrimination that occurs because a person is a member of a native nation (Shenandoah 1998). Yet Native American control over resources and activities within their

boundaries is compromised by the presence of federal officials, United States-based companies, and sometimes state activity (Deloria and Lytle 1984; Barreiro 1992).

This research takes an intergovernmental approach, not a pluralist approach, because assuming away Native American nationhood would assume away too much. It would avoid a set of complex and interesting issues and deny reality as it is seen by most Native Americans who live within the boundaries of the United States, much of international law, critical portions of United States law, and a growing number of scholars.¹

Two aspects of the situation are important for immediate theoretical purposes. One result of the complexity and seeming intractability of issues surrounding indigenous peoples is that political scientists have attempted to use a wide variety of models and theories in this topic area. These include colonization, interdependence, modernization, realism, intra-United States federalism, Marxism, racialism and, as noted above, pluralism (Affigne, et al. 1994; Snipp 1986; Wilmer 1993; Wilkins 1993; McCulloch 1990; Barsh and Henderson 1980; Churchill 1983; 1992b; Anders 1980). None of these has gained general acceptance by those who deal with issues involving Native Americans, and there is still no uniform theoretical approach to the subject matter. In fact, most of the existing literature about Native American natural resource issues remains descriptive and comes from outside political science. This is apparent in this research's reliance on literature from other disciplines, particularly sociology, journalism, law, and history.

The lack of a consistent theoretical approach to Native

American issues is not limited to political science, or to any other academic discipline. Recent years have seen important contributions to the discussion of the generally tenuous relationships between Native Americans and academics. Deloria (1992, 1995) and Mihesuah's edited volume (1998) have made important contributions. Very generally, these authors pointed to separations along disciplinary lines as one of the challenges faced when discussing Native Americans; the disciplines themselves are European creations and tend to make discussions of native nations a-cultural (Champagne 1998, 182-183).

In addition, as Mihesuah (1998, 1-17) pointed out, Native Americans have often not been consulted when academics wrote about native issues or, more specifically, members of a certain nation were not consulted when academics wrote about that nation. The reverse--a Seminole writing an "authoritative" study of the United States without talking to anyone from the United States--would clearly be considered poor scholarship. Nagel's volume (1996) provided one example of the result of scholars' failure to include Native American sources in volumes about native issues, as her chapters that incorporated native voices were clearly superior to those that did not (Jones 1998).

The second major theoretical issue is linked to the first at this juncture. Any model or theory used in discussing Native American-United States relations must not be constructed so as to prevent consideration of normative issues, because of the important cultural differences between indigenous and immigrant peoples. These include strikingly different approaches to land

and natural resources. Deloria (1973, 75-76) summarized the difference:

American Indians hold their lands--places--as having the highest possible meaning, and all their statements are made with this reference point in mind. Immigrants review the movement of their ancestors across the continent as a steady progression of basically good events and experiences, thereby placing history--time--in the best possible light. When one group is concerned with the philosophical problem of space and the other with the philosophical problem of time, then the statements of either group do not make much sense when transferred from one context to the other without the proper consideration of what is happening.

These differences predate the colonial era and are largely ignored in United States discussions of environmental and natural resource policies; it is not common to hear legislators talking about the meaning of a normative focus on time. Yet, Native Americans commonly talk about the centrality of place, specifically the places important to a particular national group, and about the normative aspects of United States policy decisions (Davis 1992; Churchill 1993; Parlow 1988; Weyler 1992; Matthiessen 1984; Sale 1991; Berger 1991).²

A key aspect of this is the spiritual significance that indigenous belief systems attach to place, land, and resource use. A Haudenosaunee Declaration (1992) highlights the difference between the majority United States culture and native thought:

We cannot adequately express our feelings of horror and repulsion as we view the policies of industry and government in North America which threaten to destroy all life. Our forefathers predicted that the European Way of Life would bring a spiritual imbalance to the world . . . Now it is before all the world to see--that the life-producing forces are being reversed, and that the life potential is leaving this land.

Danny Billie, a Seminole, voiced similar sentiments:

When we talk about the environment and our way of life, it is all connected. When red people talk of our ways, land claims, and rights to self-determination, some white people look at us as greedy, wanting everything. They don't realize where we are coming from. They don't have common sense. When we talk about saving our rights, we are protecting them, too. We are the caretakers of the Creator's creation. It is our job to follow the instructions that he has given to us. If we don't do our job, then we are going to get fired. If we don't follow our own ways, our laws and ceremonies, the Creator is going to say that we are not doing our job and will clear everything and start all over again (LaDuke 1999, 39-40).

The presence of a normative element does not mean that all Native Americans are in basic agreement on a proper normative framework for environmental and natural resource policy. In fact, there is wide variation among modern native nations' approaches to natural resource issues. For example, the Mescalero Apache tribal government has promoted the Northern States Power Company's (NSP) plan to store nuclear waste on its land, but the Prairie Island Sioux have strongly resisted NSP's attempts to store nuclear wastes adjacent to their land. Both have supported their positions by pointing to Native Americans' close, long-term ties to the land (Davis 1992; Prairie Island Coalition 1993; 1994). Similarly, while some Native Americans seek the support of non-Indian environmental groups, others consider such groups paternalistic and prefer that they stay out of issues involving Native American resources (Butler 1990; D. Lester 1994).

So important normative differences exist both between the indigenous and immigrant worldviews and among native nations. One concept that is useful in dealing with this normative conflict is the "marginal site." This concept was developed in a 1990 issue

of *International Studies Quarterly* and applied by Wilmer to the situation faced by indigenous peoples.

Marginal sites are not physical places, according to Wilmer, but "sites of politically significant experience...on the margin of the prevailing paradigm" that are "unconnected to the 'bounded territoriality' of states to which the dominant paradigm is addressed." At marginal sites, "the distribution of power is embedded in internalized meanings and...the powerless remain powerless, in part, because they do not successfully challenge the meaning of terms used to describe their existence, their experiences" (Wilmer 1993, 33).

Wilmer says that the movement of indigenous peoples against ethnocide constitutes a marginal site that, among other things, raises questions about relationships between the state and ethnicity and the chronic tensions between the two. As is typical of marginal sites, "Struggles over normative issues often appear as conflicts over language and meaning" in both on-the-ground policy discussions and the study of United States-Native American relationships (Wilmer 1993, 35).

Along the same lines, Dalton and Sabatier have highlighted the ways that differences in norms and values underlie political conflict within the United States. While Dalton focuses on the conflicts created by recent changes in United States values, Sabatier puts values differences at the center of conflicts between policy actors (Dalton 1988; Sabatier 1987).

It is understandable that when the normative underpinnings of issues are in conflict, as in Native American natural resource

issues, one would find that political scientists are without a generally accepted theoretical basis. The goal here is to work toward both a theoretical and an empirical base that will help deal with these issues.

Regime Theory

The shortcomings or limited applicability of other theoretical approaches led to selection of regime theory as the starting point for this research. Regime theory can be used partly because it is very general; in this complex arena where little empirical work has been done, imprecision is a virtue (Strange 1982). Arising in the context of international relations, regime theory is an alternative to what Haggard and Simmons (1987) called "dominant conceptions of international order, authority and organization" that focused on "the competitive, zero-sum 'anarchy' of interstate relations."

Instead, regime theory focuses on cooperative behavior in an issue area. Krasner (1983, 1) defines regimes as "principles, norms, rules, and decision-making procedures around which actor expectations converge in a given issue-area." He sees regimes as influencing the behavior of their members by intervening between their interests/values and identifiable outcomes. While regimes do not necessarily have a central organizational component, they are fairly stable over time (Krasner 1983; Haggard and Simmons 1987).

Regime theory encourages us to look at how patterned relationships arise, are maintained, and change over time, even

when there is no organizational basis for them. Shared norms and values are important, but neither cooperation nor simplicity is assumed (Haggard and Simmons 1987; Stoker 1989). Specifically, this paper investigates the current status of a regime surrounding Native American natural resources, a regime characterized by a type of relational federalism which has been labeled "shadow federalism."

Regime theory meets the minimal requirements for a theoretical approach that is useful in the Native American context for at least six reasons. First, regime theory allows the existence of, but does not center around, the concept of the nation-state (Young 1997a). The importance of this particular theoretical looseness is noted above.

Second, regime theory does not rely on traditional ideas of federalism in the senses of being centered around a constitution or territory; it centers on relationships. The importance of this point will be discussed when the concept of relational federalism is considered.

Third, regime theory is not dependent on pluralist ideology, yet does allow the group--of whatever form--a role in political interactions (Litfin 1993). This avoids the pluralist's focus on the United States-based interest group, while allowing consideration of group activity.

Fourth, consideration of a regime does not require incorporation of modernization theory's linear ideas of progress and change. The assumptions that time is linear and that movement from communitarian to post-industrial society is "progress" is not shared by most Native Americans (Wilkins 1993; Berger 1991). This

does not mean that regime theory assumes a static situation.

Fifth, the consideration of normative issues is encouraged, rather than discouraged. Sixth and related, regime theory is flexible in that it does not assume the existence or primacy of any one culture and its norms, but only the existence of some shared ideas.

Regime theory is, then, useful in looking at situations that are complex, normatively-charged, and involve a number of types of actors in political conflict. This is a good beginning description of United States-Native American relationships involving natural resources.

Young (1983) helps us understand the complexity of these relationships when he suggests that the social institutions that form the bases for regimes arise in three primary ways. He says such orders may arise spontaneously, may appear as a result of explicit negotiation, or may be imposed by dominant actors on subordinate actors. Young also points out that spontaneous, negotiated, and imposed orders are not mutually exclusive, and that a regime may display aspects of more than one at a time or over time. In fact, in his more recent writings on international environmental regimes in the polar regions, he and Osherenko (1993, 226) suggest that these categories are useful only for analytical purposes, rather than being truly separate phenomena.

Native American-United States relations involving land and resources have provided examples of each of these types of orders. In fact, one of the salient features of native-federal-state relationships is the concurrent existence of different types of orders in the same governmental, legal, and territorial space.

Additionally, the composition of the relevant orders varies from reservation to reservation, as will be discussed further below.

The imposed order is easiest to identify, and most people are aware of the manner in which the United States imposed a new order on many native nations by military force. Lipschutz and Mayer (1993, 254-259) discuss the imposition of European rules for land and resource use in colonial New England as an example of non-military formation of an imposed regime. The United States also used a combination of military force and unilateral legislation to impose new boundaries, often relegating Native Americans to land that was considered undesirable because it was inappropriate for farming. The irony of this Nineteenth Century phenomenon has been that those undesirable lands contain large quantities of resources that became important in the Twentieth Century, including at least one-third of the low-sulphur coal and uranium within United States boundaries (Jaimes 1992b; Citizens' Review Commission 1981; Ambler 1987).

However, not all native nations fought the United States, and even some of those that did negotiated their boundaries and resource-use rights. These negotiated orders included both international treaties and less formal agreements. Since the 1970s, the use of negotiated compacts has been extended to include Native American-state relationships around water use, hunting and fishing rights, and environmental enforcement (McCool 1993; Wilkins 1994; Intergovernmental 1999).

There are also a number of spontaneous orders that have arisen around Native American resources. In fact, Wilkins (1994b) notes that informal handling of tribal-state issues has been the

norm. McCool (1987) provided a masterful study of how the spontaneous order surrounding Indian water rights has resisted attempts at change.

The comparative literature offers another set of distinctions that can be combined with Young's typology to describe a regime surrounding Native American environmental and resource issues. This is the distinction between the unitary, federal, and confederal government systems.

The unitary system, the world's most common, involves supreme power by a central government over related units. A confederal system involves multiple units retaining internal sovereignty and control, while assigning a few limited tasks to a central authority. The federal system falls between the unitary and confederal forms in terms of power sharing by central and subnational units (Zimmerman 1992; Mahler 1992).

This distinction helps show that overlapping orders and competing paradigms based on different norms are not the only sources of variation in the relationships between the United States and Native Americans. There is more than one type of governmental system operating, and different types of systems sometimes correlate to the creation of different types of orders.

Roughly, treaty-based relationships coincide with a loose confederal arrangement and with Young's negotiated order. The Supreme Court's expanded definition of Congressional power, which led the United States to believe it could create, mold, and destroy reservations and native governments, coincides with a unitary arrangement and an imposed order. Yet this arrangement, which is unitary in terms of how power is shared, has been assumed

by most people within the United States to operate as part of a federal system. When the situation is viewed in this manner, its complexity and internal contradictions are highlighted, and it is not surprising that a variety of spontaneous orders arose as actors attempted to deal with day-to-day events.

One should not, however, be blinded by complexity. The United States successfully imposed its order upon Native American nations and resources. This process is discussed in depth in Chapter Three. While some native nations were impacted sooner than others, and while some were more deeply impacted than others, it is clear that United States laws and government were the determining factors in what happened to natural resources in what was left of Indian country beginning in the late 1800s and continuing until at least the early 1970s.¹ This active role in a natural resource regime stands in contrast to what von Moltke (1997, 256) has called the United States' role as "an obstacle in most international environmental negotiations."

This imposed order, it is argued here, formed the basis for a regime surrounding Native American resources. This shadow federalism regime will be defined in detail and its consequences discussed in more depth below.

After providing general information on United States policy involving native nations, this research will look at regime change. Young (1983, 107-111) suggests that regimes change due to the presence of internal contradictions between central regime elements, alterations in the underlying power structure, and exogenous impacts. In the case of Native American natural resources, one of the researcher's tasks is to investigate whether

there have been changes in the underlying power structure in the last twenty-five years. There have clearly been exogenous impacts, with changes in international energy prices and control being most obvious. Internal contradictions might include the normative differences noted earlier (Deloria 1985; Deloria and Lytle 1984; Wilkins 1994a). Young (1997b, 16-17) also suggests looking for institutional changes--including changes in a regime's decision-making procedures, participating organizations, compliance mechanisms--and at whether changes are intentional, conflictual, or considered legitimate.

Regime theory, then, directs us to look for the emergence of and changes in patterns of cooperation, especially as they impact political relationships and policy outcomes. Much of the recent literature on regimes in the environmental arena looks at modern cooperation around the formation and implementation of international agreements. Some of it has a hopeful tone in its search for more effective ways to form regimes that will be able to effectively resolve international environmental problems (Litfin 1993; 1998; Young and Osherekno 1993; Conca 1993, 309; Young 1993; 1997; Victor, Raustiala, and Skolnikoff 1998; Downs, Locke, and Barsom 1996).

Along the same line, Young and Levy (1999, 15) define "good" regime effects as those that help make an environmental problem "easier to manage" or "easier to solve." They state, "The good effects of regimes . . . are the ones that a regime's framers either intended or seek to take credit for after the fact." In the case of an imposed regime that gives one group the ability to exploit natural resources with less attention to ecosystem

preservation, this definition is of questionable use. While the United States government clearly intended to gain control of native lands and resources, it has seldom done so in a manner that makes environmental problems "easier to manage." Rather, it has continually created more conflict and new environmental problems.

Some authors do give a more central role to conflict as an aspect of regime formation, maintenance, or transformation (Keohane 1980; 1982; Downs, Rocke, and Barsom 1996). In particular, Conca (1993, 317) points to global ecological interdependence as "exacerbating emergent tensions." More specifically, Kamieniecki and Granzeier (1998, 261-268) point out the conflict that occurs due to the link between environmental degradation and the abuse of indigenous peoples' rights around the globe.

Looking at the sources of some of this conflict, Lipschutz and Conca (1993, 246-266) point out that natural resource regimes develop over time and are based, in part, on power relationships that have been legitimized by customary or traditional rules. Regimes, they say, may change as the rules change that determine who is an appropriate actor to be involved in a situation. This observation is important, because the question "who should be involved in decisions effecting Native American land and resources?" has been critical to native nation-United States conflict in the twentieth century. Whether there has been change in the imposed regime is partly a question of whether Native Americans have acquired not only a higher level of involvement, but also the real ability to make decisions about their lands.

The focus on regime formation and implementation has slighted

other topics, and one of the contributions of this research is its focus on regime change. Similarly, the focus on voluntarily-entered regimes and on regimes that seek to reduce environmental stress have slighted the discussion of conflict and probably contributed to Young's conclusion (1997a, 279) that "regimes are lightly administered." This study's focus on an imposed regime that has often facilitated increased environmental damage provides a broader base to regime theory.

This research also contributes a longer-term view of a regime. Most studies have focused on regimes in the past half century, although Stokke (1997) has noted the need for a longer range of vision, and regimes are generally understood to be long-lasting arrangements.

Young and others (1999) also address regime effectiveness.⁴ They suggest that regime effectiveness can be measured by using three steps: documenting actors' behavior before and after the regime is formed, identifying "causal connections between the operation of the regime and the changes," and identifying behaviors that underlie regime success (Young 1999, 250). One finding of their research that echoes in this study is the finding that social learning and the development of new means of regime implementation occur as regimes try to pursue their objectives over time. While this study does not follow Young et al.'s outline for the study of regime effectiveness, it does provide additional empirical information on that topic.

In the environmental and natural resource arena, political relationships and measures of political effectiveness develop around two basic questions: who has control of resources and the

revenue from their use, and how are decisions made about activities with the potential to create environmental damage? These questions underlie this discussion of the development, change, and destruction of shared principles and norms among regime actors.

Federalism

The issues surrounding Native American natural resources, as noted above, are usually assumed to arise within a federalist system. The concept of federalism has been used to discuss situations in which power and responsibility for governance are shared among different units. As Mahler (1992, 39) has noted, following Duchacek, there is no "universally accepted theory of federalism," and the term has been used to describe both a process of combining governmental units and the resulting relationships.

Elazar, who can probably be called "the dean of federalism," suggests in a 1993 summary article that "federalism" actually comes in three varieties. The most useful for our purposes is the most general, which Elazar identifies when he says "in the last analysis, federalism is a matter of relationships" between various units (1993, 191).

This relationship-centered conceptualization of federalism is promising, because indigenous peoples and governments have clearly had long and complex relationships with Euro-American peoples and governments. Using the concept of relationships as a basis for federalism also fits with regime theory's focus on cooperation and convergent expectations in an issue area and with its broad

definition of who may be a relevant actor.

In order to use the concept of relational federalism, it must be clearly distinguished from the other two varieties mentioned by Elazar. The first has a territorial basis. In this alternative, all actors within a certain land base are discussed as parts of one federal system (Elazar 1993, 193; Duchacek 1986). However, issues surrounding Native American natural resources extend beyond United States boundaries. This is not only a matter of intrusion by international organizations and market forces, but also a consequence which arises when natural resources that form commonly-recognized international boundaries are traversed by indigenous territories.

For example, the waters of Lakes Superior and Huron are circumscribed by Anishinabe (Chippewa) lands, and the St. Lawrence Seaway bisects Kanien'kehaka (Mohawk) territory. Anishinabe and Kanien'kehaka whose primary residence is on one side or the other of the Canada-United States border generally consider themselves part of a community that traverses and is independent of that border (Morris 1994; Weyler 1992; Jaimes 1992b; Taliman 2001). A similar situation exists along the Mexico-United States border for the Tohono O'odham and Pascua Yaqui and along a number of internationally-recognized borders in Central and South America (Barreiro 2001; Border tribes 2000; Border tribes 2001; Taliman 2001).

The questioning of territory as the basis for nationhood, the nation-state, and/or sovereignty, particularly in the environmental arena, is a current debate that is both interesting and relevant, but not central to this discussion (Elkins 1995;

Litfin 1998). Rather, for purposes of discussing participants in a shadow federalism regime involving Native Americans and natural resources, using a territorial basis is conceptually difficult. If territory is used as a basis, one must begin by either accepting Euro-American boundaries or Native American boundaries and, thus, by negating the normative questions at the heart of shadow federalism relationships.

The last conceptualization of federalism is the most common. It involves the division of governmental power between a national unit and subnational units, usually in a constitutionally-defined manner (Almond and Powell 1992; Hague, Harrop and Breslin 1992; Stoker 1991; Mahler 1991; Bertsch, Clark and Wood 1986; White, Wagenberg and Nelson 1994; Zimmerman 1992). This conceptualization is central to most discussions of policy issues within the United States but is not appropriate to discussion of issues involving Native Americans. This is true, first, because the Constitution defines Indian nations as existing outside the United States, and the legal relationships between most native nations and the United States is preliminarily defined by international treaties (Savage 1991; San Kronowitz, et al. 1987).

In addition, the relationships that have developed are not consensual in the manner of the national-subnational federalist model because, unlike states, native nations did not ask to become part of the United States. Rather, the United States government has usurped control of reservation lands, resources, and governance in spite of both the wishes of Native Americans and some pronouncements of United States policy (Deloria and Lytle 1984; Lyons, et al. 1992).

The national-subnational conceptualization of federalism is also inappropriate in this context because it is generally paired with either the overt or covert assumption that the role of each unit of government is fairly clearly defined as it relates to the other units of government. This is usually evoked as a situation in which each unit of government is protected from usurpation of its power by other units (Zimmerman 1992, 5; Mahler 1992, 37). Duchacek (1986), for example, says the clarity of division of powers is an important yardstick in determining the nature of a federalist system.

By any yardstick, however, an assumption that Native American governments' power has been protected through a federal system, especially in the land and resources arenas, is not in line with historical reality. Rather, there has been a consistent and successful series of formal and informal United States actions that have taken resources from indigenous control, as will be discussed further in Chapter Three. This process has been, if anything, assisted by a lack of clarity about the division of power between native and non-native governments. The remaining indigenous land base, much of which is actually under non-Indian control, is only four percent of the land within the United States (Churchill 1992a; Jaimes 1992b).

This is not to say that the national-subnational and territory-based conceptualizations of federalism can be ignored in the discussion of Native American land issues. On the contrary, they are key aspects of a paradigm within which many actors operate and must be kept in mind. However, this research uses relationships to define federalism because of an awareness that

there are different beliefs and norms among the players with respect to this point. The goal is to discover how power relationships actually operate in the regime that has surrounded Native American environmental and resource issues, rather than to describe those relationships from the point of view of the United States or a native nation. It is, thus, fair to say that the idea of Constitutionally-based federalism is neither totally irrelevant nor central to the discussion.

There is a certain irony in the failure of American federalism literature to adequately address issues involving Native Americans. The concept of federalism as it is usually discussed in United States scholarship originated among the indigenous confederacies of eastern North America. Members of these confederacies, particularly the Haudenosaunee (Iroquois), repeatedly urged the European colonists to take up their form of government (Barreiro 1992; Grinde and Johansen 1991; Lyons, et al. 1992). The immigrants obliged, but their scholars have yet to deal with the modern intergovernmental situation as it involves the continent's indigenous residents.

The goal of this research, then, is to find some clarity by defining how these relationships have worked in the past quarter of a century and by looking at the fate of the shadow federalism regime's norms and values. This will be done by measuring how power has actually been shared when environmental and natural resource issues have arisen and by identifying changes in the relationships among Native American, state, and federal governments.

Ethnicity and Federalism

The international and comparative literature point repeatedly to ethnicity as a complicating factor in federalist relationships. Duchacek (1986) notes the growing role of subcentral units in multinational affairs and the resulting problems. These problems include warfare, as Gurr and Harff (1994) point out. They estimate that seventeen of the 22 "hot" wars underway in 1993 were based on ethnic conflict. Elazar (1993) suggests that maintenance of a federalist system in the face of ethnic differences requires popular support, a will to federate, and the consent of the governed.

The powerful role of ethnicity has become clearer in the last decade, leading to more careful attention to that concept and to the development of literature about "fourth world" peoples. Commonly "peoples" are defined similarly to "ethnic groups" as those sharing a particular "language (or dialect), religion, 'culture,' homeland (as both a general and particular locus), a sense of historic identity, and a view of common destiny" (Sills and Morris 1993, 9). These groups are seen as the building blocks of federations and nations, whether by the process of consensual or forced unity, colonization or decolonization (Sills and Morris 1993; Duchacek 1986).

More specifically, Sills and Morris (1993, 10) define "fourth world" peoples as:

non-state nations and peoples whose claim to self-determination is firmly attached to their histories of existence in particular places before the formation of the states which now enclose them and with which they must interact politically.

This includes Native Americans, as well as the Kurds in Turkey, Iran, Iraq and Syria; the 250 peoples within Nigeria; the Zulus, Swazi, Xhosas and other peoples within South Africa; and thousands of others.

The difference between third world and fourth world situations is important. Historically, the central issues of the third world involved direct colonization by Europeans. This included a claim that the colonized land was part of the European empire, a period of direct exploitation of resources by the intruders, and physical decolonization coupled with the drawing of nation-state boundaries that were generally modeled on those created during the colonization period. With decolonization, the European nation went "home," and the new third world nation moved into independence, taking its place in the United Nations as the legal-theoretical equal of England, France, or the United States.

But the boundaries of fourth world peoples are ignored when nation-states are formed. They are dissected or surrounded and are not nation-states. Attempting to apply the colonization literature to both third and fourth world situations ignores the fact that the fourth world is defined so that problems are not likely to be resolved by someone packing up and going home (Wilkins 1993, 401, citing Patterson 1971). There is a nation-state, and someone has a stake in its maintenance. Either various peoples must co-exist in some form, the nation-state must dissolve, or one people must lose its identity completely.

Historically and currently, the responses to fourth world peoples within nation-states have included each of these options. Clearly, these options indicate a variety of power-sharing

relationships. To make things more confusing for those trying to define the nature of these relationships, the options may not be clearly separated, and nation-states may undertake contradictory policies, either concurrently or consecutively (Sills and Morris 1993).

For conceptual purposes, policies involving fourth world peoples may be placed on a scale from unitary to secessionist. An example of the unitary approach to solving problems of ethnicity was found in the Union of Soviet Socialist Republics. There, ethnocide was combined with formation of a centralized multinational empire. Throughout this process, the government presented itself as creating a "nonethnic" proletarian internationalist society (Hajda and Beissinger 1990; Motyl 1992).

A midpoint on the scale is represented by Canada. There, the general movement away from strong central government and toward stronger provincial government has been paralleled by a movement toward increased autonomy for Native Americans (Berger 1991; White 1994). While fourth world peoples within Canada hold several different governmental statuses, they have been given a role in the more general constitutional discussions that are a recurring feature of Canadian federalism. Recently, a new territorial government was created in what had been part of the Northwest Territories, where indigenous peoples compose the majority of the population (White 1994; Fleras and Elliott 1992).

South Africa under apartheid approached the issues of fourth world peoples from the secessionist end of the spectrum. It tried to manufacture secession by creating new nation-states (homelands) based on indigenous divisions. This forced secession was part of

a program designed to create a cheap labor pool and acquire indigenous lands (Platzky and Walker 1985; Mare and Hamilton 1987).

The situation in South Africa has echoes in North America. Robert Kennedy (Nixon 1994, 2) captured some of them in 1966 on a visit to University of Cape Town when he said:

I come here this evening because of my deep interest and affection for a land settled by the Dutch in the mid-seventeenth century, then taken over by the British, and at last independent, a land in which the native inhabitants were at first subdued but relations with whom remain a problem to this day I refer, of course, to the United States of America.

While there is a critical difference between the two places due to the preponderance of non-native population within the United States, the reservation system and the homeland system have an additional parallel not mentioned by Kennedy. In both places, the dominant power attempted to create docile indigenous-fronted governments with which to share power. With the end of apartheid, the elites created by the homeland system have resisted dissolution of their nations, preferring to retain power (Nixon 1994). On American reservations, the creation of new governments under the 1934 Indian Reorganization Act also resulted in new elites and internal dissension (Jones 1994; Voices from Wounded Knee 1974; Deloria and Lytle 1984), as will be discussed further in Chapter Three.

The effects of the discontinuity of nation-state and indigenous boundaries and the difficulty of dealing with them can be seen clearly in the dissolution of Yugoslavia and the

Soviet Union and in the bloodshed in Ireland and Ethiopia. In each place, coexistence, secession, and ethnocide have all been attempted solutions (Sills and Morris 1993; Duchacek 1986; Gurr and Harff 1994; Motyl 1992; Curtis 1984; Scherman 1981).

In the United States, bloodshed has been comparatively minimal in the last twenty-five years, but the political situation is similar. There have been a number of overlapping attempts to solve the status of fourth world peoples within the nation-state. These have included government-to-government coexistence, attempts to dissolve the status of "Indian," and a series of events, including separation of Native Americans from control of their land and resources, that have been described as ethnocide in slow motion (Churchill 1993; Weyler 1992; Jaimes 1992a).

Increasingly, the situation includes intratribal conflict involving the United States-formed tribal governments. There appear to be a growing number of long-term disputes, many leading to violence, over who rightfully governs reservations. Usually, one side of the dispute includes a tribal leader who has become entrenched through United States government support or acquiescence. Both sides may use native nation sovereignty as justification for their stances and actions. This increased conflict may be one reason that tribal governments have become more visible (Jones 1994; Crow 1996; Flesher 1996; Gunfire erupts 1995; Kent 2000).

For political scientists, the continued presence,

increased visibility, and political impact of fourth world peoples is part of a larger issue. Nixon (1994, 324) summarizes the situation when he says:

During the early 1990s, the combination of imperial collapse, state proliferation, and ascendant ethnic nationalism has brought on a crisis in the procedures for national legitimation. If national claims resting on ethnic foundations appear destabilizing, how else are aspirant states to mount their appeals? Arguments based on historical occupation resolve little in the myriad cases of layered possession; only a minority of states display linguistic unity; and economic viability carries little weight in a world of micro-states like Andorra, Gambia, and St. Vincent.

The question of who controls Native American environments and natural resources, then, is one echo of a larger dialogue. It is a dialogue that should take place with the realization that historically, peoples, including fourth world peoples, have lasted substantially longer than states or empires.

Defining Shadow Federalism

In defining the relationships surrounding Native American environmental and natural resource issues, then, it is appropriate to use a mixture of United States and international concepts. It is also both appropriate and helpful to use a regime-driven focus on shared norms, principles, and values. Looking for shared norms and values can clarify a situation in which there are many conflicts around the definition of relationships and overlapping types of orders and systems.

This search will take place using the concept of relational federalism, which is defined as a situation in which power and

responsibility for governance are shared among different units, but without the existence of clear territorial boundaries or a clear national-subnational division of governmental power. In a relational federalist situation, the only thing that is clear is that there are relationships among governing units that share power. The situation is dynamic and fluid, rather than clearly stated in agreed-upon documents.

Shadow federalism refers to the type of relational federalism that involves modern Native Americans and the United States, particularly as they are involved with natural resources and environmental issues. It is important to keep in mind that these issues have always formed the core of relations between the indigenous and invading peoples.

Looking at a regime surrounding the concept of shadow federalism means looking at shared "principles, norms, rules, and decisionmaking processes" in natural resource interactions. This means looking at such questions as:

- * who makes decisions involving natural resources?
- * who creates environmental problems?
- * who is responsible for designing and implementing policy solutions?
- * who gets the credit or blame when problems related to resource allocation, pollution, and related issues arise?
- * how are decisions made, who is involved, and who decides who is involved?
- * do participants in natural resource arenas talk about the same issues and accept the same processes and values?

- * do participants accept common principles or assumptions as definitive of the "facts" of their situations?
- * do participants agree on who should make decisions, be responsible for solutions, and get credit or blame?

Actors in the Imposed Regime

This research seeks to identify stability and change in shadow federalism relationships over the period 1970-1994. These dates mark the first twenty-five years of the self-determination era in United States policy toward Native Americans.

Before 1970, official United States policy favored the extermination or assimilation of Native Americans (Deloria 1985; Deloria and Lytle 1984; Churchill 1993). The coming of self-determination as the official policy was supposed to bring growing Native American power, as will be discussed more in future chapters. However, the meaning of "self-determination" for Native Americans has been hotly contested (Kamieniecki and Granzeier 1998, 258-260; Deloria 1985; Deloria and Lytle 1984, Ch. 15) and what Wheelock (1995) calls "an enigma". Many people operate under the assumption that the de facto United States policy remains extermination or assimilation. Still, the self-determination era is generally agreed to mark some form of departure from earlier official United States policies (Deloria 1984; 1985; Jaimes 1992b; Churchill 1993; Grinde and Johansen 1995; Wheelock 1995). The task here is to identify precisely what departure, if any, has occurred in the natural resources arena.

First, the pre-1970 United States policy and the imposed

regime surrounding that policy will be generally defined. That definition begins with the identification of actors in the Native American natural resource issue area, which is undertaken in this section. The next section explains the functioning of the regime in more detail, and Chapter Three turns to policy matters involving the regime over time in more detail.

The second major task is to look for evidence of regime transformation in the self-determination period. The gathering and analysis of data on this topic forms the bulk of this research effort. This material is covered in Chapters Four through Seven. The third task, and the conclusion of this dissertation, is to determine whether transformation or replacement of the imposed regime has occurred. This is the gist of Chapter Eight.

United States policy involving Native American resources takes place in a context that includes international law, the location of various natural resources, historical events, ecological variation, and cultural and ideological beliefs. These variables are location-bound, provide limitations on possible action, or are slow to change and provide general parameters around day-to-day and year-to-year relationships among actors. They could limit or stimulate regime transformation and might also impact who would become involved in a regime.

Within this context, a number of categories of actors take some role regarding Native American resources. In 1970, these actors were members of an identifiable imposed regime that centered around United States laws and governmental processes. The exact nature of these laws and processes will be discussed in the next section.

This research generally focuses on a search for change. For example, it is clear that the number and distribution of actors of various types did change from 1970-1994. It is also safe to say that at least some aspects of the actors' day-to-day relationships changed during the study period. However, the general categories of actors involved with Native American resources have not changed since 1970, and they will be defined here rather ahistorically.

Native nations are clearly relevant actors, and changes in their roles between 1970 and 1994, measured as control over natural resources, will be key to determining whether an imposed regime remains in place. Native nations may have several types of governments. The term "tribal government" is generally used to refer to a body that may have traditional Native American aspects, but whose most prominent task is the formation and maintenance of relationships with the United States government. This is usually differentiated from the "traditional government," which is the continuation of pre-European patterns of organization and may have little or no contact with the United States (Meredith 1993; O'Brien 1989).

While generalization should be done only with caution, many current tribal governments were formed based upon the model of the United States Constitution after passage of the 1934 Indian Reorganization Act. This process is described in Chapter Three. The majority have also sought and received United States sanction, which is known as being "federally recognized" (Ambler 1990; Deloria and Lytle 1984; O'Brien 1989).

Some native nations operate under a traditional government, some under a tribal government, and some under both. Where both

types of governing structure are present, they may act in harmony or as rivals. Where there is a tribal government, it may take a variety of forms that may or may not be based on European concepts. This makes it difficult or impossible to translate discussions involving the roles of governors, courts, and legislatures into most reservation contexts.

Additionally, reservation governments do not function based on political parties. The variation in economic, labor union, and industrial status used to explain differing policy reactions among states are largely irrelevant on reservations, which are historically nearly uniformly poor, non-union, and non-industrial (Meredith 1993; O'Brien 1989; Ambler 1990).

Individuals are also important in discussions of native nation resources. In fact, the literature indicates that native individuals functioning outside government and formal groups are critical to the outcomes of some reservation issues. Most such individuals are local activists, and they may not work at the group level for several reasons. For example, many Native Americans refuse to work with tribal governments because they are considered to have been illegitimately imposed by an outside power. In some instances, an individual is isolated through imprisonment. In other instances, the isolation and poverty of reservation life make individual efforts important and group organization difficult (Matthiessen 1983; 1984; Ambler 1990; Parlow 1988; Wilkinson 1992).

Individual activity also appears to be more likely in Indian country than in the majority culture because of United States repression of Native American organizations that go against its

perceived interests, such as those that foster Indian control of reservation resources (Matthiessen 1983; Churchill and Vander Wall 1990). There may also be more likelihood of informal, family-based support for an individual in the communitarian environment of reservation life. Red Owl (1998, 11) quotes Elijah Black Thunder as pointing out that, the Dakotah "possessed all government by kinship."

Finally, most Native American nations lack a tradition of hierarchical or authoritarian leadership. Leadership is linked to spirituality, and people generally lead by example. Even today, native leaders have little power to compel anyone to follow. As Deloria put it, Indians often don't assign people to perform components of a set plan; "Rather, they expect leaders to charge ahead and complete the task. If anyone wants to assist in the job, so much the better" (Deloria 1969, 214). The difference between "leadership" and "governance" is important to understanding the difference between EuroAmerican and Native American cultures (American Indian 1997; Prindeville and Gomez 1999).

A third category of actors is clearly United States governments, especially at the state and federal levels. At the federal level, a variety of agencies, Congressional members and committees, and courts have taken roles regarding natural resource issues that concern Native Americans. Critical agencies include the Bureau of Indian Affairs in the Department of the Interior and the Environmental Protection Agency. The Senate Committee on Indian Affairs has been the most stable locus for Congressional policy toward native nations. The Supreme Court has handed down a

number of rulings that have had critical impacts on control of Native American resources. These rulings are not consistent over time, which increases the complexity of relationships in this policy arena (McCool 1987; Wilkinson 1992; Matthiessen 1984; Deloria 1985; Ambler 1990; Shattuck and Norgren 1991; Hermann 2000).

State governments have an important role in implementing federal environmental policy. But their role in relation to native nations is less clear, partly because it has received little scholarly attention. An exception is work done by Taylor (1972), a Bureau of Indian Affairs (BIA) employee. Taylor sent a survey to state governments on their relations with Native Americans. His work focused on state activities involving Native Americans and states' governmental capacities to carry on such activities. At the time, these capacities were often limited to liaison and information-gathering activities. His work provides a baseline for measurement of current state activities involving Native Americans and their natural resources, which will be pursued in Chapter Six.

In addition to Taylor's findings, it is clear that states' reactions to native nations vary from total indifference to active conflict. These reactions may vary over time within a state, and individual state officials can be important in determining the nature of native-state relations. Governors and attorneys general appear most important. Examples include William Janklow of South Dakota and Tommy Thompson of Wisconsin, who have been strong proponents of state control over indigenous lands and natural resources. Both encouraged anti-treaty activity during periods of

political violence involving Native American resource control (Matthiessen 1983; Gedicks 1993; Whaley and Bresette 1994; Weyler 1992; Wilkinson 1992).

Other non-Indian individuals are sometimes important actors in shadow federalism. These are primarily non-Indian activists, who either support or oppose Native American control of natural resources, and scholars who provide information or expertise designed to influence government actions (Gedicks 1993; Whaley and Bresette 1994).

There are also instances in which local governments become involved in Native American resource issues. For example, the City of Salamanca, New York, was built on land that was leased from the Seneca Nation. In western South Dakota, Meade County opposed an environmental gathering that included prominent Native Americans (Churchill 1993).

Another category of actor is the non-governmental group. While traditional pluralism has its shortcomings in this arena, as noted above, the proliferation of non-governmental groups active on Native American issues is in line with interest group literature. One of the evident changes over the study period has been the growth in the number of groups concerned with Native American resource issues. These organizations have advocated for and against Native American control of natural resources, both within the United States and in international arenas such as the United Nations (Schlozman and Tierney 1983; Deloria 1969; Gedicks 1993; Ambler 1990; Matthiessen 1983; McCool 1987; Citizens' Review Commission 1981).

The media is also an important actor in this policy arena.

Its role is particularly critical to public learning, the determination of which issues reach public attention, definition of issues and actors, and allocation of blame and credit for events (Ansolabehere, et al. 1993; Page and Shapiro 1992; Bennett 1992).

However, the media's role has been problematic. This is true partly because the information reaching the general public about a number of indigenous resource issues has been manipulated by the federal government, leaving most people unaware of critical aspects of events (Churchill and Vander Wall 1990; Weyler 1992). Page and Shapiro (1992) discuss this type of situation as a hindrance to formation of policies that are "rational" in light of public values.

In addition, there are pervasive nationalistic, ethnocentric, and pro-capitalism biases in the United States. Each of these biases would tend to work against Native Americans in the arena of public opinion (Page and Shapiro 1992). For example, in mass media coverage of Native American protests during the 1960s and 1970s, activists were consistently portrayed as "militants" and subjected to the common Native American stereotypes. The central issue of treaty rights was neglected (Baylor 1996).

Despite these problems, two kinds of non-mass media are important in the discussion of Native American resources. The first is legal literature, which keeps issues involving Native American resources on the map for an important, though limited, audience. Law journal articles often include basic factual information and case studies that are not available from other media outlets (Boggs 1991; Ragsdale 1986; Holland 1989).

Law journal articles have generally focused on the validity and implementation of United States laws. Questions of validity often center around the status of treaties and where jurisdictional authority should lie, clearly an important question for consideration of shared power and intergovernmental relationships (Savage 1991; San Kronowitz et al. 1987; Brockman 1991; Smith and Guenther 1981; Royster and Fausett 1989; West 1992). In international law, shadow federalism's issues are usually placed within a human rights framework (Arnott 1994; Hitchcock 1994).

The second type of non-mass media that has been important in the discussion of Native American resources is newspapers--usually native-run--that focus on issues in Indian country. Publications like *Akwesasne Notes*, *News from Indian Country*, *Indian Country Today*, and tribal newspapers have provided critical information to both immediate participants in natural resource issues and the mass media. So the media, particularly limited circulation newspapers and law journals, are critical to tracking the relationships of shadow federalism. Media roles will be considered further in Chapter Seven.

Another category of non-governmental actors that has been critical to shadow federalism is corporations, typically multinationals with resource-related interests. United States-based and -funded corporations have sometimes acted as adjuncts to federal policy on reservations, particularly in the areas of energy resources and nuclear waste. Conceptually, however, corporate actors will be treated as separate from

governments, especially since many of those involved on reservations are also active outside the boundaries of the United States. A few important companies in the shadow federalism arena have been Kerr-McGee, Union Carbide, Peabody Coal, Amoco, and Homestake Mining (Ambler 1990; Citizens' Review Commission 1981; Gedicks 1993; Jaimes 1992b; Jorgensen 1984).

A final category of actors has been churches. Historically, conversion to Christianity was a key strategy of Europeans in their attempts to neutralize Native American resistance to intrusion. Christianity was also used as a justification for the extermination of native peoples, who were considered pagan, and hence non-human. Beginning in the late 1800s, United States law forbade native spiritual practices and gave churches title to land as a means of furthering pacification of indigenous peoples, going so far as to divide reservations among various Christian denominations as part of its Peace Policy (Deloria 1969; 1973; 1995; Berger 1991).

Deloria (1969, 101), writing at the beginning of the study period, summed up this situation by saying:

One of the major problems of the Indian people is the missionary. It has been said of missionaries that when they arrived they had only the Book and we had the land; now we have the Book and they have the land.

The modern stances of churches regarding Native American control of resources have been mixed. On one hand, the Mormon Church is part owner of industries that extract resources from reservation lands. Fundamentalist Christians have attempted to make their faith a state religion, which conflicts with native people's wish to maintain the First Amendment so they have access to land they

consider sacred for religious purposes (Deloria 1995; Weyler 1992; Petoskey 1985). On the other hand, the Wisconsin Council of Churches supported Anishinabe rights to fish in their traditional manner, and the Friends (Quakers) have supported native control of resources both in their religious communities and in Washington, D.C. (Whaley and Bresette 1994)

The relationships among these actors comprise the basis for our discussion of an imposed regime involving Native American natural resources. To summarize, the actors considered will include:

- * federally-recognized and non-federally recognized
native governments,
- * federal land management and environmental agencies,
- * Congressional committees and individuals concerned
with Native American land and resource issues,
- * federal courts,
- * state and some local governments,
- * groups and individuals concerned with issues
involving Native American resources,
- * native and non-native media,
- * companies with an interest in native land and
resources, and
- * churches.

With this snapshot of the relevant actors, we turn to a definition of the imposed regime as it existed in 1970.

The Imposed Regime

The research question to be answered here is whether, in the arena of Native American land and natural resources, the imposed regime surrounding United States laws and policy has been transformed or replaced by the introduction or reintroduction of spontaneous and/or negotiated orders. In answering this question, Young's definitions of the types of orders that may lead to regimes have already been provided. However, it is useful at this time to flesh out his concept of an imposed order.

Young (1982, 100) defines an imposed order as one that is "fostered deliberately by dominant powers or consortia of dominant actors. At the same time, such orders typically do not involve explicit consent on the part of subordinate actors." Imposed orders, he continues, have to do with power, but "There is no reason to assume that dominant actors must continuously coerce subordinate actors. . . . Habits of obedience on the part of subordinate actors can be cultivated over time" using "coercion, cooptation, and the manipulation of incentives" (Young: 1981, 100-101).

It is not difficult to identify the elements of this definition in the relationships among the United States and native nations. During the first 110 years of its existence, the United States established itself as the dominant power "from sea to shining sea." Using a combination of persuasion, transmission of disease, destruction of food supply, warfare, and outright slaughter, it reduced Native Americans to a state of submission. Native populations were reduced to a total of 237,000 people,

about two percent of their pre-Columbian number (Churchill 1993, 45-47; Jaimes 1992b; LaDuke 1999). This process will be discussed more fully in Chapter Three.

While about half of the native nations fought back, the other half were either unable to fight or acquiesced to United States dominance. Where traditional food supplies were destroyed or rendered inaccessible, the United States became the sole supplier of food through its Bureau of Indian Affairs. Native peoples or reservations that were considered resistant were likely to have their food supplies shut off, a rather blatant example of one actor imposing its will on others (Churchill 1993; Akwesasne Notes 1974; Ortiz 1977; Brown 1970).

The United States also operated in a less overtly coercive manner to gain control of land and resources. The United States tended to recognize as leaders those native individuals who were willing to cooperate with its plans. This often meant those who were willing to sign agreements turning over land and resources to United States control. Not only were unauthorized individuals recognized as leaders, but indigenous landholding practices were ignored. This occurred both because landholding was communitarian, meaning an individual could not sign rights away, and because women were often the traditional holders of land and resources, while the United States negotiated with men (Deloria and Lytle 1984; Voices from Wounded Knee 1974; Jaimes 1992b; Lacy 1985; Biolsi 1991).

All of the elements of Young's imposed order were present in this string of events: coercion, cooptation, and manipulation of incentives. Moving from an imposed order to an imposed regime--

what has been tagged shadow federalism--means identifying common "principles, norms, rules, and decisionmaking processes around which actor expectations converge" (Krasner 1983: 1).

The convergence of actors' expectations in the arenas surrounding Native American land and resources can be seen most clearly with the end of open warfare in the late 1800s. However, it takes more than just the end of warfare to indicate the presence of a regime. Clearly, a regime involves more than the shared expectation that there will not be pitched battles. In this instance, the imposed regime centered around United States laws and governmental practices, as actors began to both expect and act as if those laws and practices provided the parameters for decisions regarding the control and use of Native American natural resources.

The history of United States policy involving Native Americans from 1886 until 1970 is replete with examples of laws asserting this type of hegemony. As key aspects of that policy will be covered in more depth in Chapter Three, only a few examples will be listed here. The plenary power doctrine, asserted by the Supreme Court in the 1886 *United States v. Kagama* and 1903 *Lonewolf v. Hitchcock* decisions, formed the base for the regime. In brief, this doctrine stated that Congress could do whatever it pleased regarding Native Americans (Jaimes 1992b; O'Brien 1989)

What Congress pleased included the Dawes Act of 1887, which stripped native nations of control of two-thirds of their remaining land base, leaving them with about 2.5% of the land

within the contiguous forty-eight states. During this process, the lands that were most useful for agriculture were among those removed from native control, although the stated goal of the Act was for native families to become self-supporting through agriculture (Churchill 1993; Deloria and Lytle 1984). With this Act, which also allotted parcels of land to native individuals, came what Deloria and Lytle call:

[a redirection of] the thrust of the federal-Indian relationship to that of property management, and with the need for supervision over the use of property came the expansion of the administrative structure of the Bureau of Indian Affairs. Tribal status became less important, and natural resources became the major concern of both Indians and federal bureaucrats (Deloria and Lytle 1984, 5).

In 1934, Congress reversed the allotment policy in the Indian Reorganization Act (IRA). The IRA also encouraged native nations to set up governments based on the Constitutional model, governments that could more easily relate to the United States system. In 1953, Congress decided to "terminate" reservations and end native nationhood altogether (Deloria and Lytle 1984; O'Brien 1989).

Throughout this period, the Bureau of Indian Affairs acted as the center of United States control of native lands and peoples. Virtually no control was exercised by traditional Native American leadership, and reservation land was leased for mineral extraction and grazing for a fraction of its value (Deloria and Lytle 1984; O'Brien 1989). Ambler (1990) calls this period "the Rubber-Stamp Era."

In most instances, all the actors listed in the last section were members of this regime. Even when native nations or states

asserted claims against the United States, they did so in United States forums under United States laws. When those laws were considered inadequate, the actors appealed to the United States Congress or court system (Ambler 1990; Jaimes 1992b; Churchill 1993).

This is not to say that the laws and practices were stable, but just that actors' expectations converged around them. In fact, the laws were unstable, as will become evident in Chapter Three. There were continuous attempts to redefine the confines and content of federal law as it related to Native Americans. Norms and practices did change, but they surrounded rules set by the United States that formed the basis of patterned relationships among the actors. There was a common assumption that the United States would get its way where native lands and resources were involved. All native nations and the vast majority of indigenous individuals went along with this system or, at the very least, shared the expectation that the United States would dominate the situation during this historical period. Similarly, nations outside the boundaries of the United States seldom questioned its relations with native nations (Ambler 1990; Jaimes 1992b; Churchill 1993; Ortiz 1977; Deloria and Lytle 1984; McCool 1987; Weyler 1992; Biolsi 1991).

A famous photo from this period displays the extent to which indigenous peoples felt helpless in the face of United States resource policies. It depicts the 1948 signing of a contract that transferred land on the Fort Berthold Reservation out of native control for purposes of building the Garrison Dam. The Dam backed up the Missouri River for two hundred miles, flooding the best

lands on the Reservation and necessitating relocation of eighty percent of its residents. The photo has all the ingredients of an "important signature" photo: a deeply-grained wooden table, dignitaries in suits gathered around, and the Secretary of the Interior poised with a pen. But to the Secretary's right is George Gillette, Chairman of the Fort Berthold Reservation business council, in tears (Ambler 1990, 204-205).

Gillette's apparent helplessness is an indication both of the centrality of land and resource issues in native nation-United States relations and of the existence of an imposed regime. The incident also illuminates Krasner's (1983) contention that regimes are intervening variables, influencing actors' behavior by coming between their interests/values and policy outcomes. Despite despair over land and resource transfers, Gillette and other Native Americans felt they had no choice but to accept the United States policy outcome.

So despite changes within federal policy, the imposed regime was quite stable over a long period of time. In various situations, both the United States and many Native Americans sought to end the dominance of the regime, but it persisted. This would not surprise Young (1981, 106), who states that imposed orders fare well in an atmosphere of change. Young suggests this is true because a "hegemon can succeed in adjusting the terms of an imposed order substantially, so long as its own position of dominance is not obviated by social change." Neither social change nor other forms of change did anything to end the United States' position of dominance before 1970.

However, Young also suggests that forces present during the

period before 1970 could have been leading toward regime transformation or replacement. The next step in this research effort is to look at his suggestions and to design methods for measuring change in the shadow federalism regime surrounding Native American land and resources.

Regime Change

As indicated above, Young (1982, 107-111) suggests that three things drive regime transformation: internal contradictions, exogenous forces, and shifts in the structure of power. The first two of these are easy to identify in the shadow federalism situation.

While there are a number of internal contradictions in the shadow federalism regime, the most obvious and ongoing have been differences between Congress-made law and Executive-led treaties. This contradiction is central not only to attempts to set a stable United States policy, but also to conflicts between native and non-native regime actors. It is a good example of what Young (1982, 107) calls "irreconcilable conflicts between central elements of a regime." In addition to the Congress-Executive branch differences, this policy arena has seen conflicts between all the other branches of the federal government and conflicts among federal and state governments (Eichstaedt 1994; Churchill 1993; Jaimes 1992b; Gover and Cooney 1996; McCool 1993).

There have also been conflicts between federal agencies and even conflicts within agencies. A recent example of the latter is the Environmental Protection Agency's official policy of dealing

with native nations on a government-to-government basis, which stands in opposition to its legislative role as regulatory overseer of reservation environmental efforts (McCool 1987; Gover and Cooney 1996).

Exogenous forces leading to regime change, Young (1982, 110) suggests, may include new technology, changes in the public's tastes, and population growth. Again, examples are easy to identify in the arena of Native American natural resources.

Two appear to be of central importance. The first is the increased exploitation of reservation resources as a result of the energy crisis of the 1970s. The second is the overall atmosphere of activism and change in the United States during this time period, which spilled over into Native American communities in the form of agitation for control of land and resources. Other relevant changes include the growth in consumer resource use since World War Two, the shift to use of Western coal, and Native American population growth (Ambler 1990; Jaimes 1992b; Steiner 1968; Nagel 1996). All of these have increased the visibility and/or value of reservation natural resources.

Young's third process, changes in the structure of power, is the most central to this study. As he notes (1982, 109), it is difficult to measure power, let alone changes in its relative distribution. Compared to most studies of international relations, which consider the distribution of power in terms of difficult-to-measure concepts such as fear, dependence, or influence, this research benefits from being able to use some relatively concrete variables: land, natural resources, and money. It also benefits from the relative openness of the United States

governing system, which provides easier access to data than that faced by most students of nation-state intrigue.

Using these and related variables, which will be described in detail in the next section, it is possible to look for changes in the strength, scope, and organizational basis of the shadow federalism regime (Haggard and Simmons 1987). Relationships among regime actors will be measured by looking at indicators such as the extent and outcomes of contacts among different types of actors, the legal bases for contacts, levels of conflict and cooperation, and changes in the expression of shared norms, values, and expectations (Krasner 1983).

This research will also identify variation in the scope of the shadow federalism regime in terms of the natural resources at issue and the forums in which contacts are made across time. Key indicators associated with each type of actor's ability to develop and maintain relationships with other actors will be identified and analyzed. Statistical treatments will help identify patterns of association and interrelationship over time.

In addition to searching for simple correlations among indicators and between various indicators and types of actors, this process will help identify:

- * whether patterns have changed in the activity levels of actors by resource, legal basis for an issue, nature of relationship (conflict, cooperation, or other), and outcome;
- * whether different resources are related to different levels of cooperation or outcomes;

- * whether there are relationships between the legal-institutional basis for an issue and its conflict level or outcomes;
- * any differences that exist by region;
- * any differences between native and non-native media in the above variables;
- * any differences between the issues covered by newspapers and those decided by the Department of the Interior; and
- * changes, if any, that have occurred over time in the above calculations.

The questions that these calculations address, and that will ultimately tell whether an imposed regime remains are: Who controls land and its resources? Whose rules, forum, and process are used to discuss and resolve issues? Who wins control of land and resources when conflict arises? What principles provide the basis for interactions among actors?

If transformation or replacement of the United States' imposed regime has occurred, the answers to these questions will provide evidence of new shared norms and values or of a breakdown in the shared norms and values that formed the basis for the shadow federalism regime in 1970. If the imposed regime has broken down, there will be changes in the level and nature of conflict and cooperation, with a higher conflict level expected. Generally-accepted principles, understood as "facts" in 1970, will no longer be operative. In short, this research is looking for indications that change in the distribution of control over Native American resources has occurred during the self-determination era.

Methodology

This effort combines data gathered from interviews, federal documents, surveys, content analysis of newspaper coverage, and the existing literature. Both quantitative and qualitative methods will be used, although the focus is on quantitative data. This is appropriate to the broad set of issues and actors, the preliminary nature of this research, and the available data. The data includes:

- * the natures and outcomes of disputes over natural resources involving Native Americans that were administratively appealed in the Department of the Interior over the period 1970-1994 (Chapter Four);
- * federal funding to tribal governments for environmental and natural resource purposes for the years 1989-1991 (Chapter Five);
- * information on reservation demographics and governmental activities (Chapters Five and Six);
- * tribal governments' capacity and activities in the environmental and natural resource arenas, and relationships with states in those arenas (Chapters Five and Six);
- * state government capacity and activities in the natural resources arena as they relate to Native Americans (Chapter Six); and
- * content analysis of newspaper articles on natural resource issues from the mainstream and Native

American press over the period 1970-1994 (Chapter Seven).

As different data and methodologies are employed, the methodological details for each data set are included in the relevant chapter. While this analysis may appear daunting to those used to researching topics such as "Congress" or "interest groups," the gathering of basic empirical data has been neglected in this policy arena. Rather than starting from a foundation of empirical studies and attempting to provide a scholarly addition, the foundation itself must be laid. The body of information gathered through this research will provide a basis on which to determine the nature of the shadow federalism regime, as well as a basis for further discussion of the issues.

Conclusion

This research takes place in an arena that is extremely dynamic, laden with values conflicts, and complex. Partly as a result, it receives little empirical attention.

It is not expected that any one research effort will produce the final answer on any of the subject issues. It is important that both the data and the analysis are treated methodically to permit duplication, that the databases are made available to other researchers, and that caveats about the data are noted by readers.

However, some preliminary conclusions will be reached. It is anticipated that the issues surrounding Native American lands and resources will inform regime theory and encourage a rethinking of the concept of federalism to better incorporate the many

situations in which ethnicity complicates the world map.

Those who study and practice in policy, public administration, and journalism are also expected to find these results useful. The issues surrounding shadow federalism are not only full of possibilities for the academic. They are also relevant to laypeople, government officials, and politicians, who live on a daily basis with the results of the imposed regime's activities. In short, these issues are fundamental to both the indigenous and immigrant cultures that currently coexist on the American continents.

CHAPTER THREE: UNITED STATES - NATIVE AMERICAN POLICY

Introduction

In Chapter Two, the imposed regime labeled "shadow federalism" was outlined. Under shadow federalism, United States laws and government have been the determining factors in what happened to Native American land and natural resources.

In this chapter, the focus is the historical development of shadow federalism, particularly as a mechanism for depriving native nations of their lands. This historical political process has been characterized by two types of policies that have often coexisted or overlapped: those that attempted to assimilate Native Americans into the broader society and those that attempted to exterminate them. As this chapter discusses, both assimilation and extermination policies have been used to destroy native nations and remove native individuals from their lands, thus solidifying the claims of the United States to the continent and its resources.

The fact that land acquisition has been the common policy outcome for both assimilation and extermination policies has often been obscured, partly because the two types of policy have different outcomes for the individual. Extermination policies sought to destroy the individual and were often quite blunt about their deadly goals. Assimilation policies, on the other hand, were often couched in altruistic terms and sought to preserve the individual native person, while removing national and cultural identity. As Calloway (1995, 297-298) put it, "frontiersmen

murdered Indians; so-called humanitarians demanded that they commit cultural suicide."

These two types of policies were often implemented at the same time, and the policy periods described below are not distinct. Rather, the activities of each policy period are discussed chronologically and in light of their contribution to the development of the imposed regime, with a focus on how the two types of policies both contributed to Native Americans' loss of land and resources.

Whether through extermination or assimilation, this chapter argues, the United States has been very effective in imposing policies that have separated Native Americans from their lands. Its policies have had different stated goals, and seemingly contradictory policies have been implemented at the same time: some seeking to preserve native individuals and some seeking to destroy them. The learning that Young (1999, 262-263) described for other effective regimes has been evident, as the United States developed a grab bag of policy tools in its dealings with Native Americans and used whichever tool appeared most serviceable in a given situation. The imposed regime proved both resilient and adaptive, and its focus on gaining and maintaining control of the lands claimed by the United States remained the same until at least 1970, when the research discussed in later chapters begins.

One result of this grab bag approach has been that, although the outcome for native nations was the same regardless of the announced United States policy goal, this policy arena often appeared incoherent. As the American Indian Policy Review Commission (1977, 99) concluded:

It is almost always a mistake to seek answers to Indian legal issues by making analogies to seemingly similar fields. General notions of civil rights law and public land law, for example, simply fail to resolve many questions relating to American Indian tribes and individuals. This extraordinary body of law and policy holds its own answers, which are often wholly unexpected to those unfamiliar with it.

Partly as a result of this uniqueness, United States-Native American relations are among the most complex arenas in which the United States is involved. The reasons for both this uniqueness and the complexity are partly historical, partly legal, partly cultural.¹ This chapter shows how seeming policy confusion can be clarified by maintaining a focus on the outcome in terms of land and resource control. In its outcome, the core of the imposed regime has been constant. Only its means and justifications have varied over time.

One general point should be understood at the outset; the focus of both extermination and assimilation policies on the individual is a significant aspect of the imposed regime. Native nations are communitarian, not individualistic, and the fact that United States policy is implemented on an individual basis is, in itself, destructive to native societies.

A significant policy outcome of this focus on the individual has been the creation of a system in which modern Native American individuals have a markedly different legal relationship to land than others within the United States. For most purposes, without tribal membership linked to a federally-recognized reservation, a person is not "Native American" under federal law. This is unique because for most people who operate within the United States, legal status as an individual is independent of the status of land

(O'Brien 1989, 200-201; Jaimes 1992a). This means that the imposed regime has been so successful in focusing United States relationships with native nations around control of land that the Native American individual legally ceases to exist without being associated with a federally-acceptable location.

This chapter summarizes the aspects of United States policies that are most relevant to land and resource issues and does not attempt to cover all federal Indian policies. The discussion begins with the treaty-making period, then turns to statutory policies that implement or solidify the imposed regime. The policy underpinnings of the self-determination era, which is the focus of the research discussed in later chapters, is then outlined. The special case of Alaska, where the United States has developed unique policy tools that become important in later chapters, is outlined next. The chapter concludes with an overview of the implementation of United States environmental policy on native lands in the self-determination era. Whether in Alaska or the contiguous forty-eight states, in formal Indian policy or environmental policy, this chapter shows how the imposed regime operates to determine what happens to natural resources on native lands.

The Treaty-Making Era

As noted in Chapter One, an understanding of history is critical to understanding current Native American-United States relations. The individuals and governments of the settler societies that became the United States encountered native nations

as neighbors, allies, and enemies--but most importantly as landholders. The European doctrine of discovery declared that lands held by non-Christians were open to the claims of whichever Europeans first came ashore. Despite this doctrine which had, and continues to have an impact on how EuroAmericans think about indigenous nations, the new Americans had to adjust to the reality of native nations' presence (Churchill 1995, Chs. 2-3, 6; Jennings 1975; Jacobs 1972).

On what became the East Coast of the United States, the early pattern of massacring native people and burning their villages, followed by English resettlement, was borrowed from experiences with the Irish.² This extermination policy had already proved itself to be an effective way to remove indigenous people from their lands. However, over the first three centuries of EuroAmerican presence in North America, treaties between European and American actors became increasingly common. Treaties were used as a way to gain allies and to solidify the claims of competing European nations to certain lands, often while also removing native nations' claims to those lands (Jacobs 1974, Chs. 4, 7; Lyons 1992, 26; Berman 1992; Washburn 1995, Chs. 1-2).

The growing use of international agreements signaled, among other things, the European realization that native nations presented them with cohesive formal governments that had identifiable land bases, rather than just a series of towns or a threatening presence with many names. The immigrants seem to have taken awhile to reach this conclusion partly because the egalitarian confederacies that dominated the East Coast presented a form of governance that did not exist in Europe, which was

dominated by top-down monarchies. The coastal confederacies also did not understand landholding in the same way Europeans did. Indigenous commentators often mentioned Europeans' unfathomable belief in exclusive individual control, and even sale, of the land itself (Washburn 1995, Chs. 1-2; Jennings 1975; Livingstone 1984; Deloria and Lytle 1984, 9-10; Grinde and Johansen 1991, 6-12). This cultural divide would prove important to the development of the imposed regime, as the United States attempted to inculcate Native Americans with European beliefs about private property.

Historically, most treaties involved the transfer of native lands into European hands in exchange for gifts and promises. Early treaties made only short references to what could be called assimilation policy and, particularly in the 1700s, focused on forming alliances in a war-torn era. These alliances contributed to extermination of native peoples because they generally involved native nations on all sides of the European wars for the continent (Jacobs 1972, Chs. 6, 9; Washburn 1995, Ch. 2; Berman 1992; Calloway 1995).

Many of these early treaties were violated almost immediately. On some occasions, this occurred because the agreement had been made as a matter of short-term convenience, and EuroAmericans did not intend to adhere to the treaty's terms. In many cases, treaties were violated by individuals who did not feel bound by the actions of colonial governments. EuroAmericans moving onto native-held lands without their government's permission repeatedly led to skirmishes with the lands' indigenous inhabitants. These skirmishes, in turn, were used as justification for larger, government-led attacks on native towns

that were part of the extermination policy (Lyons et al. 1992; Jacobs 1972; Wallace 1969, Chs. 2, 5; Calloway 1995, 20-24, 280-286).

In different regions, the diplomatic relationships surrounding land and attempts to keep the peace took on the characteristics of the various native nations with whom the Europeans had to deal. This became important to the formation of the United States federalism and was one of many ways that Europeans assimilated Native American beliefs and habits in the period before the imposed regime's formation. The most famous of these cultural transfers involved the Haudenosaunee Confederacy, also known as the Iroquois or the Six Nations. The Haudenosaunee's confederal government, which successfully controlled a large area of land and a wide variety of peoples, formed the model for the Articles of Confederation. Nowhere in post-feudal, monarchical Europe had the colonists seen such a federalist system. Significantly, the Articles of Confederation maintained a focus on the individual and did not incorporate indigenous communities' views about relationships to the land (Jennings 1975; Barreiro 1992; Grinde and Johansen 1991; Lyons et al. 1992).

At the time the United States was founded, then, it was a confederal system similar to the native confederacies along the Eastern seaboard. This system failed, and the more centralized Constitutional system was put in place. Most important to the course of the imposed regime, this move to a tighter federal system made the new nation more able to militarily assert its inheritance of Britain's role as a beneficiary of the doctrine of

discovery. But an important psychological change also took place, as the United States began to view itself as an entity with land claims that crossed the continent. The concept of Manifest Destiny became part of the national vision and the justification for the assimilation or extermination of Native Americans. This vision brought with it the outlines of the imposed regime, although the United States would not physically control the entire continent for another hundred years (Lyons et al. 1992; Kickingbird and Ducheneaux 1973, Introduction; Calloway 1995, Ch. 10).

The move to control lands outside the original thirteen states was evident in the early Constitutional period. The Constitution's Commerce Clause placed the regulation of trade with native nations at the federal level. Henry Knox, the first Secretary of War, stated that native nations were not parts of states and, in line with this thinking, the new country took steps to negotiate treaties with its neighboring nations. These treaties focused on obtaining allies in the still-uneasy relations with Britain and Spain, but also moved to cement United States claims to ever-larger areas of land. The language of those treaties began to include promises by native peoples to adopt European habits and assimilate. But while the formal, federal policy centered on international treaty-making, states and groups of citizens continued to take part in Indian massacres, continuing the de facto policy of extermination (Washburn 1995, Chs. 2-3; Kickingbird and Ducheneaux 1973, 5-9; Lyons et al. 1992; Churchill 1993, 38-42; Berkey 1992, 195-208; Prucha 1990, 5-8, 53-58, 84-85, 87-89; Calloway 1995, Ch. 10).

The concept that native nations should or would be forced to choose between assimilation and extermination was verbalized very early in the history of the United States. As General John Sullivan and his troops prepared to invade Iroquois country in 1779, their toast was "Civilization or death to all American savages!" (Calloway 1995, 297) After the Revolution, as Calloway (1995, 290) put it:

Americans finally resolved the dilemma inherent in their belief that United States Indian policy should combine 'expansion with honor.' Since too much land encouraged idleness and presented an obstacle to 'civilization,' and Indian people could survive in the new nation only by becoming 'civilized,' the United States would deprive them of their lands for their own good. Not surprisingly, the good intentions of a few men became lost amid the pressure to rid the Indians of their lands.

From the late 1700s to 1970, the United States' use of the twin policies of assimilation and extermination continued to create the basis for the imposed regime. As the new nation gained confidence, wealth, and population, its policies were less often negotiated and increasingly imposed on native nations and individuals. Native Americans were given the options of voluntarily ceasing to exist as something distinct from the mainstream "melting pot," or being forcibly driven from existence. As Wilkins (1997, 36) points out, "Both positions are grounded in the assumption that indigenous peoples were different--politically, culturally, socially, spiritually--in ways that could not and should not be tolerated."

The intertwined role of the two types of policies in the United States' quest to gain control of land and the definition of indigenous difference as a problem was illustrated by the history

of the Cherokee. The Cherokee were one of the native nations that most enthusiastically assimilated to EuroAmerican economic activities, governance, and lifestyles. These southern nations were known as the Civilized Tribes, yet they were the most obvious victims of extermination policy in the early 1800s. After gold was discovered on Cherokee treaty lands in central North Carolina, thousands of non-Indian miners streamed into the area. In 1838 the Cherokee were uprooted by the federal military, robbed of their lands and possessions, and forced west to Oklahoma over what became known as the Trail of Tears. On the journey, nearly a quarter of them died (Patric 1999; O'Brien 1989, 55-61).³ Becoming highly-assimilated did not prevent the Cherokee from being partly exterminated, when it came to United States control of their land.

Removal to Oklahoma became the primary United States policy toward eastern native nations in the early 1800s, but relations in the West continued to begin with treaty-making until 1871. Nearly all these treaties involved native nations giving up land. Most also operated from an assimilationist angle, typically by providing that Native Americans would receive EuroAmerican educational institutions, health care, and agricultural implements and training. Among other things, such education and agricultural training taught Native Americans to hold land and farm individually, rather than communally. As noted earlier, native people did not originally understand land as something an individual could own, so inculcating this concept was an important land-related aspect of assimilation. In addition to the cultural changes inherent in individual land ownership, it became easier for EuroAmericans to obtain native lands when they only had to

negotiate with an individual, rather than a community or a nation (Lyons et al. 1992, 297; Biolsi 1992, Ch. 1; Brown 1970).

In addition, the treaty process often involved singling out a few compliant individuals who would receive special benefits and be recognized as leaders by the United States, regardless of their status in the egalitarian societies from which they came. The United States could then return again and again to these leaders for land cessions and other agreements (Brown 1970, Ch. 16; Biolsi 1992, Chs. 1-2; Cornell 1988, 56-59). This creation of outside-controlled leaders is a classic characteristic of an imposed regime.

When treaties did not lead to compliance with the imposed regime, and often even when native nations were attempting to comply with what they understood of the United States' wishes, the extermination policy became evident. The toll of this genocide on native nations is not really measurable, but in population terms, the number of indigenous individuals within what became the forty-eight contiguous states dropped by approximately ninety-five percent between 1492 and the late 1800s. Sometimes, hundreds of native people were killed in a day. Other times, the combination of starvation, forced marches, illness, and hopelessness achieved the same outcome over a longer period of time. (Brown 1970; Churchill 1995; O'Brien 1989, 771).

By 1871, it was clear that the United States was within reach of its goal of controlling the continent from coast to coast. The success of extermination policies led to the abandonment of treaty-making and a focus on application of the imposed regime through bureaucratic institutions, rather than the military. At

the same time, the justifications for federal Indian policy became more humanitarian. However, as will be discussed below, the outcome of native-United States interactions did not change, and the twin threads of assimilation and extermination continued to be present in policies involving Native American land and resources.

The Imposed Regime Takes Hold

The process of imposing United States wishes regarding land and resources on native nations took place using all branches of the federal government. As in other policy arenas, including the environmental arena, this division of authority among the legislative, judicial, executive, and bureaucratic branches, combined with national-subnational federalism, led to fragmentation (Rosenbaum 1995, Ch. 3). According to Wilkins (1995, 29):

Indian affairs and tribal political status have been dominated by the confluence of a Supreme Court which is extremely deferential to congressional enactments . . . congressional committees, the states, and the Bureau of Indian Affairs (which has been delegated much of its authority by Congress, but which has also by a process of 'jurisdictional aggrandizement' self-empowered itself to act in ways sometimes destructive of tribal interests . . .).

Fragmentation means that native nations, which are not part of the United States system, must deal with a variety of actors.

The outlines of this fragmentation were present well before the self-determination era, and were put in place as the imposed regime formed during the late 1800s and early 1900s. The institutional system that eventually became the imposed regime was a change from the treaty-making era, when the President and the

Senate had the key roles in relationships between the United States and native nations. According to Article Two, Section Two of the United States Constitution, treaty-making power is vested in the President, "with the advice and consent of the Senate." However, treaty-making between native nations and the United States was eliminated by the House of Representatives during a power struggle between the two chambers of Congress. A rider to an appropriations bill declared that a native nation would no longer "be acknowledged or recognized as an independent nation, tribe or power with whom the United States may contract by treaty" (16 *Statutes at Large* 544, 566).

Technically, this rider did nothing to stop the President from making international treaties with native nations, but from 1871 to the present it has been the de facto state of affairs that native nation-United States diplomacy results in "agreements," rather than "treaties." The implication, of course, has been that United States recognition of native nations' international status was thus removed (Lyons et al. 1992, 292-296; Deloria 1996, 970-971).

This indicated the existence of the powerful, underlying belief that the United States had the right and the ability to impose its will on native nations.⁴ As will be discussed below, the belief that a rider to an appropriations bill could deprive the continent's indigenous inhabitants of their nationhood was accepted by all branches of the federal government through the next hundred years. This was clearly an assimilationist policy, as well as an important justification for United States'

imposition of control over native lands. As Deloria (1986, 319) observed:

In America, as I see it, the conflict has never really been between cultures. Those clashes have only been surface manifestations of a deeper problem. The real issue in this country has been over the control of land and natural resources and the relationship of Indians to the economy.

Historically, Indian policy has been largely bipartisan.

While the end of formal treaty-making marked the dawn of a new era in United States policy toward native nations, the twin policies of extermination and assimilation continued to form the basis for implementation of the imposed regime. These policies were linked to the philosophy of the time and were often stated in more humanitarian terms than those used by General Sullivan in 1779. However, the effect was the same. As Senator Casserly of California put it, the general belief was that just the passage of time would solve "the Indian problem," "either by the disappearance of these dwindling races or by their own voluntary acceptance of the relations of citizenship" (*Congressional Globe*, 1 March 1871, 1824, quoted in Deloria 1992, 294). Indian Commissioner Thomas Morgan was more blunt: "Indians must conform to the 'white man's ways,' peaceably if they will, forcibly if they must" (Cornell 1988, 56).

The continuation of assimilation and extermination policies masked the changing roles of the different branches of United States government. As would be expected, the President's role in Indian policy dwindled. The Army and groups of citizens continued extermination in the West, while Congress and the courts took the lead in assimilation. During the first twenty years of the post-

treaty period, the existence of the imposed regime became clearer and clearer as Congress drafted a series of laws designed to implement its belief that Native Americans should melt into the United States mainstream, and that the United States should have total power over reservation lands and resources. In addition to the general policies discussed in more detail below, Congress outlawed native spiritual practices and dancing, gave itself criminal jurisdiction over native lands, assigned the forced education of Native American youth to various Christian denominations, and authorized the sale of resources taken from reservation lands (Cadwalader and Deloria 1984, Chs. 3, 5; Cornell 1988, 56-57; O'Brien 1989, Ch. 5).

These Congressional efforts certainly had broad impacts. But in terms of Native American control of land, the most damaging legislation was undoubtedly the Dawes Allotment Act of 1887.

The Allotment Policy

The Dawes Act, as it has generally been known, was supported both by those who wanted Native Americans to assimilate based on motives of greed and by those whose motives were more humanitarian. At the time, reservations were generally organized as tribally-held lands under federal jurisdiction, with families living in a place without holding individual ownership. The Dawes Act sought to resolve what was perceived as a lack of placing an adequate value on holding private property by decreeing that each native head of household be assigned 160 acres, with smaller acreages going to other tribal members. After these assignments, any remaining reservation lands would be declared "surplus" and

sold to non-Indians (Barsh and Henderson 1980, Ch. 6; Hauptman 1992, 321-323; O'Brien 1989, 77-79).

It was hoped that this would break up communal land holding, thus encouraging Native Americans to accept the mainstream concepts of private property and individual profit. The land was to be held in trust by the federal government for twenty-five years, while native individuals gained "competency" to handle property ownership. This twenty-five-year "trust period" was the immediate source of the Bureau of Indian Affairs' guardianship over native lands, which will be discussed below (Hauptman 1992, 321-323; O'Brien 1989, 77-78).

The amount of land in an allotment was considered adequate for a family to make a living by agriculture, but was actually far from adequate for that purpose on most Western reservation lands. By the time the allotment policy ended in 1934, Native Americans had lost control of two-thirds of their remaining land base and the most productive lands on their reservations. The poor quality of the remaining lands left them totally impoverished. The losses totaled ninety million acres. Of these lands, sixty million acres were sold as surplus, and the remainder was transferred to non-Indian ownership by a variety of legal and extralegal means (Hauptman 1992, 321-323; O'Brien 1989, 77-79; Thompson 1997, 271-275).

The passage of the Dawes Act provided the clearest marker for the beginning of the imposed regime. The United States was no longer trying to gain control over Native American lands. It was declaring that its laws were the basis for the distribution of native lands to various individuals, both Indians and non-Indians.

After distribution was complete, it declared that it retained control over native lands and resources for at least twenty-five years.

Allotment was also the United States' single most successful policy tool for removing native control of land and resources in the post-treaty era. But Congress was not the only federal institution involved in the development of the imposed regime. The growth of Congress's role and its allocation of increasing power to the Department of the Interior was supported by the Supreme Court. In fact, it was Supreme Court rulings that provided a name for the new federal policy, which gave Congress "plenary power" over Native Americans. *United States v. Kagama* (1886) and *Lone Wolf v. Hitchcock* (1903) established the policy that Congress alone had power over Native American lives and lands, providing an important justification for the imposed regime (Wilkins 1997, Ch. 3; Barsh and Henderson 1980, Ch. 8; Hauptman 1992, 319-321).

Congress, in turn, delegated its power to the Department of Interior, particularly the Bureau of Indian Affairs (BIA). The BIA was directed to use this power to serve Native Americans' needs under the doctrine of wardship: the idea that native people were unable to act in their own best interests and needed a guardian to protect them. While the Dawes Act provided for direct guardianship of some Native Americans and their lands, the roots of this more general "trust" doctrine were usually traced back at least to the Supreme Court's decision in the 1832 case *Worcester v. Georgia*. In that decision, Chief Justice John Marshall

characterized the Cherokee as a "domestic dependent nation" (Johansen 1999, 6; Barsh and Henderson 1980, Chs. 5, 8; Hall 1979, Ch. 1). Like guardianship, the trust relationship has provided justification for federal control over native lands and resources.

The trust relationship is still in place and is one of several contested statuses in United States Indian policy. Its importance is discussed in Chapter Four. For now, it is enough to understand that the trust relationship is defined in different ways by those with different outlooks and political views. Some believe that the trust relationship means that the federal government must actively assert native nations' rights. Some say it represents a duty to help native populations meet their subsistence and social needs. Others say that the federal trust stands opposed to native sovereignty. Most authors admit that it has at least two different modern meanings (Wilkins 1999; Marsh 1997).

The concept of trusteeship as a benevolent relationship, however, does not cloud the question of the existence of the imposed regime. The primary difference between the usual use of international trusteeship and the imposed regime within the United States has been that one nation's trusteeship over another has usually been considered temporary. Trusteeship has also generally meant a partial usurpation of internal governmental and social controls, rather than the imposition of plenary control. Similarly, state governments' guardianship of persons who are labeled incompetent to manage their own affairs has usually been

considered temporary (Johansen 1999; Morris 1992). For Native Americans, the trust relationship has now lasted well over a century and has usurped internal social and governmental controls.

As indicated above, the trust relationship is not the only status accorded native individuals that has impacted control of land and been a matter of controversy. United States citizenship was imposed on Native Americans in 1924, although some native individuals had chosen or been given that status earlier (O'Brien 1989, 79-80). As Scanlon (1998, 10), an Onondaga (Oneida), put it:

In 1924, the Occupation Forces met and decided to make us citizens of their country made up of lands they stole from us. The reason for this is because they saw that we as a people were going to live and they do not want us to be able to sue them for all their illegal and genocidal activities. A citizen cannot sue central government without the consent of the central government.

As this quote indicates, some Native Americans accept United States citizenship, and some do not. Many do not accept state citizenship. Wilkens and Witmer (1998) note that many native people:

would consider the act of voting in an American election--at any level--to be an act of treason, a betrayal of one's own tribal identity. And yet, many tribes in Arizona and in other states as well, appear to rest comfortably in the knowledge that their tribal sovereignty is in no way jeopardized by active participation in state, and federal elections.

So individuals may consider themselves citizens of their native nations only, or may consider themselves the holders of dual or triple citizenship (Hauptman 1992, 324-325; Barsh and Henderson 1980, 259-261; O'Brien 1989, 79-80).

The 1924 Citizenship Act, with its tilt toward assimilation, was an early indication of the coming changes in United States policy regarding Native Americans and their lands. The wars had been over for a quarter of a century, native nations had been reduced to one-third of their land base at the end of the treaty period, and the imposed regime had been successfully enacted by Congress and given legal sanction. The federal grab bag of policy tools had been expanded to include a series of statuses, statutes, and legal decisions that could be applied in a variety of situations to support shadow federalism.

Still, by the early 1930s, the allotment policy had been generally discredited as harmful to Native Americans. Change was happening on many fronts with the election of the Roosevelt administration. That change reached Indian country with the 1934 Wheeler-Howard Act, also known as the Indian Reorganization Act (IRA).

The Indian New Deal

The allotment policy had proved a disaster in terms of Native American land loss. This was decried by native peoples and in humanitarian circles. The policy was also a failure in terms of either assimilating or exterminating native populations. Native American populations had begun to rebound from their turn-of-the-century low of 237,196. By 1930, they totaled 343,352 (Nagel 1996, 5).

Humanitarians and other critics of federal policy noted allotment's failure to assimilate native people, who hung onto such "foreign and antagonistic" beliefs as enjoying sports more

than hard work, lacking interest in acquiring a private home, and focusing on the general welfare rather than individual advancement. These beliefs were labeled communistic, un-American, and impractical, and native people's failure to drop them was used as justification for a new federal policy that would increase the likelihood of full assimilation (Barsh and Henderson 1980, 97-98).

The Indian Reorganization Act was officially named after its Congressional architects, Senator Wheeler and Representative Howard. The new policy it outlined was an important addition to the United States' bag of Indian policy tools. The Act also provided an example of apparent policy incoherence that is explained by a focus on the control of land and resources.

The IRA ended further allotment, and its architect, BIA Commissioner John Collier, intended that it would further native control of land. But his goal was foiled in Congress and in implementation (Deloria and Lytle 191984, Ch. 10; O'Brien 1989, 81-82).

This result came primarily from two aspects of the situation. First, land that had already been allotted continued to be held in trust for individuals. Individuals' allotted lands were handed down to ever-larger numbers of heirs, resulting in highly fractionated ownership of ever-smaller parcels. This had major impacts on reservation land and resource issues, because it was often impossible for native people to exercise control over land that was owned by dozens of persons and administered by the BIA under the trust principle (Ambler 1990, Ch. 6; Thompson 1997, 275). Fractionated ownership continues to compound the difficulties brought by the trust relationship to the present day.

The second major way the Indian Reorganization Act's good intentions were thwarted was through the governmental institutions set up by the Act. The IRA set up a mechanism for the establishment of United States-recognized tribal governments. This provision of the law was based on the principle that tribal sovereignty still existed in some form, but its implementation involved creating new tribal government institutions based upon the United States model (Barsh and Henderson 1980, Chs. 9, 10; Hauptman 1992, 326-329; Deloria and Lytle 1984).

The law provided that the United States would work with native nations to design the new tribal governments and gave native individuals an opportunity to vote on their adoption. However, implementation was structured so that:

A majority of Indians who lived on the reservation and owned property . . . had to come in and vote against the application of the Wheeler-Howard Act to their reservation. If they did not have a clear majority of all eligible voters, they had the act extended over them (Deloria and Lytle 1984, 165).

Native Americans were often unfamiliar with voting, hampered by distance and lack of communication, and unwilling to participate in the program of a foreign government. Because abstentions were counted as votes for a new government, some tribal governments were created even though the majority of those who voted were against them. IRA constitutions also contained a provision giving the Secretary of the Interior the authority to accept or veto any action taken by the tribal government (Barsh and Henderson 1980, Chs. 9, 10; Hauptman 1992, 326-329, Deloria and Lytle 1984; Biolsi 1992, Chs. 3, 4; O'Brien 1989, 82-83).

In political terms, Biolsi (1992, 33) highlighted the creation of new tribal governments under the IRA and characterized the process by which the imposed regime was implemented as "the bureaucratic penetration of a colonized people by the technologies of the state." Morris (1992, 69) was more specific, explaining:

The political colonization of indigenous nations becomes more complex as the process matures. As colonial administrations become more firmly entrenched, the comprador class on reservations refuses to acknowledge the role of the United States in the colonization of indigenous peoples at all. Tribal regimes, ostensibly operated by indigenous peoples, are ultimately influenced by non-indigenous decisionmakers, usually in Washington, D.C. . . . In this way, as Voltaire stated, by maintaining the illusion of freedom, volition itself is captured, and subjugation becomes complete.

The imposition of these governments was clearly not an expression of tribal sovereignty, but of United States power. The imposed regime could now act through institutions that were ostensibly Native American, while maintaining the final say in what happened to reservation natural resources. Whether land was held by individuals under the allotment policy or by a tribal government, the Bureau of Indians Affairs and, ultimately, Congress had the final say. The imposition of IRA governments laid the groundwork for struggles over those governments' legitimacy that continues today and provided many examples of the cooptation that Young suggested was typical of imposed regimes (Porter 1999, A5; White Face 2000, A3; Kent 2000, 1; Young 1981, 100-101).³

From the United States' point of view, IRA governments were also preferable to traditional governments because they provided a clear authority structure that concentrated accountability and

facilitated contracting. The United States' desire for tribal governments with the ability and willingness to sign contracts was linked to control of land and resources. The issue arose in the early 1920s, when the traditional Dine' (Navajo) government unanimously turned down a BIA-Standard Oil request for access to lands containing oil and gas deposits. The Indian Commissioner dealt with the situation by appointing a new tribal government, which signed the Standard Oil leases. The new government, which was instituted without consulting the Dine', excluded traditional leaders in favor of those who were mainstream-educated (Robbins 1992, 93-94; Correll 1982; O'Brien 1989, 250).

This type of behavior was decried by 1930s reformers, and the formation of IRA governments was partially sold to lawmakers and the public as giving Native Americans a vote and offering stability. In the interceding years, however, these governments' ability to sign contracts allowing the transfer of land and the exploitation of natural resources often led to loss of native control. As noted in Chapter Two, Ambler (1988, Ch. 2) calls the period before 1970 the "Rubber-Stamp Era," saying:

Without the information and expertise to put them on equal footing at the bargaining table, the tribe had to rely upon the advice and integrity of industry and DOI advisers when setting contract terms . . . They had only rudimentary tribal governmental structures and facilities, if any. When the Anaconda [uranium mining] agreements were first signed, the Laguna Pueblo had no tribal government office; all the contract papers were kept in a trunk. And most of the tribal council members were illiterate (58).

The imposed regime functioned smoothly under such circumstances.

Despite the success of the imposed regime, the mood in Congress changed again. Like other regimes, the shadow federalism

regime needed to learn and change to remain effective. Like the Allotment Act, the policy tools provided by 1930s federal policy were eventually branded a failure, and Congress again moved to change the manner in which the United States would deal with native nations. This change, known as the "termination" policy, was designed to provide an ultimate solution to tribal control of land and resources by erasing reservations entirely.

The Termination Era

Even though native governments continued to lose control of natural resources, the IRA was successful in halting and reversing the loss of reservation lands that had been the hallmark of the Allotment policy. In the first fifteen years of IRA implementation, native nations' land holdings increased by four million acres, reaching 52 million acres. This was mostly the result of regaining control of lands that had been lost under allotment and leasing programs (Deloria and Lytle 1984, 184-185).

However, Native Americans remained financially destitute, politically powerless, and geographically isolated. As a result, beginning in 1946, the newly Republican Congress, which was intent on dismantling the New Deal, was able to brand the Indian Reorganization Act as another policy failure. "Big government is inefficient," Republicans said, "and Indians need to be freed from it once and for all . . . All that mattered was that Indians be made to conform to the norm in American society" (Deloria and Lytle 1984, 191). To reach this goal, Congress moved to erase reservations and tribal governments, put native people and lands under state jurisdiction, and end treaty and trust

responsibilities. This set of ideas became institutionalized in the 1950s as the termination policy (Deloria and Lytle 1984, Ch. 13; Hauptman 1992, 329-334).

Under termination, some reservation lands were simply sold. Others were turned into trusts held by a bank, rather than by the federal government. The companion "relocation" policy provided benefits to native individuals who moved off the reservations to urban areas. Large areas of some native nations--particularly along the Colorado, Missouri, and Allegheny Rivers--were condemned and flooded for hydroelectricity, recreation, and irrigation (Deloria and Lytle 1984, Ch. 13; Hauptman 1992, 329-334; Barsh and Henderson 1980, Ch. 10; Robbins 1992, 98-100; Lawson 1982).

Termination was quickly labeled an unmitigated disaster, and its implementation was abandoned within a few years. The Menominee, located within Wisconsin, were the best-known example of the policy's effects. The Menominee were terminated primarily because they were in fairly good financial condition. Their reservation was turned into a county, and lands became subject to state taxation. As a result, their sustained-yield timbering operation was no longer able to break even, and the tribe had to sell choice lands and other resources to meet its members' needs. Recreational lakes were created by combining existing water bodies in an attempt to create choice real estate for vacationers, and the hydrology of the area was disrupted, flooding roads and creating large infrastructure costs. The reservation hospital closed, the county became the most impoverished in the state, and many Menominee were forced to emigrate to find work (Shames 1972; Hall 1979, 25-28). In 1975, after a protracted political battle,

the Menominee regained reservation status.

The role of the imposed regime was clear in the Menominees' situation. Citing Lurie, Shames (1972, 10-11) concludes:

There were two matters on which all Menominee agree. First, termination was never their idea. Frequently exasperated as they were with the Indian Bureau, they were, nevertheless, keenly aware of their vulnerability without the federal presence. They depended on their treaty as a guarantee of their rights as a minority to exist in peaceful possession of their homeland . . . Second, the Menominee were given to understand by Senator Watkins that whether they wanted it or not, the government would see to it that they were terminated.

As noted above, as a matter of implementation, the termination period lasted only a few years. However, during that time, Native Americans lost control over large areas of land (Robbins 1992, 98-100). Termination also cast a pall over Indian country that lasted much longer, as tribes were afraid to begin new projects and constantly felt the need to protect their land bases. The policy was not officially abandoned until 1988 (O'Brien 1989, 85).

Termination policy had elements of both assimilation and extermination. As Cahn (1969, 18) put it, "The Indian was correct in his appraisal of termination as annihilation rather than emancipation." While Congress's stated goal was to free native individuals from their federal shackles and move them into the United States mainstream, the policy's impacts included reductions in health care, housing, food, and other basics of life. The policy also sought to culturally erase native communities and to politically erase their nations from the map.

Termination was one of a string of declared policy failures that were actually successful in the terms of the imposed regime. Land and resources left native control at the behest of the United

States government, and that government maintained control over the lands that were left in tribal hands. By the dawn of the self-determination era in 1970, shadow federalism was firmly entrenched, and its grab bag of policy tools had successfully controlled Native American land through a variety of policy periods and despite the conflicting paradigms of assimilation and extermination. As Deloria (1969, 49) summarized the situation at that time, "Indian people have become extremely wary of promises made by the federal government. The past has shown that even the most innocent-looking proposal is often fraught with implications the sum total of which is loss of land."

The same year, Cahn (1969, 5) wrote the famous lines, "The Indian is never alone. The life he leads is not his to control. That is not permitted. Every aspect of his being is affected and defined by his relationship to the Federal Government . . ." The dawning of the self-determination era was the result of a series of declared policy failures, but not a result of the failure of the imposed regime. Rather, both Cahn's and Deloria's books provided evidence of the regime's existence and of native individuals' acquiescence to its terms. But the publication of Deloria's and Cahn's books, the development of new native-led organizations, and the growth of Native American identity and activism signaled that change was in the offing.

The Self-Determination Era

Beginning with Deloria's 1969 volume *Custer Died for Your Sins: An Indian Manifesto*, the public and government began to become aware of changes in philosophy in Indian country. These new attitudes and beliefs challenged the imposed regime, the stereotypes that supported it, and termination-era Native American leadership. In direct contradiction to the imposed regime's total hold on native lands and lives, Native Americans called for a new federal policy, which Deloria quoted Alex Chasing Hawk as calling "A leave-us-alone law!!" (Deloria 1969, 27).

Although the changes in United States policy involving Native Americans that occurred in the late 1960s and the 1970s occurred in an era of political and social upheaval, it is important to remember that the context of activism was different for Native Americans than for other disadvantaged groups in United States society. In the late 1960s, Native Americans learned to "pose as another American domestic racial minority" to tap into the programs of Johnson's "Great Society" (Deloria and Lytle 1984, 216).

However, this strategy was generally abandoned by the early 1970s, as Native Americans began to assert their own agenda, rather than just react to existing federal programs. This meant emphasizing treaty rights and regaining control of unceded lands and resources, in a direct challenge to the imposed regime. This emphasis placed Native American issues alongside other nationalistic and decolonization struggles and pushed them increasingly into the international arena (Churchill 1995, 4, 204-

205; Alfred 1995, Ch. 1; Wilmer 1993, Chs. 5-7; Morris 1992).

These changes in philosophical and political emphasis were paralleled by organizational developments that began in the urban areas, primarily among Native Americans who had been relocated in the 1950s. In the cities, Native Americans from a variety of nations found each other in their efforts to break the cultural isolation of off-reservation life. These contacts led to the recognition of common political interests. The 1961 founding of the National Indian Youth Council (NIYC), leadership changes in the National Congress of American Indians (NCAI) in 1964, and the founding of the American Indian Movement (AIM) in 1968 were the organizational evidence of an intertribal political presence that challenged the United States' claim to the lands it occupied and the resources upon which its wealth was based (Deloria and Lytle 1984, Ch. 16; Cornell 1988, Ch. 7; Smith and Warrior 1996, Ch. 7).

The Indian movement of the 1960s and 1970s was never well-organized, but it eventually reached most reservations and urban areas. It involved a variety of individuals of all ages, as native nations claimed sovereignty under international law and asserted that they deserved to be treated as autonomous governments. Some countries began to recognize passports from native nations, support their demands for sovereignty, and request the release of imprisoned Native American activists as prisoners of war (Smith and Warrior 1996; Deloria and Lytle 1984, Ch. 16; Steiner 1968; Cornell 1988; Weyler 1992, Ch. 7; Canadian bill 1987; Soviets waging 1984; Lyons 1986, 287-288).

Clearly, these events challenged the imposed regime's claim that United States laws and government were the proper forums for

the discussion of Native American land issues, and the imposed regime responded. The result was a series of violent confrontations between native people and federal, state, and local governments. The most widely known were probably the "fish-ins" in the Pacific Northwest, the 1969-1970 occupation of Alcatraz Island, the occupation of BIA headquarters in Washington, and the 1973 seige at Wounded Knee on the Pine Ridge Reservation. However, these were only the most publicized of a series of confrontations that rocked both rural and urban native communities (Smith and Warrior 1996; Steiner 1968; Voices from Wounded Knee 1974; Stern 1994).

Most of these confrontations arose as a result of Native Americans challenging the imposed regime in a certain location under laws that were specific to one or several native nations. This included asserting a specific nation's treaty rights, reclaiming historically-important lands, challenging the legitimacy of IRA governments, and bringing attention to the dismal reservation living conditions that resulted from native people's lack of control of land and resources. The United States government's reactions included the use of military force, controlling media coverage, encouraging violence through the use of informants, and manufacturing evidence for court cases. Thousands of arrests took place, and dozens of native activists were killed (Smith and Warrior 1996; Messerschmidt 1983; Matthiessen 1980; Churchill and Vander Wall 1990, Ch. 7; Stern 1994).

This violence and political upheaval provided the background for the formation of self-determination policy. Like other

federal policies, self-determination was publicized as favorable to native people: this time as an attempt to institute the "leave-us-alone law" requested by native leaders. Unlike past policies, however, the discussion surrounding self-determination recognized the failures of assimilation and extermination and suggested a redirection of United States efforts that contradicted the imposed regime (Esber 1992, 213; Cornell 1988, 204; Rawls 1996, 68-71).

While the policy of native self-determination was first verbalized by the Nixon Administration, it was institutionalized in 1975 by the Indian Self-Determination and Educational Assistance Act. The Act was touted as a way to transfer power from the federal government to tribal governments through increased Native American participation in decisionmaking and program direction. Tribal governments were given the autonomy to choose federal program participation and to contract with the BIA to administer their own programs. The Act was heralded as the dawn of a new era and as one step toward eventual native control of Native American lands and lives, but the Act itself conferred no such control (Esber 1992, 213; Cornell 1988, 204; Rawls 1996, 68-71; Castile 1994). Arguments over the meaning of "self-determination" began even before the policy was institutionalized and continue to the present.

A few other aspects of this policy era need to be touched on as background for this research. First, awareness of a central paradox is important to understanding the role of the imposed regime during the self-determination era. Although the Self-Determination Act authorized tribal governments to take control of programs, the Department of the Interior retained the power to

overthrow the decisions of tribal governments.⁶ Esber (1992, 222) pointed to this conundrum:

The paradox rests on two opposing ideas: Indian self-determination and decision making, on the one hand, and federal control of policymaking and implementation, on the other. Self-determination cannot be accomplished by a policy decision of a dominant government; it can only be achieved by disempowerment of the dominant government and recognition of the genuine sovereignty of the other.

The Act, then, did nothing to end Congress's plenary power, and federal courts retained oversight. The United States government and the imposed regime, in other words, appeared to let go of native nations with one hand, while retaining a firm grip with the other.

Second, the Self-Determination Act was implemented in a manner that favored certain types of self-determination over others. Like the IRA, the self-determination policy was partial toward tribal governments that mimicked the United States. It favored tribal entities that understood governance, democracy, and political participation in EuroAmerican terms, and that downplayed the spiritual aspects of traditional governance. Implementation of the Act has also favored tribal governments that understood "development" in capitalistic and entrepreneurial terms (Esber 1992, 216-219).

The third important piece of background information has been that the actions of Presidential administrations have impacted the implementation of self-determination policy. There was little argument about the negative impacts of the Reagan Administration, as federal funding for water and sanitary projects, education, healthcare, employment, and welfare programs was cut just as

tribal governments were beginning to try to take control of reservation programs (Cook 1996; Philp 1986; Rawls 1996, 73). This has been important in the environmental arena, as discussed below. Recent Presidents have continued the call for greater tribal autonomy, but have had less of a budget-cutting imperative. The Clinton Administration took symbolic and financial steps toward improved relations with native nations, but sometimes appeared to have little understanding of Indian policy.

Fourth, the self-determination era is characterized by hostility between state and tribal governments over land issues (Valencia-Weber 1995; Castile and Bee 1992; Rawls 1996, Ch. 6; Segall 1998; Apesanahkwat 1999; Martin 1996; O'Brien 1989, Ch. 13). This is nothing new, as will be discussed in Chapter Six.

Even before the data were gathered for this research, it was clear that, despite twenty-five years of self-determination policy, Native Americans have generally failed to get their basic issues--treaties, land control, and nationhood--on the bargaining table.⁴ For example, Morris (1992, 78-79) pointed out that true self-determination would mean that native nations had the choice of being part of the United States, affiliating with another nation, or nation-state status. This choice has clearly never been seriously considered by the United States. Philip Deloria (1986, 193) has suggested that, when native nations have requested full recognition, they have been held to higher standards than other nations:

There are not constant reviews of the demographic status of all the little countries in Europe that are frequently compared in size and population with Indian tribes. No one asks whether Monaco and Liechtenstein are sufficiently culturally distinct from neighboring

countries to justify their continued existence. Unlike that of Indian tribes, their political status is taken for granted.'

While the United States has clearly not allowed native nations full autonomy, there remain questions about what changes, if any, have occurred in the imposed regime during the first twenty-five years of the self-determination era. The changes in implementation suggested by self-determination policy, if effective, would have led to clear changes in the imposed regime's control of Native American land and resources.

The Special Case of Alaska

As can be surmised from the preceding discussion, Native Americans and their lands have a variety of specific statuses in relation to the United States legal system. Some have treaties; some do not. Most reservations were allotted; a few were not. About half have IRA governments, and about a different half fall under the provisions of Public Law 280, which gives certain states concurrent jurisdiction with tribal governments for enforcement of criminal and civil laws on reservations (O'Brien 1989, 199-200). This variety makes it difficult to draw conclusions about overall United States-Native American relationships by generalizing from case studies. As discussed above, this variety and the resulting confusion also work to the benefit of the imposed regime. As Kickingbird and Ducheneaux (1973, x) put it, "The complexities of Indian land titles are very much like the dialogue in Alice in Wonderland. Indian title means what the United states has wanted it to mean whenever the subject has come up."

This complexity is compounded by the status of indigenous peoples living in Alaska. There, the imposed regime has taken a historically and politically unique turn. The differences in the imposed regime's implementation in Alaska become significant in later chapters and require separate explanation. That explanation, which again shows the adaptability of the imposed regime, is the focus of this section.

In general, native peoples living within the boundaries of what is now Alaska have different legal relationships with the United States than those in the "lower forty-eight" states. While the differences among native groups in this vast area are substantial, they are alike in that EuroAmerican influences have come more recently than for native nations in the lower forty-eight.

The United States gained a claim to the area from Russia in 1867. By then, the treaty-making era was almost over, and most of the Indian policies of the 1700s and 1800s were not implemented in Alaska (Skinner 1997, Chs. 1, 2; Harrison 1995). The allotment policy was implemented in some places, but only one reservation was created. This was partly because key Alaskan native and state leaders opposed reservations, and partly because companies thought reservation status would exclude them from resource-rich lands. In addition, the subsistence lifestyle, which is still common in Alaska, requires access to large territories (Skinner 1997, Chs. 1, 2; Korsmo 1995; Sandza 1983; Kizzia 1997a).

For many years there was no perceived need to tie native communities to particular parcels of land. When statehood came in the 1950s, native land issues were largely ignored, but the state

enabling act let Alaska's new government choose 103 million acres of "vacant" land for state purposes. The federal Bureau of Land Management was placed in charge of issuing the necessary patents. As Weiss and Maas (1992, 203) put it, "Inevitably the state selected land used by natives" that had "potential economic value." This manner of separating Native Americans from their land used a tool developed in the Allotment Act--declaring native lands surplus and then distributing them to non-Indians--but adapted it to the specific situation in Alaska.

The circumstances in Alaska changed again less than ten years later with the discovery of rich oil fields along the North Slope. Suddenly, the United States wanted to declare certain areas "native" lands and others open to exploration, drilling, and pipelines. This immediately proved difficult. As Berry (1975) explained, the indigenous inhabitants, who were one-sixth of Alaska's population, had never sold their lands or lost them in war. They flatly rejected the idea of United States ownership of ninety percent of Alaska. Native land claims "were soon to tie up future oil development in double bow knots" (Berry 1975, 7). In this climate, the few IRA governments that had been formed in the state, which had been largely dormant, became active and important. Recently-formed organizations, especially the Alaska Federation of Natives, became major political players (Skinner 1997, Chs. 2, 6; Berry 1975, Ch. 3).

In Alaska, the United States could not rely on treaties, loss in warfare, court decisions, or land sales to justify the separation of native people from their resources. So it did what it had done before when the political situation changed; it

developed a new policy tool. That tool was the incorporation of native communities through the 1971 Alaska Native Claims Settlement Act (ANCSA). Again the regime adapted a familiar tool, the imposition of a EuroAmerican form of organization, to new circumstances.

While the history of ANCSA is fascinating, the outcome of the legislative process is most relevant here. ANCSA encouraged village-level incorporation, with individuals as "stockholders" rather than "members." This resulted in the formation of about two hundred village corporations. The Act also set up twelve regional native corporations. Native Alaskans received \$962 million and clear title to forty-four million acres. They gave up 375 million acres, including two thousand miles of coastline. The federal government retained 217 million acres, and 102 million acres went to the state of Alaska (Kinner 1997, Ch. 6; Weiss and Maas, 1992, 207; Korsmo 1994). It was a land deal of monumental proportions, fitting the grand scale of the Alaskan countryside.

The implementation of ANCSA was fraught with problems, as might have been expected from the IRA experience with the imposition of a foreign form of organization on peoples with a variety of cultural backgrounds. Similar problems also resulted, and some Alaska natives have never considered ANCSA or its corporations valid (Harrison 1995; Lincoln 1995; Ewan 1995).

Problems in implementation of ANCSA developed because the distribution of lands to native corporations went very slowly. Village and regional corporations spent a lot of time and money fighting among themselves for control of resources. Some corporations teetered on bankruptcy. Individuals born after 1971

did not receive stock. As with allotted lands stock ownership became fragmented over time and applied to a smaller and smaller proportion of Alaska natives. This process has been compared to termination (Ondola 1995; Skinner 1997, Chs. 6, 7; Parfit 1981).

As Esber (1992, 217) summarized the situation:

The corporations that succeed will have done so because they assimilated values of competition and corporate managerial skills necessary for survival in the current world market. Corporations that fail or are sold off will leave the original native stockholders landless and without access to the resources needed for traditional subsistence patterns.

Culturally, in other words, ANCSA has been a lose-lose proposition for Alaskan natives that shows aspects of both the assimilation and extermination policies of the imposed regime.

In the political arena, the most controversial question has been whether native corporations' lands should be considered "Indian country." If so, native Alaskans could participate in programs designed for Native Americans in the lower forty-eight states, and also retain a governmental identity and the ability to tax (Korsmo 1994; Harrison 1995; Kizzia 1997b). In 1998, the United States Supreme Court ruled in *Alaska v. Native Village of Venetie Tribal Government* that Alaskan native lands were not "Indian country." This triggered howls of protest (Wilkins 1998b; Kizzia 1998). It also meant that Alaskan natives were still in a unique situation in their dealings with state and federal governments around land and resource issues: their status is generally based on being corporations, rather than on being "domestic dependent nations."

The Alaskan example provides further evidence of the imposed regime's adaptability and of its development of new policy tools to deal with changing political situations. Native Alaskans are subject to a different statutory framework, generally different forms of organization, and different court decisions than native nations in the contiguous forty-eight states. Yet the outcome is the same: the United States has control over most of the land and its resources.

United States Environmental Policy and Native Americans

By the time self-determination was statutorily formalized, the imposed regime had swept the continent, adapted to a variety of changes in the policy climate, and proved itself to be both tough and resilient. Previous sections of this chapter provided a general historical and political framework for the discussion of tribal-federal-state relationships around natural resources in the lower forty-eight states and Alaska. These discussions focused on United States policies that were specifically designed to deal with Native Americans and their lands.

In this section, the focus is on United States policies that apply to all populations and attempt to resolve environmental problems. These policies provide a second and largely independent set of parameters that are important to shadow federalism in the self-determination era. While there are links between federal policy involving native nations and federal policy involving the environment, these two policy streams should generally be viewed as parallel influences within shadow federalism.

It is important to note at the outset that environmental issues related to native lands have become more salient in recent years. While control of land and water has always been an issue, the United States' passage of a number of environmental laws in the 1970s and the institutionalization of environmental issues on the public and governmental agendas generally made those issues more visible. This trend extends into Indian country (McCool 1987; Burton 1991; Rosenbaum 1995, Ch. 1).

The increased salience of environmental policy on reservations has been heightened in the past fifteen years by changes in United States law that attempted to make tribal governments responsible for enforcing a wide array of federal environmental laws. Since 1985, tribal governments have been given increasing responsibility for groundwater protection and for implementing the Clean Water Act, the Safe Drinking Water Act, the Clean Air Act, the Resource Conservation and Recovery Act (RCRA), and the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund). Tribal governments have also been expected to oversee compliance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA); the Asbestos Hazard Emergency Response Act; the Food, Drug and Cosmetic Act; the Toxic Substances Control Act (TSCA); the Asbestos Schools Hazard Abatement Act; the Surface Mining Control and Reclamation Act (SMCRA); and the Emergency Planning Community Right-to-Know Act. Tribal governments have also become involved in the National Environmental Policy Act (NEPA) process when federal agency activities impacted native lands or resources (Sanders and Otsea

1982; Otsea 1988; Royster and Fausett 1989 638-643; Brockman 1992, 155-160; Stern 1993, 96-101; Suagee 1990).

The transfer of environmental responsibilities to reservation governments has been one situation in which environmental and self-determination policies intermesh. Under Presidential mandate, each environmental and land management agency has developed its own policy toward tribal governments. The EPA's much-quoted Indian Policy promoted a government-to-government relationship between the United States and each native nation, which it recognized as "sovereign entities" (U.S. Environmental Protection Agency 1992, 66-70). The Department of Energy used similar language, while the National Forest Service's policy favored "initiatives and efforts similar to those conducted with State governments" (U.S. Department of Agriculture 1993). Other agencies favored consultation with tribes and improved understanding (Hill 1995).

Obviously, the differences among these policies create the potential for variation in implementation, and such variation is easily visible. Tribes are sometimes simply expected to take over responsibility for implementing environmental laws. In other cases, they must first prove their administrative capability to the EPA in a manner similar to the way states achieve primacy in environmental policy. The legal wording permits tribes to achieve "treatment as a state" (TAS) status. The Isleta Pueblo was the first to achieve this status for water policy in 1993 (U.S. Congress, Senate 1991, 65; U.S. Environmental Protection Agency 1992, 14, 29; Grijalva 1995; Williams 1992; Isleta tribe 1993).

TAS status is achieved one program at a time; tribal governments must achieve TAS status for regulating water quality, air quality, hazardous wastes, and so forth. As would be expected, TAS status is controversial. Some tribes bristle at being compared to sub-national states. Cities, counties, and states often attempt to block tribal government enforcement of regulations, especially those that are stricter than state standards (Peters 1999; Carrier 1993; Selden 1996; Moore 1996b; 1996a; Grijalva 1995; Midwest Treaty Network 1999).

Of course, these environmental policies have not been implemented in a vacuum. There are three aspects of the situation that have had special implications in Indian country: energy development, jurisdictional issues, and the timing of environmental policy implementation.

Environmental policy has focused on energy issues to a much greater extent in Indian country than in other places. As covered more in Chapter Four, the 1970s energy crisis meant greatly increased exploitation of energy resources on Native American lands, which has had huge impacts on some native communities. These impacts have been environmental, social, economic, and cultural (Churchill 1993; Citizens' Review Commission 1981, Chs. D, E; Jorgensen 1984).

Reservation energy projects have generally furthered the goals of the imposed regime by causing native people to lose control of land and water. These losses have included export of resources, increased corporate control of land and resources, and pollution that has made land and water useless for other purposes. Dealing with the existing projects and the threat of more energy

exploitation kept Native Americans in a defensive posture well into the 1980s. Knowing they were up against multinational corporations, the federal government, and often state actors, tribal governments and citizens' groups worked hard to control reservation land bases (Ambler 1990; Citizens' Review Commission 1981, Chs. D, E; Rawls 1996, Ch. 6; Gedicks 1993; Jorgensen 1984; Grinde and Johansen 1995, Chs. 5, 8; Sanders and Otsea 1982; Otsea 1988).

Complex jurisdictional questions are the second thing that create a different basis for environmental policy on native lands than on other lands within the United States. These questions involve both the status of land and the status of individuals.

While clashes are common between states and the federal government over regulatory jurisdiction, for tribal governments the situation is taken one step farther. Not only is the tribal government a third major actor, but jurisdiction is often checkerboarded; adjacent, alternating parcels of land have tribal and non-tribal ownership. As pollution and natural resources do not follow human-made boundaries, this is extremely frustrating to tribal governments, which cannot regulate all lands within reservation boundaries (Smith and Silver 1998, 735; Giago 1998). Generally, state and local governments may not implement their environmental regulations on reservation lands, but there are exceptions in the areas of zoning and taxation (Royster and Fausett 1989; Monette 1996; National Congress of American Indians 1996). Tribal governments, even if they have clear jurisdiction, are often unable to enforce zoning and planning as a result of Supreme Court decisions. So overall, it is often so unclear who

may do what that nothing gets done, or tribes and states may both try to plan for the same lands, leading to continual conflict (Uram and Decker 1992-1993, 12-13; Goepple 1990; Suagee and Stearns 1994, 72-79; Stern 1993; Brockman 1992, 152-155).

Tribal regulations also apply differently, based on a target individual's status. Supreme Court decisions say that tribal members and non-members are subject to different rules. When tribal regulations do apply to non-member individuals and corporations, outsiders may not have the same due process rights as they would have off-reservation. This leads to non-member complaints about regulation without representation (Walbridge 1995; Monette 1996; Suagee and Stearns 1994). So determining what laws apply in a situation is dependent both on who is involved and on precisely where they are located.

The third factor that has created a somewhat different basis for environmental implementation on tribal lands has been that tribes were directed to take over regulatory duties at the same time that federal environmental funds were cut. When the funding cuts of the 1980s came, states had already developed infrastructures for implementing environmental laws. But most reservations did not yet have such structures (Goldtooth 1992; U.S. Congress, Senate 1992, 8, 28, 57; U.S. Environmental Protection Agency 1992, 6). This was reflected in survey results in the early 1990s that indicated tribes' most urgent environmental priorities were funding for staff, training, and program development (National Tribal Environmental Council 1993, 15).

Even if the imposed regime disappeared, jurisdiction was never in dispute, and adequate funding was provided, it would be unlikely that reservations would quickly develop the types of environmental infrastructures seen in states. Many reservations' small size and persistent poverty would make development of large agencies staffed with professionals unlikely. This is discussed further in Chapter Five. Other factors, including the federal government's historically inconsistent policy messages, encourage caution in tribal behavior. For nearly thirty years, tribal governments were under the threat of termination. The historical swings between assimilation and extermination policies have discouraged tribal governments from developing strong direction in most policy arenas. These swings in federal policy have combined with state antagonism and poor outcomes from well-meaning policy initiatives to create a "persistent distrust of outside expertise, including that of the federal government." In addition, some tribal factions will probably continue to consider a lack of regulation as a competitive advantage in a global economy (Smith and Guenther 1981, 84-85).

Reservations' generally small size, poverty, inconsistent and damaging federal policies, extreme jurisdictional complexity, the impacts of the energy crisis, and state antagonism are all factors that are unique to the Native American experience with environmental policy implementation. Most are a direct outcome of the presence of the imposed regime. Pushed onto small patches of often marginal land, then denied the ability to control their resources, Native Americans have faced many challenges in environmental policy implementation that have not been faced by

states attempting to implement the same laws. In effect, federal environmental policies are simply another set of laws that have been imposed on native nations. The question this research now turns to addressing is whether the combination of the environmental and self-determination eras represent a fundamental change in the imposed regime, or whether these are simply new policy tools of that regime.

Federal policy since 1970 is the first topic, and Chapter Four takes a general look at Native American land issues, as expressed in the decisions of the Department of the Interior. Together, Chapters Four and Five provide valuable insight into Native American-United States relations in the self-determination era. The focus then turns to tribal-state relations in Chapter Six, and takes a less institutional view in Chapter Seven by looking at media data. The data sets are summarized and pieced together in Chapter Eight. The implications of this research for shadow federalism, regime theory, and political science will be considered at that point.

CHAPTER FOUR: THE ROLE OF THE DEPARTMENT OF THE INTERIOR

One of the most likely places to look for changes in relationships among the United States, Native Americans, and other actors in this policy arena is in the annals of the Department of the Interior (DOI). The DOI has provided a fairly consistent record of interactions among these actors in its published administrative appeals decisions, which are the subject of this chapter.

The Department of the Interior (DOI) has been central to the imposed regime that surrounds United States policy involving Native American lands and resources. It holds a sweeping Congressional mandate over Native American lands within the boundaries of the United States: a mandate of plenary, or absolute power over all aspects of Native American lives, as discussed in Chapter Three (Barsh and Henderson, 1980, 209-216; Wilkins, 1997, 24-27). This mandate is not uniformly accepted. It is, therefore, not surprising that the DOI's role has been a consistent source of controversy since Congress made the Bureau of Indian Affairs (BIA) part of the DOI in 1849 (O'Brien 1989; Nelson and Sheley in Deloria 1985; Cahn 1969, Part 3; Darlin 1997).

This controversy often leads to formal adversary proceedings that are handled within the DOI. This chapter considers the patterns of interactions and outcomes in DOI administrative appeals cases, the highest level of adversary proceedings handled within the Department. Specifically, DOI appeals are analyzed for information on the participants in this legal arena, their

relationships, the resources at stake, and case outcomes. Cases from 1970-1974, 1980-1984, and 1990-1994 are examined to allow conclusions about changes over time.

If the imposed regime weakened during this time period, this analysis will show:

- * improving case outcomes for Native American actors, including control of more land and resources;
- * increased direct involvement in appeals cases by native actors, rather than indirect involvement through representation by the BIA as trustee;
- * decreased involvement by the Bureau of Indian Affairs and other United States government actors; and
- * a lower rate of successful case outcome for United States government actors when they are pitted against native actors.

Changes in the level of conflict and/or cooperation between native and non-native actors might also signal changes in the imposed regime, but these variables are a bit more complex. If the imposed regime remains in place, the level of cooperation could be expected to stay the same or rise over the study period. If the imposed regime has ended, a general rise in conflict and drop in cooperation would be expected. If the imposed regime has ended and a new regime has developed, there would probably be a period of increased conflict among native and non-native actors, but this would be followed by increased cooperation and decreased conflict. As these two variables may move either in concert or independently, other scenarios are also possible.

The role of the Department of the Interior and its Office of Hearings and Appeals must be understood in some detail before the data itself can be considered. As in other areas of United States-Native American relations, an understanding of the history of the situation is critical to understanding the modern situation.

The Department of the Interior's Role in Indian Resource Policy

The role of the DOI as it relates to Indian resources is of central importance in this chapter. In recent years in Indian country, there has been a continuum of thought that ranges from partial to complete rejection of a DOI role. United States actors have also periodically rejected the DOI's mandate, most notably during the termination period and most recently in the pronouncements of politicians and others who suggest a modern form of termination (O'Brien 1989; Nelson and Sheley 1985; Cahn 1969; Churchill 1992c; Rooks 1998; Darlin 1997). As suggested in Chapter Three, conflict surrounding the DOI role has been fueled by inconsistency in United States policy over time.

As discussed earlier, the original United States policy toward Native American nations was to negotiate international treaties that would define and protect the new nation's territorial claims. In the early 1800s, this policy ran parallel to the policies of removing Native Americans from the eastern United States and exterminating those in the West. To the latter end, the Indian Office was formed in 1824 within the Department of War (Churchill 1993, 38-47; O'Brien 1989, Ch. 4; Mahooty 1998).

The Department of the Interior was formed twenty-one years later, and the Indian Office found a new bureaucratic home within the DOI in 1849. Originally a hodge podge of agencies, the Department's focus became the management of land, primarily the public lands that had been carved out in the western half of the continent when Native Americans were dislocated or defeated (Switzer 1994, 52; Mahooty 1998; Churchill 1995, 27-31).

After its transfer from the Department of War, the Indian Office and its successor BIA were charged with protecting Native Americans under the trust doctrine. The BIA was given broad responsibility for and plenary power over Native American lives and lands (Deloria 1985, 247-249; Cahn 1970, 112-132; O'Brien 1989, 259-267; Wilkins 1997). Under modern United States law, the Secretary of the Interior has final authority over all contracts and leases involving Native American lands, in the same manner as on the federal public lands of other DOI agencies. The latter include the Bureau of Land Management, National Park Service, and Fish and Wildlife Service, and administer twenty-eight percent of the United States' total land mass (Rosenbaum 1995, 108-109, 119).

In the language of federal law involving Native Americans, then, one of the issues considered here is whether the United States still exercises plenary power over Indian lands, and specifically, whether the DOI appeals process is one instrument that continues the exercise of such power. Some might argue that, even if plenary power is being exercised within an imposed regime, the BIA is actually acting in the best interests of Native Americans under the trust doctrine (O'Brien 1989, 259-267). This raises questions about how to handle the DOI appeals data. Should

the BIA's interests and those of Native Americans be conflated because the agency is acting as a trustee in the best interests of native nations? Or should native and agency interests be treated separately?

To put this discussion in context, an understanding of the history of relations between the DOI and Native Americans as it relates to the concept of BIA guardianship is important. As discussed above, from the beginning, the DOI's mission has focused on public lands and resource management. As an agency, it quickly developed an internal conflict of interest between its obligation to protect native interests and its policy of promoting the sale of native resources to non-native interests (Kickingbird & Ducheneaux 1973; Cahn 1970, 156-162; Barsh 1992, 216-218; Marsh 1997, 796-797).

This conflict of interest has existed for 150 years, but it intensified in the 1970s, when the energy crisis put additional pressure on the DOI to extract resources, making the agency part of what Ambler (1990, 68) called "[t]he federal government's blind boosterism of energy development." Reservations, which included one-third of the known coal reserves west of the Mississippi and large deposits of oil and uranium, became an important source of the raw materials necessary to President Carter's policy of energy independence. Not only were the minerals there, but tribal governments lacked political clout and environmental regulations (Ambler 1990, Ch. 1; Barsh 1992; Churchill 1995, 181-185).

The DOI approved a number of contracts for the extraction of the rich mineral, forest, and water resources on reservations and other native-controlled lands that were clearly not in Native

Americans' best interests. These contracts were often long-term and covered huge acreages, which prevented adjustments as market prices or land use plans changed (Ambler 1990; McCool 1987). For many native nations, the outcome was the loss of resources at prices well below their market value. One of the best known examples was the BIA's sale of enormous coal deposits under the Northern Cheyenne Reservation in the late 1960s. The purchaser was Peabody Coal Company, the sole bidder, which spent twelve cents an acre at a time when similar coal deposits were priced at sixteen to one hundred dollars an acre (Ambler 1990, 63).

Conflict of interest also arises in the context of water policy. Here the conflict is often between the BIA and other DOI agencies, particularly those administering public lands adjacent to Indian country. Pevar's research (1992, 222) on this issue concluded, "Frequently, government agencies, when faced with scarce water resources, ignore Indian water rights in favor of other interests."

In addition to the intra-Departmental conflict of interest, conflicts developed between the DOI and other federal interests. As Marsh (1997, 795) put it, "It is the public, or national, interest in the orderly and efficient development of mineral resources, maximizing overall recovery, and promoting a profitable industry in order to sustain development that weighs against the interests of the Indians." President Nixon (1970) called this conflict between federal agencies' goal of maintenance of the national public interest and its role as trustee for the interests of the continent's indigenous nations "an inherent conflict of interest."

An economic analysis by Barsh (1992) indicated that, in this conflict, national interests have been favored, as the resources the BIA controls have been used by the federal government as a buffer during recessionary periods. In the 1800s, he said, the primary resource was land, while in the twentieth century the focus has been on materials that are essential to industry. The DOI treated reservation resources, particularly oil, coal, water, and timber, like resources on federal public lands and released them onto the marketplace to maintain economic growth. Barsh observed, "The regulations applicable to Indian lands were more 'flexible' than those which govern public lands, according the secretary [of the Interior] greater discretion and the option to waive any requirements" (Barsh 1992, 217; citation omitted).

This intra- and inter-Department conflict of interest and the related alienation of native lands and resources under the United States' trust protection has continued through several policy periods in the late 1800s and the majority of the twentieth century. Wilkins (1998c, 15A) was not the first to observe, "One might even say that the one thing tribes can 'trust' is that the U.S. will find some way to abridge their rights." He echoes Red Cloud, a prominent Lakota (Sioux) leader of the last century, who summed up his experience with non-Indians and their governments thus: "They made us many promises, more than I can remember . . . They never kept but one: They promised to take our land, and they took it!" (Utter 1992, 8).

This Native American mistrust of United States institutions has often been focused not on the DOI, but on the BIA, the agency directly responsible for implementing the trust relationship.

Since its founding, the BIA has been roundly and consistently criticized for its failure to protect Native American interests. The criticism has come from the "left" and from the "right," from Congress, states, interest groups, the general public and, most consistently, from the people whose interests the agency is supposed to guard (Cahn 1969; McCool 1987, 146-156; Nelson and Sheley 1985, 178-179; U.S. Congress, Senate, Select Committee 1989; Satchell 1994; Porterfield 1997, 1997-1998; Rooks 1998; Darlin 1997). Historical criticism from Indians included an 1891 statement about the events that led to the Wounded Knee Massacre, also by Red Cloud, who bluntly said, "The Indian Department has almost destroyed us. Save us from it." More recently, in 1972, a group of Native Americans took over the BIA building in Washington, D.C., calling for the Bureau's abolition, among other things (Rawls 1996, 124-129; Weyler 1992, Ch. 2; Deloria 1974; Trail of Broken Treaties 1973). This is not generally a sign of constituency faith in an agency.

Many non-Indians also look at the BIA with a jaundiced eye. Cahn's volume (1969), *Our Brother's Keeper*, provided a scathing analysis of the agency at the dawn of the self-determination era, and the BIA is still widely viewed as less than competent. It earned the title of "the worst federal agency" in a *U.S. News and World Report* article (Satchell 1994), and was characterized by McCool (1987, 146-156) as a powerless agency with low employee morale and a poor image that is organizationally unstable, lacks expertise, and acts in a self-serving manner rather than as a trustee. A recent article in *Forbes* correlated the BIA's failures

with the worldwide failure of socialism and compared the agency-Indian relationship to an abusive spousal relationship (Darlin 1998, 100).

This inflammatory language is paralleled by the agency's obvious lack of success in its central mission. This is heralded by observations such as Rawls' (1996) that "In spite of decades of federal programs designed to eradicate poverty from the nation's reservations and urban slums, Indians continued throughout the twentieth century to be the most disadvantaged group of Americans" (77). The Executive Summary of a report by the Senate Select Committee on Indian Affairs (1989, 10) put it in administrative terms, observing:

BIA's mismanagement is manifest in almost every area the Committee examined . . . the Committee found a pattern of callously ignoring known problems, defending and promoting incompetent staff, and ostracizing the few capable employees who dared to speak out against the institutional incompetence that surrounded them.

In addition to questions of competence and motivation, the BIA has always been scandal-ridden, beginning with the theft of food and other items that were supposed to have been provided to Indians on the early reservations (O'Brien 1989, 76; Mails 1979, 30; Moquin 1973, Part Two; Rural Sociological Society 1993, 186). The most recent major scandal has involved the BIA's inability to account for \$3.2 billion of the \$4.4 billion in Native American assets that it holds in trust (Satchell 1994). Johansen (1999, 1) summarized the situation: "Not even George Orwell, in his imaginary world where the names of government agencies described the opposite of their intentions, can top the word-play at the

Bureau of Indian Affairs. Try this one on Big Brother: 'trust,' as in 'trust responsibility'"

Under these conditions, it is difficult to say that an actual BIA-Native American trust relationship exists. Accordingly, this research proceeds with the assumption that BIA interests and Native American interests are not equivalent. But it is these types of issues, the results of intra-agency conflicts of interest and of the breakdown of the trust relationship, that are the source of many of the administrative appeals that are the subject of this chapter.

The period covered by this data includes the first twenty-five years of the self-determination era in United States policy toward Native Americans. Recall that the coming of self-determination was supposed to bring increased tribal government power and to remove the Bureau of Indian Affairs from its position of control over Native American lives and lands. This chapter focuses on legal cases that go to the heart of this policy and its outcomes, as the BIA and Native Americans are often directly involved in the appeals. The task is still the same: to identify precisely what change, if any, has occurred in the imposed regime during the self-determination era.

The DOI Appeals Process

This research uses analysis of legal decisions to identify patterns of stability and change in the nature and outcome of Department of the Interior administrative appeals. Identifying patterns of interaction and power sharing is particularly

important in a policy arena whose complexity and wide geographic spread resist easy generalization. But before discussing methodology, there is a need to explain the DOI appeals process and some of the actors in that process in more detail.

In this and following chapters, the term "tribal government" is used to include Alaska native corporations and other government bodies that may have traditional Native American aspects, but whose most prominent task is the maintenance of relationships with the United States (Lacy and O'Brien 1985; Churchill 1993, 145-150; Biolsi 1992; Skinner 1997, Ch. 6). As explained in Chapter Two, the term "traditional government" designates bodies with governing responsibilities that follow pre-European patterns of organization and may have little or no contact with the United States (Meredith 1993; O'Brien 1989). Other actors in DOI appeals include individuals, non-governmental groups, resource-extraction companies, and local, state, and federal governmental units. Any of these actors may begin the appeal process.

DOI appeals result from dissatisfaction with the decisions made by Department officials, usually those of the Bureau of Land Management (BLM) or the BIA in the cases studied here. The appeals are handled in the Office of Hearings and Appeals (OHA), which was created by Secretary Hickel in 1970 to consolidate the Department's hearings and appeals. The appeals studied here are handled by boards of administrative judges and have already been heard by an administrative law judge (U.S. Department of the Interior, Office of Hearings and Appeals 1998; Walsh 1998a).

Board decisions can, in turn, be appealed to federal district courts. While it is rare for cases in the lower forty-eight

states to be appealed further, at least fifty percent of Alaskan cases go into the federal courts. This is partly because attorneys are provided without cost to Alaska natives in these cases. According to OHA staff, when cases in the lower forty-eight states are appealed, they usually are mineral cases that "involve the really big companies, who will fight tooth and nail to the bitter end" (Walsh, 1998b). In federal courts, the DOI's decisions are affirmed eighty to eighty-five percent of the time (Walsh 1998b). So the decisions reviewed by this research can be considered the final outcomes of the United States legal system in nearly all cases in the lower forty-eight states and in approximately ninety percent of Alaskan cases.

The decisions studied here were generally made by one of three boards. The Interior Board of Indian Appeals primarily hears probate cases and cases arising from BIA decisions. The Interior Board of Land Appeals focuses on cases involving public lands and mineral resources (U.S. Department of the Interior, Office of Hearings and Appeals 1998). The Alaska Native Claims Appeals Board was created to handle cases arising after the passage of the 1971 Alaska Native Land Claims Settlement Act. It was discontinued in 1981 (Kirton 1998).

In addition to changes in the Boards, there were administrative changes in the OHA during the study period. Several of these changes combined to make determining the outcome of cases particularly difficult in the 1990s. First, beginning in the mid-1980s, fewer full decisions were published. This, according to agency personnel, was a result of policy changes. The OHA's Director felt that the decisions and index headnotes

were repetitive, so there was a move toward issuing fewer full opinions and more summary dispositions. The latter only involved issuing orders, which were quicker to handle and generated brief written results, while full opinions may run twenty pages or more (Kesterson 1997; Walsh 1997). One outcome of this change can be seen in the number of full opinions available. In 1974, full opinions were printed for at least sixty-two cases involving Native American land and resources, but in 1994 only two were printed (U.S. Department of the Interior 1975, 1995).

Second, OHA personnel became overwhelmed by additions to their workload in the 1980s. Two boards, the one mentioned above that handled Alaska Native Claims and one that handled cases under the Surface Mining and Reclamation Act, were abolished. This led to slower handling of cases and serious backlogs. The general impetus toward providing less information on case results was then reinforced by the OHA's loss of two personnel who had written for the index of appeals decisions (Walsh 1997).

The result of these changes was that determining the actors, relationships, and outcomes for 1990s cases was substantially more difficult than gathering data for 1970s cases. The impacts of this change will be discussed further below.

The outcomes of DOI appeals are handled similarly to other court decisions in the United States. DOI personnel summarize the case findings in headnotes that indicate the legal results of the appeal. These headnotes are indexed and printed by the Department, and only the opinions deemed more important are reprinted in full (Kesterson 1997).

In this research, all appeals involving control of Native American land and/or resources were identified for the studied years, and index headnotes were analyzed. Where available, the full opinions were also consulted. One of the things that is clear from perusal of the DOI's index is that decisions involving Indian lands arise under and are based upon a number of different areas of law. These include probate, legal procedure, the rules of evidence, parental rights, contract law, and a variety of specific statutes. This indicates the pervasiveness of the DOI in Indian lives and the importance of studying its decisions to gaining a full understanding of relationships in this policy arena (U.S. Department of the Interior 1975, 1985, 1995).

Methodology

Analysis was done of headnotes and, where available, of full opinions resulting from DOI administrative appeals from the periods 1970-1974, 1980-1984, and 1990-1994. These years were chosen because they provided adequate data for the comparison of three time periods of equal length and covered the first twenty-five years of the self-determination era. The analysis identified the year of the decision, the governmental and non-governmental actors involved in a case, the resources at stake, the nature of relationships among actors, the legal basis for issues raised in the case, and the outcomes for various actors.³

Several aspects of this process are important to understanding the data. For example, the resources at stake are categorized in the same manner as in other chapters.⁴ More than

one resource may be at stake in a case and, where resources are clearly land-based, the land itself is listed as one of the resources at issue.

Because it was usually impossible to determine the importance or amount of resources at stake, all cases were handled in an equivalent manner; a resource was either "at stake" or "not at stake." Often, it was not clear whether acreage was a small homesite or the location of valuable water rights, minerals, or timber. While this lack of specificity was annoying at times, it did not preclude drawing conclusions about trends in appeals case outcomes.³

A few examples of how the headnotes were handled will help to explain the analysis process. A typical entry noted the Board of Land Appeals' approval of a public easement across land that had been selected by a Native corporation in Alaska. The easement was "for recreation, hunting, transportation, utilities, docks, and such other public uses as the Planning Commission determines to be important" (U.S. Department of the Interior, 1985, 105). There was no indication of whether the easement was a short path leading to a public tract or a general easement for recreation and hunting on thousands of acres. However, it was clear that control of land passed from the Native corporation."

The outcomes of cases, if any, were recorded in a conservative manner. For Native American actors, "winning" was limited to gaining or maintaining physical control of land and/or resources. This meant, for example, that gaining the right to continue a case through further court action was not considered winning, as the outcome in terms of control of land or resources

was unclear. This categorization was in line with the focus on understanding power relationships by using the relatively quantifiable measure of control of land and resources.

For other actors, "winning" might include a more symbolic outcome. For example, Congress won when its laws were upheld, and an agency won when its decision was upheld or when it maintained control of land. For each case, an overall outcome for the federal government was also determined. For cases in which, for example, Congress won and an agency lost, the United States government outcome was coded as "unclear." Creation of this variable allowed a comparison of Native American and overall United States government outcomes.

The outcome for each actor was also recorded independent of the outcomes for other actors. For example, if both a tribal government and an individual member of that tribe were involved in a case, there was no assumption that what benefited the tribal government benefited the individual. For both states and the federal government, the executive branch was defined to include, respectively, only the Governor's office or the Presidency and was treated as separate from the bureaucratic agencies. This provided more information than conflating executive and agency interest. Due to the factors mentioned earlier, there was no assumption that a trust relationship existed or that the BIA was acting in the interests of Native American actors: both could win, both could lose, or the decision could split these interests, depending on the outcomes recorded in the headnotes.

Sometimes, the difference in BIA and native interests was obvious, as when a Native American individual sued the agency. An

example was *Clarence Runs After v. Aberdeen Area Director, Bureau of Indian Affairs, and Cheyenne River Sioux Tribe* (U.S. Department of the Interior 1985, 403, 404). In this case, a tribal government won collection of a debt secured by the individual's trust lands and their income, with the cooperation of the BIA. The decision was recorded as a loss for the Native American individual, a win for the tribal government (which won control over the individual's trust lands and the income from attached resources), and a win for the agency.

An example of a situation in which both the BIA and a Native American individual won was *State of Alaska v. Juneau Area Acting Director, Bureau of Indian Affairs, and Arctic John Etalook* (U.S. Department of the Interior 1985, 403). Here, a native individual was supported by the BIA in his attempt to cancel an agreement to use his land for a road and pipeline, because the agreement had been "procured by fraud." While both the native actor and the agency won in this case, their interests were treated separately in the analysis.

This analytical separation of the actors allowed more information to be gathered on the relationships among them and, therefore, provided more accurate information on outcomes in most cases. However, where different headnotes on the same decision appeared to provide conflicting outcomes, or where little information was provided, it was sometimes difficult to determine the outcome of a case. Having a legal background was very helpful but was sometimes not enough to determine the impact of a decision. In those cases, the outcome was coded as "unclear."

There was also often limited data about the actors in a case, and certain categories of relationships among them were emphasized. It was often only possible to determine the presence of some types of actors and the basic nature of an interaction. For example, one 1970 decision was recorded as:

When a decision of the Secretary of the Interior disapproving the will of a deceased Indian is challenged in the courts, and the final judgment directs that the will be approved, the Secretary will rescind his previous decision and approve the will (U.S. Department of the Interior 1971, 438, 488).

Without the additional information that this decision was found under the heading "Indian Lands," there would not even have been anything to indicate that land was involved. Here, the participants were recorded as the agency, federal courts, and individual Native American(s), with the relationships coded as verbal conflict between the agency and each of the other actors.

Interactions were identified between native and non-native actors, within or between native nations, between federal and state actors, and in "other" situations. Relationships were characterized as cooperation/agreement, discussion, verbal conflict, physical conflict, unspecified/unclear, or missing.⁴ In many cases, more than one type of interaction was present.

The resulting database used the DOI decision as the unit of analysis. The database was used to determine:

- (1) whether there were patterns in the activity levels of the various actors by resource, the natures of their relationships, locations, outcomes, or time periods;
- (2) whether different resources or actors were related to different outcomes or levels of conflict;

(3) what differences, if any, existed between native and non-native actors; and

(4) whether the variables included in this study could be used to explain the success of Native American actors, the success of United States government actors, the presence of cooperation in a case, the presence of conflict in a case, or the number of actors involved.

This analysis provides a good general picture of the role of Department of the Interior administrative appeals as one aspect of relationships in the Indian resource policy arena during the self-determination period, as well as providing specific information about the fate of the imposed regime.

Results

The DOI decided a total of 540 cases related to Native American natural resources during the years 1970-1974, 1980-1984, and 1990-1994. Of those cases, 238 involved land and resources within Alaska, and 302 involved issues within the forty-eight contiguous states. The total number of cases decided in a five-year period surged from fifty-eight in the early 1970s to 266 in the 1980s, primarily as a result of cases arising from the 1971 Alaska Native Claims Settlement Act.³ In the early 1990s, the number of cases dropped somewhat to 216, reflecting a drop in ANCSA cases and the DOI's decision to increase the use of summary dispositions, as discussed above.

United States legislation was cited as a basis for ninety-six percent of cases, as would be expected in a United States legal

forum. The next largest category was "other" legal bases (six percent), primarily contracts and executive orders.¹⁰ Treaties, tribal legislation, and federal court decisions were each cited in two percent of cases. State legislation was cited in one percent. State courts, county courts, and international laws other than treaties were not cited at all. These cases, then, generally interpreted federal legislation.

Actors Involved

Participation in DOI appeals varied somewhat by actor over time. Table 4.1 summarizes participation by actors who were involved in more than thirty cases.¹¹ The lower number in each cell indicates the participation of that type of actor as a percentage of the total cases from that time period. United States agencies (93%) and Congress (83%) were involved most often, followed by Native American individuals (58%) and tribal governments (45%). State actors, companies, and non-Indian individuals were somewhat less involved.

Over time, agencies became involved more frequently, while native individuals became less involved. Variation over time is quite apparent for the two agencies that participated most often, the BIA and the BLM. BIA involvement peaked at fifty-eight percent of cases in the 1990s, twenty-nine points above its involvement level in either previous decade. The irony was clear here, as self-determination was supposed to lead to less BIA involvement in tribal affairs over time.

Table 4.1. Participation by Various Actors by Decade for Actors Involved in More than Thirty Cases

(Regular Numbers = number of cases in that time period;
Bold Numbers = percent of total cases for that time period)

Actor	1970-74	1980-84	1990-94	TOTAL
Tribal Government	24 41	138 52	82 38	244 45
Indian Individual(s)	39 67	147 55	128 59	314 58
U.S. Agency	45 78	254 96	202 94	501 93
Bureau of Indian Aff.	17 29	54 20	126 58	197 37
Bureau of Land Mgt.	5 9	95 38	53 25	153 28
U.S. Congress	49 85	218 82	183 85	450 83
State Executive	1 2	46 17	20 9	67 12
State Agency	5 9	16 6	11 5	32 6
Company	7 12	32 12	48 22	87 16
Non-Indian Individual(s)	7 12	31 12	5 2	43 8
Other Actor	2 3	11 4	40 19	53 10
Total Number Of Cases	58	266	216	540

BLM involvement grew rapidly in the 1980s and shrank in the 1990s in concert with the number of Alaskan cases, which were much more likely to include the BLM due to its importance as a public lands agency in that state. State executive involvement followed

a similar pattern for similar reasons: the State of Alaska actively promoted its interests after ANCSA's passage and was involved more often in DOI appeals than other state governments. In Alaska, at least one branch of state government was involved in thirty-six percent of cases, while state government was directly involved in only ten percent of cases in the forty-eight states. The difference in level of state involvement was statistically significant at the 0.05 level.¹²

The mean number of actors per case was 3.5. Two actors were involved in 9.6 percent of cases, while forty-three percent involved three, and thirty-seven percent involved four.¹³ Most cases, then, involved more than two-way interaction, indicating complex interactions among the actors.

When the data were separated by location, fifty percent of Alaskan cases involved four or more actors, while only forty-three percent of cases in the lower forty-eight reached this level. The difference between the mean number of actors for the two locations was tested and found to be significant. The possible importance of this finding will be discussed below.

Resources Involved

Turning to the resources involved in DOI appeals, the findings were rather spotty, as many resources were mentioned in just a few cases. Only water contamination and supply, forestry, livestock grazing, non-energy mining, energy mining, and transportation were involved in thirty or more cases. The

umbrella category of land control and use was apparent in ninety-seven percent of cases.

A few resources were clearly more important in Alaska than within the forty-eight states. These included non-energy mining, energy production, recreation/tourism, and transportation/rights-of-way. Conflicts involving the latter most often pitted state officials against native corporations or individuals.¹⁴ Given the importance of tourism to Alaska's economy, it is not surprising that this would be a source of conflict between native Alaskans and other actors.

Resources that were notably more important in the forty-eight states were forestry, agriculture, grazing, and energy mining. While agriculture and grazing would be more obvious land uses in the lower forty-eight, the findings on forestry and energy mining were somewhat surprising, given those activities' importance in Alaska. The latter can be explained by the fact that some of the conflicts over oil and gas reserves appeared as right-of-way issues.¹⁵

The mean number of resources at stake per case was 1.7. About fifty-five percent of cases involved only one resource, while thirty-two percent involved two resources.¹⁶ The percentages were similar in Alaska and in the forty-eight states.

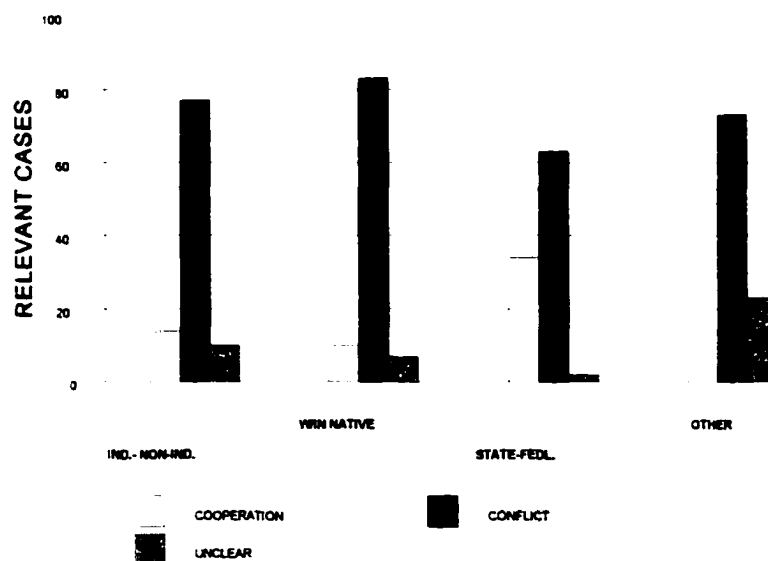
Interactions Among Actors

The next topic was the type of interaction among various kinds of actors. Most interactions between pairs of actors were characterized as "cooperation" or "verbal conflict," and the

number of relationships varied from one to five per case. Most cases included just one set of interactions (62%), but eight percent involved three or more sets of interactions. An example of three sets of interactions would be a case that involved:

- (1) conflict between a tribal government and a federal agency, and
- (2) conflict between a state and the tribal government, but
- (3) cooperation between the state and the agency.

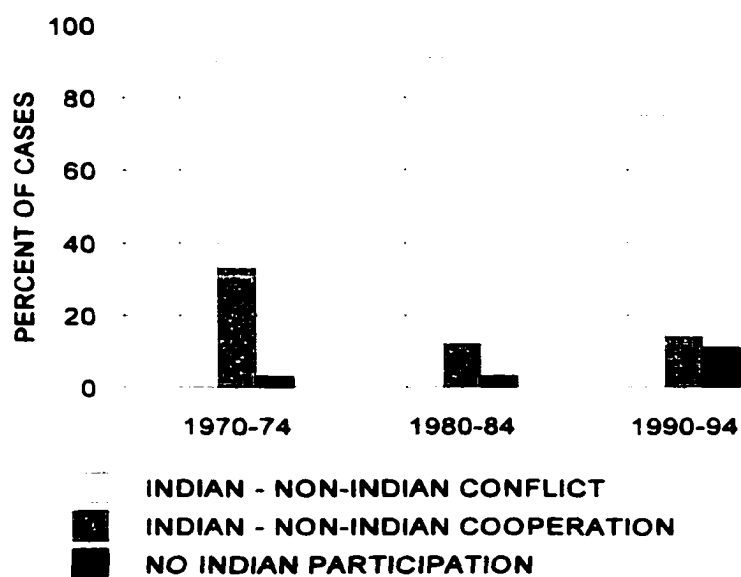
Table 4.2. Types of Interaction for Various Actors in Percent of Relevant Cases



As would be expected in legal cases, there was much more conflict than cooperation. Table 4.2 summarizes these results, showing the different forms of interaction as percentages of the number of cases in which a pair of actors was involved. While the

highest level of conflict was between native actors, only forty-two cases (8%) involved that type of interaction. In comparison, Indian - non-Indian interaction was present in 507 cases (94%). The highest level of cooperation occurred between states and the federal government, which interacted in seventeen percent of all cases.

Table 4.3. Indian - Non-Indian Actor Relationship Trends



One of the most informative outcomes of this data analysis involved trends in native - non-native relationships over time. Table 4.3 shows the percentage of cases involving Indian - non-Indian conflict and cooperation for the three decades, as well as the percentage of cases in which DOI records indicated no direct participation by Native Americans. The latter category included only those cases in which no native individual or tribal

government was listed in the decision. It was possible for cases involving Indian - non-Indian conflict to overlap with those involving cooperation.

As Table 4.3 indicates, from the 1970s to the 1980s, the level of cooperation between native and non-native actors dropped from thirty-three percent to twelve percent of the total cases. Then, from the 1980s to the 1990s, the level of conflict dropped from ninety-one percent to seventy-five percent of cases. This indicates disengagement between Native American and non-Indian actors over time. This interpretation is reinforced by the fact that the percentage of cases that did not directly involve native interests almost quadrupled from the 1980s to the 1990s.

Remembering that there is no assumption of a trust relationship between Native Americans and the BIA, and that the BIA's involvement in cases jumped by twenty-nine percentage points from the 1980s to the 1990s, this drop in Native American involvement also indicates that an increasing number of cases were essentially argued with Native Americans on the sidelines. From perusal of the decisions, these cases appear to have taken the form of conflict between the BIA and a company, between two companies, or between the BIA and another agency. Clearly, this outcome is not in line with self-determination policy, with its emphasis on Native American control of Native American lives and resources. On the contrary, it indicates less native control over resources and more BIA involvement in issues related to Native American lands, both of which provide evidence of the continuation and perhaps even the strengthening of the imposed regime.

Case Outcomes

Turning to the last variable, the outcomes of DOI cases, it is important to remember that complete information was not available for a number of cases. While there was a legal outcome in 530 cases (98%), a full eighteen percent had outcomes that were unclear on the crucial point of control over land and resources. These percentages were similar for Alaska and for the forty-eight states, but rose over time, from zero in the 1970s to twenty-three percent of cases in the 1990s. This change was probably a result of the changes in DOI administrative capability and policy during the study period, discussed above. The bottom line was that almost a fifth of cases were omitted from the analysis of outcomes.

There were notable differences in the levels at which various types of actors were involved in cases with clear outcomes. When only cases with clear outcomes were considered, United States agencies were the actors most likely to be involved (92%), as could be expected for an appeals process that was designed to settle agency matters. Tribal governments were involved in forty-four percent of the cases with clear outcomes, while Indian individuals were involved in sixty percent.

Where the outcome was clear, the federal government (73%), and particularly Congress (83%), was most likely to win. This held steady throughout the study period. Tribal governments won in twenty-four percent of cases, while Indian individuals won in nineteen percent.¹⁷

Outcomes were then calculated for cases involving various resources. Only resources at stake in more than thirty cases were included, and the small number of cases for most resources precluded hard and fast conclusions.¹⁵ Still, it appeared that decisions involving water, forestry, grazing, non-energy mining, and transportation followed the general pattern of United States government success.¹⁶ Non-Indian individuals were more successful than Native American individuals in all areas but forestry, although Indian individuals were involved in more cases.¹⁷

States were less successful in asserting themselves in water cases than the federal government. Federal agencies won seventy-nine percent of the twenty-four cases in which they were involved, and Congress won all of the twenty-two cases in which it was an actor. State legislatures did as well as Congress in the two cases in which they were involved, but state executive branches only won forty-three percent of the seven cases in which they were involved and which had clear outcomes. When tribal governments were involved in a case, they were most likely to gain or retain control of forest resources (89%) and least likely to gain or retain control of water (45%).

This preliminary consideration of the data provided some interesting information about Department of the Interior appeals over the twenty-five year period. It indicated that the actors involved, the basic types of interactions, and the likelihood of various types of actors winning a case have been fairly consistent during the self-determination era. However, there have been changes in the involvement levels of various actors, and there are some differences between DOI appeals in Alaska and in the forty-

eight contiguous states. To get additional information, the data were then analyzed using statistical methods.

Analysis

Analysis included calculation of Pearson correlation coefficients and the use of multiple regression, discriminant analysis, and contingency tables to uncover relationships among the variables. To begin this analysis, the data were combined to form two new variables designed to provide an overall picture of the success of Indian and non-Indian actors in DOI cases.

"Indwin" was the level at which native actors won in a case. One hundred eighty-two cases (33%) included a winning outcome for either a tribal government or native individual(s). In ninety-seven percent of those cases, only one of the Native American actors gained or maintained control of land and/or resources, while the remaining six cases led to a winning outcome for both tribal government and Native American individual(s).

"Uswin" was the level at which United States government actors won in a case. Four hundred three cases (75%) included a winning outcome for either Congress or a federal agency. In forty percent of those cases, only one of these actors won, while in the remaining sixty percent, both Congress and an agency won.

Pearson's correlation coefficients were then determined for a number of variables in order to try to explain differing outcomes and relationships for various actors over time. These operations were done for all cases, and they were also done separately for Alaskan and non-Alaskan cases.²² As in the rest of this research,

correlations below the 0.30 level were designated "weak," while those from 0.31 through 0.69 were considered "moderate," and those of 0.70 and above were considered "strong." Only correlations above the 0.30 level are discussed in this chapter.

When all DOI decisions were considered, two moderate correlations existed. The first was between the number of resources under conflict and the presence of positive outcomes for Native American actors (0.43). The second was between the number of relationships among pairs of actors in the case and the presence of positive outcomes for United States actors (0.47). The first of these correlations indicated that increased Native American success was associated with a higher number of resources being at stake. The second indicated that federal government success was associated with a more complex set of relationships among those involved in a case.

However, an even stronger correlation existed between the number of relationships among pairs of actors in a case and positive outcomes for Native American actors (0.81). So more interactions among actors was strongly correlated to a higher likelihood that Native Americans would gain or retain control of land. A possible explanation for this finding would be that high-interaction cases were more likely to receive greater attention, especially given the high level of conflict. This could bring cases out of the shadow surrounding Native American issues and might promote outcomes more favorable to Indian actors.

However, this is not simply a Schattschneiderian (1960) widening of conflict. For all cases, a simple widening of the conflict to include additional actors was not associated with

either Native American or United States success. It is important to remember that the variable, "number of relationships," is not a measure of the number of actors present, but of the number of relationships among pairs of actors; it indicates complexity of interactions among those involved in an appeal. For example, in a case involving a state executive, a federal agency, and a tribal government, there would be lower interaction if the state opposed the agency and the tribe, but the latter two were involved on different issues and were neither in conflict nor worked together. For the same actors, there would be higher interaction if each actor opposed the other two actors, or if two actors worked together to oppose the third.

Cases in the contiguous forty-eight states followed a similar pattern. So did Alaskan cases, but all three correlations were stronger in the latter cases. The correlation between the number of resources at stake and native success jumped the most, to 0.94. This indicates that, for Alaskan natives during the study period, there was a lot at stake, which encouraged a high level of involvement in DOI cases, and perhaps a better chance of retaining land and resources.

Overall, the correlation results suggest that, while more complex interactions may be related to United States government success, they are more strongly related to Native American success. Additionally, tribal governments and indigenous individuals have more likelihood of success when more is at stake. Correlation, of course, does not indicate causal direction, and there are a number of possible reasons for these outcomes.

Further statistical work was done to identify possible

explanations. As the first step in this process, multiple regression was used to analyze five dependent variables: the success of Native American actors, the success of United States government actors, the presence of cooperation, the presence of conflict, and the number of actors involved in a case. Regression results were developed for Alaskan cases, forty-eight-state cases, and all cases.

For regression and discriminant analysis, additional variables were calculated:

- (1) Year, with "1" representing cases from the 1970s, "2" the 1980s, and "3" the 1990s;
- (2) Coop (level of cooperation), indicating the number of cooperative relationships present in a case;
- (3) Conflict (level of conflict), indicating the number of conflictual relationships present in a case;
- (4) NNCoop, indicating the presence and level of native - non-native cooperation; and
- (5) NNConf, indicating the presence and level of native - non-native conflict.

Discriminant analysis and a contingency table were also used to explain the difference between the cases in which Native American actors gained or maintained control over land and resources and the cases in which they did not.²²

Success of Native American Actors

It was hypothesized that variables such as level of conflict, level of cooperation, number of resources at stake, state involvement, and agency involvement would impact the success of

Native Americans in gaining or maintaining control over land and resources. However, when the success of Native American actors ("Indwin") was used as the dependent variable, no model reached an adjusted R square over 0.05.²³ While the results were statistically significant, in real terms these variables explained so little of the variance that they did not help define when native actors won control of land and/or resources.

A less rigorous method, discriminant analysis, was then used to identify variables that could help predict whether a case would be successful for Indian actors. Discriminant analysis is appropriate for determining whether one can statistically distinguish between two mutually exclusive groups, as well as for identifying any key differentiating variables (Norusis 1990, 73). Here, the two groups were "cases in which at least one Native American actor won" and "cases in which no Native American actor won." The possible differentiating variables considered were number of actors, BIA involvement, BLM involvement, location (Alaska or forty-eight states), presence of conflict between native and non-native actor(s), presence of cooperation between native and non-native actor(s), number of resources, and year.

The results of this analysis indicated that cases in which Native American actors gained or maintained control of land or resources were significantly different from cases in which they did not. By far the most important variable was the presence of native - non-native cooperation, with a standardized canonical discriminant coefficient of 0.86. The discriminant coefficients for BIA presence and number of resources were 0.44 and 0.24, respectively.

This indicates that the difference between a successful outcome and an unsuccessful outcome for Native American actors can be predicted fairly effectively based on whether there is any cooperation between native and non-native actors. However, cooperation is not a reliable predictor of outcomes, because discriminant analysis does not indicate direction; it cannot be used to predict whether native interests will win or lose when they cooperate with non-Indian actors, only that cooperation is important. Similarly, it does not indicate whether the involvement of the BIA helped or hurt Indian interests.

To get at these questions, a contingency table was created, based on the observation that outcomes for native actors appeared to vary by whether they were allied with an agency actor. This goes to the heart of the trust relationship. The variables considered were the presence or absence of Native American success and the presence or absence of success by at least one United States government agency. The Phi coefficient for this table was -0.29, showing a weak inverse relationship between the variables. Thus, success by an agency was negatively related to success by a Native American actor, indicating these two types of actors were not consistently working in the same direction.

The hypothesized importance of most variables did not materialize. However, the presence of cooperation between native and non-native actors proved to be important. When that cooperation involved a federal agency and Native American actors, there was some evidence that the latter actors fared poorly in DOI cases.

Success of United States Actors

The second dependent variable considered was the success of United States government actors ("Uswin"). It was hypothesized that the number of actors and/or resources involved in a case, the levels of cooperation and/or conflict, and the passage of time would impact the success of federal government actors in DOI cases.

Table 4.4. Multiple Regression Results: Success of U.S. Actors

Equation Number 1: Dependent Variable: USWIN u.s. wins
Block Number 1. Method: Enter RESOURCE YEAR ACTOR COOP CONFLICT

Variable(s) Entered on Step Number

1. CONFLICT number of conflictual relationships
2. RESOURCE number of resources involved
3. COOP number of cooperative relationships
4. YEAR year of case
5. ACTOR number of actors involved

Multiple R .31002
R Square .09611
Adjusted R Square .08555
Standard Error .59992

Analysis of Variance

	DF	Sum of Squares	Mean Square
Regression	5	16.37871	3.27574
Residual	428	154.03834	.35990

F = 9.10175 Signif F = .0000

----- Variables in the Equation -----

Variable	B	SE B	Beta	T	Sig T
RESOURCE	.077197	.030165	.120590	2.559	.0108
YEAR	-.008873	.044049	-.009506	-.201	.8405
ACTOR	.210968	.036821	.300822	5.730	.0000
COOP	-.083967	.068312	-.060377	-1.229	.2197
CONFLICT	-.113042	.059303	-.093648	-1.906	.0573
(Constant)	.792229	.161470		4.906	.0000

For this variable, regression analysis provided a bit more information. When all cases were considered, an adjusted R^2 of 0.09 was obtained in a model that included number of resources involved, number of actors involved, level of conflict, level of cooperation, and year. Two independent variables were significant at the 0.05 level: number of actors with a standardized regression coefficient (beta) of 0.30 and number of resources with 0.12 (see Table 4.4). This indicated that, while other variables were quite important to explaining when federal government actors won, the involvement of more actors in a case and the presence of more resources did have some role.

The results were quite similar for the forty-eight states. For Alaskan cases, regression did not help explain successful outcomes for either native actors or United States government actors. This indicates that variables other than the ones considered here are at work in those cases.

Number of Cooperative Relationships

The third dependent variable was the number of cooperative relationships between actors. This variable was hypothesized to be impacted by the number of actors and/or resources involved in a case and, knowing the drop in cooperation between native and non-native actors, by the passage of time.

In the forty-eight states, the model using number of actors, number of resources, and year as independent variables had an adjusted R^2 of 0.15 (See Table 4.5). Two variables were significant, year and number of actors. The beta value for number of actors was 0.37, while for year it was -0.18. This indicated

Table 4.5. Multiple Regression Results: Number of Cooperative Relationships

Equation Number 1: Dependent Variable: COOP number of cooperative relationships

Block Number 1. Method: Enter RESOURCE YEAR ACTOR

Variable(s) Entered on Step Number

1. ACTOR number of actors involved
2. RESOURCE number of resources involved
3. YEAR year of case

Multiple R .39357
R Square .15490
Adjusted R Square .14639
Standard Error .43215

Analysis of Variance

	DF	Sum of Squares	Mean Square
Regression	3	10.20064	3.40021
Residual	298	55.65366	.18676

F = 18.20660 Signif F = .0000

----- Variables in the Equation -----

Variable	B	SE B	Beta	T	Sig T
RESOURCE	.013801	.025770	.029269	.536	.5927
YEAR	-.109936	.034397	-.175558	-3.196	.0015
ACTOR	.176944	.025880	.371055	6.837	.0000
(Constant)	-.118273	.120563		-.981	.3274

that an increase in the number of actors meant a moderate possibility that a higher number of cooperative relationships would be present, as would be expected. It also indicated that as time passed, cooperation was less likely, confirming these findings on a more rigorous level. Similar, but somewhat weaker results were present for all cases.

Number of Conflictual Relationships

The fourth dependent variable was the number of conflictual relationships. At least two independent variables, the number of

actors and the year, were hypothesized to be important for this variable, as they were for the number of cooperative relationships. Additionally, it was hypothesized that the level of conflict would be impacted by the number of resources at stake and by the success of Native American actors.

For this variable, the results for Alaska were similar to those for all cases. The results had similar strength as the

Table 4.6. Multiple Regression Results: Number of Conflictual Relationships: Forty-eight States

Equation Number 1: Dependent Variable: CONFLICT number of conflictual relationships

Block Number 1. Method: Enter INDWIN RESOURCE YEAR ACTOR

Variable(s) Entered on Step Number

1. ACTOR number of actors involved
2. INDWIN indians win
3. YEAR year of case
4. RESOURCE number of resources involved

Multiple R .52571
R Square .27638
Adjusted R Square .24654
Standard Error .53715

Analysis of Variance

	DF	Sum of Squares	Mean Square
Regression	4	10.68922	2.67230
Residual	97	27.98725	.28853

F = 9.26184 Signif F = .0000

----- Variables in the Equation -----

Variable	B	SE B	Beta	T	Sig T
INDWIN	-.269210	.280334	-.084861	-.960	.3393
RESOURCE	-.187909	.088080	-.199192	-2.133	.0354
YEAR	-.181661	.069770	-.230313	-2.604	.0107
ACTOR	.391184	.066419	.559978	5.890	.0000
(Constant)	.776476	.386459		2.009	.0473

findings for the number of cooperative relationships.³⁴ For cases in the forty-eight states, the model was strongest, with an adjusted R^2 of 0.25 (see Table 4.6). Year, number of resources, and number of actors were significant. Again, the number of actors explained a good portion of the variation (0.56), while the passage of time (-0.23) and the number of resources (-0.20) were weakly negatively related to the presence of conflict.

As hypothesized, these results were similar to the model explaining the presence of cooperation among actors, although somewhat stronger. The negative relationships between the passage of time and both conflict and cooperation reinforced earlier observations that the levels of both dropped during the self-determination era. And, again, it was not surprising that the presence of more actors would open the door to more conflict, as well as to more cooperation. In the forty-eight states, the fewer resources there were at stake, the higher the level of conflict, indicating more focused struggles than in Alaska, perhaps over a few highly-prized resources.

Number of Actors Involved in Case

The last dependent variable considered was the number of actors involved in a case. Models for this variable generally contained the highest explanatory values among the regression operations.

It was hypothesized that the number of actors involved in a case would be impacted by the level of conflict, amount of Native American success, number of resources at stake, and passage of

Table 4.7. Multiple Regression Results: Number of Actors: Forty-eight States

Equation Number 1: Dependent Variable: ACTOR number of actors involved
Block Number 1. Method: Enter INDWIN RESOURCE YEAR CONFLICT

Variable(s) Entered on Step Number

1. CONFLICT number of conflictual relationships
2. RESOURCE number of resources involved
3. INDWIN indians win
4. YEAR year of case

Multiple R .62621
R Square .39213
Adjusted R Square .36707
Standard Error .70474

Analysis of Variance

	DF	Sum of Squares	Mean Square
Regression	4	31.07859	7.76965
Residual	97	48.17631	.49666

F = 15.64370 Signif F = .0000

----- Variables in the Equation -----

Variable	B	SE B	Beta	T	Sig T
INDWIN	.691823	.362807	.152344	1.907	.0595
RESOURCE	.489559	.107287	.362527	4.563	.0000
YEAR	.267434	.090707	.236855	2.948	.0040
CONFLICT	.673371	.114331	.470397	5.890	.0000
(Constant)	.694682	.512652		1.355	.1785

time.⁵ The highest R^2 values of any models developed were the result of trying to explain the number of actors present in cases in the forty-eight states (see Table 4.7). This model had an adjusted R^2 of 0.37, and all the independent variables except "Indwin" reached significance. The beta values for level of conflict (0.47) and number of resources (0.36) were in the moderate range, and the beta value for year (0.24) was in the weak range. This indicated that both the level of conflict and the number of resources at stake were fairly good indicators of how many actors would become involved in a case. The passage of time

had less of an impact. While this finding alone is too weak to be a clear indication of regime change, any finding of change over time must be kept in mind during consideration of the overall findings.

While this analysis is fairly extensive, there is not a lot of internal inconsistency among the findings. Rather, most outcomes point in similar directions, indicating that the DOI appeals arena, like the larger Native American-United States policy arena, is complex, dynamic, and laden with conflict.

Discussion

As stated at the outset, The Department of the Interior's appeals process is only one arena in which actors interact around land and resource issues. Yet this process does provide important information on relations between the United States and native nations during the self-determination period. DOI appeals decisions are the result of issues that have already been the subject of several levels of legal activity, indicating their importance to the actors involved. They are the last word from the agency that oversees all aspects of Native American lands and resources and usually the last word from the United States legal system.

Unfortunately for native participants in DOI forums, one clear finding is that both tribal governments and Indian individuals fare poorly in the agency appeals process. This has remained fairly constant over the last twenty-five years. Cooperation with other actors generally did not benefit Native

American actors, even cooperation with United States government actors in a United States government forum.

While the role of case precedents was not studied here, it can be assumed that a process that puts weight on the outcomes of past decisions would encourage these consistent results. It is also not surprising that forums created by the United States government to determine and enforce United States laws would work to the detriment of other parties. Although case outcomes for later years are less likely to be clear, it may be that lower Native American involvement in DOI cases over time is partly due to an awareness of these poor outcomes. Before the self-determination era was well underway, attorneys who dealt with Indian law and other policy actors began to recommend negotiation and political action, rather than legal forums, to resolve conflicts over land and resources (Wilkinson 1993; Ellison 1994).¹² At the highest United States level, Supreme Court cases were often favorable to Native Americans in the 1970s and 1980s, but outcomes have been unfavorable in recent years under the Rehnquist court. Only one of the seven cases involving Native Americans that reached the Supreme Court in the early 1990s was won by Indian litigants (Holland 1989; Wilkins 1997, 198; George-Kanentiio 1998; Trahant 1996; Hermann 2000).

However, and most important in terms of relations among the actors, lack of direct Native American involvement in these cases has not stopped federal actors, particularly the BIA, from alienating resources from native control through the DOI appeals process. Due to the high level of unclear case results in later years, which was aided by agency actions, the amount of resources

lost from Indian control cannot be determined from the data employed in this analysis. But the data do indicate that the overall United States policy of separating Native Americans from their lands has continued during the self-determination era. In this critical forum, there is clear evidence that true self-determination, and thus regime change, has not occurred.

Despite the consistency of these central findings, there are also clearly differences between DOI cases in Alaska and those in the forty-eight contiguous states. Given the differences in history and policy, this is not surprising (Anchorage Daily News 1997). The data indicate that different agencies are active in Alaska than in the forty-eight states, and that somewhat different resources are at stake.

The data also indicate that, beginning in the late 1970s or early 1980s, native Alaskans recognized threats to their control of land and resources and reacted, which may have increased the likelihood that their resources would be maintained. This indicates, in turn, that Native Americans can have some impact on United States policy outcomes. However, for Alaska natives, this success may have been short-term, given the Supreme Court's 1998 decision in *Alaska v. Native Village of Venetie Tribal Government, et al.*, mentioned in Chapter Three. This case directly blocked native control of 1.8 million acres and threw native control of all but a few reservations within the entire United States open to question (Supreme Court, February 25, 1998).

Although the variables considered here do not fully explain when indigenous individuals and governments are likely to win DOI

cases, it appears that more interaction among the parties, but not more cooperation with United States actors, is associated with winning outcomes. In the forty-eight states, a higher success rate also exists for Native Americans when more actors are involved in a case. In other words, complexity may work to Native American advantage.

The regression models also indicated that the number of actors and the level of conflict move together, although the two were not directly correlated. This could be expected, as could the involvement of more resources as an explanation for the involvement of more actors.

Taken together, these findings indicate that, in at least one important forum, land and resource issues continue to be salient in the self-determination policy era. They also indicate that an assumption that Native Americans have gained power in recent years falls short of reality. Instead, using the critical measure of control over land and resources, these data show the immigrant nation continuing to gain at the expense of indigenous nations. This, in turn, supports a conclusion that the United States' imposed regime remains in place twenty-five years into the self-determination era.

Several aspects of this finding are of importance for regime theory. The fact that the regime is imposed indicates that the shared norms and values that are the basis for a regime are likely to be less enthusiastically embraced by Native Americans. The data on DOI appeals supports this conclusion by indicating that Indians have exited the DOI process during the self-determination era. Whether despite this exit or because of it, the resilience

and persistence of the imposed regime is on display in the consistent finding that Native Americans have lost control of land and resources over the years.

In addition, while the relationships involved in DOI appeals have been stable, as regime theory would predict, they have also been dominated by conflict, rather than the cooperation usually discussed by regime theorists. Here is a situation in which it is important that cooperation is not presumed to be a precondition to a regime. The high level of conflict, in turn, indicates that the policy arena involving Native American resources is, at core, an imposed regime rather than a spontaneous or negotiated regime. It also suggests more study on whether imposed regimes, as a group, are more likely to involve a higher level of conflict than other types of regimes.

So in a key federal forum, there is evidence that the imposed regime remains in place. However, the DOI appeals process is only one arena in which United States officials and Native Americans interact. In the next chapter, interactions involving six agencies will be considered, and the roles of tribal governments will begin to be discussed. This will broaden the picture of the regime's status toward the end of the self-determination era.

CHAPTER FIVE: THE FEDERAL-TRIBAL NEXUS

Introduction

The Department of the Interior, while very important, is not the only federal agency that interacts with native nations. Any study of the imposed regime surrounding shadow federalism should, therefore, take a broader look at United States - Native American relations. In this chapter, the imposed regime is dissected in greater depth by exploring the interactions among six federal agencies and reservation governments, then looking at how those governments operate around natural resource issues. If the regime remains in place, then the evidence is expected to show that activities involving tribal lands and resources still revolve around a shared set of norms and values that center around United States policies. It would also show that the implementation of United States policies is still done in a manner that discourages tribal governments from thriving independent of United States activity and that encourages extermination or assimilation of native peoples.

It is also important to look at whether tribal governments have developed the capacity to implement natural resource policies independent of the United States. Other relevant questions include: to what extent are tribes dependent on federal funding and, hence, likely to remain part of the imposed regime? On what bases are federal environmental funds disbursed to tribal governments? How do tribes view their relationships to federal agencies?

In contrast to Chapter Four's focus on legal issues, the focus here is on the functioning of bureaucracies. Also unlike Chapter Four, the data here provide a snapshot of a central aspect of the regime toward the end of the first quarter century of the self-determination era, rather than looking at change over time. As discussed in Chapter Three, shadow federalism has been imposed by different agencies and branches of the United States government over time. Federal agencies are an obvious place to look for information on the status of the imposed regime, as the allocation of federal funds through the bureaucracy is one of the most visible and consistent policy tools used by the United States in a variety of policy arenas.

Research Scope

The six United States agencies under study in this chapter include the BIA, which is the active arm of the DOI on Indian Affairs, and five agencies that are located in other portions of the federal bureaucracy. They are the Indian Health Service (IHS) and Administration for Native Americans (ANA) in the Department of Health and Human Services (HHS); the Environmental Protection Agency (EPA); the Department of Housing and Urban Development (HUD); and the Department of Energy (DOE).

This chapter will first define these agencies in more detail, then identify the funding they provided to tribal governments for natural resource projects during the years 1989-1991.⁴ The data on federal funding come directly from the agencies involved. The tribal side of the equation will be defined very generally by

looking at the demographics of reservations during this time period.

The agency data will then be connected with the reservation data by looking at the various types of funding provided by each agency to each tribal government and statistically analyzing variables that might indicate how that funding is allocated.

These include:

- *a reservation's demographic characteristics,
- *representation of the contiguous state on the Senate Select Committee on Indian Affairs, which is now the Senate Committee on Indian Affairs,
- *presence of an Indian Reorganization Act (IRA) government,
- *a reservation's residents' history of warfare with the United States,
- *governing capacity of a contiguous state in environmental matters, or
- *location by EPA region or BIA area.

The latter variables are used not only to shed light on differences among bureaucratic units, but also to allow analysis of funding by ecological regions. It is anticipated that differences in reservations' ecologies and related differences in economic activity will be tied to the amounts and types of funding allocated to them. For example, it would be expected that reservations in the western states would receive more funding for grazing and mining than reservations in the eastern states.

The chapter ends by reporting on data gathered from tribal governments on the status and focus of their natural resource programs, providing an indicator of whether tribal governments are

setting their own agendas independent of United States funding and the imposed regime. Information on tribal government and citizen group activities is taken from answers to questionnaires sent to all federally-recognized reservations in the contiguous forty-eight states. Reservation-level data include the number of environmental staff, natural resource-based income and budget, presence of tribal regulation, relationships with contiguous states, and severity of pollution. These data will be considered separately and as they relate to the federal agency data. Additional data from these questionnaires that relates to tribal-state relationships is discussed in Chapter Six.

This research covers environmental issues broadly, encompassing fourteen areas of environmental activity that overlap with the areas used in data collection for the DOI appeals cases and for future chapters. The areas of environmental activity covered by both the tribal government and the federal funding datasets are:

- *water contamination and supply,
- *air pollution and quality,
- *solid waste,
- *hazardous and nuclear waste,
- *forestry and forest products,
- *fisheries,
- *wildlife protection and management,
- *grazing,
- *mining,
- *energy production,
- *wastewater,
- *environmental planning and education,
- *agriculture and plant foods, and
- *acquisition of environmentally critical lands.

Despite the broad scope of this data set, there are three ways in which the scope of the research reported in this chapter is limited. These are: the focus on federal funding to

reservations; the use of reservations as the unit of analysis; and the choices of environmental activity categories.

First, the movement of resources between tribal lands and the United States is two-way, and a great deal of mineral wealth, water, and other resources flow off reservations (Trosper 1994). This chapter focuses on the flow of resources, specifically funding, from federal agencies to tribes. While some information is included on reservation government income from resource activities, there is no attempt to quantify tribal resources that move off reservations. This is a separate, major research task.

Second, the "reservation," rather than the "tribal government," is the unit of analysis. This is the case primarily because this research focuses on the control of land, and reservations are roughly equivalent to current land bases for most native nations. It is also helpful for reasons of comparability. While reservations are clearly not comparable in a variety of other ways, their lands are all administered by the BIA under the trust relationship. Although one must beware of the conceptual traps posed by accepting United States boundaries when discussing Native American lands, federal funding allocations can more easily be compared when they are considered on the basis of federally-defined land bases.

This chapter's focus on interaction between federal agencies and the reservation unit does, however, create important limitations. Non-reservation native communities within Alaska and Oklahoma and state-recognized reservations, some of which have large populations, are excluded.² Reservations formed during the study period were also omitted due to incomplete data. A few

reservations, such as the Wind River Reservation, are home to two nations and two separate tribal governments, but are treated as one unit in this chapter. And there are a few cases in which one governmental unit oversees more than one geographic reservation, such as the Minnesota Chippewa Tribe.³ After all was said and done, data were obtained for 282 reservations.

The third manner in which the scope of this research is limited is through the use of the fourteen categories listed above to classify federal funding received by reservations. The categories do not exhaust all possibilities and are arbitrary at times. Many environmental problems do not fit the one-medium approach favored by such federal laws as the Clean Air Act and the Clean Water Act. For example, whether river pollution is defined as a problem of water contamination, hazardous waste, or fisheries will often depend more on the federal agency providing funding than on the characteristics of the problem itself. Under these circumstances, funding has been apportioned as accurately as possible.⁴

The categories used also limit the research because topics that many Native Americans consider central environmental issues are not explicitly covered. The first is national survival, which indigenous peoples link to the health of their land and resources. This issue arises in several ways. For a number of reasons, pollution impacts are greater in Indian country than in the general population. For example, a major polluting enterprise can have a severe impact on a small land base, and physical impacts that would be minimal in a larger, diverse population can be debilitating in a small population. Native people also are

tied to reservations by historical, spiritual, and legal ties that make them stay in an area, even in the face of severe pollution. A higher rate of use of the produce of the land and waters also makes indigenous people more susceptible to receiving higher doses of localized pollutants. Additionally, native cultures rely upon the continuation of spiritual activities that may be disrupted by the location of an extractive enterprise or by the extinction of a certain species on reservation lands. Taken together, these factors raise issues of survival for cultural and national units (Wenzel 1992; Thunder Hawk 1980).

Another land-related issue of central concern to Native Americans that is not explicitly addressed by the categories used here is sovereignty (Savage 1991; San Kronowitz, et al. 1987). This is clearly important to discussions of jurisdiction over non-Indian polluters on reservations. It is also seen in environmental legislation that requires tribes to seek "treatment as states," as discussed in Chapter Three. Native American objections to being asked to seek a subnational status was summarized by a representative of the Colville Confederated Tribes when he suggested that, rather than having tribes qualify for "treatment as states," states should have to qualify for "treatment as tribes" (U.S. Congress, Senate, Select Committee 1991a, 19).²

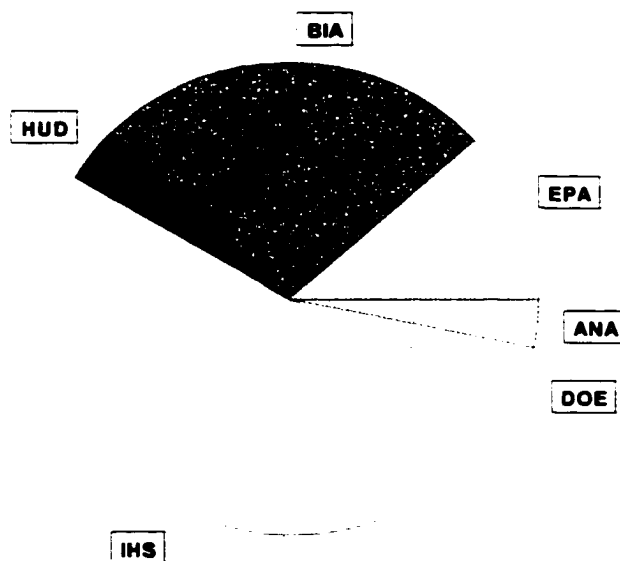
While sovereignty is not used as a category in this study, it is an issue that arises in a variety of contexts throughout this research. Fundamentally, the achievement of full sovereignty by native nations would indicate the failure of the imposed regime, and the fact that sovereignty is a critical concern to tribal

governments should be kept in mind. While this methodology does exclude overt consideration of some issues, it also provides a large database and important insights into the imposed regime.

**Tribal-Federal Affairs:
Information Gathering in the Bureaucratic Maze**

This research identified just over \$319 million that was earmarked for specific reservations' environment and natural resources activities for fiscal years 1989-1991. With the exception of some EPA spending, this represented direct expenditures on reservations. To put this number in some perspective, over the same three-year period the budget for one of these agencies, the EPA, was \$16.9 billion (Davis 1994).

Table 5.1: Reservation Expenditures by Agency



The breakdown of reservation expenditures by agency can be seen in Table 5.1. Clearly, the financial importance of environmental and Native American issues varies among these agencies, with IHS outspending all five other agencies combined.

The agencies also demonstrated a range of capabilities in data collection, dissemination, and storage. Detailed information on those capabilities have been placed in footnotes.

The two agencies included here for which both reservations and environmental issues are minor parts of their missions are the HHS and HUD.^o The data indicated that HUD provided \$12.3 million to reservations for environmental purposes during fiscal years 1989-1991, most of it for construction of housing-related water and sewer systems. For the first HHS agency, the ANA, funding totaled \$9.8 million, much of it for planning, writing codes, and economic development. The second HHS agency, the Indian Health Service (IHS) identified \$166.4 million provided to reservations for environment-related purposes in 1989-1991. The funding was categorized as water supply funding, except when wastewater projects were clearly indicated.

Both HHS and HUD were slow in responding to requests for information on reservation spending. In contrast, the EPA's pre-printed booklets on tribal spending, by program, were received within a couple days. This indicated the agency's comparatively high level of capacity in dealing with reservation funding and could be expected from the agency's position as "Washington's largest regulatory agency in budget and personnel" (Rosenbaum 1995, 114; EPA 1984).

The EPA has been criticized for its handling of reservation environmental issues. Testimony before what was then the Senate Select Committee on Indian Affairs (1989; 1990; 1991a; 1991b) provides a litany of complaints, although many of them are legislative, rather than bureaucratic. Three are important here. First, as would be expected, there are repeated complaints about the lack of coordination among the agencies responsible for reservation environmental programs, and these complaints are often directed at the EPA as the lead federal agency on environmental matters. This lack of coordination makes it difficult to identify a unified federal policy involving Native American resource issues.

Second, EPA money that is allocated to state governments is not distributed within state boundaries in a manner consistent with the percentage of Indian-held lands within each state. This is seen as shortchanging Native American populations (U.S. Congress, Senate, Select Committee 1989; 1990; 1991a; 1991b).

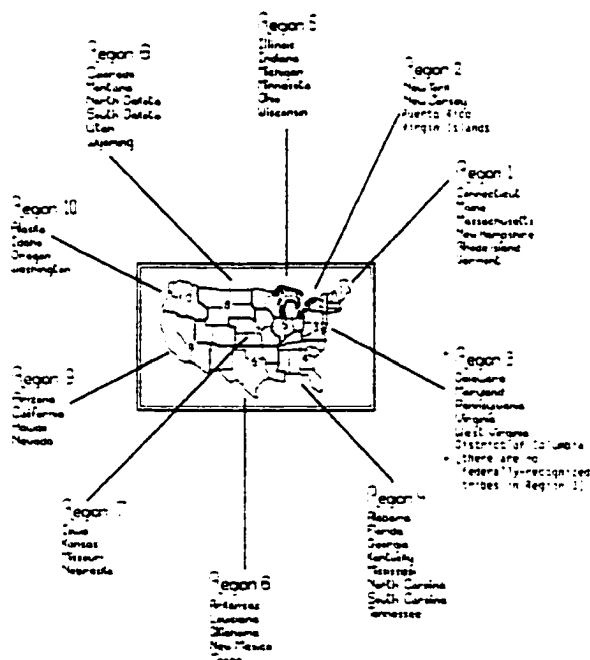
Third, the EPA prioritizes problems based on risk to the largest number of people in the smallest area. Pollution in Indian country involves risk to comparably small numbers of people who are generally spread over a large area. This understates risks to native nations, for the reasons discussed in the last section (U.S. Congress, Senate, Select Committee 1989; 1990; 1991a; 1991b). EPA funding considered here totaled \$38.1 million.

The distribution of funding from all six agencies to EPA regions is shown in Table 5.2, and the geographic boundaries of those regions are shown in Table 5.3. These should be compared

Table 5.2: Total Funding Received for Environment and Natural Resources: 1989-1991: By Environmental Protection Agency Region

REGION	TOTAL FUNDING RECEIVED
1	\$8,554,400
2	\$8,179,400
3	0
4	\$15,247,200
5	\$29,611,600
6	\$20,499,100
7	\$3,396,700
8	\$44,724,000
9	\$146,008,600
10	\$42,862,400
TOTAL	\$319,083,400

Table 5.3: Map of Environmental Protection Agency Regions



Source: Environmental Protection Agency 1992, 58.

Table 5.4: Total Funding Received for Environment and Natural Resources: 1989-1991: By Bureau of Indian Affairs Area

AREA OFFICE	TOTAL FUNDING RECEIVED
ABERDEEN, S. D.	\$25,275,400
ALBUQUERQUE, N. M.	\$20,372,600
ANADARKO, OK.	\$6,302,100
BILLINGS, MT.	\$15,208,400
EASTERN	\$33,034,900
MINNEAPOLIS, MN.	\$30,274,200
NAVAJO	\$73,203,500
PHOENIX, AZ.	\$56,249,100
PORTLAND, OR.	\$45,672,700
SACRAMENTO, CA.	\$13,490,500
TOTAL	\$319,083,400

with Table 5.4, which shows funding by BIA area, to provide some idea of the differences between EPA and BIA structures as they relate to reservations. While BIA areas divide the United States based, at least in part, on the presence of Native American populations, EPA regions provide units of similar geographical size, regardless of the presence of Native Americans.

Turning to the Department of Energy, during the study period, the agency provided money to tribes primarily as part of its search for nuclear waste storage sites. The funding included here totaled \$10.5 million.³

The sixth agency that provided data, the Bureau of Indian Affairs, has already been discussed in terms of its policy role in United States relations with Native Americans. In this chapter,

the BIA's administrative capability is of concern. Champagne (1992, 40) characterized the BIA as the agency that "can most probably be placed on the bottom tier of any informal hierarchy of Interior Department agencies" despite the fact that it is "the largest agency within the Department" McCool (1987, 149-158) discussed the BIA's historic "inability to generate reliable and complete data," an observation that was reinforced during this effort.'

It took thirteen months before all BIA area offices had provided information for this study.¹⁰ With the possible exception of the Minneapolis area, and with the exception of the Portland area, that data appears complete. The Portland office was unable to provide information on fisheries and some hazardous waste funding due to program changes, personnel changes, and missing or obliterated records. The agency reported spending \$81.9 million for environmental and natural resources purposes in 1989-1991.¹¹

The six federal agencies considered in this chapter are not the only federal agencies that are potential sources of funding for tribal environmental and resource activities. Some federal agencies also take regulatory roles on native lands, as do some state governments. Tribal governments, of course, also have a role in setting environmental policies for their lands. This multi-agency policy fragmentation is common in United States government in general, and in environmental policy more specifically, and is considered a barrier to the implementation of environmental policies (Mann 1986, 10).¹²

Demographic Data

Demographic and historical data will be considered before looking at federal funding, because these types of information are important to understanding reservations' intergovernmental contexts and tribal governments' abilities to act within a regime. Information on a group's economic level, for example, could indicate the potential for government taxation as a means of funding environmental programs. The number of people living on a reservation would be expected to be linked with the amount of money needed for infrastructure. A higher level of education would provide reservation residents with the expertise needed to apply for federal funds and run environmental programs. In the situation under study here, demographics suggest caution in making generalizations.

Frequencies were calculated for a number of variables, including reservations' acreage, populations, economic and educational status, and governmental and historical status. BIA numbers were used for reservation acreage, population, and economic and educational status (U.S. Department of the Interior 1991).

Reservation acreages varied from zero to almost eighteen million. A full eighteen percent of reservations were quite small, totaling less than one hundred acres in size. Only thirteen reservations topped one million acres. The median size was 3,853 acres.

Populations also varied quite a bit, but were generally small. Only one reservation had more than 30,000 residents, while

thirty-six percent had less than three hundred residents. The median reservation population was 604. Overall, population density was also low, with seventy-six percent of reservations having less than one resident per acre, and ninety-five percent having less than ten persons per acre. This was not surprising, considering the location of most reservation lands in the arid or semi-arid West.

Per capita income was used as a measure of reservations' financial status and ranged from \$1,483 to \$27,119. A full ninety-five percent of reservations had per capita incomes under \$10,000 a year, and the median was \$4,890. The national per capita income in 1989 was \$17,621 (U.S. Department of Commerce, Bureau of the Census: 1991).

Unemployment figures showed that the majority--seventy percent--of reservations had unemployment rates over ten percent, with one-fifth showing more than thirty percent unemployment. This compared to a national rate of 5.4% in 1990 (U.S. Department of Commerce, Bureau of the Census: 1991).

Formal education was measured by obtaining the percentage of reservation residents with a four-year degree or more. There were only two reservations on which more than twenty percent of residents had reached this educational level. On seventy-six percent of reservations, less than five percent of adults had a four-year college degree. This was one-fourth the United States rate, where twenty-one percent of the adult population had a bachelor's degree in 1991 (U.S. Department of Commerce, Bureau of the Census: 1991).

To get a basic idea of governmental structure, information on the presence of an Indian Reorganization Act (IRA) government was collected from the Bureau of Indian Affairs. As of late 1993, 157 reservations (55%) had a government organized under the IRA, while 125 did not. In general, as discussed in Chapter Three, a government formed under the 1934 Act has received formal sanction from the Department of the Interior and is more likely to follow the form and values of United States governments.

Historical reports were also considered to determine whether the ancestors of current reservation-dwellers had been involved in warfare against the United States. This variable was used to determine whether there might be residual effects in United States policy, so EuroAmerican concepts of warfare were used. For "warfare" to have occurred for purposes of this study, it was necessary that at least one pitched battle of a warrior-to-warrior nature had taken place. Activities directed at or by civilians and one-sided massacres were not included.¹³ Using these criteria, forty-one percent of reservations were classified as having a history of warfare with the United States.

These characteristics and their variety should be kept in mind as federal funding and tribal government environmental activities are discussed. They indicate that reservation populations differ substantially from the average within the United States, and also from each other.

Federal Funding: Methodology and Results

Looking at the big picture, forty-six reservations (16%) received no funding for environmental or natural resource purposes from the six agencies considered here during fiscal years 1989-1991. At the other end of the spectrum, two reservations received more than ten million dollars. Thirty-four percent received less than \$100,000, and seventy-two percent got less than one million dollars.

Table 5.5: Number of Reservations Receiving Funding by Year, Agency, and Category

<u>ANA</u>	<u>1989</u>	<u>1990</u>	<u>1991</u>	<u>TOTAL</u>
WATER CONTAM./ SUPPLY	9	7	6	22
AIR CONTAM./ QUALITY	1	1	0	2
SOLID WASTE	0	3	1	4
FORESTRY	5	3	3	11
FISHERIES	16	8	3	27
WILDLIFE	5	3	1	9
GRAZING	2	1	2	5
MINING	0	3	1	4
ENERGY PRODUCTION	3	2	0	5
WASTEWATER	5	4	4	13
PLANNING/ EDUCATION	7	16	8	15
AGRICULTURE/ PLANT FOOD	7	5	3	15
TOTAL	60	56	32	148

<u>BIA</u>	1989	1990	1991	TOTAL
WATER CONTAM./ SUPPLY	34	40	45	119
SOLID WASTE	2	2	1	5
HAZARDOUS WASTE	1*	2*	2*	5*
FORESTRY	23	27	33	83
FISHERIES	30*	34*	33*	97*
WILDLIFE	39	45	50	134
GRAZING	6	2	5	13
MINING	6	6	10	22
ENERGY PRODUCTION	1	1	1	3
WASTEWATER	1	0	0	1
PLANNING/ EDUCATION	11	9	8	28
AGRICULTURE/ PLANT FOOD	36	35	29	100
TOTAL	190	203	217	610

*Missing data for Portland Area.

<u>DOE</u>	1989	1990	1991	TOTAL
HAZARDOUS WASTE	1	2	5	8
FISHERIES	3	2	1	6
PLANNING/ EDUCATION	1	1	1	3
TOTAL	5	5	7	17

<u>EPA</u>	1989	1990	1991	TOTAL
WATER CONTAM./ SUPPLY	113	171	181	465
AIR CONTAM./ QUALITY	57	49	61	167
SOLID WASTE	40	76	102	218
HAZARDOUS WASTE	60	135	92	287
FISHERIES	0	0	4	5
WILDLIFE	0	1	5	6
GRAZING	0	0	2	2
WASTEWATER	21	57	8	86
PLANNING/ EDUCATION	47	81	92	220
AGRICULTURE/ PLANT FOOD	13	11	19	43
TOTAL	351	581	566	1,498

<u>HUD</u>	1989	1990	1991	TOTAL
WATER CONTAM./ SUPPLY	8	5	7	20
FORESTRY	0	1	1	2
FISHERIES	0	1	0	1
WASTEWATER	2	2	1	5
TOTAL	10	9	9	28

<u>IHS</u>	1989	1990	1991	TOTAL
WATER CONTAM./ SUPPLY	105	107	120	332
SOLID WASTE	2	1	8	11
WASTEWATER	7	3	13	23
TOTAL	114	111	141	366

As Table 5.5 shows, the EPA provided services to the greatest number of reservations in each of the study years, with the BIA running a distant second. HUD and the DOE were clearly behind the other four agencies in terms of the number of reservations served. Except for the ANA, the trend was to provide funding to more reservations over the three-year study period. Sixty-nine reservations received some funding from ANA, 130 from the BIA, seven from DOE, 213 from EPA, nineteen from HUD, and 174 from IHS. The details of agencies' funding to specific reservations are provided in Appendix A.

Table 5.5 also shows that the environmental categories in which funding was provided varied a great deal by agency. ANA and BIA provided funds for twelve work categories, while DOE and IHS only assisted in three. These differences are attributable to variations in agency mission. Some categories received much more attention, notably water contamination and supply, while a few received little, such as energy production, grazing, and mining. According to one survey, the focus on water is in line with the concerns of tribal governments (National Tribal Environmental Council 1993, 15). A few categories showed three-year trends in total agency funding, with forestry, wildlife, education/planning, solid waste, and air quality tending upward. The details of funding received by each reservation for each category can be found in Appendix B.

The breakdown in funding by category showed some expected differences based on agency organization and regional ecology, as well as some unexpected results. Agency organization was evident in the more even distribution of funds by BIA area than by EPA

region. This would be expected when comparing an agency whose primary mission involves reservations with an agency whose mission involves all populations within the United States.

Ecological differences were clear in such findings as the BIA's Eastern Area's dominance in forestry funding and the Minneapolis Area's dominance in fisheries. The latter may, however, be exaggerated due to the lack of fisheries information from the Portland Area. Similarly, a majority of areas received no funding for energy production, and those that did were all in the West. The Phoenix Area dominated grazing, while the Navajo Area dominated agriculture. The Portland Area dominated hazardous waste funding, receiving over half of all money provided to reservations for this purpose during the three-year period. This was particularly interesting in light of the Portland BIA's inability to provide full information on its funding in this category, as discussed earlier.⁴

Moving from the sub-agency level to the reservation level, a calculation was made of the total environmental funding each reservation received on a per capita basis. The reservations were then ranked based on these per capita receipts. Total funding to each reservation was also ranked. The full results are displayed in Appendix C.

Some of these rankings are quite expected, such as the Navajo Reservation's lead in total funding received: twenty-three percent of the total amount.⁵ Some reservations are quite consistent in the two sets of rankings, such as the Pyramid Lake Reservation, which is second in per capita funding and fourth in total funding. Others are not, such as the Pine Ridge Reservation, which is

seventh in total funds received, but ranks 163 in per capita receipts. There are also some findings that seem unlikely, such as the Summit Lake Reservation placing first in per capita funding. This is the result of a small population (seventeen people) and substantial BIA fisheries spending. Local conditions usually provide an adequate explanation for these anomalies.

Table 5.6: Reservation Characteristics and Agency Funding: Significant Correlation Coefficients Over 0.20

	BIA FUNDING	EPA FUNDING	HUD FUNDING	IHS FUNDING	TOTAL FUNDING
RESERVATION ACREAGE	0.84	0.57	0.85	0.94	0.94
SENATOR	0.21	0.23	0.21	0.21	0.23
PRESENCE OF WARFARE	0.23	---	---	---	---
RESERVATION POPULATION	0.86	0.61	0.85	0.96	0.97

Correlation Results

Pearson correlation coefficients were calculated to determine the presence of relationships between reservations' characteristics and the funding they received from various agencies and in various environmental categories. Significant results above the 0.20 level for funding from various agencies are displayed in Table 5.6. Reservation characteristics used in these calculations included population, acreage, population density, presence of a Senator from the contiguous state on the then-Select Committee on Indian Affairs, per capita income, percent of population with a four-year degree or more, presence of an IRA

government, the contiguous state's government's environmental capacity, and history of warfare. A two-tailed test of significance at the 0.05 level was used.

Two of these variables require further explanation. Data on the first, the presence of a Senator from the contiguous state on the Select Committee on Indian Affairs (now the Senate Committee on Indian Affairs) was gathered for the years 1987-1991. 1987 was chosen as a starting point to allow for effects on fiscal decisions that may have had an impact in 1989. Political Science literature suggests that having one or more Senators on a key committee increases a state's likelihood of receiving benefits under that committee's jurisdiction for some policy arenas. While the Select Committee on Indian Affairs lacks appropriations jurisdiction over much of the funding covered here, it is the central juncture for United States policy toward Native Americans and the authorizing body for the BIA, IHS, and ANA. Measured according to the amount of documentation produced, the Select Committee's largest focuses are land and claims, while the environment and natural resources are its fifth-largest focus (McCool 1987, 139; U.S. Congress, Senate, Select Committee 1989; 1991; Wilkins 1995, 31-32).

This research identified 169 reservations (60%) as being primarily within states that had no Select Committee representation during the study years. Ninety-two reservations were within states with one Senator on the Committee (33%), while twenty-one (7%) were within states that had two Senators on the Committee at the same time for at least part of the study period.

The second variable requiring explanation, state environmental capacity, was added after statistical operations indicated that the more severe pollution was on a reservation, the more likely it was that a neighboring state was involved in reservation environmental issues. Administrative "capacity" is used to measure a government's ability to deal with a policy arena.

The state capacity variable was created by adding three types of scores: (1) 1986 per capita state government expenditures on environment and natural resources (Brown 1988); (2) presence or absence of forty-one types of state environmental policies, as reported in the Green Index for 1987-1989 (Hall and Kerr 1991); and (3) Renew America ratings, on a scale of one (worst) to ten (best), for state policies in the areas of forest management, soil conservation, and energy conservation (Hall and Kerr 1991). The lower the number, the lower the state's capacity was considered to be in the environmental arena. When this variable was calculated for each state, it ranged from thirty-one to 153, with a mean of 61.2.¹⁶

Turning to the correlation results, as in other chapters, correlations below the 0.30 level were designated "weak," while those from 0.31 through 0.69 were considered "moderate," and those of 0.70 and above were considered "strong." Four variables did not reach significant correlation with federal funding in any calculation: density, presence of an IRA government, income, and education level. The results for acreage and population were quite similar across all types of funding considered. For funding by agency and for total funding, there was significant correlation

with both acreage and population for all agencies except ANA and DOE. Correlations were moderate for EPA funding and strong for the BIA, HUD, and IHS. The three-year, six-agency total funding was correlated at the 0.94 level with reservation acreage and at the 0.97 level with reservation population.

The presence of a Senator on the Select Committee reached significance for the same four agencies, but the relationships were weak. The presence of historical warfare was weakly correlated to the amount of funding received from the BIA.

Table 5.7: Reservation Characteristics and Funding by Category: Significant Correlation Coefficients over 0.20

	WATER CONTAM./ SUPPLY	AIR CONTAM./ QUALITY	SOLID WASTE	HAZARD. WASTE	FRSTRY/ FOREST PRODS.
RESERVATION ACREAGE	0.94	0.41	0.57	0.36	0.71
SENATOR	0.21	---	---	---	---
RESERVATION POPULATION	0.96	0.44	0.58	0.39	0.74

	<u>GRAZING</u>	ENERGY PRODUC.	WASTE- WATER	PLANNG/ EDUC.	<u>AGRIC.</u>
RESERVATION ACREAGE	0.27	0.62	---	0.70	0.89
SENATOR	---	---	0.26	---	---
RESERVATION POPULATION	0.21	0.63	---	0.74	0.92

Table 5.7 shows correlations above the 0.20 level between reservation characteristics and funding by environmental category. The correlations for both acreage and population were significant for the following funding categories:

- *water contamination and supply,
- *air quality and contamination,
- *solid waste,
- *hazardous and nuclear waste,
- *forestry and forest products,
- *grazing,
- *energy production,
- *education and planning, and
- *agriculture.

This meant that federal money was dispersed in a manner that appears rational for these nine types of funding, because the larger the reservation population or the larger a reservation, the more federal funding was received. The correlations for grazing were weak, while moderate relationships were found for air, hazardous waste, and solid waste. Funding for water, forestry, agriculture, and education/planning were strongly correlated with both population and acreage. The presence of a Senator on the Select Committee was weakly correlated with funding received in eight categories; only the traditional "pork barrel" categories of water supply and wastewater exceeded the 0.20 level.

Regression Results

Multiple regression was then performed to determine the extent to which a number of variables might help explain the

funding received by the various reservations.¹⁷ The total received from each agency and the overall three-year total were used as dependent variables. The independent variables used were:

- *reservation population (BIA figures),
- *population density,
- *presence of an IRA government,
- *per capita reservation income (1991),
- *percent of reservation population with a four-year degree or more (1991),
- *unemployment rate (1990),
- *the presence of historical warfare between the United States and native nation(s) living on the reservation;
- *governing capacity of the contiguous state in the environmental and natural resources policy arena; and
- *presence of one or more Senators from the neighboring state on the Senate Select Committee on Indian Affairs.¹⁸

The model for total funding had an adjusted R^2 of 0.94, showing strong explanatory power. Two variables reached significance. Population showed by far the most explanatory power (beta of 0.97), while density (-0.04) was very weak. This model is reprinted in Appendix D.

The regression models that used each agency's total funding as a dependent variable were then considered.¹⁹ The percentage of variation in funding explained by the models was 0.75 for the BIA, 0.38 for the EPA, 0.72 for HUD, and 0.93 for the IHS. These models are reprinted in Appendix E. The preponderance of IHS funding within the six-agency total probably helps determine the

high explanatory power of the model that used that agency's funding as a dependent variable.

Population was significant for the BIA model (0.85), the EPA (0.59), HUD (0.86), and IHS (0.97). The strength of the IHS beta value led to suspicions that, for this agency, population was used in determining the amount of funding provided to a reservation. However, according to the IHS, that was not the case (U.S. Department of Health and Human Services, Indian Health Service 1994).¹⁰

Because the Navajo Reservation is an outlier on the key variables of population and amount of funding received, correlations and multiple regression were also performed that omitted it. The correlation results changed a bit, but there was only one difference that could be considered important. This was that, when the Navajo Reservation was omitted, the historical presence of warfare became correlated with the receipt of more BIA funding at a moderate level (0.31).

Regression results indicated that Navajo Reservation data did indeed provide much of the explanatory power of the regression models, especially as related to population. Without the Navajo, as shown in Table 5.8, the adjusted R^2 for the total funding model dropped to 0.46. Population remained the primary explanatory variable for how total agency funding was allocated, but with a notably lower beta value (0.63). The total funding model showed some multicollinearity. The offending variables were state capacity and presence of a Senator on the Select Committee. Because both variables have significant theoretical value, and because running the model without one or the other did not make

much difference in the results, they were retained.²¹

One variable that remained problematic was the presence of historical warfare. This variable had some explanatory power for how BIA and DOE funding were distributed in the regression models,

Table 5.8: Multiple Regression Results: Total Funding without Navajo Reservation

Equation Number 1: Dependent Variable: TOTAL total environmental/natural resources funding to reservations: 1989-1991

Block Number 1. Method: Enter UNEMPLT DEGREE RESPOP DENSITY IRA INCOME SENATOR STATECAP WAR

Variable(s): Entered on Step Number

1. UNEMPLT unemployment in percent
2. DEGREE percent of population with a B.A. degree or more
3. RESPOP reservation population - BIA figures: 1991
4. DENSITY reservation population per acre
5. IRA Indian Reorganization Act government on reservation
6. INCOME per capita income on reservation: 1991
7. SENATOR number of Senators on Indian Affairs Subcommittee from state contiguous to reservation
8. STATECAP contiguous state's capacity in environmental/natural resources policy
9. WAR presence of U.S.-native nation(s) warfare

Multiple R .68896
R Square .47466
Adjusted R Square .45702
Standard Error 1108.40764

Analysis of Variance

	DF	Sum of Squares	Mean Square
Regression	9	297492276.43598	33054697.38178
Residual	268	329256091.86114	1228567.50694

F = 26.90507 Signif F = .0000

----- Variables in the Equation -----

Variable	B	SE B	Beta	T	Sig T
UNEMPLT	.298866	4.507026	.003068	.066	.9472
DEGREE	3.939102	7.235552	.024963	.544	.5866
RESPOP	.327712	.025201	.634104	13.004	.0000
DENSITY	-13.998604	5.807320	-.108536	-2.411	.0166
IRA	260.711844	141.309170	.086310	1.845	.0661
INCOME	-.005013	.021646	-.010639	-.232	.8170
SENATOR	10.337239	141.853159	.004232	.073	.9420
STATECAP	-5.553247	3.426746	-.098300	-1.621	.1063
WAR	94.991710	155.276411	.031117	.612	.5412
(Constant)	592.678395	364.846810			

and was weakly correlated with receipt of BIA funding. This would indicate that "the squeaky wheel gets the grease." However, there were weak negative influences in the EPA, HUD, and IHS regression models, and the latter agency provided the preponderance of funds. While this may simply have indicated variation among agencies, the contradictory results led to several additional attempts to define the phenomenon.²²

The strongest results were obtained when reservations were ranked by the total amount of funding received, and this ranking was compared to only the warfare variable. A higher rank, and thus the receipt of more funding, was negatively correlated with the presence of warfare at the 0.41 level. Results were similar when the Navajo Reservation was omitted. This indicated the presence of a "reverse Marshall Plan," in which those who engaged in warfare received less funding in the key areas of environment and natural resources.

This result could possibly be explained in several ways. It could be that a number of tribal governments who have a history of warfare with the United States decided not to request federal funding. Since forty-one percent of reservations have this history, and since tribes are almost completely reliant on the federal government for funding for such basic services as water and sewer, this was not likely to have been a major reason for this correlation.

It is more likely that these agencies are continuing to play their role in the imposed regime by providing less funds to modern tribal governments whose ancestors fought United States control of land and resources. The federal government has, in both historic

and modern times, withheld money, livestock, and rations from Native Americans who resisted federal policy (O'Brien 1989, 145; Churchill 1993, 157-171; Record and Hocker 1998b, 22). This explanation is also supported by the definition of warfare used here, which reflects EuroAmerican concepts in an attempt to bring out EuroAmerican reactions to a history of military conflict, rather than using a Native American definition of warfare that would provide more insight into the activities of modern native governments.

The unequal distribution of funds may also show up as strongly as it does due to a multiplier effect, as tribal governments who received less funding in years past would be handicapped by lack of staff who could complete the paperwork necessary to receive grants and loans, compounding the effect of funding differences over time. It is also possible that some tribal governments were less likely to seek funding because they had learned that, due to their history of resistance to the United States, they were less likely to receive assistance than more compliant native nations. This effect would be similar to the withdrawal from DOI forums documented in Chapter Four.

While this study only measures this difference, rather than seeking a full explanation, the finding is important. It indicates that native nations who fought the imposed regime at its founding remain funded at a lower level in the key area of land and resource programs, indicating continuity in regime activity. Consistent with a regime's focus on shared norms and values, this result need not be either a stated or an intentional policy to show up at the statistical level.

Tribal Government Questionnaires: Methodology and Results

Questionnaires on environmental and natural resources activities were sent to 282 reservations.¹³ A copy of the questionnaire is included as Appendix G. It asked whether reservation government staff or non-government citizens' groups were active in each of the fourteen work categories. Tribes were also asked about the number of staff working on environment and natural resources issues, the presence of tribal environmental regulations, the level of relationship (if any) with contiguous states' environmental officials, and the severity of pollution problems compared to other reservations.

Data were also requested on the total 1991 reservation budget, environmental budget, and income from mineral extraction/leases, forestry, fisheries, grazing, agriculture, and other resource activities. Some reservation governments that returned questionnaires chose not to answer one or more of the financial questions due to confidentiality and sovereignty concerns.

A total of seventy-seven questionnaires (27%) were returned. When the Navajo Reservation was omitted as an outlier, t-tests determined that the reservations that returned questionnaires provided a representative sample of all reservations on the key variables of population and total federal funding received.

Reservation governments indicated that, on mean, they had staff active in six of the fourteen work categories. Citizens' groups were active in an average of 1.5 categories. The

percentages of reservations with activity in each category are shown in Table 5.9.

Table 5.9: Percentage of Reservations with Activity in Environmental Work Categories

WORK CATEGORY	RES. STAFF ACTIVE	CITIZEN GROUPS ACTIVE
WATER CONTAMINATION/SUPPLY	75%	17%
AIR CONTAMINATION	25%	8%
SOLID WASTE	55%	14%
HAZARDOUS/NUCLEAR WASTE	31%	8%
FORESTRY/FOREST PRODUCTS	47%	10%
FISHERIES	49%	10%
WILDLIFE PROTECTION/MANAGEMENT	60%	13%
AGRICULTURE/FOOD PLANTS	44%	12%
GRAZING	34%	10%
MINING	21%	6%
ENERGY PRODUCTION	12%	4%
ACQUISITION OF ENVIRONMENTALLY CRITICAL LANDS	25%	9%
WASTEWATER	55%	5%
PUBLIC EDUCATION/PLANNING	62%	14%
OTHER	18%	10%

Clearly, there is more reservation government activity than citizen group activity. There is also quite a range of activity levels, depending on the category. The federal emphasis on water funding is mirrored by reservation government and citizen group activity. Wildlife and public education/planning are also getting attention from both governments and citizens. Energy production,

while important on a few reservations, does not get widespread attention. Probably the most notable finding is that twenty-five percent of reservation governments are active in the acquisition of environmentally critical lands, while federal agencies reported providing no funds for this purpose.¹⁴

In most cases, environmental activity did not appear to have arisen in response to a perceived crisis. Seventy-eight percent of reservation governments reported their pollution problems as being "mild" or "average," compared to other reservations. Twelve percent reported no pollution problems, and only three percent reported "severe" problems.

A reservation government's report of more severe pollution was not correlated to the amount of federal funding received, but it was weakly correlated to increased state involvement with that reservation's environmental matters (0.24). To deal with existing or potential problems, fifty-five percent of reservations reported having drafted tribal environmental regulations.

When asked about staff working on environmental and natural resources issues, twelve percent reported that no staff worked in these areas, and about half reported having four or fewer staff. This means that, on the average reservation, about four people are working on six environmental issues. This indicates a low level of expertise and staff time can be committed to most of the broad range of issues faced by reservation governments.

Correlations were then run between the number of tribal environmental staff and the amount of funding received, both by agency and for total federal funding. There was significant correlation for each agency and for the total at about the 0.30

level.²⁵ This indicates again that, despite some independent reservation government activity, the number of environmental staff was weakly to moderately related to federal funding, depending on the agency.

The sixty-six reservations that reported their environmental budgets spent an average of about \$150,000 per year. Federal agencies reported providing about two-thirds of this amount, indicating that the average reservation government probably spent around \$50,000 per year from non-federal sources on environment-related activities. For the vast majority of native governments, this source was not natural resource income. While a few reservations did receive significant income from their resource bases, the mean annual combined income for reservation governments from minerals, forestry, fisheries, grazing, agriculture, and other resources was \$1,000.

The questionnaire also asked reservation governments about their relationships with neighboring states. When asked about the role of neighboring states in reservation environmental matters, fourteen percent of reservation governments reported no contact with state actors, while forty percent reported "occasional contact." The remaining forty-three percent reported having either "regular contact" or a "regular working relationship."

A variable was created to measure reservations' governing capacity in the environmental arena by combining the number of staff, presence of regulations, number of work categories in which there was activity, and environmental budget for 1992. Correlations were run between this reservation capacity variable and a reservation's total federal funding received, funding

received by agency, acreage, population, population density, income, rank for total funding received, per capita funding received, rank for per capita funding, and the governing capacity of neighboring states. Reservation governing capacity was not correlated to any of these variables, except for a moderate correlation (0.46) with the receipt of EPA funding.⁶ This indicated that EPA funding was distributed to reservation governments on somewhat different bases than other agencies' funding. While direction could not be determined, a link existed between the likelihood that EPA funding would reach a reservation and the level of tribal government activity and organization around environmental issues.

Discussion

Four general categories of results illuminating the operations of the imposed regime in the self-determination era are evident from this snapshot of federal-tribal relations around natural resources. These will be outlined here, then each will be discussed separately.

The first category of results indicates the variation among federal agencies in terms of their levels of funding, types of activities that receive funding, and ability to digest and provide information. The variables considered here also show differences in how agencies make funding decisions. Second, there is an even broader variation among reservations as recipients of United States funding, even though who gets that funding is often explained by differences in population and ecology.

The third category of results indicates that relationships among United States agencies, reservation governments, and states are complex and varied. A mix of historical and modern factors make it difficult to say that there is a typical reservation or a unified federal policy for environmental and natural resource issues that impact reservations. The findings developed here provide only part of the picture, and these relationships will receive further exploration in future chapters.

The fourth category of results indicates that some of the variables used in Political Science to research state environmental policy are not particularly helpful in researching United States-Native American relations in the environmental arena. Different variables and models need to be used to get accurate and complete information in this context. This indicates that tribal governments and federal-tribal relationships operate differently than federal-state relationships.

Federal Funding Decisions

Looking first at the agency side of the puzzle, it is clear that these agencies have a variety of administrative capacities and focus different levels of resources on Native American environmental issues. The BIA, for example, is involved in many efforts involving environmental policy, but appears to lack the necessary administrative capacity for these efforts. Little of BIA's activity was explained by the regression model.

The agency was, however, consistently more influenced than other agencies by the historical presence of warfare. This indicates that the BIA may have an institutional memory, left from

its days in the Department of War, that recalls which reservations' residents will forcefully take agency attention, if it is not freely given.

In addition, it is important to note that the federal money considered in this chapter is going to tribal governments that were, in many cases, created at the instigation of the United States for its own purposes. As indicated in Chapter Three, these governments are not always accepted as legitimate by the people they govern. So the distribution of BIA funding in the natural resources arena should not be viewed simply as pay-offs for historically troublesome native nations. It should also be seen as potentially propping up tribal governments that may have little legitimacy among their own peoples. This is one way an imposed regime can maintain itself: by supporting certain leaders at the expense of others, as discussed in Chapter Two.

The status of the ANA, another federal agency that focuses on Native Americans, is less clear. The agency seems to lack environmental funding direction. It may be that the general lack of correlation between ANA funding and the variables considered here can be explained by other variables. However, this still reinforces the finding that United States agencies do not follow a cohesive policy direction.

The DOE, whose decisions are also not well explained by the data gathered here, provides an opposite situation. Its provision of funds does not correlate with demographic variables because it places a heavy emphasis on local initiation of requests for nuclear waste siting funds. In addition, the small number of recipient reservations may make DOE grants unrepresentative.

The EPA results are interesting partly because the agency provided funding to the most reservations, but also because its decisions are explained by somewhat different variables, not just by population. The presence of an IRA government increased the likelihood of receiving EPA funding, but this variable was not significant for any other individual agency. Reservation government capacity was moderately correlated with receipt of EPA funding, but was not correlated with other agencies' funding. The presence of a Senator from a contiguous state on the then-Select Committee on Indian affairs was more strongly correlated with receipt of EPA funds than with the receipt of any other agency's funds. The historical presence of warfare was weakly inversely related to receipt of EPA funds.

This indicates an EPA preference for cooperative, government-to-government relationships along lines similar to the internal, national-subnational federalist model. This may be traceable in part to a reservation's need to achieve "treatment as a state" to receive certain funding. This would probably not only impact the EPA's decision-making, but also encourage reservations with well-developed administrative structures along the United States model to go after EPA funding. In the context of the imposed regime, this means the EPA rewards tribal governments that accept at least some of the terms of the regime and seek to cooperate with federal environmental policy.

HUD presents a different picture. Rather than being cooperative, there is evidence that its relationships with reservation governments may be stormy. Reservation governments give HUD the lowest "grade" of the agencies considered here

(National Tribal Environmental Council 1993), and there is an inverse relationship between past warfare and receipt of funds. However, HUD is a small player in reservation environmental funding, so there is also the possibility that reservation governments have less experience on which to judge the agency, or that the data are not representative.

As for the last agency, the IHS model provides the most explanatory power of any agency regression model, and population is clearly important. This is in line with the agency's focus on providing basic water and wastewater infrastructure to reservation populations one dwelling at a time. Both its role and its administrative practices appear fairly straightforward, compared to the political undertones of the BIA and EPA or the scattered funding distribution of the ANA.

As for the distribution of agency funding by work category, there were few surprises. Rather, this research confirmed the expected: that differences among the types of projects that reservation governments and agencies undertook usually followed ecology and population. This suggests that agency decisions in this policy arena are linked to reservation needs at some level, rather than being totally capricious. The exception was the federal failure to fund the acquisition of environmentally critical lands, a need that a full quarter of reservation governments addressed on their own. Considering the centrality of land control issues to native nation-United States relations, this was an important finding.

Reservations as Funding Recipients

The second major result, the variation among reservations, was clear in demography, ecology, work categories, and government capacity and makes it difficult to generalize about Native American land issues. An unexpected finding was the lack of relationships between the amount of environmental funding received and reservation education and income levels. It was expected that a population with more formal, mainstream education would be more able to run the bureaucratic mazes necessary to obtain funds. Similarly, a higher-income population was expected to have more resources to use in applying for federal funds.

However, the lack of association for these variables can probably be explained in some combination of two ways. First, there was little range in both variables among reservations, which might have stymied the attempt to find consistent variation. Compared to the United States population, this may be one way in which reservations are more similar than they are different. Second, it may be that reservation dwellers have more constant, direct contact with federal agencies and have acquired a high level of skill in dealing with the federal bureaucracy without gaining higher levels of formal education or income.

Despite the variety, a few generalizations could be made. One was that the level of citizen group activity was quite low. While this may have been due to the inclusiveness of reservation governments in a few cases, there has also been a good deal of conflict around land and resource issues, so the lack of citizen groups was somewhat puzzling. One explanation might be that governing bodies, who provided the data, see "factions" or

"families" where social science analysts would see "citizen groups." This is supported by close observers of tribal politics, such as Giago (1996), who noted:

What passes as politics in Indian country is also tribal. It is merely a thread in a complex blanket of kinship, tradition, culture, clans, chapter houses, districts, old rivalries, and alliances. It is often an ugly wound left by the Indian agents of yesteryear treated with Band-Aids by the modern bureaucrats.

In this list of types of groupings, the typical Political Science categories of interests, parties, and citizen groups were conspicuously absent.

A second explanation might be that governments under-report a phenomenon that they consider threatening. A third might be that there really is little citizen group activity due to the difficulty of organizing to the group level where funding is hard to get and distances are large, as is the case on many reservations.

Another generalization is that reservations are not getting rich from federal environmental funding or natural resource income. First, many receive little or no federal funding. Second, reservation governments are spending more than they are getting from the United States. Third, natural resources are not a source of significant funds for the vast majority of reservations. And fourth, when funding is received, it is often such a small amount that it is not useful in practical terms. For example, if a reservation gets two hundred dollars a year for air quality or \$650 a year for mining, or even five thousand dollars a year for forestry, there is not likely to be measurable improvement in the environment or in resource management.

The other generalization that emerges from this research is the overall lack of reservation government capacity in an arena that is critical to many native nations. This is visible not only in funding levels, but also in staffing. If the average reservation government has four natural resource staff, and they are active in an average of six work categories, there are few experts in reservation environmental programs. The staff who are available are stretched thin.

This indicates that tribal governments have little ability to chart their own courses in the environmental arena, despite the attempts to do so shown in the tribal questionnaires. Two federal agencies that are important in this arena, the BIA and the EPA, provide funding to reservations in a manner that encourages compliance with the imposed regime. It will take the continued development of tribally-controlled funding sources for native governments to create alternatives that could lead to regime change at the reservation level.

Agency-Reservation-State Relations

Moving to our third major type of results, there is variety not only among the federal agencies and among the reservations, but in the nature of relationships among reservation governments, United States agencies, and states. The variety makes this policy arena complex and difficult to describe adequately using the existing models and data, as this and other chapters make clear.

While this chapter provides a snapshot, rather than looking at change over time, that snapshot does not indicate a substantial weakening of the imposed regime. It does indicate that federal

agencies are not following a single, consistent policy regarding reservation-based environmental and natural resource issues. The findings are fairly clear and raise several interesting political questions that are not answered by the data considered in this chapter.

First, from the five agencies other than the BIA, those native nations that did not fight back when the United States moved into their territories received more federal environmental funding in the modern United States. This raised questions about the degree to which the United States retaliated toward native nations for past insults, the reasons that reservation governments failed to apply for funds, and the long-term impacts of federal funding mechanisms that favored certain native nations over others.

A second set of political questions involves the role of the Senate Committee on Indian Affairs. The Committee is clearly the center of Congressional activity related to Native Americans. Yet it has little control over a large portion of reservation environmental and natural resources funding, which is both authorized and appropriated through other bodies. Although it has historically been the vehicle through which policies that both benefit and hurt Native Americans have passed, it is not providing a coherent United States policy regarding native lands and resources. Yet, under the Constitution and case law, Congress is the appropriate policy leader in this arena.

As the Presidency generally remains on the fringes of these issues, the question that then arises is whether a unified, formal federal policy involving Native American environmental and natural

resources issues can be formed under current conditions. The available data indicates that this is unlikely, because the relevant Congressional body does not have control over environmental policy on reservations and the relevant agencies act independently of each other. As a regime is a collection of norms and values, rather than a bureaucratic institution, this lack of a coherent center to federal Indian environmental policy may actually work to the benefit of the shadow federalism regime. When agency and Congressional activity are fragmented, a regime can, so to speak, step into the breach and provide coherence in the form of unified expectations and outcomes. This scenario is supported by the data provided in other parts of this research.

The third set of intergovernmental issues raised here involves the role of states. These are issues of growing importance that are considered in more depth in the next chapter. From the data considered in this chapter, there is clearly reservation activity on environmental issues independent of both the states and the federal government. There is also generally some form of relationship between reservation governments and states. When the federal government does not provide more funding to reservations as their pollution problems worsen, state governments do become more involved. This could be a result of the increase in state environmental capacity since the beginning of the Reagan era, which would allow them to include reservations in their environmental activity, combined with state recognition of the transboundary nature of environmental issues.

However, there is also a less altruistic explanation. Historically, many states have made repeated attempts to extend

their jurisdiction over various aspects of reservation life. States have also historically benefited from federal funding directed toward solving the natural resource problems of reservation populations (McCool 1987). The presence of reservation pollution problems may provide a pretext for states' attempts to extend their power. Again, further research is indicated, and some of these questions are addressed in Chapter Six.

These questions are important not only for scholarly reasons, but, again, because land and resources are central to Native American-United States relations. Not only is further research indicated, but research that incorporates other substantive issues and other federalist arrangements, especially those unrelated to fourth world peoples, would be particularly interesting.

Research Involving Native Americans

Turning to the fourth and last category of results, some of the variables typically used in research involving state environmental activities are not particularly helpful in the reservation environmental arena. Two such concepts applied here are the level of government administrative capacity and the impact of Senate representation on the receipt of federal funds. It should also be noted that such variables as political party and level of industrialization are not even considered here, because they are so clearly not useful on reservations, which do not have internal party structures and are overwhelmingly non-industrial.

Administrative capacity was considered for both states and reservation governments. State capacity in the environmental

arena was not significant to what happened on reservations in any of the regression models. There was no correlation between state capacity and the number of reservation staff, environmental budget, or number of active work categories, which indicates that states do not take on environmental duties when reservations have fewer governmental resources. It appears that the governing capacity of neighboring states is simply not very important to what happens in reservation natural resource programs. In general, traditional measures of government capacity also did not help explain the level of federal funding provided to reservation governments. The exception was EPA funding which, as also indicated by other variables, was allocated in a somewhat different manner than money from the other agencies considered.

The other common variable considered here, the presence of a Senator from a surrounding state on the Senate Committee on Indian Affairs, is also not significant in the regression models, but is sometimes weakly correlated with the receipt of more funds. There are two clues to these mixed results. First, the only environmental categories in which there are correlations between receipt of funds and the presence of a Senator are wastewater and water supply. These are high-cost, distributive projects that are classic pork barrel. McCool (1987) reminds us to ask whether reservations are actually getting the "pork," or whether they appear to be recipients of project funds under programs that primarily benefit area non-Indians. Historically, he indicates that non-Indians receive the most benefit from these funds, but this research does not directly address this issue. The second clue is that the highest correlation between the presence of a

Senator and agency funding is for the EPA. This again indicates that the EPA operates in a more formal manner than the other agencies in terms of both the interfaces between agency and reservation and between agency, Congress, and reservation.

At first blush, the latter configuration sounds like a subgovernment. But, for reasons outlined above, reservation governments are not interest groups, and many of the assumptions of subgovernment models are questionable in this context. The findings actually apply to relationships between 282 separate units of government, Congress, and the agency. In addition, the EPA is only one agency in this arena, and its funds are neither allocated nor appropriated through the Committee on Indian Affairs. So while some sort of agency-Congress-reservation link appears significant statistically, the combination of the weakness of the finding and the surrounding circumstances suggest caution in reading much into the situation.

The problems associated with some variables commonly used in the state context are countered by the presence of explanatory power for variables that are not unique to the Native American context and may be applied elsewhere. One is the historical presence of warfare between reservation residents' ancestors and the United States, which can be considered in international contexts, as well as for the states of the former Confederacy.

The presence of an IRA government has no precise corollary in other situations, but might be useful in considering whether variations in funding are related to government form, especially in nations that have been held in trustee status. The development of more general models that incorporate these findings as they

relate to Native Americans would broaden the applicability of Political Science scholarship.

Conclusion

The data considered in this chapter reinforce the conclusion reached in Chapter Four: that the imposed regime remains in place and is expressed through the actions of federal agencies. Toward the end of the study period, native nations remain dependent on federal funding to meet many of their needs in the environmental and natural resource arenas. Even with federal funding, native nations' administrative resources are not up to the tasks before them.

There is also evidence that the imposed regime operates in what would otherwise be a policy vacuum. Official federal policy implementation involving Native American resources is dispersed and fragmented, so the imposed regime has room in which to continue to function. The fragmentation of federal policy and the resulting space for the imposed regime's continued operation are expressed in the lack of Congress-agency-Presidency coordination. They are expressed in the lack of interagency coordination and within Congress, where the key committee on native issues has no authority over either authorization or appropriation of many funds disbursed for reservation environmental purposes. Even if there is a wish for a consistent federal policy, this makes a Congress-agency link difficult to forge or maintain.

The operation of a regime as a shared set of norms and values is evident in the fact that nowhere in recent United States policy

statements is there an expression of support for continuation of the assimilation or extermination policies. In fact, recent policy statements favor self-determination and native nation autonomy, as discussed in Chapter Three. Yet the key federal actors considered here act in a manner that is consistent with the imposed regime's focus on implementation of United States laws and on weakening native nations' hold on reservation resources.

The extermination alternative is seen in the DOI's decisions, covered in Chapter Four. It can also be seen in the funding decisions of the BIA, the central agency on Native American issues, which follow a pattern that may encourage internal division on historically troublesome reservations. The assimilation alternative is provided by the other key federal agency for environmental policymaking on reservations, the EPA, which distributes funding in a manner that appears to encourage cooperation with and conformity to mainstream United States values and government forms.

With the exception of the IHS, other agencies' funding decisions are erratic (ANA, DOE) and/or relatively unimportant (HUD, DOE). The overall statistical importance of population to the distribution of agency funding is related to the preponderance of IHS dollars and that agency's mission of providing water and sewer service to reservation houses.

These results indicate that, like other regimes, the imposed regime surrounding United States-Native American relations operates independent of specific government policy. Here, the specific government policy of self-determination is trumped by the existence of the imposed regime, which involves a shared set of

norms and values that leads to identifiable outcomes. The regime is not a creature of the federal government; it operates independent of federal policy, even though the regime revolves around and operates through federal institutions.

However, there are also pressures for change in the imposed regime, particularly the finding that tribal governments are attempting to develop programs and funding that are independent of United States agencies. While they have not been successful in developing adequate administrative capacity, the fact that one-quarter of reservations have acquired lands independent of federal funding is also important.

The information provided in this chapter is only a snapshot of one aspect of the regime, the tribal-federal nexus, during the years 1989-1991. In Chapter Six, the focus moves to the state level, and again looks at the imposed regime over time.

CHAPTER SIX: THE TRIBAL - STATE NEXUS

Introduction

As Chapters Four and Five make clear, relationships among United States federal actors and native nation actors are characterized by substantial complexity. This complexity is further enhanced when state governments are added to the discussion. However, as made clear in earlier chapters, the tribal-state-federal picture is not the typical federalism found in discussions of national-subnational relations. Where Indian policy is concerned, it is not a simple matter of state actors being subservient to federal interests. Nor are tribal governments the creatures of their neighboring states, as are counties or cities.

Relational federalism is present in the interaction among state and tribal governments. But these sets of actors are neither equals within the United States system, nor are they in a dominant-subservient relationship. Their relationship is legally that of a subnational unit and its neighboring nation, but just saying that is too general; these relationships can develop into a number of different on-the-ground arrangements. This chapter investigates what the on-the-ground arrangements are between states and tribal governments in the self-determination era, particularly around land and resources, with a focus on the roles of states in the imposed regime. Have states generally acted as enforcers of the imposed regime? Or have states undermined the regime by increasingly treating Native Americans as separate from

the United States or its control? Have native actors' attempts to assert themselves created increasing conflict with states?

The picture is complicated by the fact that the self-determination era has coincided with changes in state-federal relationships in general. Under the general term "New Federalism," many programs and mandates have been shifted from the federal to the state level within the United States system. These changes have included growth in state governments' size and power, including with respect to the environmental arena (Scheberle 1997; Davis and Lester 1991; J. Lester 1994; Rosenbaum 1995).

As discussed in Chapter Three, Congress has also provided tribal governments with an increased opportunity to implement federal regulations. In theory, these changes could increase tribal-state conflict, they could simply create a new reason for tribes and states to argue, or they could force states and tribes to work together toward common pollution control goals. In any case, changes in state-federal relationships under New Federalism must be kept in mind during discussion of tribal-state relations in the self-determination era.

In order to understand recent developments, tribal-state relations will first be put in historical context. These relationships are characterized by increased interaction over time, continuing conflict, and lack of clarity. The chapter will then consider the results of a survey sent to state governments which duplicates data collected by a survey done at the beginning of the self-determination era in an effort to identify regime change. The results of the state surveys are then considered in light of additional data from the tribal government survey. This

information on the role of states in the imposed regime will then be added to the data presented in past chapters regarding tribal-federal relations for a more complete picture of shadow federalism.

State-Tribal Government Relations in Context

In the vast majority of instances, direct relationships between state governments and native nations could best be described as sporadic until well into the 20th Century. This is not to say that native and state actors were not in contact, only that such contact was seldom government-to-government. The ambiguous language and poor implementation of the Articles of Confederation left native-federal and federal-state relationships in chaos, and largely as a result, the Constitution was clearer about those relationships (Washburn 1995, 51-53; *U.S. Constitution*, art. 1, sec. 8, clause 3). It moved Indians from a state concern to a federal concern, and most Native American-United States interactions were clearly international until at least the mid-1800s. Still, some states did continue to deal directly with native nations, particularly along the East Coast. This was true both because the federalism of the era minimized Washington's role and because the original states retained the practice of operating independently in many aspects of international affairs (Washburn 1995, Chs. 2, 3; Berkey 1992; O'Brien 1989, Ch. 4).

In general, when state governments became directly involved with Native Americans during this period, the states' focus was on

removing Indians to land farther west or on protecting state citizens from native anger. For obvious reasons, these two activities often intertwined. It was common, for example, for states or their predecessor territorial governments to call up the militia in times of real or perceived danger from an Indian uprising. At the end of the uprising, the native population was either diminished or removed (O'Brien 1989, Ch. 4; Brown 1970, Chs. 3, 4, 16). Some of these events were actual massacres of Native Americans, rather than reactions to any real threat, especially those that took place in California and Colorado around the time they became states (Findlay 1992; Brown 1970, Ch. 4).

Probably the most famous interaction between a state and a native nation in this time period involved the removal of the Cherokee from Georgia to what became Oklahoma, mentioned in Chapter Three. While the removal process was initiated after the passage of a federal law, it wound up in court as a conflict between the Cherokee Nation and the State of Georgia.

The results included two of the most important Supreme Court decisions in the history of United States-native nation relations, *Cherokee Nation v. Georgia* (30 U.S. (5 Pet.) 1, 1831) and *Worcester v. Georgia* (31 U.S. (6 Pet.) 515, 1832). Although decided only a year apart, the two cases offered different ideas of native nations' status within the United States. In *Cherokee Nation v. Georgia*, the Court decided that native nations were "domestic dependent nations" within the United States, subject to United States claims upon their territory. In *Worcester v. Georgia*, the Court said that native nations were foreign political

entities, with sovereign powers of self-government (Wilkins 1997, 22, 42, 275).

Although there were differences in the decisions' findings, Justice John Marshall's opinions in these two cases formed the basis for the focus on Congress in United States efforts to strip Native Americans of land, rights, resources, and nationhood, which eventually led to the plenary power doctrine (Pevar 1992, 4; Churchill and Morris 1992, 13-14, 18; Wilkins 1997, 275). The *Worcester* decision reiterated the lack of a state role in dealing with native nations, setting up what Pommersheim (1995, 142) called an "exclusive federal-tribal relationship" that "bars the intrusion of any state authority in Indian country."

Despite this strong language, the stage was set for states' roles to increase in 1871, when treaty-making with native nations was abandoned, as discussed in Chapter Three. To the extent that Congress's new policy was designed to assimilate Native Americans into the United States mainstream, it was also designed to make them citizens of states (Pevar 1992, 5-6; Churchill and Morris 1992).

The areas where larger native populations survived, mostly in the West, were carved into states during this same time period. This provided another opportunity to define tribal-state relationships. Generally, the definition was provided by statehood enabling acts that contained "disclaimer clauses." These clauses explicitly left state governments out of the federal-native nation loop. As Pommersheim (1995, 143-144) points out, this presented little problem at the time, as reservations

were still fairly well-defined chunks of land that were populated almost exclusively by Indians. With the implementation of the Allotment Act, this began to change.

Congress's assimilation policy and the individualization of reservation lands through the Allotment Act did not lead to an immediate or substantial increase in state-native government relationships. Rather, the drop of Native American population within the United States to its 1900 low, combined with the poverty and isolation of reservation life, meant a continuation of the pattern of limited native-state interaction (Stiffarm and Lane 1992). Native populations were generally so small, isolated, and politically powerless that they were not on state governments' radar screens.

Where interactions did take place, as observed by the Supreme Court in its 1886 decision in *United States v. Kagama* (118 U.S. 375), "the people of the states where [Indians] are found are often their deadliest enemies." The threat from states was usually not military in this period. State militias were seldom deployed, and the last massacre of Native Americans at Wounded Knee in 1890 involved federal troops (Brown 1970, Chs. 18, 19). Instead, Native American-state conflict began to center more openly around control of land, and state policies ranged from direct appropriation of desirable acreage to repeated attempts to extend state jurisdiction over reservation lands (Valencia-Weber 1995).

When the 1934 Indian Reorganization Act created the basis for the formation of new United States-recognized native nation

governments, these governments were designed to formalize and streamline interaction with the federal government, not to have formal interactions with states (Churchill and Morris 1992; Deloria and Lytle 1984). Until the post-World War II period, most Native Americans remained on federally-administered reservations, attended federally-sanctioned schools, received federal health care, traveled on federal roads, and lived under federal and tribal law enforcement. World War II, however, brought changes to Indian country, as it did to other portions of the rural United States (Cahn 1969; Nagel 1996, 117-118).

Historically, Native Americans have served in the United States military at a higher rate than the general population (Holm 1992). About thirty percent of adult Native American males served in World War Two, another twenty-five percent worked in war-related industries, and native individuals became part of the postwar rural-to-urban demographic shift. In addition to the economic and social incentives faced by other migrants of the time, the federal relocation policy encouraged off-reservation migration, as noted earlier. When Indians left the reservation, they left federal lands and services behind and became dependent on state governing bodies for education, law enforcement, and social services (Washburn 1995, 234; Nagel 1996, 117-120; Cahn 1969; Taylor 1972).

As discussed in Chapter Three, the companion of the relocation policy, the termination policy, was designed to end reservation status and make native lands indistinguishable from state lands. Where that policy was implemented, even temporarily,

there was an increase in tribal-state relationships (Shames 1972; Peroff 1982).

The pattern, then, was one in which a number of events in the mid-1900s increased contact between Native American individuals and governments and the states' governments. With the failure of the termination policy, the modern era of tribal-state-federal relations developed (Taylor 1972; Pevar 1992, 111-119; Rawls 1996, Ch. 2).

The self-determination era began on undefined state-tribal terrain, and this lack of definition continues. As the National Conference of State Legislatures (Reed 1995, 1) put it:

The treaties, executive orders, and agreements and statutes that established Indian reservations were vague with regard to the role of states. In many cases where Indian treaties preceded statehood, the authority of state courts, revenue agencies, and wildlife departments has never been explicitly addressed.

This vagueness is a matter of practice, of mutually acted-upon norms and values rather than legality, as states' lack of legal standing on reservations was clearly established by international treaties and statehood statutes. The problem is more one of establishing who has jurisdiction over whom on what specific parcel of land. This was discussed in Chapter Three; the break-up of reservation land bases by the Allotment Act and the resulting checkerboarding of most reservation lands makes law enforcement, for example, very difficult, as a person's legal status may change from one piece of land to the next (O'Brien 1989, 276-281). Native Americans are subject to tribal or federal jurisdiction on Indian-held lands, but to state jurisdiction off-reservation. Non-Indians on reservations are state citizens, and are usually

beyond tribal government control (Wilkins 1997, 187-213; O'Brien 1989, 208).¹

As mentioned above, states have repeatedly attempted to assert jurisdiction both on and over native lands, and a series of federal court decisions has muddied, rather than clarified, the fine points of these arrangements (Record and Hocker 1998a, 28; Churchill and Morris 1992; Pommersheim 1995, Ch. 5). Probably the most accurate description of the situation is that, because any given legal situation depends variously on treaties, state enabling acts, federal legislation, federal court decisions, tribal government capacity, and governments' inclinations to get involved, the underlying terms of state-tribal interaction vary from place to place. This is not to say that generalizations cannot be made, but simply to point out that the on-the-ground political situation is extremely fluid and varied.

A 1991-1992 survey conducted by the National Conference of State Legislatures (NCSL) provided some interesting insights into this variation. While the survey did not claim a representative sample and reached fewer governments than did this research, it received 79 responses from a mix of tribal and state officials. While states and tribes agreed on some of the key issues they had to deal with, they differed on some critical ones, including the importance of sovereignty. Tribes communicated with states in a variety of ways in a variety of forums, and there were apparently no set lines of communication. Dispute resolution was similarly unchanneled, with both sides ultimately relying on litigation to settle differences. In short, there was some common ground on issues, but not on resolving them (Reed 1995, 7-14).

In the context of regime theory, the NCSL study indicates a lack of the types of common channels and forums that are often found in studies of modern environmental regimes. Pommersheim (1995, 158) also noted this problem:

One of the principal problems of tribal-state relations is the absence of forums--both formal and informal--in which Indians and non-Indians and tribal and state officials come together to discuss important issues. Given this lack, the resulting gulf in communication is all too easily filled with pernicious gossip and relentless stereotypes.

The exceptions are the federal courts, which are both an important aspect of shadow federalism and an arena whose use is based on the presence of a conflict that cannot be resolved by more informal means. This suggests that Native American-state relationships under shadow federalism operate differently from modern regimes formed to resolve international environmental conflict. Rather, the situation is ripe for conflict.

Representing a dominant Native American view of this conflict, Williams (1996, 987) said, "History teaches Indian peoples that in a federal system of government, the white racial power organized through state governments represents the gravest and most persistent threat to Indian rights and cultural survival on this continent." This power is organized both through formal state machinery and through citizens' groups, which have sometimes acted against Native Americans with the support of state and county officials (Rawls 1996, 159-162; Wilkins 1997, 186; Whaley with Bresette 1994; Gedicks 1993, Ch. 7).

One of the better-documented situations occurred in Wisconsin in the late 1980s and early 1990s, when Anishinabe won court protection of their fishing rights. While some non-Indians

supported treaty rights, others organized groups to oppose them. The result was several years of intense political conflict. When Anishinabe attempted to fish, they were harassed, threatened, stoned, and met at the boat landings by hundreds of anti-treaty protesters. Some state officials, including then-Governor Tommy Thompson, egged the anti-treaty groups on. Department of Natural Resource and county officials refused to prosecute anti-treaty activists when violence broke out (Gedicks 1993, Ch. 7; Whaley with Bresette 1994, Chs. 5 and 6).

Yet looking at conflict does not tell the entire story. The NCSL survey also identified successful interactions in law enforcement, taxation, child protection, land claims, and other arenas (Reed 1995, 11-12). Wilkinson (1993) and Wilkins (1994b) are among the authors who have highlighted cases in which favorable outcomes have been the result of tribal-state negotiations. The passage of the Indian Gaming Regulatory Act (IGRA) in 1988 increased the number of situations in which states and native nations are encouraged to negotiate with each other. The IGRA required state and tribal governments to negotiate gaming agreements, called compacts, before gaming was instituted on a reservation. As of late 1998, twenty-six states had negotiated compacts with tribal governments (Baker and Rosenberg 1992; Lane 1995; Lahammer 1991; McCulloch 1994; Indian Gaming Information Center 1998).

The ongoing process of determining gaming locations has caused a lot of both conflict and cooperation between tribal-state, tribal-federal, tribal-county, and federal-state officials. (McCulloch 1994; Raids put FBI 1992; Brasher 1992; New Mexico

attorney general 1992; N.D., tribe negotiating 1991; U.S. attorney 1991; Sheriff's department 1990; Minnesota, Wisconsin co-exist 1991; Idelson 1996). While gaming is not considered a natural resource under the terms of this research, tribal purchase of lands for the construction of gaming facilities has been a point of contention between states and tribal governments. As conflicts over Native American control of land, such situations are within the scope of this research. Gaming negotiations between a state government and native nations may also impact willingness to cooperate around natural resource issues. For example, state governments have sometimes linked environmental issues to gaming compact negotiations. Governor Thompson of Wisconsin threatened to oppose both tribal environmental regulation and treaty-based hunting and fishing rights, if gaming negotiations did not go to his satisfaction (Bresette 1997).

In this chapter, a broad picture is drawn of both conflict and cooperation among native nations and their contiguous state governments in the self-determination era. The variables in those interactions, as they surround natural resources, are analyzed, and both variations and similarities become apparent over time and across space. The first step in this process is a look back at the beginning of the study period.

Taylor and Marble Cake Federalism, Reservation-Style

It was at the dawn of the self-determination era in 1970-1971 that Theodore W. Taylor, a career BIA employee with a Ph.D. from Harvard, took a Federal Executive Fellowship with the Brookings

Institution. The result of this fellowship was the book *States and Their Indian Citizens*, which was based on Taylor's research, his experience in government, and surveys sent to both state and tribal governments (Taylor 1972). Opening Taylor's book is a bit like stepping into a time capsule. The book is replete with the best thinking of the War on Poverty, which assumed that with enough federal money applied to enough federal programs, poverty and its accompanying social ills would disappear rather handily. For reservations, Taylor quoted a *South Dakota Law Review* article to the effect that this transformation could take place in a decade, allowing what he called "Indian communities" to begin acting more effectively in their own interests (Taylor 1972, 73, 114).

While Taylor's thinking centered around the War on Poverty and the resulting changes in state-federal relations, his work represented a different type of bridge in United States policy toward Native Americans. His book contained the seeds of the self-determination era without abandoning the goals of the termination era. Once federal programs had led to economic transformation on reservations, he said, there would be no need for special programs for Native Americans, and they would take their place as another interest in a pluralistic society. The possible exception was the Navajo Reservation, which he suggested could become the fifty-first state (Taylor 1972, 122-130, 153).

In Taylor's vision, the new federal policy was to encourage "cooperative effort between Indian communities and the States as well as with the Federal Government" [*italics in original*] (Taylor

1972, 73). As a result of self-determination, tribes would not only be stronger interests within a pluralistic society, they would also develop stronger relationships with state governments. Essentially, Taylor's vision took Grodzins' metaphor of marble cake federalism a step further. Grodzins' metaphor described intergovernmental relations as a swirl of fluid, overlapping relations among federal, state, and local governments, rather than as a neat, linear arrangement. In Taylor's vision, Native American individuals would deal with a marble cake federalism that included federal, state, local, and tribal governments (Grodzins 1984). To some extent, this has happened. However, the aspects of Taylor's vision that included the fading away of native nationalism and the creation of county-like tribal governments have not developed.

While Taylor's book included both a historical overview and a vision of the dawning self-determination era, the bulk of his data-gathering focused on general tribal-state and tribal-federal interactions. His general data can be compared with similar data gathered during this research, though Taylor did not gather specific information on resource issues. Still, it is clear in Taylor's volume that some of the resource issues facing tribal and state governments have not changed. For example, he observed, "There is hardly a reservation that does not have a boundary question in need of resolution," and ". . . on many reservations preservation of Indian water rights is the most critical issue" (Taylor 1972, 115-116). This research indicates that these statements are just as accurate today as they were thirty years ago.

Taylor's volume provides a clear picture of relations between states and tribal governments at the beginning of the self-determination era and valuable information for comparison with the situation twenty-five years later. Where Taylor's data and current data can be compared, they provide both some interesting insights and some interesting questions. The data gathered for this study, however, provide more detailed information on tribal-state interaction around land and resource issues and on states' roles relative to the imposed regime.

The current data were gathered using a survey sent to state governments. The results from these surveys were then compared to both Taylor's data and data from the surveys sent to tribal governments, which were discussed in the last chapter. In this chapter, the resulting information has been discussed in that order.

Methodology

A survey was sent to all fifty states and to the District of Columbia in March, 1995 (Appendix H). After extensive follow-up work, responses had been obtained from the District and from all states except Alaska by May, 1997. This nearly-complete response set was important for purposes of comparison with Taylor's work, which included all fifty-one entities.

Given the unique status of Alaska natives, as reflected in other portions of this research, the lack of an Alaskan response was unfortunate. One reason an Alaskan official provided for the reluctance to answer the survey was that her state has been

embroiled in conflict with native nations. "There are lots of lawsuits," she said, adding that not only was the state legislature in session, but "It's a big issue in the legislature right now--today" (Smith 1997). As mentioned earlier, this Alaskan state-native conflict has continued in the wake of the 1998 Supreme Court decision in *Alaska v. Native Village of Venetie Tribal Government* (Wilkins 1998b; Kizzia, Manning, and Porco 1998).

Conflict as a reason for state reluctance to respond was apparently present in other places, as well. The twenty surveys received within the first year were compared with the thirty received in the second year in an attempt to identify any historical factors that could have contaminated the findings. The only significant difference between the two sets of responses was that those who responded later were more likely to have been involved in a federal court decision involving Native Americans in the past five years. As this variable did not prove to be important in other calculations, the differences in timing apparently did not create a historical problem. However, the fact that this was the only significant difference between those who responded quickly and those who responded slowly indicates that legal conflict between tribal and state governments may increase states' hesitance to give out information about relationships with tribal governments.

The other reason given by states for their slow response was lack of administrative capacity, or more specifically, difficulty finding a knowledgeable person who could provide valid responses.

For several states, this meant providing partial responses or simply indicating that the answer to all questions was "no." This was the primary reason that some survey questions were not answered by all respondents.

The 1995 survey was modeled on Taylor's 1971 effort, which was reprinted in his book (Taylor 1972, 246-250). The survey was, however, simplified to meet the more limited needs of this study, and some archaic wording was modernized. Questions specific to land and resource issues were added. Several of the questions on land and resource issues mirrored questions asked of tribal governments regarding their relationships with states, as reported in Chapter Five, allowing for comparisons of native and state views of the same situations.

The survey questions can be divided into three general categories: state capacity on issues related to Native Americans, state-tribal government relations, and state activities related to reservation environment and natural resource issues. The results in each of these categories will be considered separately. The findings are then tied together and discussed in light of the overall themes of this research project.

State Capacity

State capacity for dealing with issues involving Native Americans was measured by gathering information on the presence and time commitment of gubernatorial and/or legislative staff; presence and position of a commission on Indian issues; governor's representation on interstate groups; and state contact with

federal officials about reservation natural resource issues. These variables were then combined to create an overall measure of each state's administrative capacity on these issues. The responses for each of these variables and the calculation of each state's capacity for dealing with issues involving Native Americans are shown in Appendix I.

Thirty-one states reported that there was an individual reporting to the Governor on issues concerning Native Americans, with that individual spending an average of thirty-six percent of his or her work time on those issues. Twelve states had at least one staff position in addition to the primary employee, with two as the average number of additional employees. Not surprisingly, in the thirty-nine states contiguous to at least one reservation, the mean work time was higher (45%).

Legislatures were less likely to commit resources to dealing with native issues. Only sixteen states had an individual who reported to the legislature on those issues; all sixteen were contiguous to at least one reservation. On average, the staff person spent only fourteen percent of their work time in that arena.

The results were similar for the presence of a commission or similar organization concerned with issues related to Native Americans. Twenty-six states had such a body, with four being ad hoc rather than permanent. Twenty commissions had ties to the Governor's office, and thirteen had ties to the legislature. Only one-third of states without reservations had a commission dedicated to native issues, compared to sixty-one percent of states with reservations.

When these results are compared to Taylor's data, some changes are apparent since 1971. One change is that there are now more states that are contiguous to reservations. This is a result of the federal government's formal recognition of additional native nations over the past quarter century. Taylor categorizes twenty-four states as including reservation or trust land (Taylor 1972, 88), while this study categorizes thirty-nine states as contiguous to reservations. Taylor's number is also lower because he only counts states that "include" one or more reservations entirely within their boundaries. This study, with its focus on relationships among government entities, uses a broader concept by looking at whether a state is "contiguous" to any reservation. The assumption is that a common border between a state and a reservation may create some form of relationship, whether or not a reservation is entirely within that state. Still, the growth in the number of states that adjoin reservations is real.

A second change involved commissions on Indian issues. In 1971, twenty states had a commission or similar organization dealing with Indians. The largest staff was four, including a director, and Taylor considered them poorly financed (Taylor 1972, 89-90). The states' overall commitment of staff and finances to Indian commissions does not appear to have changed in the past twenty-five years. However, the number of commissions has grown from twenty to twenty-six.

But the growth in numbers is not the whole story. There are interesting shifts in which states have such a body. Eight states, seven of them in the West and all with significant native populations (a mean of 67,000), have lost their commissions. The

states that have added commissions in the last twenty-five years are, with two exceptions, east of the Mississippi River. The mean native population in these states is 29,000.³ One clue to this shift is provided by the subject matter focus of many of the newer, Eastern commissions. This focus is often the protection of native historical/archeological sites and the repatriation of indigenous remains that have been unearthed.⁴ This process is mandated by the 1990 Native American Graves Protection and Repatriation Act (Mihesuah 1996; Landau and Steele 1996), so it is also the focus of activity in Western states. However, in the East the Act's mandates appear to have triggered state legislative and administrative activity where the number of reservations and the native populations are comparatively small.

The loss of commissions in Western states with larger Indian populations is not explained well by this data, but there are some clues. Commissions often have the difficult dual goals of improving state-tribal relations while pleasing state governments, whose interests often run counter to those of tribal governments.⁴ It is possible that the abandonment of this form of organization in some Western states is an expression of frustration or an indication that states have less wish to improve relations than they once did, but the state surveys do not provide any firm answers.

The next measure of state capacity was the participation of the Governor on interstate bodies that deal with matters involving Native Americans. Participation is considered a measure of state capacity because it is assumed that by taking part in such an organization, a Governor would gain information on the activities

of other states and of tribal and federal governments. A Governor might also get support from others for proposed policies or policy implementation.

Taylor provided information on state participation in the Governors' Interstate Indian Council (GIIC) in the 1950s and 1960s. This body was founded in 1950 in an attempt to resolve problems states faced as the result of their increased responsibilities toward Native Americans and the possibility that all federal aid to reservations might be terminated. The GIIC opposed termination, supported reservation economic development, and sought to settle native land claims (Taylor 1972, 40-45). From 1965-1970, twenty-seven states were represented at one or more GIIC meetings (Taylor 1972, 178-179). In the 1990s, eighteen states reported gubernatorial involvement in an interstate organization, including the GIIC and the Western Governors' Association. All but one of them were from states that bordered a reservation. A number of respondents misunderstood this question and listed an intrastate body, so participation may actually be higher.

During the later period, the same eastward shift showed up for this question as for the presence of commissions. Six Eastern states that were not involved in interstate bodies in the late 1960s were involved in the 1990s. The mean Indian population in those six states was 11,000. Meanwhile, five Western governors, whose states had notable native populations (mean of 74,000), were no longer involved in an interstate body. While Western frustration might explain part of this shift, additional possibilities will be considered in the next section.

The final measure of state capacity was the presence of state-federal contact on natural resource issues involving Native Americans. Twenty-six states reported some contact; all of them were contiguous to one or more reservations. While some did not provide information on the nature of such contact, six each reported that contact was "sporadic and informal" or "regular and informal." When asked about the channels used, the largest number (nine) reported that contact took place through formal channels. The most common federal agency dealt with was the EPA with thirteen mentions, followed by the BIA with four.

States were also asked to characterize the nature of their contact with federal officials on resource issues along a continuum from "cooperation" to "conflict."³ The results were split, with eleven reporting cooperation, ten reporting a mix of cooperation and conflict, and one reporting conflict. Taken together, these results indicate that more than half of state-federal contact in this issue area is friendly. Even though much of it is informal, a substantial amount takes place through regular federal-state channels, particularly through the EPA.

The variables considered in this section, other than those indicating the nature of state-federal interactions, were combined to create a general measure of states' administrative capacity to deal with reservation environmental and resource issues, as shown in Appendix I. The higher the number of institutionalized arrangements a state had to deal with Native American issues, the higher its administrative capacity. While this type of measure is rough, it provides a basis for comparison among the states. The results ranged from zero capacity in eleven states to a value of

nineteen in two states. As might be expected, states contiguous to reservations had a higher capacity, with a mean of 10.2, while those without reservations averaged 1.9. The presence of this relationship was reinforced in correlation results. In states with at least one contiguous reservation, there was a moderate (0.33) correlation between state capacity and the number of bordering reservations. This indicates that states have more incentives to develop administrative capacity when they deal with more tribal government units. Interestingly, however, state capacity was not correlated with measures of reservation or in-state Indian population, the percent of the native population that lived on reservations, or the growth in reservation or in-state native population between 1970 and 1990.

Clearly, states have a wide variety of abilities to deal with reservation issues, and their abilities have changed somewhat over the past twenty-five years. There has been some shift in the location of state capacity from west to east. The formal vehicles for communication, such as commissions and direct gubernatorial involvement, have decreased more in states with more reservations. This indicates a decline in capacity and formal channels for state-tribal contact in places that would seem to need them. While the data provides no clear explanation, this phenomenon could indicate that states take Native American issues less seriously, that informal channels for communication have taken the place of formal channels, that a heightened level of tribal-state conflict has made old channels unproductive, or some combination of these factors. Information presented later in the chapter provides some hints on the situation.

Overall, most states still devote few resources to issues involving Native Americans and their lands, especially those states that are located away from reservations. This, combined with friendly state contacts with federal agencies around these issues, indicates that federal actors generally take the lead on reservation environmental matters, compared to state governments. These findings, combined with the findings from Chapter Five, indicate that the larger roles in the imposed regime are taken by tribal and federal governments.

State-Tribal Relations

The second category of survey results measured general aspects of state-tribal relations. Data collected included information on recent legislative and gubernatorial policies and on court cases decided in the last five years. More specific results on how tribal-state relationships play out in the natural resources arena will be covered in the next section.

The states that provided information were split evenly on whether any legislation involving Native Americans had passed in the prior five years. Not surprisingly, twenty-two of the twenty-four states passing bills were contiguous to a reservation. Where information was provided and where land or resources were at stake, an attempt was made to sort the bills according to subject matter.⁹ There was some overlap, with ten bills dealing with treaty rights, three with fishing rights, four with hunting, three with water, and eight with land claims. Twenty-seven percent of

this legislation was characterized as pro-Indian interests, fifty-five percent as anti-Indian interests, and five percent as mixed.

Governors were somewhat more likely to have been involved in policymaking on issues involving Native Americans than legislatures. Thirty-one states indicated that their governors had taken some action on matters specific to Native Americans in the preceding five years, with twenty-nine of them being contiguous to reservations. The most common forms of action were issuance of executive orders and taking a public stand, each of which was identified by eight states. Five states indicated that their governors had been active in negotiations on native issues.

When gubernatorial actions were sorted according to subject matter, there was again overlap. Ten actions were concerned with treaty rights, five with fishing rights, four with hunting, five with water, and seventeen with land claims. When content was considered, five percent were pro-Indian interests, forty-four percent were anti-Indian, and twenty percent were characterized as mixed. The remainder were unclear.

From these results, it appears that neither governors nor legislatures see state interests as synonymous with Native American interests, particularly in the land and resources arena. When these issues are the subject of executive and legislative action, there is a fair amount of conflict.

This conflict was also evident in the courts. Fifteen states indicated that an important federal court case concerning Native Americans and their relations to the state had been decided in the past five years, all of them in states with contiguous reservations. Sixteen states indicated that there had been

important state court decisions, fourteen of them in reservation-border states. Ten states indicated there had been at least one important decision from both court levels. There was not enough information on these decisions to determine their overall place in tribal-state relations. However, the fact that half the states that border reservations ended up in state court and/or federal court during a five-year period indicates the presence of conflict that was not resolved by less formal, more cooperative, or less expensive methods.

The legislative and gubernatorial data were combined to form a measure of the level of formal state government actions against Native American interests for each state. This measure was composed of the total number of instances in which a legislative or gubernatorial policy action was designated as being against Native American interests. A state action against native interests could be either offensive or defensive in nature: both an action that asserted state jurisdiction over tribal lands and one that reacted against a federal affirmation of native nation treaty rights were categorized as "against Native American interests." In states with anti-Indian policies, the number of anti-Indian actions varied from one to eight, with a mean of 0.97. When this measure was used in bivariate correlations, some interesting results were obtained. These results are displayed on Table 6.1.

Moderate correlations were obtained between the level of a state's activity against Indian interests and both the number of reservations contiguous to that state and the growth in contiguous reservations' populations from 1970-1990. The correlations were

Table 6.1: States' Levels of Anti-Indian Policy: Significant Correlation Coefficients Over 0.50

	Number of Contig. Reservs.	Growth in Reserv. Pop.: 1970-90	State Capacity on Indian Issues	Growth in States' Indian Pop.: 1970-90	Contig. Reserv. Pop.
Level of Anti- Indian Policy	0.55	0.56	0.77	0.77	0.83

strong with state capacity on Indian issues, growth in a state's Indian population from 1970-1990, and the population of contiguous reservations.

Here is evidence that state government action against Native American interests coincides with a higher potential for both individual and intergovernmental native - non-native contact. The highest correlation was between the number of Native Americans living on contiguous reservations and the level of state government anti-Indian policy activities. These findings reinforce the more general observation that the farther non-Indians live from reservations, the more favorable they are toward Indians.

While growth in the native population within a state was important, the reservation population level was more important. This suggests that state governments are most adversarial when reservation Native Americans are present, rather than simply when Native Americans are present. In other words, the negativity is linked to the presence of a tribal government and a native land

base, not just native people. This indicates that land and resource issues are important to tribal-state relations, that state governments act more strongly in the presence of contiguous governmental units than they do to native populations, or some mix of these and other factors.

These correlations, while not indicating direction, also support the idea that states in which Native American populations have grown the most during the self-determination era react more strongly. There is probably some validity to state officials feeling uncomfortable about higher native populations, as states' elected officials generally represent the non-Indian status quo in situations where population numbers can be translated into votes. Nationally, as indicated in Chapter Three, as well as on the state level, Native American population has grown substantially in recent years.

Increased native populations are not the only reason that state officials might feel concerned for their electoral futures. In some states with high Native American populations, such as North and South Dakota, the non-Indian population is shrinking in rural areas while the native population is growing (U.S. Department of Commerce, Bureau of the Census 1991; Associated Press March 2001; Associated Press April 2001; Walker 2001; Thiessen 2001). From the state official's viewpoint, these changes could lead to districts with a majority of Native American voters whose needs and aspirations are often in conflict the the non-native population the official has catered to in past elections. To make matters worse for some state officials, while

reservation dwellers have very low voter turnout levels, these levels have gone up in recent elections.

McCool (1985) identified the impacts of the "Indian bloc" in some elections and predicted a continued increase in the election of Native Americans to political office. His prediction appeared to be confirmed by some elections that have taken place since he wrote and since these data were gathered. In 1996, comparatively high reservation voter turnout was credited with defeating South Dakota's Senator Larry Pressler. Pressler was perceived as anti-Indian and ended up losing by a 51-49 margin in a state that includes approximately ten percent Native American population (Melmer 1996). In 2000, by an even slimmer margin, Maria Cantwell was elected Senator in Washington after a well-funded effort to defeat Slade Gorton led to higher than usual Native American turnout (Montana 2000).

The idea that state officials have taken a self-protective stance in relation to Indian resource issues is reinforced by the strong correlation between state capacity to deal with such issues and anti-Indian policy activities. This indicates that when states have administrative capacity, it is either used to protect states from Native American claims or to make claims on native nation resources. This provides another interpretation of the eastward shift in state commissions, discussed in the last section. To the extent that commissions attempt to play a dual role in states with high Indian populations--to both protect state interests and act as a bridge to native populations--the commissions' missions may prove untenable. In states with lower

native populations, the commissions may be able to operate more successfully.

Another possibility suggested by these results is that Native American issues provide a more politically safe arena for Eastern governors than for Western governors. For example, the historical cycle between non-Indian indifference and non-Indian attention to Native Americans swung toward Native Americans in the early 1990s, fed by the film *Dances with Wolves* and a series of made-for-television documentaries (Deloria 1969; Churchill 1992b, 17-41, 243-247). To the extent that non-Indians pay more attention to Native Americans and to the extent that those far from reservations are more positive toward Native Americans, gubernatorial attention would be both politically safer and more expedient in Eastern states.

In general, however, these results indicate that many state-tribal relationships are less than harmonious. While there are certainly instances of state action designed to benefit Native Americans, these often take place in states where there are few direct beneficiaries. The specifics of interactions in the environmental and natural resource arena will now be considered.

Environmental and Natural Resource Issues

Survey results on tribal-state interactions around environment and natural resources issues centered on three topics: the natural resources with which state governments were involved, tribal and state views of the amount of reservation pollution, and

the nature of state-tribal environmental interactions. Each of these topics will be considered separately.

State Involvement

State governments were first asked generally whether they were involved in any activities specially oriented toward Native Americans in the area of environment and natural resources.

Table 6.2: State Mentions of Areas of Environmental Activity

Area of Activity	No. of States
Air Contamination	6
Water Contamination/Supply	15
Solid Waste	6
Hazardous/Nuclear Waste	8
Forestry/Forest Products	4
Fisheries	8
Wildlife Protection/Management	10
Agriculture/Plant Foods	5
Grazing	3
Mining - Non-Energy	0
Mining - Energy	3
Energy Production	3
Wastewater	6
Public Education/Planning	6
Spiritual/Religious Use	13
Recreation/Tourism	4
Historical/Archeological Sites	11

Thirty states answered that they were involved in such activities, and twenty-eight of these were contiguous to a reservation.

State respondents were then asked to list their activities according to the categories used throughout this research. As in other portions of this research, there was substantial mention of two categories that states were not asked about: recreation/tourism (other than fishing and hunting) and historical/archeological sites. Due to the large number of independent mentions of these issues, they were included in Table 6.2. As they were not listed on the survey, actual state activity may be more extensive.

One of the most immediately obvious things about this list is that state governments are most active on two of the same issues that tribal governments reported being most involved with: wildlife protection/management and water contamination and supply. Water received the most mentions on both the state and the tribal surveys. Unfortunately, tribal governments were not asked about spiritual use or historical sites, but several did list these activities when asked about "other" tribal activities.

Considering the relatively high number of state governments involved in activities related to Native American resources, most states were involved in few issue areas. Seven states were working on only one issue. At the other end of the spectrum, one state was working on fifteen issues. For states with any involvement with Native American resources, the mean was three issue areas. As might be expected, this was lower than for tribal governments, which were active on an average of six issue areas, as discussed in Chapter Five.

Correlations were calculated in an attempt to explain the conditions under which a state might be involved in a higher number of resource issue areas. There was a moderate relationship between the number of issue areas in which a state was involved and the Native American population within the state (0.31), the number of reservations contiguous to the state (0.32), the number of state government actions taken against Indian interests (0.36), and the reservation population within the state (0.44). The presence of a large number of reservations and of a higher native population is one obvious reason why states would pay attention to more Native American resource issues. The correlation with state actions against Indian interests also indicates that when states take action on reservation resource issues, they may be in conflict with their native neighbors.

One reason states might be antagonistic when reservation resource issues arise would be that those issues are perceived as "problems." To get at this type of situation, states were asked for their views on the severity of environmental problems originating on contiguous reservations. Among states that responded, the most common answer (14) was that nearby reservation environmental problems were "average." Three states said there were no environmental problems on nearby reservations, while two considered such problems "mild" and seven considered them "severe."

Taken alone, this would not seem to indicate that transboundary pollution is seen as a major problems in state-tribal relations. However, there was a moderate correlation (0.64) between state governments' perceptions of the severity of

reservation environmental problems and the number of state government policies that were taken against Native American interests. This correlation was stronger than the correlation between the perceived level of problems and the reservation population (0.44) or the in-state native population (0.40). While correlation does not indicate direction, these findings indicate that there is a link between states' perceptions that reservations are the source of environmental problems and states taking action against Native American interests. This will be explored further in future sections of the chapter.

Comparisons of Tribal Views and State Views

Tribal governments' and state governments' views of reservation environmental problems were then compared. The responses given by tribal governments regarding the severity of problems on their reservations, discussed in Chapter Five, were compared with the responses provided by their contiguous states using a t-test for paired samples. The results indicate that tribal governments viewed their problems as significantly less severe than contiguous states did. This finding might be explained in several ways. First, those who live with chronic environmental problems where there is low administrative capacity to deal with them may minimize the risks for a number of reasons. Considering the low level of formal education and low administrative capacity for environmental education on reservations, people simply may not know that a problem exists. People may also accept chronic environmental problems as normal because they are used to them, or because they are seen as an

unavoidable cost of an activity that brings economic benefits. If people are educated to environmental risks and aware of their presence, they may still minimize them as a psychological defense against what is perceived as an unsolvable problem.

A second potential explanation for the different perceptions of tribal and state governments also arises from other data gathered here. States may couple the belief that reservations are the source of environmental problems with attempts to gain jurisdiction over reservation lands. In other words, states may attempt to assert jurisdiction over Indian lands by focusing on solving perceived reservation environmental problems.

A third potential explanation of the different perceptions of reservation pollution is that there may be varying perceptions of what constitutes a "reservation" environmental problem. For example, one state respondent mentioned the Prairie Island nuclear power plant and associated nuclear waste storage as a reservation pollution problem. Actually, the plant and storage sites are on private property adjacent to a reservation (Bauerlein 1995, 27). It could be that reservation residents see such problems as off-reservation, while state governments see them as reservation problems.

For purposes of regime theory, what may be most important is that, regardless of the reasons, tribal governments and state governments see the same environmental situations in different ways. This does not indicate agreement based on a common set of ideas. Rather, it is another explanation of why conflict exists between the two types of governments. But conflict is not the only form of interaction among states and tribes. The last set of

survey results looks at these relationships in the natural resources arena more generally.

Tribal-State Interactions

The survey asked states whether their employees or officials had contact with contiguous reservations on environmental and natural resource issues. Twenty-three states reported having no such contact, including four states that were contiguous to reservations. Of the twenty-seven states that reported being in touch with reservations, ten considered their contact "occasional," nine considered it "regular," and eight reported a "regular working relationship."

If there was state government contact with tribal personnel around natural resources, the state was asked about the nature of that contact. Ten reported generally cooperative relations, fourteen reported mixed cooperation and conflict, and two reported a focus on conflict. State governments and the contiguous reservation governments were paired, and a t-test was performed using tribal government responses to a similar question. This time, tribes and states viewed the situation in a similar enough manner that the differences were not statistically significant.

This seemed to contradict the relatively high level of conflict identified when legislative and gubernatorial policies were considered. While many official state policy statements showed conflict between native and state interests, it appeared that day-to-day relationships were more cooperative. This finding could be a result of differences between higher-conflict public displays by political officials and lower-conflict interactions

among bureaucratic personnel. It could also be a result of the fact that the people answering the survey were state personnel whose job description often included forging cooperative links with tribal governments.

The environmental administrative capacity of tribal governments contiguous to a state, as reflected in the tribal government survey responses discussed in Chapter Five, was then considered in light of the state survey results.³ Correlations were calculated for several variables, and the results are shown in Table 6.3.

Table 6.3: Contiguous Reservations' Administrative Capacity: Significant Correlation Coefficients Over 0.45

	State Admin. Capacity	Indian Population Within State	Number of Anti-Indian Policies
Contiguous Reservations' Capacity	0.47	0.54	0.66

	Reservation Population Within State	1970-1990 Reservation Population Growth	State View of Reserv. Environmental Problems
Contiguous Reservations' Capacity	0.74	0.77	0.84

The administrative capacity of tribal governments was moderately correlated to state administrative capacity, total Native American population within the state, and the number of state policies characterized as against Indian interests. Higher tribal

government capacity was strongly correlated with a larger reservation population, reservation populations that had grown substantially in recent years, and the contiguous state's view that reservation environmental problems were worse.

These correlation results provide a dynamic picture of how tribal and state governments deal with each other on environmental and natural resource issues. The findings reported in Chapter Five on the importance of the link between higher reservation population and the receipt of more federal natural resources funding suggests that tribal governments' intergovernmental focus would be on the federal level, rather than on the state level. In these correlations, population and capacity are clearly linked, but there is also a moderate correlation between reservations' administrative capacity and their contiguous states' capacity. This indicates that a state capacity-tribal capacity link exists, as well.

The number of state policies that can be characterized as anti-Indian is moderately correlated to tribal governments' capacity, but it is hard to say which came first: tribes becoming able to push their natural resource agendas to state attention, or states' attacks on Native American natural resources leading to tribal governments administratively defending themselves. Here, the relationship between state capacity and contiguous tribal governments' capacity provides a clue. A scatterplot of this relationship indicates that the ability of native nations to deal with environmental issues is negatively related to contiguous states' capacity. This suggests that tribes are in a defensive posture.

Because tribal government capacity is strongly correlated to states' views of reservation environmental problems, it may be that when tribal governments begin to develop the capacity to deal with environmental problems, their neighboring states perceive it as an indicator that there are problems to which they need to react. Alternatively, states may simply become more aware of the reservations' existence or pollution issues and take political action policy against Native American interests, or tribal governments may take actions that threaten state interests when they develop greater capacity.

The combination of these results and the findings about federal funding suggests an interesting scenario. As tribal governments develop the ability to deal with reservation environmental issues, often with federal encouragement, states may interpret this as either an indicator that reservations are the source of environmental problems or that native nations are becoming more assertive about resource issues. States react either bureaucratically by working cooperatively with tribal governments or politically by asserting state jurisdictional claims. The result is a mix of elected politician conflict and bureaucratic cooperation, and the balance of each varies from place to place.

For state politicians in all but a few places, their stance on Indian issues is of little electoral importance. In addition, when they issue anti-Indian statements and legislation, they are catering to a non-Indian, majority audience. They face little political danger from these actions but can use them as an

opportunity to "show leadership." In other words, anti-Indian activities by most state politicians can easily be grandstanding.

On the other hand, these data support the general observation that native nations perceive state policies as real threats and react accordingly (Churchill 1993, Part II; Whaley and Bresette 1994; Gedicks 1993; Matthiessen 1980). Native Americans accurately perceive that where states are most involved on issues related to Native Americans, they are also most hostile. Thus, tribal governments have greater administrative capacity when they border more hostile states. They work cooperatively at the bureaucratic level, perhaps forming allies that might act as a counterbalance to hostile elected officials.

This suggests, again, that native and non-native leaders view the situation through different lenses. What state politicians may treat as opportunities to get attention and votes, tribal officials treat as threats to their national land base and survival. The result was characterized by one author as, "When Indians and the environment intersect, the most mundane legal and political arguments evoke deep emotional charges" (Monette 1996, 113).

Despite this highly-charged emotional atmosphere, the survey results suggest that the majority of state governments deal with Native American land and resource issues sporadically and commit few administrative resources to them. States that are contiguous to reservations do more, perhaps in reaction to a perception that there are reservation environmental problems, and they are involved in more conflict. When state governments do become involved, they are most concerned about the same resource issues

as tribal governments. When they engage with each other, the two types of governments appear to be as likely to be in conflict over resources as to be cooperating to solve environmental problems.

Regression Analysis

The analysis considered so far provided some interesting results, but additional information was desired about causation. This necessitated the use of regression analysis, which was used to explain three dependent variables: the number of environmental issues states were active on, the level of state capacity to deal with Native American land and resource issues, and the number of state policies issued against Indian interests. This analysis provided relatively strong explanations of two of these dependent variables.

Number of Environmental Issues

States were active on a variety of environmental issues related to Native Americans, and some states were clearly more involved than others. It was hypothesized that the differences in levels of involvement might be explained by the following independent variables: reservation population within the state, average administrative capacity of reservations contiguous to the state, presence of state-federal conflict around reservation natural resource issues, presence of state-tribal cooperation around reservation natural resource issues, and number of state policy statements characterized as against Indian interests.

Table 6.4A: Multiple Regression Results: Number of Environmental Issues on Which a State is Active: All States

Equation Number 1: Dependent Variable: ENVNUM number of environmental issues state involved in

Block Number 1. Method: Enter ANTITONE FCONF RCOOP RESCAP RESPOP

Variable(s) Entered on Step Number

1. RESPOP reservation population within state (in thousands)
2. RESCAP average environmental capacity of reservations contiguous to state
3. ANTITONE number of anti-Indian state actions
4. FCONF presence of conflict with federal government
5. RCOOP presence of cooperation with reservation government

Multiple R .97638
 R Square .95333
 Adjusted R Square .83664
 Standard Error .98412

Analysis of Variance

	DF	Sum of Squares	Mean Square
Regression	5	39.56301	7.91260
Residual	2	1.93699	.96850

F = 8.16999 Signif F = .1126

----- Variables in the Equation -----

Variable	B	SE B	Beta	T	Sig T
ANTITONE	.218602	.219450	.179159	.996	.4241
FCONF	1.617382	.836682	.355061	1.933	.1929
RCOOP	1.692226	.978899	.321721	1.729	.2260
RESCAP	.133454	.042531	.538617	3.138	.0883
RESPOP	-.006250	.005368	-.215947	-1.164	.3644
(Constant)	.051031	.822616		.062	.9562

According to Table 6.4A, this model had an adjusted R^2 of 0.84, but none of the independent variables reached significance. Despite the fact that none of the individual independent variables reached significance, the strong adjusted R^2 provides some information. These results confirm the importance of reservation population, as discussed earlier in this chapter and for federal

relations in Chapter Five, by indicating that it is also a factor in the number of issue areas in which states become involved. The regression results also flesh out the correlation finding that population and state involvement move together by showing that reservation population causes state involvement on more issues, rather than vice versa.

The results' indication that both conflict with federal agencies and cooperation with reservation governments are important to state involvement suggests that states become involved on additional issues when they face situations conducive to cooperation with tribes--perhaps common, transboundary problems--or when they are pushed into taking a role by federal agencies and laws. States are most likely to become involved in a high number of Native American resource issues when both tribal cooperation and federal conflict are present.

Because it was suspected that the pattern of tribal cooperation and federal conflict might vary by location, especially given the importance of reservation population, the regression equation was run for states in the BIA's Eastern Area. This Area is made up of the states east of the Mississippi River, with the exception of Wisconsin, Michigan, and Minnesota. When the Eastern Area was considered alone, the regression equation could not be processed due to missing data. When the regression equation was processed for states outside the Eastern Area, the R^2 jumped to 0.99, with reservation administrative capacity reaching significance.

Because the R^2 value was unusually high, the independent variables were tested for multicollinearity. In western states, reservation administrative capacity and reservation population were correlated at the 0.92 level. The regression equation for Western states was run again, removing each variable one at a time. When reservation capacity was removed, the R^2 dropped to 0.34. When reservation population was removed, the R^2 value rose

Table 6.4B: Multiple Regression Results: Number of Environmental Issues on Which a State is Active: Western States

Equation Number 1: Dependent Variable: ENVNUM number of environmental issues state involved in

Block Number 1. Method: Enter RESCAP ANTITONE RCOOP FCONF

Variable(s) Entered on Step Number

1. FCONF presence of conflict with federal government
2. RESCAP average environmental capacity of reservations contiguous to state
3. ANTITONE number of anti-Indian state actions
4. RCOOP presence of cooperation with reservation government

Multiple R .99165
R Square .98338
Adjusted R Square .95014
Standard Error .58271

Analysis of Variance

	DF	Sum of Squares	Mean Square
Regression	4	40.17804	10.04451
Residual	2	.67910	.33955

F = 29.58190 Signif F = .0330

----- Variables in the Equation -----

Variable	B	SE B	Beta	T	Sig T
RESCAP	.163184	.026356	.662507	6.191	.0251
ANTITONE	.165054	.132868	.135939	1.242	.3401
RCOOP	-.399090	.767167	-.057805	-.520	.6548
FCONF	2.621839	.568255	.537049	4.614	.0439
(Constant)	.834946	.597665		1.397	.2972

to 0.95, with reservation capacity and the presence of state-federal conflict reaching significance. These results provided more explanatory power and are attached as Table 6.4B.

As shown in Table 6.4B, the beta value for reservation capacity was 0.66, and the beta value for presence of state-federal conflict was 0.54, indicating that these variables were quite important to the number of environmental issues in which western states became involved. This provided a clear answer to one question raised earlier; Western states react to increased tribal government administrative capacity by becoming more involved in natural resource issues, rather than the other way around.

Like other states, Western states are also spurred to action when there is a mix of cooperation with tribal governments and conflict with the federal government. At first glance, the mix of anti-Indian policy statements and tribal-state cooperation seems problematic, but given earlier results, these regression results support the idea that elected state politicians tend to promote state-tribal conflict, while bureaucratic relationships are more peaceful. However, the presence of clashes between the federal government and the state is the only variable measuring the nature of relationships that reached significance and is, thus, far more important in creating a situation in which state governments become involved on more reservation environmental issues.

State Capacity

States' capacity to deal with Native American environmental and natural resource issues varied considerably, with many states

allocating no administrative resources to these issues. A regression model was designed to try to explain when states were more likely to set aside some of their limited administrative resources for the purpose of dealing with Indian environmental issues. The independent variables used were: Native American

Table 6.5A: Multiple Regression Results: State Capacity: All States

Equation Number 1: Dependent Variable: STATECAP state administrative capacity on Indian issues

Block Number 1. Method: Enter RESCAP RCOOP FCOOP ANTITONE

Variable(s) Entered on Step Number

1. ANTITONE number of anti-Indian state actions
2. RCOOP presence of cooperation with reservation
3. RESCAP average environmental capacity of reservations contiguous to state
4. FCOOP presence of cooperation with federal government

Multiple R .97669
R Square .95391
Adjusted R Square .89247
Standard Error 1.66286

Analysis of Variance

	DF	Sum of Squares	Mean Square
Regression	4	171.70466	42.92617
Residual	3	8.29534	2.76511

F = 15.52420 Signif F = .0240

----- Variables in the Equation -----

Variable	B	SE B	Beta	T	Sig T
RESCAP	-.132551	.072177	-.256875	-1.836	.1636
RCOOP	7.947824	2.063776	.725534	3.851	.0309
FCOOP	3.360368	2.019284	.342966	1.664	.1947
ANTITONE	.447824	.333919	.176230	1.341	.2724
(Constant)	4.980035	1.321732		3.768	.0327

population within the state; presence of cooperation with federal government officials; presence of cooperation with reservation officials; average environmental capacity of reservations contiguous to the state; and the number of anti-Indian state policy actions. This equation had an R^2 of 0.89, but multicollinearity was identified between Indian population within a state and the number of anti-Indian state policy actions.

When the equation was run without each of these variables, the stronger model was the one that included the number of anti-Indian policies and omitted Indian population. This model, which is attached as Table 6.5A, had an R^2 of 0.89, and the presence of state-tribal cooperation reached significance, with a beta of 0.73. As Table 6.5B shows, when the equation was run for Western states only, the R^2 rose to 0.92, and the beta value for state-tribal cooperation rose to 0.81.

Three of the variables that were important to the number of environmental issues on which a state became active are also important to the state's capacity to deal with those issues: cooperation with tribal officials, reservation environmental capacity, and number of anti-Indian policies. This is not too surprising, as states' capacities and the number of issues they were involved with were moderately correlated with each other (0.33), although only when non-reservation states were omitted from the calculation. Here, in contrast to the equation that explained state involvement on environmental issues, cooperation with tribal governments was of great importance, with a beta value

Table 6.5B: Multiple Regression Results: State Capacity: Western States

Equation Number 1: Dependent Variable: STATECAP state administrative capacity on Indian issues

Block Number 1. Method: Enter RESCAP RCOOP FCOOP ANTITONE

Variable(s) Entered on Step Number

1. ANTITONE number of anti-Indian state actions
2. RCOOP presence of cooperation with reservation
3. RESCAP average environmental capacity of reservations contiguous to state
4. FCOOP presence of cooperation with federal government

Multiple R .98663
R Square .97343
Adjusted R Square .92030
Standard Error 1.28344

Analysis of Variance

	DF	Sum of Squares	Mean Square
Regression	4	120.70558	30.17639
Residual	2	3.29442	1.64721

F = 18.31968 Signif F = .0524

----- Variables in the Equation -----

Variable	B	SE B	Beta	T	Sig T
RESCAP	-.178742	.061694	-.416544	-2.897	.1013
RCOOP	9.700507	1.883897	.806511	5.149	.0357
FCOOP	3.764162	1.575667	.404025	2.389	.1395
ANTITONE	.449314	.257728	.212418	1.743	.2234
(Constant)	3.550686	1.309059		2.712	.1133

of 0.73 in the equation for all states and a value of 0.81 in the equation for western states. Reservation capacity did not reach significance.

In contrast to the findings on the number of environmental issues on which a state is active, federal-state conflict was not helpful in understanding the development of state capacity. Rather, the presence of state-federal cooperation provided explanatory power. This indicates that while states may become

involved with additional Native American resource issues partly because they are being pushed by federal officials, they also develop additional administrative capacity in cooperation with federal officials. This might be simply a matter of federally-provided funding and expertise, or it may indicate that the development of administrative capacity is a less reactive, less political activity than increased overall involvement in environmental issues. Again, this time in the relationships between states and the federal government, there appears to be a split between political conflict and bureaucratic cooperation.

Anti-Indian Policy Statements

The third dependent variable used in regression calculations was the number of anti-Indian policy statements issued by a state's governor and legislature in the past five years. As explained earlier, the number of such statements varied, and nearly all the states involved bordered at least one reservation. The independent variables used in this regression equation were: state administrative capacity on Indian issues, number of Native American environmental issues receiving state attention, state's view of level of environmental problems on contiguous reservation(s), presence of federal court case involving Indian lands in past five years, presence of state-tribal cooperation, and Native American population growth within the state expressed as percentage growth in 1970 population.

The results are attached as Table 6.6. With an R^2 value of 0.27, this equation explained only a portion of the variation in states' issuance of anti-Indian policy statements. None of the

Table 6.6: Multiple Regression Results: Anti-Indian Policy Statements

Equation Number 1: Dependent Variable: ANTITONE number of anti-Indian policy statements

Block Number 1. Method: Enter ENVTNUM STATECAP RESPOLL INDBYGRO RCOOP FEDCT

Variable(s) Entered on Step Number

1. FEDCT presence of federal court case
2. RCOOP presence of cooperation with reservation
3. STATECAP state administrative capacity on Indian issues
4. INDBYGRO indian population growth from 1970-90, expressed as growth in 1970 population
5. RESPOLL state view of level of environmental problems arising on reservation
6. ENVTNUM number of environmental issues state involved in

Multiple R .79739
R Square .63583
Adjusted R Square .27166
Standard Error 2.29691

Analysis of Variance

	DF	Sum of Squares	Mean Square
Regression	6	55.26825	9.21137
Residual	6	31.65483	5.27581

F = 1.74597 Signif F = .2576

----- Variables in the Equation -----

Variable	B	SE B	Beta	T	Sig T
ENVTNUM	-.179553	.538198	-.168909	-.334	.7500
STATECAP	-.126943	.127353	-.303472	-.997	.3574
RESPOLL	-2.742928	1.495746	-.893852	-1.834	.1164
INDBYGRO	-.379526	.512101	-.234389	-.741	.4866
RCOOP	5.163507	2.742390	.841330	1.883	.1087
FEDCT	3.809706	2.761952	.716774	1.379	.2170
(Constant)	3.130365	2.795476		1.120	.3056

independent variables was significant at the 0.05 level. However, these results add to the correlation results by suggesting direction. The growth in Native American population contributes to the issuance of more anti-Indian policy statements, but not the

reverse, indicating that state officials do perceive a threat from growing native populations. The level of state capacity also contributes to the number of anti-Indian policies, indicating that states use their administrative capacity on Native American issues against native interests. Remembering that the vast majority of anti-Indian policies were issued by states contiguous to at least one reservation, these findings should only be applied to border states and should not be used to explain capacity in states that are not contiguous to a reservation.

Discussion

This data set provides little comfort for anyone who craves simplicity in intergovernmental relations. Instead, it is clear that enlarging the discussion by considering state governments' roles in Native American natural resource issues adds a complex and interesting element to the discussion of shadow federalism.

Clearly, the presence of Native American populations and of reservation land bases play an important role in how state government actors behave when facing issues involving native lands. In states with low native populations and few reservations, particularly in the East, paying attention to issues of importance to Native Americans appears to hold few political risks. Thus, during the self-determination era, these state governments have shown increased action on Native American issues, partly at the instigation of federal legislation.

For states that encompass higher Native American populations, there is evidence that elected officials act both offensively and

defensively in their dealings with Native American resource issues. Examples of offensive state behavior include state officials' attempts to gain jurisdiction over native lands by asserting a state role in reservation environmental problems. The evidence also suggests that elected officials use grandstanding behavior to rally their traditional, non-Indian voter base. This would both maintain poor Indian - non-Indian relations and sustain native populations' feelings of being under constant attack.

While state officials continue to instigate anti-Indian policies in relation to Native American resources, they also react defensively in some situations. The survey results indicate that states may sometimes view the federal government as teaming up with Native Americans on natural resource issues. States then react by taking more of a role on those issues. State officials also appear to react to native population growth which, from their point of view, can be seen as defending state interests or their past constituency from tribal governments whose constituencies are increasing in size and potential power. Whether acting offensively or reacting defensively, the role of elected officials on Native American resource issues primarily involves conflict in states that are contiguous to reservations.

The flip side of the state-tribal relations picture is one of bureaucratic cooperation. Overall, the regression results indicate that states develop administrative capacity for dealing with issues related to Native Americans when there is state-federal cooperation. This is interesting not only because it indicates the federal government may be pushing states along, but also because the DOI data showed the uniqueness of state-federal

cooperation in this conflictual policy arena, as does the media data discussed in the next chapter.

Statistically, state-tribal cooperation was even more important to the development of states' administrative capacity. However, too much should not be made of this result. Despite the importance of cooperation to the creation of state capacity on a continent-wide basis, many of the friendly relationships appear to exist in states with little contact with Native Americans. When states that border reservations develop higher administrative capacity to deal with Native American issues, they appear likely to use it against Native American interests.

The data that were comparable over time suggested that little had changed in the overall structure of tribal-state relationships during the self-determination era. These relationships were still characterized more by neglect than by anything else, with most states putting little emphasis on issues of importance to Native Americans. Since Taylor wrote, the number of state officials who become involved on Native American issues has not changed dramatically, although involvement has shifted somewhat from west to east. Water issues have remained of critical importance, as illustrated by the fact that both states and tribes report giving them a lot of attention. Tribal-state border issues have remained unresolved. While the federal policy focus has changed from termination to gaming, there is still conflict around the control of land. Except in isolated instances, which are apparently the focus of case studies because they are unusual, there is little evidence that mutual pollution problems have led to mutual solutions.

When the picture is viewed from the standpoint of New Federalism, the data generally show state cooperation with the federal government around Native American resource issues. There is no indication that the state role has increased to the detriment of federal power. Rather, there appears to be some state fear that federal government aid to tribal governments may eventually hurt the states. Overall, the majority of the evidence suggests that the states are still taking a back seat to the federal government when it comes to Native American resource issues.

Conclusion

At the beginning of this chapter, the tribal-state relationship was characterized as something other than the usual federalist relationship. While state-tribal relations are clearly not uniform, the data analyzed here does provide some important clues about the nature of the situation. Most basically, states' relationships with tribal governments are not like states' relationships with other types of government actors. States do not treat tribes as if they were other states, as if they were limbs of the federal government, or as if they were a subservient agency of the state.

In states that have contiguous reservations, which are most important for purposes of tracing relationships, state elected officials often act in conflict with native nation interests. This situation appears to be defused in some situations because

state bureaucrats take on the role of quiet diplomacy with tribal governments.

In terms of the fate of the imposed regime, state governments have generally cooperated with the federal government's policies, even though they sometimes appear unhappy with federal handling of tribal environmental issues. States have been most strongly anti-Indian where the most Indians live, and state officials have generally continued to provide a force with which tribes must contend if they are to successfully assert their natural resources agendas. This indicates that states have not been a force for change, but rather have cooperated with the maintenance of the regime.

State officials might object if informed that they have generally acted as assistants to the federal government in the maintenance of the imposed regime, particularly in the more anti-federal Western states which border most reservations. But that does appear to have been the primary role of elected officials in border states. Meanwhile, in a significant undercurrent, administrative officials in many state governments have behaved in a manner that might eventually undermine the imposed regime by cooperating with tribal governments.

In this context, the lack of tribal-state forums and agreed-upon channels for communication and negotiation does not indicate a breakdown of the imposed regime. Rather, it indicates that both sets of parties are prone to operate within the federal context when differences arise. They appear to accept the norms and values laid down by the imposed regime to the exclusion of the formation of predictable two-way interactions.

The federal role, tribal-federal interaction, and tribal-state interaction have now been explored using government documents and surveys. While this has provided informative data on the imposed regime in the self-determination era, important information may also have been missed in the emphasis on official statements. To counteract this tendency and to round out the picture of shadow federalism, the last data set relies on media reports of activity around Native American environmental issues. These data are the topic of Chapter Seven.

CHAPTER SEVEN: THE WATCHFUL EYE: WHAT THE MEDIA TELLS US ABOUT NATIVE AMERICAN ENVIRONMENTAL ISSUES

Introduction

Media content analysis is one way to trace events and trends over time. Its usefulness is limited due to biases in media attention and coverage and the concentration of media ownership in recent years (Lee and Solomon 1990; Parenti 1995, Ch. 10). Still, media coverage is both a reflection of political events and a political prize. It can help raise issues from obscurity to the political agenda and may drop them just as quickly (Woodward 1997; Kingdon 1995). It is also a consistent source of data on political activity over time, which makes media analysis a good tool in the search for regime change.

Here, the assumption is made that, despite the shortcomings of this type of data, media reports do offer a reflection of what is actually happening. However, it is not a perfect reflection. Most important for this effort, media reports are generally considered to be biased toward conflict and the dramatic (Woodward 1997; Weston 1996). This does not mean that they cannot be used to gauge changes in the level of conflict; it does indicate, however, that the quiet hum of everyday events that impact land and resources may be missed. Media reports can also be used to identify changes in how conflicts are covered by newspapers in different places and with different categories of ownership: in this case, Native American ownership and non-Indian ownership. And the media can be used to track changes in the resources at stake, actor involvement, and the outcomes of conflicts.

Media analysis is more likely to yield useful results when the research is limited to one policy arena, because the various media outlets are often covering the same actors, resources, and events. This is the case in this research, where native and non-native newspapers across the continent often cover the same events, although important differences in coverage still arise. Those differences are educational, particularly when they provide evidence that helps identify why Native American natural resource issues remain obscure for most non-Indians, as suggested by the term "shadow" federalism. However, the primary focus in this chapter is on the overall picture the media gives of the shadow federalism regime: in other words, on the broad picture and on similarities among media outlets.

The methodology used in this chapter is very similar to the methodology used for the Department of the Interior data in Chapter Four. The goal is also similar: to look at whether there is change in the imposed regime over time and, if so, to identify the nature of that change. These two data sets come from very different types of primary sources, and similar outcomes would argue strongly for the veracity of any common findings. If the outcomes for the DOI and media data are quite different, it would point to the need for further research to determine which type of data is a better reflection of events.

As in Chapter Four, if there has been a weakening of the imposed regime during this time period, the media analysis will show:

- * improving outcomes for Native American actors, including control of more land and resources;

- * increased direct involvement in events by native actors;
- * decreased involvement by United States government actors;
- and
- * a lower rate of successful outcome for United States government actors when they are pitted against native actors.

In addition, the media data can provide information on whether the native and non-native actors in the shadow federalism regime have increasingly similar or different viewpoints over time. Evidence that their views have grown increasingly different would suggest that the regime has weakened during the study period.

Changes in the level of conflict and/or cooperation between native and non-native actors might also signal changes in the imposed regime, but these variables are more complex. Due to the centrality of cooperation in maintaining a regime, if the imposed regime remains in place, the level of cooperation could be expected to stay the same or rise. On the other hand, if the imposed regime has ended but has not yet been replaced by a new regime, a rise in conflict and drop in cooperation would be expected. If the imposed regime has ended and a new regime has developed, or if the imposed regime was challenged but has restabilized, there would be a period of increased conflict among native and non-native actors, but this would be followed by increased cooperation. Whether a new regime has developed or the old regime as reasserted itself could be determined by whether a new set of norms and values has developed among the actors. As conflict and cooperation may move either in concert or independently, other scenarios are also possible. Before turning

to a discussion of the research and its results, some background on the interactions among Native Americans and the media are provided to put the results into context.

Media and Native Americans

The mainstream media have long been seen by most Native Americans as either a one-dimensional reflection of United States society or an active enemy. Native people point to the lurid coverage of "Indian massacres" in the early United States, with headlines such as "A HORRIBLE SLAUGHTER PEN" (Rachlis and Ewers 1960, 133). They point to lies promulgated by the Army and printed by newspapers after the 1890 massacre at Wounded Knee and to the FBI-influenced coverage of American Indian Movement activities in the 1970s. And they note recent studies indicating negative stereotyping of native peoples (Bird 1996; Smith 1999; Churchill and Vander Wall 1990, Ch. 7; Metrick 1998, B6). Other authors point to similar problems with mainstream media coverage of blacks, Hispanics, Arabs, and Asian Americans (Hacker 1992, Ch. 3; Chideya 1997; Dennis and Pease 1997; Weston 1996; Shaheen 1995; Staples and Jones 1995). Given this history, it is not surprising to read that Rachel Hays, a New Mexico editor, calls the mainstream media's coverage of Native Americans "institutionalized racism" (Norrell 1998, A1).

Hays and others claim that mainstream media ignore Native Americans most of the time, cover intratribal issues in a divisive manner, oversimplify native issues, prefer flashy pow-wow coverage over substantive coverage, and focus on the historical more than

on current issues (Norrell 1998). When Native Americans do get media attention, the behavior of reporters has also been faulted, as during the hantavirus outbreak in the Southwest in 1993. In that situation, reporters were faulted for being insensitive to Dine culture and for focusing too much attention on negative events on reservations (Weston 1996, 158-159).

Increasingly, Native Americans have worked to tip the balance in their favor by forming a professional journalism association, by publicly taking the mainstream media to task and, probably most important, by creating a number of Indian-controlled media outlets (Weston 1998). While native-controlled newspapers were present at least as early as 1828, the *Navajo Times*, founded in 1959, is an early modern effort that survives today. A weekly with a circulation of 17,500, it is one of two or three hundred native newspapers and, like ninety-five percent of them, is run by a tribal government (Murphy 1983, 24; Wilkins 1998a; Solberg 1998).

There are also thirty-one Indian-controlled radio stations within the boundaries of the United States, many of them tribally-run. Radio is an effective and low-cost means of reaching people on geographically isolated reservations, where less than half the homes have telephones. It has the additional benefit of providing programs in the local indigenous languages to people who are used to operating in an oral tradition (Kent 1999b; Tilsen 1999; Wilkins 1998a; Means 2000).

However, the growth in native media has, in many cases, meant increasing conflict over control of the press. The link between tribal governments and reservation media outlets is the most

common point of contention. Rolo (1998, 18A) observes that tribal governments use tribal newspapers "for their own red spin purposes" in a manner that "would make any Third World dictator jealous." Others call for better training of reservation journalists, a free press in Indian country, and "a new 'Indian information order'" (Murphy and Murphy 1981; Wheelock 1995, 286). Some authors also point to the assimilationist role of any mass media for cultures whose traditional means of communication and teaching did not include that concept (Riggins 1992).

While the mainstream media are certainly not immune from controversy, newspapers in Indian country probably face a tougher political environment. Funding is very tight. At the few newspapers that are independent of tribal governments, staff are often unpaid. Most independents are also tiny, like the *Zuni Shiwi Messenger* with its circulation of one thousand (Murphy and Murphy 1981; Murphy 1981; Solberg 1998).

Many Indian-controlled newspapers come and go rather quickly, making the *Navajo Times* the only native newspaper studied here that was present throughout the study period. A second native newspaper, the 25,000-circulation *Lakota Times* (later *Indian Country Today*) was the major independent newspaper used in this study and began publication in 1981. The third Indian-controlled newspaper included was the Mohawk Nation's *Akwesasne Notes*, which at one time had a circulation of 81,000, but ceased publication in the early 1990s.²

Indian Country Today lost its independent status after its sale to the Oneida nation at the end of 1998, a sale that

immediately raised controversy among those who favored an independent press. *News from Indian Country* was left as the only Indian-controlled independent paper with cross-continental coverage. Published in Hayward, Wisconsin, *News From Indian Country* was founded in 1987 and has a circulation of 6,000. It is a bimonthly publication (Casgraux 1998; Calliotte 1999). By way of comparison, the average weekday circulations for the mainstream papers considered here are: *New York Times* 1,089,600; *Albuquerque Journal* 112,751; and *Rapid City Journal* about 33,200 (*New York Times* 1999; Audit Bureau of Circulations 1998; Phipps 1999).

This research involves analysis of media coverage of Native American environmental issues by both mainstream and native-controlled newspapers. While the limitations of both the sources and the methodology need to be kept in mind, this data does provide insights into the state of the shadow federalism regime.

Methodology

The methodology used for this data set is very similar to the methodology used for the Department of the Interior appeals cases. The same data gathering form was used (Appendix J), and the individual newspaper article was the unit of analysis. For each article, the data gathered was the month and year of the article, the governmental and non-governmental actors mentioned, the resources at stake, the nature of relationships among actors, any legal basis that was mentioned for the issues covered, and the outcomes for various actors. The resources at stake are categorized in the same manner as in other chapters and, where

resources were clearly land-based, the land itself was listed as one of the resources at issue. Relationships were characterized as cooperation/agreement, discussion, verbal conflict, physical conflict, unspecified/unclear, or missing. In many cases, more than one type of interaction was present. The outcomes of the issues covered, if any, were recorded in a conservative manner. As in Chapter Four, for Native American actors, "winning" was limited to gaining or maintaining physical control of land and/or resources, and the outcome for each actor was recorded separately.

The resulting database was used to determine:

- (1) whether there were patterns in the activity levels of the various actors by resource, the natures of their relationships, locations, outcomes, or time periods;
- (2) whether different resources or actors were related to different outcomes or levels of conflict;
- (3) what differences, if any, existed between native and non-native actors;
- (4) whether the variables included in this study could be used to explain the success of Native American actors, the success of United States government actors, the level of conflict on an issue, the number of actors involved, and the number of resources involved; and
- (5) where it was relevant to the study of the imposed regime, whether there were differences between coverage of land and resource issues by native and non-native newspapers.

While the methodology used here was quite similar to that used in Chapter Four, the sources for the data were quite

different. Three Indian-controlled newspapers were studied: the *Navajo Times*, *Lakota Times/Indian Country Today*, and *Akwesasne Notes*. These papers were chosen because they reflected events in three different geographic areas with notable native populations. Each area has large reservations and, taken together, the Southwest and the Northern Plains are home to the majority of the Native American reservation population. Each paper was also chosen because of its longevity, so that comparisons could be made over time. Three mainstream newspapers from the same areas were also analyzed: the *Albuquerque Journal*, *Rapid City Journal*, and *New York Times*. This allowed the study of regional differences among native and non-native media in the Southwest, Northern Great Plains, and Northeast.

The reasons for the focus on region require some mention. The role of region has been recognized in United States politics since the country's inception. Most modern state and local government textbooks include a discussion of Elazar's three political cultures, although the distinction between the three appears to be waning over time (Straayer, Wrinkle, and Polinard 1994, 10-11; Harrigan 1994, 24-27; Grant and Omdahl 1993, 60-63; Bowman and Kearney 1999 18-19). Yet there is a tendency to place all Native Americans under a single political umbrella, despite the huge historical, legal, and cultural variations that are clearly visible within Indian country (Bird 1996; Churchill 1993, 231-241). Here, the assumption is that native actors have different political backgrounds, interests, capacities, and experiences. The focus is on identifying both differences and and

similarities and working to understand whether they impact the nature or fate of the imposed regime.

At first, an attempt was made to consider a roughly equivalent number of pages from each newspaper, but this proved difficult. The coverage of land and resource issues was as heavy in the native newspapers as it was light in the non-Indian papers, thus bearing out Hays' observation that the mainstream media give little attention to native nations (Norrell 1998). It was not unusual for there to be three relevant articles on the front page of the *Navajo Times*, but it was common to go many days without any coverage in the *Rapid City Journal*, *Albuquerque Journal*, or *New York Times*.³ In addition, different papers were published at different intervals: daily for the mainstream papers, weekly for the *Navajo Times* and *Indian Country Today*, and approximately every other month for *Akwesasne Notes*. The *Navajo Times* missed a few weekly issues in 1976, but came out daily for part of 1985. Over the study period, the length of each paper varied, sometimes widely.⁴

Since the goals of this research were to study changes in events, their participants, and their outcomes over time and to compare Indian and non-Indian coverage in order to identify any regime change, the decision was made to look at issues of each paper at regular, similar intervals spaced at different times of the year. The latter allowance was made in case issues related to natural resources were seasonal. The number of issues studied needed to be substantial to get enough articles for a meaningful sample of each newspaper. To this end, the three mainstream

newspapers and *Indian Country Today* were covered for the months of February and August every third year between 1970 and 1994. The *Navajo Times* was covered for the months of January, May, and September for the same years.³ The first and fourth issues of each volume for the same years of *Akwesasne Notes* were considered, which maintained the seasonal spread of articles as well as possible for a newspaper that did not operate on a regular publication schedule, but that did publish about the same number of issues each year.

Only the *New York Times* was consistently indexed, although there were indexes for a few years each of the *Albuquerque Journal* and *Indian Country Today*. For the rest of the research, each issue was scanned, either manually or on microfilm. To keep the focus on coverage of political events by the media, certain types of material that may have mentioned land or resources were not considered. These included letters to the editor, display advertising, obituaries, poetry, want ads, announcements of future events, and fishing reports.⁴ Full-page "news-vertisements" printed in the *Navajo Times* and funded by energy companies were included, because they usually had some news content about the projects underway or planned for the reservation. Editorials and supplements put out by the newspaper itself were also included.

Using this data set, it is possible to track changes over time in media reports about actors and their relationships, the legal bases of issues, resources at stake, and outcomes. It is also possible to compare reports by native and non-native media, among the three regions, and by newspaper. This is a huge task,

and parts of it are outside the scope of this effort. In this chapter, the focus is on the variables and the results that offer the most insight for the purpose of studying shadow federalism, rather than on all possible conclusions to be drawn from the database.

Results

The results from each aspect of this database will be considered in their entirety then, where relevant, divided by Native American or non-Indian control and by region and/or by newspaper. Trends over time will then be considered. This pattern will be followed for each segment of the analysis. Due to the size of this database, substantial information that is not directly relevant to the questions at hand will be included only in endnotes.

Table 7.1. Number of Articles by Source, Region, and Decade.

Bold numbers represent percentage of column total.

Percentages may not total 100 due to rounding.

Years	All Articles	Indian Papers	Non-Ind. Papers	South-west	Northern Plains	North-east
All	1,969	1,231	738	991	527	451
1970s	909 46	548 45	361 49	478 48	145 28	286 63
1980s	737 37	493 40	244 33	359 36	248 47	130 29
1990s	323 16	190 15	133 18	154 16	134 25	35 8

Number of Articles

A total of 1,969 articles concerning Native American lands and resources were identified in the newspapers covered here. As Table 7.1 shows, 1,231, or sixty-three percent were in Indian-controlled newspapers, and 738 were in mainstream newspapers. The two Southwestern newspapers contributed 991 articles, or fifty percent of the total. Another 527 (27%) were from the Northern Plains, and the remaining 451 were from the Northeast.

Table 7.2. Number of Articles by Newspaper and Decade.
Bold numbers represent percentage of column total.
 Percentages may not total 100 due to rounding.

Years	Akwes. Notes	Albuq. Journal	Lakota Times/ICT	Navajo Times	N.Y. Times	Rapid C. Journal
All	380	340	200	651	71	327
1970s	243 64	173 51	0	305 47	43 61	145 44
1980s	112 29	93 27	115 58	266 41	18 25	133 41
1990s	25 7	74 22	85 43	80 12	10 14	49 15

Over time, there was a trend toward less coverage of Native American land and resource issues, as shown in Table 7.2. The exception was the seeming growth, then decline, in Northern Plains coverage, which can be accounted for by the lack of a native-controlled paper in the 1970s.³

The drop in coverage was more noticeable in non-native papers than in Native American papers. The largest drop in percentage for the mainstream papers was in the *New York Times*, where the

drop from the 1970s inclusion of sixty-one percent of the coverage of native resource issues to the 1990s inclusion of fourteen percent represents a forty-seven point drop. The largest drop for a Native American-controlled paper was the fifty-seven percentage point drop for *Akwesasne Notes*.³ This indicates a substantial drop in media attention to Native American land and resource issues and to shadow federalism over time.

Table 7.3. Percentage of Articles Mentioning Various Actors by Source and Region.

Actor	All	Indian Papers	Non-Ind. Papers	South-west	Northern Plains	North-east
US-Recognized Tribal Government	65	67	62	76	66	43
Traditional Tribal Government	8	9	7	4	12	14
Intertribal Group	7	7	8	7	7	8
US Executive	20	21	18	17	19	28
US Agency	62	60	64	64	63	54
DOI	39	41	35	41	39	33
BIA	24	26	21	24	24	26
Military	9	9	10	7	8	17
Law Enforcemt.	7	6	10	3	10	14
US Court	22	23	21	19	26	24
US Congress	40	42	36	40	44	34
State Executive	16	17	16	14	19	19
State Agency	17	14	22	18	16	15
State Legisl.	7	5	10	7	6	7

Actor	All	Indian Papers	Non-Ind. Papers	South-west	Northern Plains	North-east
Local Govt.	15	13	17	12	16	19
Non-US Actor	19	23	13	10	9	49
Canada	8	11	3	3	2	26
Citizen Group	34	30	40	23	44	48
Corp/Business	30	31	30	35	19	34
Media	9	11	6	5	7	19
Individual	78	82	71	70	79	95
Indian Individual	72	77	62	62	71	93
Non-Indian Individual	44	44	43	36	44	61
Other Actor	14	15	12	7	15	28

The most common actors mentioned were federally-recognized tribal governments (65%), United States agencies (62%), and individuals (78%), particularly Native American individuals (72%). The Department of the Interior (38%), Congress (40%), citizen groups (34%), corporations (30%), and non-Indian individuals (44%) were also mentioned in more than one-third of the articles studied.¹⁰ Four of the five actors receiving the most mentions were the same as in the DOI data: tribal governments, Native American individuals, agencies, and Congress, indicating that despite the differences in the type of data gathered, both data sets consider similar actors important. Predictably, United States agencies and Congress received less mention in the newspapers, as the DOI appeals process is designed to resolve conflicts within the United States governmental structure. Tribal

governments and Native American individuals received more mention in newspapers than in the DOI appeals cases. This was particularly true in Indian-controlled media.

Data was collected on six federal agencies that did not reach the threshold of being mentioned in five percent of the articles, but which could be expected to figure prominently in discussions of Native American lands and resources: the Bureau of Land Management, National Forest Service, Department of Energy, Indian Claims Commission, EPA, and Joint Use Area Relocation Commission.¹¹ The BLM, Forest Service, and EPA are typically prominent in discussions of federal lands and environmental issues, indicating again that land and resources issues in Indian country work differently than those involving non-Indians.¹² The BLM was particularly prominent in the Alaskan DOI cases and likely would have received more coverage if this study had included Alaskan newspapers. A large number of agencies did receive some mention.¹³

The comparison of how often various actors were mentioned in native-controlled and mainstream newspapers was instructive. There was at least a five-percentage-point difference between how often twelve of the twenty-four actors listed on Table 7.3 were mentioned in the two types of newspapers. This indicated that native and non-native papers report the news the actors involved in indigenous land and resource issues differently.

This impression was reinforced by a look at which actors were mentioned more often in each type of publication. Native newspapers mentioned the following actors more often: tribal governments, the DOI, the BIA, Congress, non-United States actors, the media, individuals in general, and Indian individuals. The

largest spread, fifteen points, involved mention of Indian individuals. This was evidence of both a more international focus and a more individualized focus in native publications. The data also indicated more emphasis on institutional actors with influence in Indian country.

Non-native newspapers, on the other hand, mentioned state agencies, state legislatures, and citizen groups more often. This indicated a focus on off-reservation government institutions. The focus on citizen groups was interesting in light of the finding in Chapter Five that tribal governments reported little citizen group activity concerning land and resources on reservations. In this data set, this difference was consistent across time and has at least two possible interpretations. The first would reinforce the idea advanced in Chapter Five: that native observers were more likely to see "families" or "factions" where non-Indian observers would see citizen groups. The second would be that a high proportion of citizen group activity around Native American land and resource issues occurred off the reservation, where mainstream papers were located, making it more visible to those papers.

Regional Variation

Regional differences were also instructive and reinforced the findings in Chapter Five about variety in native governance and the findings in Chapter Four about the involvement of different actors in different regions. United States-recognized tribal governments received less mention as the news source moved from west to east. As the sources moved east, there were also more

mentions of traditional native governments. These findings suggest the importance of the Navajo tribal government, a federally-recognized entity, and of the non-federally-recognized Lakota and Haudenosaunee governments, located in the Northern Plains and the Northeast, respectively.¹⁴

The other large difference in coverage involved non-United States actors and individuals, while also providing an example of how relational federalism -- federalism based on relationships rather than on internationally-recognized territorial boundaries or the national-subnational model -- can be observed in this data set. Non-United States actors were mentioned more in the Northeast; there was a thirty-nine-point gap between that region and the other regions. Nearly two-thirds of this difference was accounted for by the higher number of mentions of Canada, particularly in *Akwesasne Notes*. This was not surprising, as the Mohawk Nation, publisher of *Notes*, straddles the Saint Lawrence Seaway and does not recognize the Canada-United States border. Its relationships with both Canadian and United States actors received consistent, prominent coverage. Other regional differences existed, but were less striking.¹⁵ Overall, the regional variation reinforced the concept that generalizing about Native Americans obscures important information.

Table 7.4. Percentage of Articles Mentioning Various Actors by Decade.

Actor	1970s	1980s	1990s
Tribal Government	61	67	75
U.S. Agency	65	60	56
DOI	41	38	33
BIA	30	21	16
EPA	3	2	9
Relocation Commission	1	5	0
Law Enforcement	10	5	5
U.S. Courts	19	28	18
U.S. Congress	33	48	39
State Exec.	14	17	22
Media	10	5	5
Individual	72	82	84
Indian Individual	67	75	78
Non-Indian Individual	41	46	49

Changes Over Time

Table 7.4 shows changes in how often actors were mentioned in each decade for actors whose involvement fluctuated by five percentage points or more. The largest change was the increase in mentions of non-Indian individuals, which jumped a total of eighteen percentage points. Interestingly, especially in light of the BIA's growing importance in DOI appeals cases, the BIA was mentioned less often over time. It lost fourteen percentage points, while tribal governments gained the same level of

attention. At the end of the study period, tribal governments were mentioned in three-quarters of all articles on native land and resources. This confirms observers' claims that tribal governments have received increased attention in recent years and, unlike the findings presented by the DOI data, is in line with the goals of self-determination policy. Unlike United States agencies, Congress and the federal courts gained attention in the 1980s, but lost it in the 1990s.

The media, then, presents a picture of increasing self-determination, as far as identifying who is involved in an issue. To the extent that being at the table is an aspect of wielding political power, tribal governments appear to have gained power over the study period. This indicates some change in how the imposed regime functions. The extent and nature of this change also appears to be different in the media than in the DOI data, with native actors increasing their involvement rather than leaving the arena. The extent to which increased Native American involvement is tied to increased control of land and resources remains a question not answered by this research. Regime theory suggests that it is equally possible that increased involvement by native actors provides examples of successful cooptation of those actors within the imposed regime.

The number of actors mentioned in an article ranged from one to fifteen, with a mean of 4.7. Twenty-two percent of articles mentioned four actors, and twenty percent mentioned five. The numbers were quite similar for Indian and non-Indian media and over time.¹⁶ While they differed in some of the particulars, these

figures were similar to the results from the DOI data to the extent that they indicated the complexity of this policy arena.

The mentions of various actors in the articles studied varied by region, over time, and by type of newspaper. Some of these differences matched the results of the DOI database, while others contradicted the DOI data. Overall, the information about which actors were mentioned supports a conclusion that this policy arena is active and complex and has changed in some ways during the self-determination era. The activity levels of key actors in the DOI data, particularly the BIA and tribal governments, show reverse trends in the media data, so the exact nature of those changes is not clear at this point. However, it does appear that native actors have received more attention in the media, which would explain some authors' beliefs that tribal governments have also gained power (New Interest 1993; Tribes urge 1991; Miller, et al. 1988; Dao 1998; Large 1977; Serwer 1993; MacPherson 1993; Reservations 'blooming' 1992; Bingo 1984; Gambling businesses 1991; Stanich 1994; Garner 1993; Bogert 1994; Cornell and Taylor 2000). The data collected on issue outcomes will provide substantially more information on the nature of any gains in power and of any substantial changes in the imposed regime.

Table 7.5. Percentage of Articles Mentioning Various Resources by Source and Region.

Resource	All	Indian Papers	Non-Ind. Papers	South-west	Northern Plains	North-east
Water Contaminatn./ Supply	34	38	28	37	25	40
Air Contamin.	7	7	6	7	3	11
Hazardous/ Nuclear Waste	9	9	8	8	6	12
Forestry/ For. Products	11	13	7	7	7	23
Fisheries	11	14	7	7	8	24
Wildlife Protect./Mgt.	13	17	7	8	10	27
Agriculture/ Plant Foods	17	22	10	15	10	31
Livestock Grazing	18	22	13	21	10	22
Non-Energy Mining	11	12	10	10	11	14
Energy Mining	25	27	22	31	12	27
Energy Prod.	18	20	16	24	8	19
Wastewater	5	5	4	5	3	6
Spiritual/ Relig. Use	17	19	14	12	19	25
Transport'n/ Right-of-Way	8	8	7	8	2	14
Recreation/ Tourism	9	9	10	10	6	12
Historical/ Archeolog'l	6	5	7	4	7	7
Land Issues	94	93	95	92	95	97

Resources Involved

Earlier chapters indicated that the nature of native land and resource issues varies by location and, to some degree, over time. They also suggested that this variation provided a complex setting within which the imposed regime has operated successfully. Table 7.5 shows the percentages of articles that mentioned individual resources, as well as trends by type of media and region. Solid waste, land acquisition, and other resources, which were mentioned in less than five percent of articles, have been omitted.¹²

The general use of land and land-based resources was mentioned in the vast majority of articles, over ninety percent in all regions and in both native and non-native media, as was also true in the DOI data. As in other data sets, water was the resource that received the most attention in the press across all categories. This triangulation firmly entrenches the importance of water in the imposed regime. Energy mining, energy production, agriculture, livestock grazing, and spiritual use came next. Each of these resource categories was mentioned in more than fifteen percent of all articles.

There were some notable differences between native-controlled media and mainstream media. All resources except recreation/tourism and historical/archeological resources were mentioned more often in Native American media. General land issues were mentioned slightly more often in non-Indian media. This indicates that Native American media mention resources in more detail.¹³

The largest differences between the two types of media were in coverage of agriculture (twelve percentage points) and in mentions of water and wildlife (ten percentage points). The

greater Native American focus on agriculture was understandable for several reasons. First, the development of agricultural projects has been central to attempts at economic self-sufficiency on reservations. This would also be closely linked to the higher Native American mention of water, which has often been the missing resource necessary for tribes to sustain agriculture. Second, agriculture was operationalized to include the gathering of wild plants for food and ceremonial purposes, a topic that would be more visible to native media. Along the same line, gathering wildlife for food and for ceremonial purposes could have accounted for the increased native newspaper attention to that resource.

Regional Variation

Regional differences among mentions of various resources would be expected, especially in light of the data discussed in Chapter Five, and this data set did show important differences that followed the same type of ecological variation observed in that chapter. The largest differences among regions were found in the categories of agriculture, wildlife, and energy mining. The focus on both agriculture and wildlife was highest in the Northeast, the most heavily agricultural of the three regions, as well as the most hospitable for wildlife. Energy mining, as would be expected, was mentioned most often in the Southwest.¹⁹

This regional variation again reinforces the notions that location is important in considering Native American resource issues and that the imposed regime operates in a complex and varied arena. As in the DOI data and in the federal funding data,

however, location is not a random variable, but one that is predictable based on regional ecology.

Table 7.6. Percentage of Articles Mentioning Various Resources by Decade.

Resource	1970s	1980s	1990s
Water Contamination/ Supply	37	32	31
Air Contamination	9	4	8
Solid Waste	2	2	11
Hazardous/Nuclear Waste	7	8	15
Energy Mining	28	25	18
Energy Production	22	15	15
Spiritual/ Religious Use	16	15	22
Historical/ Archeological Res.	4	5	12

Changes Over Time

Changes in which resources received attention over time were also predictable, in light of the operation of the imposed regime. Table 7.6 shows the resources for which there was at least a five percentage point fluctuation in mentions during the study period. The largest was the ten-point drop in mentions of energy mining. This and the drop in mentions of energy production reflect the 1970s energy crisis and the resulting focus on reservation energy resources, which died down over time. The growth in mentions of solid waste and hazardous/nuclear wastes reflect the timing of attempts to site these environmentally-destructive activities on

reservations.²⁰ So changes in media coverage reflect attempts to use reservation lands to implement United States policies and the functioning of the imposed regime.

When the number of resources mentioned was calculated, the mean was 3.3 per article for all media. The highest percentage of articles (25%) mentioned only one resource, while two (21%) and three resources (19%) were not far behind. A full ten percent of articles mentioned seven or more resources. The mean number of resources mentioned was fairly stable over time, but varied by region and type of newspaper. Using a t-test, the differences between each region and between Indian and non-Indian media were found to be significant at the 0.05 level, again indicating that important regional and cultural differences exist, despite the common norms and values of the imposed regime. The mentions of specific resources varied by region in line with ecological differences. The differences between the two types of media again provided evidence that land and resource issues were seen differently by native and non-native populations, despite their common participation in shadow federalism.

Most striking, the level of attention to various resources changed over time in line with the activities of the shadow federalism regime and United States policies that would have imposed locally-unwanted land uses on reservations. These changes were clearly reflected in media coverage during the first twenty-five years of the self-determination era. This indicated that the imposed regime was still setting the agenda for reservation resource issues, despite the last section's finding that Native

American actors took more of a role over time. The next task is to look at how actors interacted around these issues.

Table 7.7. Percentage of Articles Mentioning Various Types of Interactions Among Categories of Actors.

Type of Actors	Type of Interaction	All Articles	Indian Media	Non-Indian Media
Indian - Non-Indian	Cooperation	29	28	31
	Discussion	18	17	19
	Verbal Conflict	63	67	58
	Physical Conflict	12	12	11
	Not Present	7	7	7
Within/Among Native Actors	Cooperation	10	13	5
	Discussion	5	6	3
	Verbal Conflict	18	20	13
	Not Present	67	60	78
State - Federal	Cooperation	10	8	13
	Not Present	82	84	78
Other Relationships	Verbal Conflict	5	3	7
	Not Present	90	93	89

Nature of Relationships

The relationships among various actors is important to gauging the status of the imposed regime, particularly over time. The relationships reported in the media among actors within shadow federalism showed a high level of conflict, as was also observed

in the DOI cases. Table 7.7 shows the interactions by source for all categories that were present in at least five percent of articles.

The level of reported conflict around land and resource issues was particularly high between native and non-native actors. Sixty-three percent of articles mentioned conflict between at least one native actor and at least one non-native actor, while twenty-nine percent mentioned cooperation. The most common type of interaction among Native American actors was also conflict. This indicated that, unlike other types of regimes that focus on cooperation, imposed regimes may involve a high level of conflict among actors.

As in the DOI data, only the interactions between state and federal actors appeared cooperative, although this category of interaction was less common; ten percent of articles mentioned state-federal cooperation.²² Native American media, as might be expected, talked less about state-federal relationships than did mainstream media.²³ When the newspapers were divided by region, state-federal relations and the level of conflict among native actors were reported very similarly from place to place.²⁴ The preponderance of native - non-native conflict indicates that, when state and federal governments worked together, they were usually cooperating in opposition to native interests. This finding was reinforced by the DOI data and by states' own reports of generally cooperative state-federal relationships, as discussed in Chapter Six. The harmonious side of national-subnational federalism was clearly on display in this policy arena.

The differences between Native American-controlled media and mainstream media again indicated that the two types of audiences received different information on land and resource issues. For example, Indian-controlled media reported native - non-native conflict in sixty-seven percent of all articles, while mainstream media reported such conflict in fifty-eight percent of articles. Mainstream media also reported somewhat more native - non-native discussion and cooperation than Indian-controlled media. This indicated that the mainstream media, and potentially the majority of non-Indian readers, had reason to see these relationships as more harmonious than did Native American media and their readers.

Another difference indicated that mainstream media focused on conflict on reservations, as non-Indian media mentioned more conflict than cooperation among native actors. Interestingly, native-controlled media also focused more on conflict than on cooperation among native actors.

Changes Over Time

Most important to our discussion of the imposed regime, media coverage of Native American land and resource issues indicated that relationships changed during the self-determination era. Table 7.8 shows the overall data for each decade. While the DOI data showed rates of both conflict and cooperation between Native Americans and non-Indians falling over time, the media data showed verbal conflict falling and cooperation rising between the 1980s and the 1990s by about ten percentage points. Discussion inched

up over time, while physical conflict dropped, particularly between the 1970s and the 1980s.

Table 7.8. Percentage of Articles Mentioning Various Types of Interactions Among Categories of Actors by Decade.

Type of Actors	Type of Interaction	1970s	1980s	1990s
Indian - Non-Indian	Cooperation	28	27	36
	Discussion	16	19	21
	Verbal Conflict	63	66	56
	Physical Conflict	15	9	7
	Not Present	7	6	8
Within/Among Native Actors	Cooperation	7	11	13
	Discussion	3	6	7
	Verbal Conflict	16	20	18
	Not Present	72	63	61
State - Federal	Cooperation	11	11	7
	Not Present	84	79	81
Other Relationship	Verbal Conflict	5	4	6
	Not Present	91	93	93

This pattern indicated that the shadow federalism regime may have been challenged in the 1970s by the increased assertion of native interests, leading to a high level of conflict. But while in DOI cases Native Americans appear to have opted out of the process, the media reports continued to indicate both decreased

conflictual and increased cooperative native - non-native engagement around land and resources. Although conflict was still by far the most common form of interaction, there were lower levels of conflict and greater cooperation. Whether this drop in conflict indicated that the imposed regime had reasserted itself or that there had been significant regime change was not clearly indicated by this data, but this question should be kept in mind.

This data should also be viewed in light of the continual drop in the number of articles about Native American land and resource issues that was printed each decade. Of the 1,969 articles covered in this study, forty-six percent were printed in the 1970s, thirty-seven percent in the 1980s, and only sixteen percent in the 1990s. Due to the media focus on conflict, this drop in coverage could simply have resulted from a drop in conflict over time. It was also possible, however, that the drop in coverage was the result of a drop in interaction around land and resource issues, as was seen in the DOI data. The analysis to this point does not provide a clear conclusion.

The regional data again showed differences in interactions within the overall pattern.²⁴ The data indicated a Southwestern pattern that was more stable and had lower conflict over time, and a Northeastern pattern that showed greater conflict between native people and non-natives.²⁵

Interactions among Native Americans showed the same bulge of verbal conflict during the 1980s as was seen for interaction among native and non-native actors. Physical violence among Native Americans dropped, however, from three percent of articles in the 1970s to zero thereafter. As most of the physical violence in

these articles involved challenges to the authority of federally-recognized tribal governments, this represented a drop in challenges to tribal-federal authority.¹⁶

Overall, the media information on interactions among actors revealed the same high-conflict patterns as those shown in the DOI and survey data. The shadow federalism regime has been characterized by conflict, rather than the cooperation that is usually the focus of environmental regime research. The differences between native-controlled media and the mainstream media supported the findings from state and tribal surveys that Native Americans and non-Indians view land and resource issues differently, which explained part of their conflict. In addition, the media data indicated that Native Americans did not abandon the discussion of land and resource issues in the first quarter-century of the self-determination era but remained active in this issue area. Whether this indicated substantive regime change was unclear from this section, but it was clear that the DOI data and the media data offered different views of the situation that require further exploration.

Regional differences were also quite noticeable. As the DOI data showed for Alaska and the forty-eight states, events on different parts of the continent have different patterns. This indicated again that case study data should not be generalized in discussions of native nation interactions with the United States. A continent-wide approach was necessary to draw conclusions about the fate of the shadow federalism regime in the self-determination era.

Table 7.9. Percentage of Articles Mentioning Various Legal Bases by Type of Media and Region.

Legal Basis	All	Indian Media	Non-Ind. Media	South-west	No. Plains	North-east
Treaty	20	20	19	8	29	34
Tribal Legis.	13	16	8	17	11	5
U.S. Legis.	63	62	66	68	65	51
U.S. Court	10	10	11	8	15	8
State Legis.	9	6	15	9	12	7
Other	16	20	10	11	5	39

Legal Basis

Table 7.9 shows the legal bases mentioned for Indian land and resource issues that reached five percent of total articles.¹¹ In many cases, the key issue in these articles was the legal base itself, such as disputes over the relative status of treaties, tribal legislation, and federal law. To the extent that federal law was used as the basis for discussion of issues, the imposed regime has remained in a position of power by setting the terms for viewing an issue.¹²

As Table 7.9 shows, United States legislation was mentioned by far most often, over three times more often than the second most-mentioned legal base, treaties. This indicated that the media, as a whole, focused on the legal basis that was central to the imposed regime. There was, however, some obvious variation by type of media and among regions. As might be expected, for example, federal and state legislation were both more important in the mainstream press, while tribal legislation was twice as

important to the native-controlled press.³⁹ Several patterns were, again, quite different in the Southwest than in other regions. The two Southwestern papers had the lowest percentages of mentions of treaties, and tribal and federal legislation were mentioned more often. For each of these three legal bases, the differences moved consistently from west to east, indicating again the importance of regional variation.⁴⁰

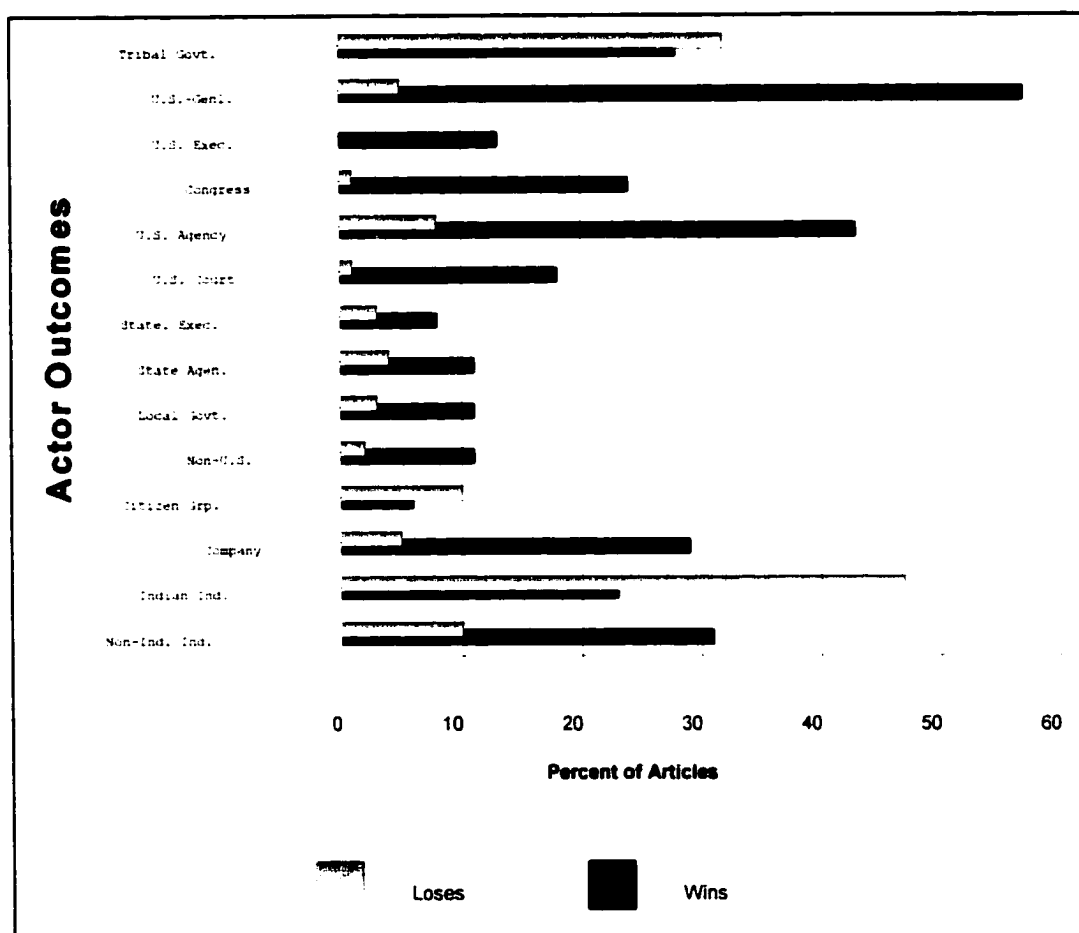
Over time, the percentage of articles mentioning tribal legislation rose from nine percent to twenty percent. Similarly, the percentage mentioning United States legislation dropped from sixty-six percent to fifty-seven percent. This indicated more attention to tribal governments' activities around land and resource issues over time, despite the continued predominance of federal law.⁴¹ The fact that United States laws were still mentioned nearly three times as often as tribal legislation at the end of the study period indicates that the laws of the imposed regime remained the focus of land and resource issues, despite the increased role of tribal legislation and the continued involvement of native actors, as discussed in the last section.

To get at the relationship between conflict in the imposed regime and the presence of various legal bases, the presence or absence of several legal bases was compared in light of the level of conflict reported in an article. These calculations showed that articles in which treaties were mentioned as a legal base had a conflict level three times higher than situations in which treaties were not mentioned (seven percent mentioned conflict vs. two percent mentioned conflict). In contrast, the presence or absence of federal legislation had minimal impact on the level of

conflict (3.2% to 3.1%). For tribal legislation, federal court action, and state legislation, there were also small differences in the level of conflict, depending on whether they were present or absent.³² This indicated that when the legal bases that were more coherent with the shadow federalism regime were at stake, there was less conflict than when native nations invoked international treaties, which run counter to the regime's core values.³³

The data on legal bases for Native American land and resource issues provide additional evidence that Native Americans and non-Indians, as reflected in media sources, often report the world differently. Like the high level of conflict in the imposed regime, this is evidence of basic differences in viewpoints among the regime's actors. These data also reflect a rise in conflict when treaties are invoked in opposition to the rules of the imposed regime. Despite the differences in actors' viewpoints and the high level of conflict, the imposed regime's legal base remains strong. At the end of the first twenty-five years of the self-determination era, United States legislation remained by far the most important basis for land and resource issues involving Native Americans. The last category of media data, which shows the outcomes of issues, will provide further indications of how the shadow federalism regime has fared in the self-determination era.

Table 7.10. Articles in Which an Actor Loses or Wins as a Percentage of Articles with Clear Outcomes.



Outcomes

In the newspapers covered, twenty-two percent of articles (430) reported a clear outcome to a Native American land and/or resource issue.³⁴ As expected, the percentage of articles showing clear outcomes was much lower than for the DOI appeals which were the result of an institution that was designed to decide issues.

As for the DOI data, a "win" for a Native American actor was defined as gaining control of land and/or natural resources, while a "loss" was defined as losing control of land and/or resources.

A win for a federal or state actor might mean gaining control of land or resources, but was also more broadly defined to include the reaffirmation of government policy. When native actors won, then, it generally represented a challenge to the imposed regime, while a win by federal actors indicated the continued power of the regime. While general win/loss information would be useful, changes in the number or percentage of situations in which United States actors won and Native American actors lost were of particular interest in tracing the fate of shadow federalism.

Appendix K gives numerical information on outcomes for various actors, and Table 7.10 graphically represents that data.³⁵ The patterns of wins and losses are generally similar to those found in the DOI cases.³⁶ Actors that overwhelmingly win more often than they lose in issues involving Native American resources again include not only the United States government in general, but also its executive officers, agencies, Congress, and courts. Companies and non-United States actors also fare well. Non-Indian individuals, states, and local governments are about three times more likely to win than to lose. Conversely, tribal governments lose somewhat more often than they win. Citizen groups and Native American individuals fare most poorly, being about twice as likely to lose on an issue as to win. Clearly, these patterns are consistent with the maintenance of the shadow federalism regime during the self-determination era. The fact that they conform with the DOI findings provide evidence that the basic structure of the regime has maintained itself, despite evidence of some changes and the differing roles of Native American actors reflected in the two data sets.³⁷

Outcomes were also considered in light of the legal basis involved to see if the presence of a certain legal basis might be linked to better outcomes for various actors. This could indicate the relative importance and effectiveness of various legal bases within the imposed regime. To do this, outcomes for various actors were considered when five legal bases were present and when they were absent: United States legislation, United States court action, tribal legislation, treaties, and state legislation. The ratio of wins to loses was calculated when an actor was recorded as winning or losing in at least twenty-five articles involving a certain legal base.³⁸

Only the most relevant findings from this analysis, those concerning federal legislation and treaties, are presented here. When federal legislation was at issue, tribal governments lost seven out of nine times. When federal laws were not involved, tribes won slightly more often than they lost. This argued for the strength of the legislative arm of the imposed regime in its dealings with federally-recognized tribal governments and against the presence of a trust relationship at the Congressional level. Corporations, on the other hand, won substantially more often when federal legislation was involved.³⁹ This indicated that the climate created by federal legislation was associated with the interests of companies within the imposed regime.⁴⁰

When a treaty was a legal base for an issue, tribal governments lost twice as often as they won. They won and lost at about the same percentage when a treaty was not involved.⁴¹ So, it appeared from media sources that invoking a treaty might work against tribal governments in many situations; the discussion of a

treaty was associated with increased conflict and, although there was no clear causal link, it appeared that treaties did not help tribes win. As for the federal government, when a treaty was involved, it won seventeen times to every loss.⁴²

The differences in outcomes were then compared for native-controlled and mainstream media. The most important difference involved the roles of individuals. While there was little difference in the outcome reported by type of media for non-Indian individuals, there was a major difference for Native American individuals. In the native-controlled media, fifty-two percent of articles with clear outcomes involved a loss for at least one native individual, while the mainstream media only mentioned such a loss in thirty-seven percent of articles with clear outcomes. These results again suggested that Indian-controlled media showed a different picture than did mainstream media. Although people's opinions about whether Native Americans have gained power in the self-determination era would not break down entirely along ethnonational lines, this suggested a very simple reason that the research question at issue here arose: part of the reason for disagreement over the modern power of the imposed regime could be that readers of the mainstream media would perceive native people as having gained more power than would readers of Indian-controlled media. Whether media reports reflect these differences, reinforce them, or both, the results indicate variation in actors' beliefs that could impact the stability of the shadow federalism regime by creating conflict and different expectations among different actors.

Changes Over Time

Over time, the percentage of articles showing clear outcomes dwindled. In the 1970s, twenty-nine percent of articles indicated a clear outcome in terms of native control of land and resources. By the 1990s, only fourteen percent had clear outcomes. While the percentage of clear outcomes also dropped in the DOI cases, that was partly explained by bureaucratic changes. The fact that the drop occurred in both the formal, agency setting and in the media setting indicated that a lower percentage of those issues was being settled over time.

The lower percentage of outcomes in the media could have meant that actors were resisting finalization of issues by prolonging negotiations, avoiding closure, or filing additional appeals. To the extent that Native American actors were responsible for resisting such finalization, this could mean that they were becoming more successful in exercising some control over the situation, which would indicate a weakening of the imposed regime. If native actors had learned that they had reason to fear the finalization of issues and were reacting on that basis, as was suggested by the DOI data, this finding might also indicate stalling in hope that the political situation would improve.

Whatever the cause for the data's reflection of a lower level of outcomes over the course of the self-determination era, this finding reinforces the concept that imposed regimes operate within a context that includes a high level of conflict, rather than the cooperation usually associated with international regimes. It

also suggests that conflict will likely continue to be a feature of this policy arena.

Table 7.11. Percentage of Articles With Various Actor Outcomes Over Time for Articles with Clear Outcomes.

Actor	Outcome	1970s	1980s	1990s
		N = 265	N = 119	N = 46
Tribal Government	Wins	27	28	35
	Loses	32	29	37
U.S. Government	Wins	58	61	41
	Loses	5	3	7
State Agency	Wins	12	11	7
	Loses	3	4	2
Citizen Group	Wins	7	3	9
	Loses	10	10	9
Company	Wins	29	29	30
	Loses	6	4	2
Indian Individual	Wins	22	22	28
	Loses	47	46	50
Non-Indian Individ'l.	Wins	31	33	33
	Loses	11	10	9

Table 7.11 shows outcomes for various actors over time. While wins and losses stay relatively stable for companies, citizen groups, and non-Indian individuals, the other actors show some intriguing variations that have implications for the imposed regime. State agencies win less often, while tribal governments and Native American individuals are recorded as both winning and losing in a somewhat higher percentage of articles. The largest

change is in the percent of cases won by the federal government, which drops by one-third, while the level of its losses remains fairly stable. While the federal government remains the most successful actor and does not lose substantially more cases, this still indicates a weakening of the shadow federalism regime.

To investigate this further, the figures were broken down among the branches of government. From the 1980s to the 1990s, the executive branch nearly tripled its success rate, from six percent to seventeen percent of the articles that had clear outcomes. Congress's success rate remained nearly the same. The drop in success was attributed to the courts and federal agencies, which lost substantially more often over time. While the overall rate of federal losses appeared stable over time, the rate of agency losses tripled. This clearly indicated a decline in federal agencies' control of Native American land and resources. Even though the drop in agency power was countered to some extent in the overall regime by increased success by the executive branch, the agencies were clearly more important in this policy arena.

When these results were coupled with the declines in DOI, BIA, and federal court involvement and the rise in tribal government involvement, this indicated changes in the importance of these actors during the study period. These trends, however, ran counter to the trends in DOI appeals, where involvement by tribal governments dropped while BIA and overall agency involvement grew. One explanation would be that agencies, particularly the BIA, moved toward formal, intragovernmental solution of land and resource issues. Always under attack, and

under particularly severe attack in the early self-determination era, the BIA may have simply retreated to a less public forum for the solution of issues. Similarly, native actors appeared to have recognized their lack of success in DOI appeals cases and chosen other venues. Both changes can be attributed to strategic maneuvering. However, because agencies' success rates also dropped somewhat in DOI appeals, this finding should be taken seriously as an indicator of decreasing agency power in the self-determination era and of a change in the strength of the imposed regime.⁴³

While there were indications that the regime surrounding Native American land and resource issues was challenged during the first twenty-five years of the self-determination era and even weakened in some respects, there was no evidence of mortal wounds. The data indicated that, while the actors may see the world quite differently and while Native Americans were losing land and resources at a somewhat slower rate, United States law and policy still provided the driving force in this policy arena. Similarly, United States actors still won substantially more often than they lost when Native American land and resources were at stake. The next step is to see what further information can be provided by statistical analysis of the data.

Statistical Analysis

In analyzing interactions among the media data, as for the federal funding and DOI data, the first step was to look for correlations between variables. Table 7.12 shows the results for

Table 7.12. Correlations Between Variables by Decade.

	USWIN	INDWIN
RESOURCE	0.70 (0.81)	(0.75)
RELATE	0.98 (0.63) 0.55	(0.34) 0.54
CONF	0.31 (0.97) 0.75	

No Highlighting = 1970s

(Parentheses) = 1980s

Bold Text = 1990s

Pearson correlation coefficients over the 0.30 level for all articles over time. The variables are similar to those used in Chapter Four. They are:

- * CONF is the number of conflictual relationships mentioned in an article;
- * RELATE is the number of relationships mentioned in an article;
- * RESOURCE is the number of resources mentioned in an article;
- * USWIN is the number of branches of United States government winning in an article; and
- * INDWIN is the number of Native American actors winning in an article.

The breakdown by decade showed that, while the levels of correlation ranged from the low end of moderate to the high end of strong, there was consistent correlation between the number of United States actors winning on an issue and both the number of

relationships involved and the number of conflictual relationships. Since the number of United States actors winning in a situation was not related to the simple number of actors present, this indicated that in situations reported by the media, United States actors were more successful in complex situations in which conflict was higher. While causality could not be inferred from these findings, the conflictual nature of the imposed regime was again clear.

The correlation between United States actors' success and level of conflict rose substantially in the 1980s, then dipped in the 1990s. This again suggests that there was a challenge to the imposed regime in the 1970s, when higher levels of conflict were associated with less federal success. However, even though the overall level of conflict decreased in the 1980s, federal actor success was strongly associated with more conflict and with more complexity, reflecting both the success of the imposed regime and the difficulty of this policy arena. By the 1990s, United States actors, especially the courts and agencies, were winning less often. However, when more federal actors did win in a situation, the media reported that it was still more likely to be a complex and conflictual situation. At the end of the study period, then, the greater success of the imposed regime was still associated with higher levels of complexity and conflict, again suggesting that imposed regimes show a different pattern of relationships than other types of regimes.⁴⁴

These correlations suggested patterns in the data, rather than causality. Multiple regression was used to gain further information. Five variables were considered: presence and level

of success of Native American actors, presence and level of success of United States actors, number of conflictual relationships, number of actors involved, and number of resources involved. Where relevant, multiple regression was also performed separately for native media, non-Indian media, and regional variables. For each dependent variable for which regression results were useful in Chapter Four, it was initially hypothesized that similar variables would prove informative for the media data.

Table 7.13. Multiple Regression Results: Presence and Level of Success for Native American Actors.

Equation Number 1: Dependent Variable: INDWIN presence and level of native american actor success

Block Number 1. Method: Enter TRLEGIS RESOURCE USWIN YEAR COOP ACTOR

Variable(s) Entered on Step Number

1. ACTOR number of actors mentioned in article
2. YEAR decade of article
3. USWIN presence and level of u.s. government win
4. TRLEGIS tribal legislation
5. COOP number of cooperative relationships in article
6. RESOURCE number of resources involved in article

Multiple R .32847
R Square .10789
Adjusted R Square .10516
Standard Error .37340

Analysis of Variance

	DF	Sum of Squares	Mean Square
Regression	6	33.08341	5.51390
Residual	1962	273.55854	.13943

F = 39.54647 Signif F = .0000

----- Variables in the Equation -----

Variable	B	SE B	Beta	T	Sig T
TRLEGIS	.109795	.025509	.092788	4.304	.0000
RESOURCE	-.006230	.003781	-.036888	-1.648	.0996
USWIN	.196519	.016045	.264469	12.248	.0000
YEAR	-.030310	.011626	-.056291	-2.607	.0092
COOP	.082044	.013527	.132537	6.065	.0000
ACTOR	-.020010	.004369	-.102885	-4.580	.0000
(Constant)	.189370	.029360		6.450	.0000

Success of Native American Actors

It was hypothesized that the number of actors, the decade, level of United States government success, presence of tribal legislation, number of cooperative relationships, and the number of resources involved would help explain the success of Native American actors. As shown in Table 7.13, this model achieved an R^2 of 0.11 for all articles. All the independent variables except number of resources were significant at the 0.05 level.

The strongest standardized regression coefficient (beta) was obtained for the presence and level of success of United States government actors (0.26). This was followed by the number of cooperative relationships mentioned in an article (0.13) and the presence of tribal legislation (0.09). The number of actors was negatively related to the success of native actors (-0.10), as was the decade when the article appeared (-0.06).

While this model only explains a small portion of causality, it indicates that the success of United States actors is important to the success of Native American actors. The additional importance of cooperation indicates that Native American actors are more successful when they seek allies in situations in which their interests coincide with those of federal actors.⁴⁵ This suggests that Native American actors win when they act within the imposed regime or allow themselves to be coopted to some extent. This interpretation was supported by the fact that the passage of time was a weak negative influence on the number of successful Native American actors. This indicates that, although the media reported that native actors were winning somewhat more often over time, the winning actors were less likely to be allied with other

Native Americans. These results also suggest a more cooperative view of native - United States relations than that shown in the DOI appeals cases, although the mere presence of cooperation does not mean that Native American actors are working with federal actors.

Success of United States Actors

It was hypothesized that the number of actors, the decade, Native American success, presence of United States legislation, number of cooperative and/or conflictual relationships, region, the presence of energy production, and type of media would influence the presence and level of United States government actor success. As shown in Table 7.14, this model had an R^2 value of 0.10, or about the same explanatory power as the model discussed for this variable in Chapter Four. The independent variables reaching significance were success of Indian actors (beta of 0.26), number of actors (0.11), United States legislation as a legal basis (0.08), region (-0.06), and decade (-0.07).⁴²

As the success of United States actors and Native American actors had each shown up as the most important variable in the other's regression analysis, these variables required more exploration. To get more information, articles in which neither type of actor had won were omitted, and a scatterplot was run. The resulting scatterplot indicated that there was a weak inverse relationship between the variables: as a higher number of United States actors was reported as being successful, a lower number of Native American actors was reported as successful. This fits with the finding in the DOI cases that success by a United States

Table 7.14: Multiple Regression Results: Presence and Level of Success for United States Government Actors.

Equation Number 1: Dependent Variable: USWIN presence and level of u.s. government actor success

Block Number 1. Method: Enter YEAR COOP REGION INDMEDIA USLEGIS INDWIN CONF ENERPROD ACTOR

Variable(s) Entered on Step Number

1. ACTOR number of actors mentioned in article
2. YEAR decade of article
3. INDMEDIA indian or non-indian media
4. INDWIN presence and level of indian win
5. ENERPROD presence of energy production
6. USLEGIS u.s. legislation as basis for issue
7. COOP number of cooperative relationships in article
8. REGION region
9. CONF number of conflictual relationships in article

Multiple R .32478
R Square .10548
Adjusted R Square .10137
Standard Error .50357

Analysis of Variance

	DF	Sum of Squares	Mean Square
Regression	9	58.57882	6.50876
Residual	1959	496.77720	.25359

F = 25.66675 Signif F = .0000

----- Variables in the Equation -----

Variable	B	SE B	Beta	T	Sig T
YEAR	-.051680	.015773	-.071318	-3.276	.0011
COOP	.036485	.019028	.043796	1.917	.0553
REGION	-.041618	.014996	-.063526	-2.775	.0056
INDMEDIA	.036673	.023612	.033427	1.553	.1205
USLEGIS	.094697	.024728	.085876	3.829	.0001
INDWIN	.354047	.029329	.263082	12.072	.0000
CONF	.009312	.016079	.014033	.579	.5626
ENERPROD	-.057805	.030071	-.042161	-1.922	.0547
ACTOR	.030000	.006367	.114621	4.712	.0000
(Constant)	.044469	.050017		.889	.3741

agency was negatively related to success by a Native American actor and provides evidence of the success of the regime in imposing its will. It also counteracts the possibility that Native Americans were successful in retaining land and resources

simply when they cooperated with federal actors. Rather, it indicates that the relationship between native success and cooperation was more likely to be present when they cooperated with non-federal allies.

Table 7.15. Multiple Regression Results: Number of Conflictual Relationships.

Equation Number 1: Dependent Variable: CONF number of conflictual relationships

Block Number 1. Method: Enter YEAR INDWIN REGION INDMEDIA TREATY USLEGIS USCRT ACTOR WATER

Variable(s) Entered on Step Number

1. WATER water contamination/supply
2. REGION region
3. INDWIN presence and level of indian win
4. USCRT u.s. court action as basis for issue
5. YEAR year of article
6. INDMEDIA indian or non-indian media
7. USLEGIS u.s. legislation as basis for issue
8. TREATY treaty as basis for issue
9. ACTOR number of actors mentioned in article

Multiple R .42015
R Square .17653
Adjusted R Square .17274
Standard Error .72816

Analysis of Variance

	DF	Sum of Squares	Mean Square
Regression	9	222.66054	24.74006
Residual	1959	1038.68126	.53021

F = 46.66088 Signif F = .0000

----- Variables in the Equation -----

Variable	B	SE B	Beta	T	Sig T
YEAR	-.054287	.022723	-.049709	-2.389	.0170
INDWIN	-.094715	.041918	-.046700	-2.260	.0240
REGION	.168222	.021829	.170380	7.706	.0000
INDMEDIA	.063529	.034261	.038423	1.854	.0638
TREATY	.120474	.044151	.059816	2.729	.0064
USLEGIS	.002562	.036706	.001542	.070	.9444
USCRT	.317514	.056406	.120105	5.629	.0000
ACTOR	.106183	.008989	.269191	11.813	.0000
WATER	-.180335	.035410	-.107020	-5.093	.0000
(Constant)	.297153	.071623		4.149	.0000

Number of Conflictual Relationships

The number of conflictual relationships mentioned in articles was also considered. It was hypothesized that this variable would be impacted by such factors as the decade, Native American success, region, type of media, treaty as a basis, United States legislation as a basis, United States federal court ruling as a basis, number of actors, and the presence of water as a resource issue.

As Table 7.15 shows, the model using these independent variables had an R^2 value of 0.17, providing some explanation of the factors that led to the mention of more conflictual relationships. Seven independent variables reached significance. The variable with the most explanatory value was the number of actors involved, which had a beta value of 0.27. Again, this makes sense, because when more actors were present, there was more possibility for conflictual relationships to arise. This was also the only variable that reached significance in the regression model involving this dependent variable in the DOI analysis.⁴⁷

When the data are divided by type of newspaper, the differences that develop are interesting, but not critical to this discussion.⁴⁸ When the data are divided by region, the differences are more important, again indicating the importance of regional variation in Indian country and the flexibility of the imposed regime.⁴⁹

From the standpoint of regime theory, probably the most important finding from this regression analysis is that the passage of time, while a significant variable, is not as important as other variables in explaining the level of conflict in a

situation. In other words, while the level of conflict has gone down overall, the time period in which an article appeared is not terribly important to explaining this change or, more generally, to explaining change in the most common type of interaction in the imposed regime. Five other variables used in the analysis explain more about the level of conflict: the number of actors involved, the region, the involvement of the federal courts, the presence of a treaty, and the involvement of water issues.³⁰ Variation by region and the importance of water issues have been consistent findings throughout this study.

The comparatively weak role of the passage of time in explaining the presence of conflict indicates a basic stability in which conflict is the most important form of interaction in the imposed regime. The centrality of conflict appears over and over in the consideration of shadow federalism and continues to suggest that regime theory's focus on a search for cooperation is misplaced in the study of imposed regimes. Rather, those involved in the imposed regime surrounding Native American lands and resources have every reason to expect that their interactions will be based on conflict.

Number of Actors Mentioned

The number of actors mentioned in a newspaper article was also considered as a dependent variable. It was hypothesized that important independent variables would include the number of resources, decade, region, presence of an outcome, level of cooperation and/or conflict, and the presence of individual legal bases: international law, United States court action, treaty,

United States legislation, and state legislation.

The variable indicating the presence of an outcome, NONE, was not used in the other regression analyses because it was considered post hoc reasoning. Here, it was included based on the rationale that, when an outcome was imminent, one of two scenarios might develop. First, actors who had sat on the sidelines might jump into the fray to be sure their interests were reflected in the outcome. Second, the level of conflict might rise as an outcome and what an actor could win or lose became clear, creating a Schattschneider-like rush to battle (Schattschneider 1960). Differentiating between these scenarios would be important to the nature of actor involvement and, by extension, actor interactions, in the imposed regime.

In fact, as Table 7.16 indicates, neither scenario for the impact of an impending outcome was supported by the analysis, as the number of actors mentioned was weakly negatively influenced by the presence of an outcome. However, this model was stronger than the models for other dependent variables, with an R^2 of 0.33. All independent variables but the presence of international law reached significance.

The strongest explanatory power was provided by the number of conflictual relationships. Like the DOI data for this dependent variable, this provided support for Schattschneider's assertion that conflict draws a crowd (Schattschneider 1960). As indicated by earlier analysis, the number of cooperative relationships was also important to the number of actors mentioned, but it was not as important as the level of conflict. The number of resources

Table 7.16. Multiple Regression Results: Number of Actors Mentioned.

Equation Number 1. Dependent Variable: ACTOR number of actors mentioned in article

Block Number 1. Method: Enter RESOURCE YEAR REGION TREATY USLEGIS USCRT STLEG NONE CONF COOP INTLAW

Variable(s) Entered on Step Number

1. INTLAW international org. action or law as basis for issue
2. NONE presence of outcome of issue
3. USCRT u.s. court action as basis for issue
4. STLEG state legislation as basis for issue
5. RESOURCE number of resources involved in article
6. TREATY treaty as basis for issue
7. YEAR decade of article
8. COOP number of cooperative relationships in article
9. USLEGIS u.s. legislation as basis for issue
10. CONF number of conflictual relationships in article
11. REGION region

Multiple R .57931
R Square .33560
Adjusted R Square .33187
Standard Error 1.65898

Analysis of Variance

	DF	Sum of Squares	Mean Square
Regression	11	2720.65168	247.33197
Residual	1957	5386.06848	2.75221

F = 89.86679 Signif F = .0000

----- Variables in the Equation -----

Variable	B	SE B	Beta	T	Sig T
RESOURCE	.197198	.016585	.227087	11.890	.0000
YEAR	.121049	.052129	.043722	2.322	.0203
REGION	.183411	.050965	.073275	3.599	.0003
TREATY	.931780	.099239	.182485	9.389	.0000
USLEGIS	1.104169	.082584	.262082	13.370	.0000
USCRT	1.081812	.128969	.161416	8.388	.0000
STLEG	.992999	.132309	.141041	7.505	.0000
NONE	-.375396	.090124	-.079039	-4.165	.0000
CONF	.702486	.050751	.277097	13.842	.0000
COOP	.581616	.061833	.182735	9.406	.0000
INTLAW	.340384	.273452	.023374	1.245	.2134
(Constant)	1.516800	.162922		9.310	.0000

also had explanatory power, suggesting that as more resources were at stake, more actors would become involved.²¹

The impact of the presence of United States legislation on the number of actors, which is one of the more important independent variables, is interesting in the context of the beta values for other legal bases. They are, in order of importance: United States legislation (0.26), treaties (0.18), United States court action (0.16), and state legislation (0.14). Federal legislation is created by Congress, a representative body designed to involve many actors that is at the core of the modern imposed regime. Treaties are of particular importance to Native American land and resource issues and are often the center of a high level of conflict, so it is not surprising that their presence would draw involvement. Federal courts involve conflict, but draw fewer people, because they are often not accessible due to costs, geographical distance and, in this case, cultural distance. And state legislation would generally only bring involvement from actors in or near a particular state. Here again, the media's reflection of reality appears to make sense in light of broader information and other aspects of the data analyzed here.²²

The number of actors mentioned in an article was best explained by the level of conflict reported. The other more important variables were the number of resources at issue and the presence of federal legislation, the core of the imposed regime. This indicates that more actors became involved when more was at stake and when the situation involved a legal base of importance under shadow federalism. The passage of time was a comparatively weak significant variable, again indicating that change over time was measurable but not as important as a number of other factors,

particularly the level of conflict. This again indicated the basic stability of the imposed regime.

Number of Resources Involved

The last dependent variable considered was the number of resources mentioned in an article. It was hypothesized that the following independent variables would have an impact on the number of resources involved: levels of conflict and/or cooperation, presence of Native American and/or United States success, United States court action as legal basis, type of media, region, and the involvement of the United States military, United States law enforcement, corporations, BLM, National Forest Service, state agency, media, and traditional native government.

As Table 7.17 shows, this model had an R^2 of 0.22, and ten of the fifteen independent variables were significant. The variable that provided the most explanatory power was the presence of a corporation (0.28), indicating that corporations' plans often involve projects that might impact many resources. Other actors also reached significance, but were not nearly as important, including law enforcement, the military, BLM, state agencies, and traditional governments.³³ It was also interesting to note which actors' presence did not increase the strength of the model: the EPA and the BIA. While at first blush this appears to indicate again that the lead federal environmental agency has less impact than might be expected in situations involving Native American land and natural resources, this result might also indicate the EPA's and BIA's broad involvement in a number of resource issues.

Table 7.17. Multiple Regression Results: Number of Resources Involved.

Equation Number 1: Dependent Variable: RESOURCE number of resources involved

Block Number 1. Method: Enter CONF COOP INDWIN INDMEDIA REGION USWIN USCRT MILITARY LAWENF CORP BLM NFS STAGEN TRADL MEDIA

Variable(s) Entered on Step Number

1.	MEDIA	media
2.	BLM	bureau of land management
3.	STAGEN	state agency
4.	USCRT	u.s. court action as legal basis for issue
5.	INDWIN	presence and level of indian win
6.	TRADL	traditional government
7.	INDMEDIA	indian or non-indian media
8.	MILITARY	military agency
9.	CORP	corporation/business
10.	COOP	number of cooperative relationships in article
11.	NFS	national forest service
12.	LAWENF	law enforcement agency
13.	USWIN	presence and level of u.s. government win
14.	REGION	region
15.	CONF	number of conflictual relationships in article

Multiple R .47084
R Square .22169
Adjusted R Square .21571
Standard Error 2.06985

Analysis of Variance

	DF	Sum of Squares	Mean Square
Regression	15	2383.23524	158.88235
Residual	1953	8367.17817	4.28427

F = 37.08505 Signif F = .0000

----- Variables in the Equation -----

Variable	B	SE B	Beta	T	Sig T
CONF	.083865	.065031	.028727	1.290	.1973
COOP	.479728	.077575	.130885	6.184	.0000
INDWIN	-.216633	.124385	-.036587	-1.742	.0817
INDMEDIA	.688094	.098605	.142551	6.978	.0000
REGION	.449514	.061823	.155949	7.271	.0000
USWIN	.093325	.092186	.021211	1.012	.3115
USCRT	-.430222	.159893	-.055744	-2.691	.0072
MILITARY	.787722	.165535	.097882	4.759	.0000
LAWENF	-.989646	.189956	-.110622	-5.210	.0000
CORP	1.436896	.104548	.282653	13.744	.0000
BLM	1.163621	.264589	.089633	4.398	.0000
NFS	.457935	.254912	.037030	1.796	.0726
STAGEN	.541920	.128148	.086730	4.229	.0000
TRADL	.383254	.174876	.045070	2.192	.0285
MEDIA	.180607	.172994	.021824	1.044	.2966
(Constant)	1.157592	.141746		8.167	.0000

Other variables that reached significance included type of media and region, again indicating that native-controlled media talked about resources in more detail, and that more resources were mentioned as coverage moved east and north. While the level of conflict did not reach significance, the level of cooperation did. It appeared that while conflict brought out more actors, cooperation brought more resources into play. This might indicate that establishing a certain level of cooperation led actors to put more issues on the table.³⁴ If borne out by further research, this finding would be important to those who want to resolve Native American land and resource issues. It also suggests that a regime that featured more cooperation might be more effective than an imposed regime in resolving the types of long-term conflicts that are present in native nation-United States relations.

In explaining the number of resources mentioned in various articles, the presence of certain types of actors proved most important, particularly the presence of corporations. The type of media also impacted the number of resources discussed, bearing out and strengthening earlier results. In regime terms, this indicated that the native and non-native media saw situations differently, rather than reflecting similar norms and values.

However, in a discussion of regime change, the central question remains whether this difference in viewpoint is strong enough to indicate that the regime has changed focus or become inoperative. Have enough actors stopped accepting United States law and institutions as the primary determinant of Native American resource issues that the shadow federalism regime is no longer in

place? To determine what light the media data sheds on this question requires a return to a broad view of the results.

Discussion

The media data shows clear variation in the coverage of Native American land and resource issues. Native-controlled media and mainstream media have different emphases, both in terms of the level of coverage given these issues and in terms of which actors and legal bases are important. Non-Indian media not only give native land issues little attention, but their coverage is less detailed and less focused on the roles of individuals, particularly Native American individuals. These results support the views of authors who have said that the mainstream media simplifies the news on native issues and puts more emphasis on conflict within Indian country than do native sources (Norrell 1998).

To the extent that these differences indicate variation in the thinking of those who read the two different types of media, they indicate that not all those involved in shadow federalism think alike. This, in turn, could raise questions about whether the participants in the imposed regime share the norms, values, and expectations that are critical to the continued existence of a regime. However, participants in this regime have always had widely varying world views, and an imposed regime involves one actor's power over another. So the key point here is whether the newspapers offer evidence of a fundamental change in actors' thinking about the centrality and de facto control of United

States law in determining outcomes when Native American land and resources are at stake.

While the newspapers under study here do offer evidence of change in the imposed regime during the study period, and even of changes that may indicate an eventual weakening of the regime, there is no evidence of the development of a fundamental divergence of expectations in the self-determination era. United States legislation remains the dominant basis for decision-making around native land and resource issues in both types of media, in all regions, and across time. Federal legislation is invoked more than three times as often as the second-most-common legal base for an issue. Like the similar results for DOI cases, this indicates that, whatever actors say and whatever they desire, when it comes right down to it, they behave as if federal law and actions are the basis for native nation-United States relations. This demonstrates the basic solidity of the shadow federalism regime over time.

The outcomes of land and resource issues were also similar to those in the DOI cases. In general, United States actors won more often than they lost. Sometimes, as for each branch of the federal government, they won substantially more often than they lost. This was true even though agencies were less involved and won proportionately less often over time. On the other hand, Native American actors, and particularly individuals, lost control of land and resources much more often than they won. Tribal governments were mentioned more often over time, but only as a percentage of a dwindling amount of coverage.³⁵ Even as the most successful native actors, they continued to lose land and

resources more often than they gained them. As more United States actors won in a situation, fewer Native American actors were successful, and the resources most likely to be at issue changed over time in concert with changes in federal policy. This speaks volumes about the continued stability of the shadow federalism regime.

The two types of media also agreed on other points. Water was the most important resource at stake, and most relationships involved conflict. In addition, the presence of a treaty as a legal base for the discussion tripled the level of conflict, while the presence of federal legislation had no impact on the amount of conflict. This again indicated the actors' comparative comfort with United States law as the focus of decisionmaking in the imposed regime. The one exception to the overall focus on conflict was relationships between state and federal governments, which were generally cooperative, in line with national-subnational federalism.

Evidence of the strength and flexibility of the imposed regime was provided by the consistent regional differences reflected in the media, which suggested that the shadow federalism regime has maintained itself despite wide variation across the continent. Some of this variation was expected, such as differences in the resources at stake, which could be predicted from regional ecological differences and the findings in Chapter Five. Variation in the importance of treaties was also expected. The variation in the level of conflict was more informative, with the Southwest showing stable and comparatively low-conflict patterns of native - non-native interaction through the study

period. In the Northeast, by contrast, relations were more focused on conflict.

For scholars, these regional differences indicated not only the strength and flexibility of the shadow federalism regime, but also the inadvisability of the common practice of preparing case studies involving one or a few native nations, then generalizing them to other parts of the continent. This finding was also reinforced by the differences between Alaska and the forty-eight states described in Chapter Four. The case study approach, while a useful methodological tool, could also lead to poor scholarship and misperceptions about native nations and their relationships with other actors.

While the evidence of the continued centrality of United States institutions and of the power of United States actors was convincing on the central point of the continued existence of the imposed regime, this database also provided evidence of some changes. The major difference at the end of the first twenty-five years of the self-determination era, when viewed through newspaper coverage, was that tribal governments had become more visibly involved in land and resource issues and were losing land and resources in a somewhat smaller percentage of situations. The fact that tribal governments were more likely to be at the table was consistent with self-determination policy and provided an opportunity for increased influence on land and resource issues.

In addition, unlike the DOI data, the media data showed that there was continued engagement among native and non-native actors at the end of the first twenty-five years of the self-determination era. The media also showed less agency involvement,

a greater decrease in agency success over time, and an increase in cooperation. It was quite possible, as noted above, that these differences reflect strategic maneuvering by actors in these two very different institutional arenas, but it was also possible that the media reflected changes that have not yet reached the courts. Both time and more study will be necessary to definitively determine the relationships between the two types of data, but their disagreement on these points was intriguing. The media data did suggest that there might be an opening for real change in the imposed regime in the future.

The variation in interactions among the actors was also intriguing in light of the continued existence of the imposed regime. Over the entire study period, the intensity of conflict did go down, with less physical confrontation and more cooperation. But the differences between decades were instructive. The level of physical conflict was higher in the 1970s, but dropped thereafter. The high overall level of conflict in the 1980s was associated with a high level of federal government success on resource issues. Both cooperation and discussion rose between the 1980s and the 1990s. This pattern indicated that shadow federalism may have been challenged by Native Americans in the 1970s at the end of what Ambler (1990) called the Rubber Stamp Era. If so, the imposed regime successfully reasserted itself, but media evidence of changes in participation indicated that the regime reasserted itself in a slightly different form; tribal governments were more visible and federal agencies were less visible, in line with the tenets of self-determination policy. However, the lack of fundamental

regime change was indicated by the continued patterns of reliance on United States law and the continued success of United States actors when Native American land and resources were at stake. While not conclusive, this combination of factors appears to support Young's (1981) observation about cooptation being a tool used by imposed regimes to maintain power.

In the media data, corporations, law enforcement, and the military were more visible than in DOI appeals cases. In fact, the military and law enforcement were substantially more evident in the media than were traditional environmental and land management agencies. This, combined with the high level of physical conflict in the 1970s, indicated that the shadow federalism regime has been at least partly maintained by force or the threat of force in the self-determination era. This is in line with Young's (1981) identification of coercion as a second tool used by imposed regimes. This focus on conflict and the presence of the military and law enforcement could also have reinforced the images of native people as hostile or militant, as discussed by Weston (1996), Baylor (1996) and others.

Throughout the first twenty-five years of the self-determination era, conflict characterized the imposed regime, in stark contrast to studies of cooperation as the basis for other types of regimes. In fact, the regression results showed that the passage of time was not as important as five other variables in explaining the level of conflict reported in an article. Native nation-United States relations were primarily conflictual at the beginning of the self-determination and stayed that way. Even if

the media substantially over-reported conflict, this pattern was clear, especially in light of similar DOI appeals case findings.

Overall, the media data support earlier findings rather than providing stunning new insights. But the media data also provide indications that there may be an opening for change in the imposed regime in the future. Several findings suggest situations which might facilitate such change. For example, the results indicate that native actors are more successful when they seek allies. Similarly, the presence of cooperation is one factor that was related to the discussion of more resource issues, indicating that increased trust among actors could lead to solution of some of the many intractable conflicts present in this policy arena.

What media reports indicate and other data reinforce is that shadow federalism is in some ways a departure from the regimes usually discussed when the topic is environmental issues. Rather than being characterized by cooperation around shared norms and values, shadow federalism is characterized by conflict, and there are some differences in actors' values across both ethnic and regional lines. Yet the imposed regime holds together and is clearly resilient and adaptive to changing circumstances. This is apparently due to the power of the United States and the shared belief that its laws provide the forums for resolution of differences, even though Native Americans are likely to lose there.

In essence, it appears that enough native actors still accept the power of the United States and the importance of its institutions, however reluctantly; consequently, shadow federalism remains in place. Like George Gillette, the tearful Fort Berthold leader signing away his nation's land to be flooded, as discussed

in Chapter Two, there is still a real sense that Native Americans "can't fight city hall" (Ambler 1990, 204-205). This idea is reinforced by media reports, both in native-controlled and non-Indian media. After twenty-five years of the self-determination era, Native American media may provide more detailed coverage, and tribal governments are more likely to be at the table, but the outcomes of United States-Native American conflicts over land and resources remain essentially the same.

CHAPTER EIGHT: THE IMPOSED REGIME IN THE SELF-DETERMINATION ERA

Introduction

It is clear that the imposed regime remains in place. The central questions for determining the continuation of the regime, listed in Chapter Two, were: Who controls land and its resources? Whose rules, forums, and processes are used to discuss and resolve issues? Who wins control of land and resources when conflict arises? and What principles provide the basis for interactions among actors? In the majority of cases now, as in the beginning of the self-determination era, the answer is that the political subdivisions of the United States get the last word in Native American land and resource issues. And, in the vast majority of cases, the actors involved in those issues still behave as if the rules and forums of the United States are the appropriate place for the resolution of those issues.

While this conclusion ended up being fairly straightforward, it is important to look back at the data and place it in the context of regime theory before all lessons may be learned. That is the focus of this chapter.

First, the results will be summarized, and Young's observations on regime change and effectiveness will be addressed in light of the additional information provided by the data. Second, the questions asked at the end of Chapter Two will be revisited. Third, the concept of relational federalism will be addressed in light of the data, and the intergovernmental

interactions of modern shadow federalism will be defined. Last, the lessons for regime theory will be considered.

Putting the Data Together: Where is the Regime Now?

The six data sets considered here, together with Taylor's data, provide a fairly comprehensive picture of the imposed regime over time, and that picture is surprisingly consistent. The similarity between the results for the DOI appeals cases and the media analysis is particularly striking. These two forums are very different, but the results in terms of the fate of the imposed regime are consistent.

The questions used to help identify regime change, discussed at the end of Chapter Two, were:

- * whether patterns have changed in the activity levels of actors by resource, legal basis for an issue, nature of relationship (conflict, cooperation, or other), and outcome;
- * whether different resources are related to different levels of cooperation or outcomes;
- * whether there are relationships between the legal-institutional basis for an issue and its conflict level or outcomes;
- * any differences that exist by region;
- * any differences between native and non-native media in the above variables;
- * any differences between the issues covered by newspapers and those decided by the Department of the Interior; and

- * changes, if any, that have occurred over time in the above calculations.

The three data sets that provided evidence over time were the DOI data, the media data, and some of the state data. The demographic data, tribal government surveys, and federal funding data fleshed out certain aspects of the regime. Some variables showed little change in each data set where they were measured. These included:

- * the central role of United States rules and forums in decision-making over time;
- * losing outcomes for Native American individuals and governments in land and resource conflicts;
- * overwhelmingly winning outcomes for United States governmental actors over time, and somewhat lower levels of success for other non-Indian actors;
- * the predominance of conflict among the actors, except for the presence of cooperation between state and federal actors;
- * more intense tribal-state conflict over resource control and environmental problems in states with higher reservation populations;
- * a high level of conflict among native actors;
- * lower levels of conflict and/or lower intensity of conflict over time;
- * regional differences in the resources at stake that vary with ecological factors, but relative stability in the resources involved over time;

- * water as the single resource most at issue, and control of land and land-based resources as central in this policy arena;
- * inconsistencies in United States policy among federal actors;
- * low tribal and state government capacity to deal with reservation environmental issues;
- * Congressional or court-generated federal policy changes, whether explicitly environmental or not, increased contact and usually conflict between native and non-native populations;
- * regional differences in native - non-native interactions;
- * general complexity of land and resource issues, including the involvement of numerous actors and resources in most issues; and
- * the failure of the federal trust relationship to protect Native American interests in land and natural resources.

These similarities went to the core of the imposed regime and offered clear evidence of its importance at both the beginning of self-determination and twenty-five years into that policy era.

Several additional findings, while limited to one data set, were also important. The federal funding data indicated that the BIA distributed funds in what amounts to a reverse Marshall Plan for native nations that fought the United States in the last century. The EPA, on the other hand, distributed more funds to tribes that operated in a manner that was more acculturated to the dominant society.

The media data also provided some important additional information. Two findings provided insight into the continued maintenance of the imposed regime. First, there was a greater role for law enforcement and the military than for the traditional environmental and land management agencies. Even if the media was attracted to conflict, this difference was large enough to indicate that the imposed regime in the self-determination era has been maintained, at least in part, by force or the threat of force. Second, treaty-based issues were associated with substantially higher levels of conflict, while issues based on federal legislation were not. This indicated that the legal bases at the center of the imposed regime were associated with less conflict than the legal bases that challenged shadow federalism. Third, the differences between mainstream and Indian-controlled media were strong enough to suggest differences in viewpoints between the two types of editors and/or readers, and it was clear that native media gave a lot more attention to land and resources issues.

The differences among the data sets, while interesting, do not fundamentally contradict the continuing presence of shadow federalism. For example, the tribal government activity shown in the media and survey data indicate that tribal governments are taking an internally-directed and more visible role in natural resource issues. However, native actors have tended to withdraw from the DOI appeals process, relinquishing many challenges to United States power in that forum. In the vast majority of cases, tribal government activity is not backed by strong financial resources or administrative capacity, and it generally does not

lead to increased control of resources. The data does indicate the potential for change in the imposed regime, as tribal governments have taken more action over time and have gained a place at the bargaining table in some situations. However, in the first twenty-five years of the self-determination era, that potential did not translate into less federal control of Native American land and resources. In fact, in addition to the losses of land and resources documented by this study, it could be argued that tribes' attempts to comply with a host of new environmental regulations led to increased activity in compliance with United States laws.

Some of the most intriguing differences found in this research were regional. In the attempt to look at the big picture, rather than case studies, this research was not designed to focus on regional differences, but the resilience and adaptability of the imposed regime showed up in its success under a wide variety of circumstances. Differences between Alaska and the forty-eight contiguous states, the emphasis on treaty issues in the Northern Plains, the high level of conflict in the Northeast, and the relatively stable patterns of interaction in the Southwest suggest that the imposed regime has operated somewhat differently in different places. As Young (1981, 106) suggested, the hegemon of the shadow federalism regime adapted well to different conditions ". . . so long as its own position of dominance is not obviated"

Given regional variation, the differences in worldview among actors, and the high level of conflict around Native American environmental issues, the continued consensus around "principles,

norms, rules, and decisionmaking processes" in natural resource interactions indicates the resilience of this regime. With a continental scope and a timeframe that stretches through a century of remarkable cultural, legislative, and technological changes, the regime's survival is impressive.

In some instances, this survival appears to contradict the factors believed to contribute to regime change. Young (1982; 1997a) suggests that regimes change due to such factors as internal contradictions, alterations in the underlying power structure, exogenous impacts, and institutional changes. Institutional changes include alteration in decision-making procedures, participating organizations, and legitimacy.

Several of these factors have clearly been present in the self-determination era. Internal contradictions have always been present in the imposed regime. Shadow federalism was built and has operated despite major differences of culture, worldview, and values--both between Native American and United States actors and among native actors. It has been common for actors to work from different assumptions, talk about different issues, use different facts, and assign blame differently. These vast cultural differences among the actors could have been expected to impede the regime's formation and continuation, as well as the social learning that was evidenced in this research. In addition, the various branches of the federal government have often differed in their policies toward Native Americans. Exogenous impacts, as discussed earlier, included changes in world resource markets, particularly in the 1970s, and the overall atmosphere of activism and change in the United States at that time.

The data indicated that there have been some institutional changes, including changes in the levels of participation in natural resource issues and forums by several actors: corporations, individuals, some federal agencies, and Native Americans. The nature of those changes varied somewhat in DOI appeals and in the media, but both data sources indicated changes during the study period. On paper, there have also been changes in decision-making procedures, with Congressional, Presidential, and agency policy statements favoring a greater role for tribal governments. The legitimacy of the United States' role has been under constant attack in Indian country and has also been questioned in several federal forums and by some non-Indian organizations.

So this research provided ample evidence that the situation has, at least in some aspects and at least during some parts of the self-determination era, been ripe for regime change. As mentioned above, there was also evidence that changes did occur at some places and during some time periods.

However, just because there have been changes did not mean there had been a fundamental shift in the underlying structure of the imposed regime. The evidence suggested that, when threatened, the shadow federalism regime bounced back, adjusting to a wide variety of new conditions. This, in turn, suggested that scholars take a closer look at the variables that may lead to regime change, particularly for imposed regimes. Given that internal contradictions and exogenous impacts did not lead to substantive regime change, Young's (1983, 107-111) third variable, alterations in the underlying power structure, could be necessary to change

shadow federalism. There was nothing in this research to indicate otherwise, and further study of regime change could also indicate additional key variables.

To the extent that the problems associated with a focus on modern, short-term regimes that build cooperation can be circumvented, the results given here fit more closely with Young's (1999) observations on regime effectiveness. Shadow federalism, as Young would suggest, did not immediately succeed in controlling the entire continent, and it certainly developed both utilitarian and social aspects. In fact, the social learning shown in the development of the imposed regime's bag of policy tools over many decades appeared to have been a key aspect of the continued effectiveness of shadow federalism.

So one thing that this research offers regime theory is an example of an effective, long-standing regime that has survived despite the existence of variables that may usually be associated with regime change. This survival fits with regime theorists' observations that effective regimes have both utilitarian and social aspects, and that they can learn and adjust.

Before turning to other implications for regime theory, the intergovernmental workings of shadow federalism will be reviewed. While a number of actors in this issue area are nongovernmental, defining intergovernmental relationships in this arena is necessary to the development of the concepts of relational federalism and shadow federalism.

Federalism Revisited

Looking first from tribal governments' viewpoints, two kinds of data provided information on tribal environmental activities: demographic data and survey results. Overall, the tribal government data indicated a great deal of variety, but there were a few common themes. An important one for the definition of shadow federalism was that there was clearly reservation activity on environmental issues that was independent of United States governments. Tribal governments spent more than they got from the United States, despite reservation poverty and even though natural resources income was not a source of significant funds for the vast majority. While the federal agenda did not include tribal purchase of land, a full quarter of tribal governments were engaged in that activity. There was generally some type of relationship between a reservation and contiguous state(s) around environmental matters, but these relationships did not appear to be important to internal tribal programs.

Two types of data were also gathered on the federal government's interactions with Native Americans: federal funding provided to reservation governments and information on DOI administrative appeals involving native lands. Much of the federal funding provided to native governments in recent years has been intended to assist in implementing United States laws on reservations. At the same time that the United States has ordered native governments to take on enforcement of these laws, it has a formal policy of increased respect for tribal sovereignty (Hill 1995).

This research also shows that the actual amounts of funding received by individual reservations for specific purposes are often insignificant, compared to the environmental problems they are designed to address. If tribal governments want to improve their environments, they cannot rely on the United States under current conditions; they must act independently and identify other sources of funding and expertise.

At the tribal-federal juncture, the scenario provided by this data set fits relational federalism better than the national-subnational model. The various parties have relationships, but they are not clearly defined or consistent. Tribal governments claim national status and act independently of the United States to the extent that they are able.

Territorial federalism is also problematic. First, the environmental problems addressed by federal legislation do not recognize artificial boundaries. Second, while United States interests may be impacted by environmental problems that arise on reservations, most tribal governments wish to exercise independent authority. United States policy tries to accommodate both approaches at once: it tells native nations how they should solve pollution problems, and also tells them they are sovereign or semi-sovereign governments. This indicates that federal officials themselves are unclear about the applicability of territorial federalism.

Along the same line, the DOI appeals cases showed a pattern of complex interactions, and there were clearly relationships between governments with Native American governments being in the less powerful position. But rather than a clear national-

subnational arrangement, there were indications that when the DOI's attempts to dictate control of land and resources did not meet Native American needs, native people withdrew from the process.

Despite the consistency of many of the findings regarding federal-tribal interaction, from the standpoint of federalism the agency funding data, tribal government surveys, and DOI appeals produced a picture that was often not clearcut. The United States has both tried to dictate environmental policy to tribal governments and announced government-to-government relationships with them. Native nations have both increased participation in and withdrawn from United States forums. Some agencies have been better set up to deal with tribal governments than others, and there has been no one coherent federal policy on reservation environmental issues. Rather, as this research confirmed, there has been a series of agency policies, with funds distributed based on different variables. The lack of a clear tribal-federal picture favors the use of relational federalism, which is merely based on relationships among governments.

Turning to the state level, while state governments have become important actors in environmental policy in recent years, their overall commitment of staff and finances to Native American resource issues has changed little, if at all. Individual states' commitments have changed, however, with a notable shift of capacity from West to East. This means states contiguous to reservations and with high Native American populations have lost capacity in this arena, while states without reservations and with low native populations have gained capacity. This means that,

overall, for states as for the DOI appeals process, there has been a trend of disengagement between tribal governments and non-Indian governments. Many states that have developed capacity to deal with issues involving Native Americans generally act from an anti-Indian stance on land and resource issues, but there is evidence that bureaucratic personnel take part in lower-conflict interactions than elected officials.

Tribal governments did not characterize their relationships with state governments as critical, and states were clearly less involved in Native American resource issues than either tribal or federal governments. Overall, there was less state-tribal or state-federal interaction around environmental issues than there was tribal-federal interaction.

Rather than the relatively clearly-defined, ongoing relationships of units within a traditional Constitutional federalism, tribal-state relationships vary. There is not a national-subnational relationship in either direction, and both types of actors deal with federal officials more than with each other. As the crux of much of the conflict among tribal and state governments is control of land, an attempt to use territory-based federalism to define those relationships provides more questions than answers.

The data supports Elazar's statement that, ultimately, federalism must be looked at in terms of relationships among government units (Elazar 1993: 191). The national-subnational framework fails in the environmental and natural resource arena partly because tribal governments do not accept it, and partly because they cannot rely on the United States for a consistent

agency-level policy. The federal government often cooperates with states, who are in chronic conflict with native nations around resource issues. Key states have tended to disengage from relationships with tribal entities, and state-tribal relationships vary tremendously. While Native American governments interact with the United States and are clearly in the less powerful positions, the situation is confused by a lack of coherent federal policy and the large number and variety of native governments. This is not the clear and relatively consistent set of relationships seen in a national-subnational situation.

What is clear is that there are relationships among the federal government, state governments, and native governments: a situation to which the relational conceptualization of federalism is well-suited. The relationships are often tenuous, and the most obvious common thread is that some federal agencies, most states, and most reservation governments lack sufficient capacity to deal with the other parties effectively in the environmental arena. Building tribal government capacity in this policy arena is a prerequisite to progress in native nation control of native lands, but consolidation of federal capacity--perhaps in the EPA--would also help clarify and simplify Native American natural resource issues.

State-tribal relations are likely to remain difficult. From tribal governments' points of view, the relationships with states are seldom critical to tribal planning or administration. From state governments' points of view, Native Americans are often a threat to control of the land and resources within or contiguous to their boundaries. Increasing tribal capacity will not resolve

this fear, but increased state bureaucratic capacity might lead to improved state-tribal relations by increasing communication and channels for cooperation.

Whatever the future brings and despite the conflict and the complexity, these governments will continue to deal with each other on a regular basis. The fact that environmental issues do not respect human-made boundaries will drive the continuation of some form of relational federalism.

Theoretical Implications

While the implications of this research for federalism are both useful and interesting, these results are of broader significance for regime theory. As Conca (1993, 312) notes, "International regime theory . . . betrays a strong tendency to focus only on explicit, formal manifestations of cooperation" This research suggests that regime theory will continue to be enriched by a focus on implicit orders and imposed regimes, and on conflict as well as cooperation. Each of these topics will be discussed in turn.

The exploration of implicit factors includes discussion of what Lipschutz and Mayer (1993, 248) call "constitutive rules": the underlying social principles around which institutions form and the rules that say who may legitimately be part of a situation or a decision-making process. In shadow federalism, there has been constant conflict over not only the rules and who makes them, but also over what issues are important and what governing body, if any, should determine who can participate.

Looking at historical regimes from around the world over the long term offers many case studies that can inform the discussion of constitutive rules and how they may impact regimes and regime change. This long-term view is important partly because, as Young (1997a, 291) has noted, successful regimes influence future thinking and institutional innovation. In this case, as discussed in Chapter Three, British policy in North America was modeled after its policy toward Ireland. Methods of defeating and controlling indigenous peoples, including the reservation system, destroying food sources, introduction of diseases, and elevating one person as an overall leader, have been and continue to be replicated on other continents.

Taking the long view also encourages scholars to look more closely at how the concept of a regime can be applied to situations that impact land and resources, even when the situation is not defined as environmental or, as in this case, applied to regimes that arose before "environmental" even became a concept. This is suggested by Conca (1993, 306) and encourages a much deeper level of discussion than just looking at negotiated, cooperative orders that are explicitly environmental.

For the shadow federalism regime, looking at constitutive rules and implicit orders would also encourage such questions as:

- * How have stereotyping and racism acted as social and political forces that encourage or allow reservation environmental problems?
- * What is the impact of the dominant culture's belief in private property on the environmental issues that face Native Americans?

- * How does the cultural centrality of materialism impact environmental issues and resource use within the United States?
- * Is there an identifiable variable that allows or encourages some native nations to gain greater control over their reservation or treaty-defined land bases?
- * What is the meaning of a normative focus on time, rather than a normative focus on place?

This research suggests that implicit orders may be very resilient. The shadow federalism regime, as its name suggests, has operated behind, within, or despite explicit United States policies and has been successful over a longer period of time than most explicit orders. Implicit arrangements may be more able to adjust to changing conditions and, hence, longer-lived than explicit, negotiated orders. This makes sense even in the context of children's or pick-up games; when the rules are not written down, they tend to vary and depend on who is playing at any particular time. This topic deserves further study at the international level.

Turning to the lessons this research offers the study of imposed regimes, the shadow federalism regime begins by challenging Young's conclusion (1997a, 279) that "regimes are lightly administered." As is clear from Chapters Two, Three, Four, and Five, there is a large and bewildering array of United States rules and policy statements involving Native Americans and native lands. The shadow federalism regime is heavily administered in the sense that there is a lot of federal administrative activity to talk about and in the sense that

weighty tactics are used, including force and the threat of force.

An increased focus on imposed regimes also challenges Young and Osherenko's conclusion (1993, 225) that the "pattern of negotiation eventuating in one or more explicit agreements constitutes the normal process of regime formation in international society." Young and Osherenko finesse the fact that their data set consists of negotiated regimes around environmental issues, as noted in Chapter Two, by suggesting that negotiated, imposed, and spontaneous regimes are actually aspects of the same phenomenon. They also avoid looking at their conclusion with a more critical eye by first asking whether their findings are a result of the cases they study, then answering themselves by saying "the burden of proof rests with those who assert that our findings are biased as a consequence of our choice of cases" (1993, 252).

This research begins to take up that burden of proof, and the results do not bode well for Young and Osherenko's conclusion. This research indicates that there are situations in which an imposed regime is present and clearly separable from negotiated and spontaneous orders. While all three types of orders can be found in United States-native nation relations at some historical point, the bottom line is that the United States' laws and governmental practices have been and continue to be imposed upon Native Americans. Young's elements of an imposed order--coercion, cooptation, and manipulation of incentives--have been used historically and remain in use twenty-five years into the self-determination era. In fact, any situation involving fourth world peoples is likely to have aspects of an imposed regime with

environmental impacts. It is also likely to have aspects of what might be called "shadow sovereignty," in which fourth world cultures and their governments continue to operate at some level within internationally-recognized nation-states. The hundreds of neocolonial and historical colonial situations are also worthy of study on these topics. The way is open for a great deal more research in this area that could enrich the regime literature.

Looking more closely at imposed regimes can also revamp the understanding of regimes as being characterized by cooperation. This is discussed in Chapter Two and shows up repeatedly in the data. The shadow federalism regime is characterized by conflict and internal contradictions, but it has not collapsed.

Instead, the internal contradictions of United States policymaking involving Native Americans, and conflicts between agencies and branches of government in particular, may actually provide a space in which the imposed regime can operate. The internal conflicts offer regime participants the opportunity to pick a forum to suit their purposes, and each forum operates under different rules. State officials can grandstand against treaty rights in the media, while state bureaucrats work cooperatively with tribal governments. Native Americans can leave the DOI appeals process when it is clear that process works against native interests. One federal agency can order tribes to clean up water quality and waste sites on reservations, while another federal agency encourages tribal governments to accept nuclear wastes. Congressional and agency officials can order tribal governments to comply with federal laws, while Presidents publish a policy of tribal sovereignty.

What is noteworthy for purposes of identifying the operation of a regime is that none of these approaches questions the overarching importance of United States policies and forums. Explicit United States policy is no longer the removal of native lands and resources from native control, yet that is what is happening. The shadow federalism regime operates independent of explicit federal policies that contradict its goals. This indicates the strength of the shared norms and values in this regime. Confirming Krasner (1983, 1), the shadow federalism regime provides an intervening influence between actors' own interests/values and identifiable outcomes.

Conclusion

The shadow federalism regime has been a stable aspect of native nation-United States relationships in the self-determination era. Despite changes in the tone of Native American-federal-state relationships, the empirical data are clear on the continuing dominance of United States rules and forums in Native American environmental and resource issues.

It is hoped that this research will contribute to the discussion of the role and power of Native American governments, among scholars, the public, and governmental actors. It is also hoped that future research will continue to define and develop ways of addressing the roles, statuses, and relationships discussed here--both for actors within the boundaries of the United States and internationally.

APPENDIX A: ENVIRONMENTAL FUNDING TO RESERVATIONS BY YEAR AND AGENCY

RESERVATION	1989 ANA FUNDING	1990 ANA FUNDING	1991 ANA FUNDING	TOTAL ANA FUNDING
SALISH-KOOTENAI	200.0	178.6	.0	378.6
SAN CARLOS	120.4	.0	.0	120.4
SANDIA	179.1	.0	175.0	354.1
SAN ILDEFONSO	.0	94.8	.0	94.8
SANTA ANA	78.3	115.0	.0	193.3
SAULT STE MARIE	139.6	.0	.0	139.6
SHINGLE SPRINGS	.0	.0	12.0	12.0
SHOALWATER	77.0	207.6	.0	284.6
SILETZ	66.0	73.3	13.7	153.0
SKOKOMISH	117.8	117.5	.0	235.3
SOUTHERN UTE	202.8	251.4	.0	454.2
SPOKANE	36.5	.0	.0	36.5
SQUAXIN ISLAND	54.8	61.8	90.3	206.9
SUQUAMISH	.0	61.7	7.2	68.9
TABLE BLUFF	50.7	.0	53.8	104.5
TULALIP	.0	83.4	.0	83.4
UTAH	.0	88.0	.0	88.0
UTE MOUNTAIN	29.2	.0	.0	29.2
WALKER RIVER	.0	59.9	54.0	113.9
WARM SPRINGS	.0	16.7	.0	16.7
WHITE EARTH	.0	212.3	.0	212.3
WHITE MOUNTAIN	64.5	.0	.0	64.5
WIND RIVER	.0	175.0	113.2	288.2
YAKIMA	219.0	219.0	.0	438.0
YAVAPAI	.0	.0	88.6	88.6
YERINGTON	.0	125.6	.0	125.6
YUOK	.0	17.8	.0	17.8
NUMBER OF RESERVATIONS RECEIVING ANA FUNDING: 69				
BUREAU OF INDIAN AFFAIRS*				
RESERVATION	1989 ANA FUNDING	1990 ANA FUNDING	1991 ANA FUNDING	TOTAL ANA FUNDING
AGUA CALIENTE	.0	.0	164.4	164.4
ALA-/COUSHATTA	127.1	116.4	81.6	325.1
ALLEGANY	.0	.0	139.0	139.0
HAD RIVER	113.4	132.2	291.0	536.6
BAY MILLS	.0	400.2	406.4	806.6
BIG CYPRESS	1116.5	185.4	204.4	1506.3
BIG PINE	.0	.0	131.8	131.8
BISHOP	.0	.0	181.0	181.0
BLACKFEET	767.6	60.8	.0	828.4
HURON PAUTE	170.2	222.5	245.2	637.9
CAHULLA	.0	216.6	96.9	313.5
CAHOPI	30.2	59.3	.0	89.5
CATTARAUGUS	.0	.0	32.0	32.0
CHEMUNIEVI	48.2	.0	48.2	96.4
CHEYENNE RIVER	20.0	20.0	30.0	70.0

NOTE: All funding expressed in thousands of dollars.
Reservations that did not receive funding from an agency are omitted.

ADMINISTRATION FOR NATIVE AMERICANS

RESERVATION	1989 ANA FUNDING	1990 ANA FUNDING	1991 ANA FUNDING	TOTAL ANA FUNDING
BAY MILLS	126.9	.0	.0	126.9
BIG CYPRESS	425.0	.0	.0	425.0
BIG PINE	.0	.0	8.3	8.3
BIG SANDY	12.4	.0	.0	12.4
BLUE LAKE	.0	.0	50.0	50.0
COCHITI	110.0	.0	.0	110.0
COEUR D'ALENE	83.0	.0	144.9	227.9
COOS, L. UMPQUA	.0	.0	112.1	112.1
CROW CREEK	.0	70.0	.0	70.0
DUCKWATER	.0	220.0	.0	220.0
E. CHEROKEE	.0	568.0	.0	568.0
FOND DU LAC	112.0	.0	.0	112.0
FT. BERTHOLD	.0	.0	42.2	42.2
FT. PECK	37.2	.0	.0	37.2
GRAND RONDE	.0	.0	64.7	64.7
HOP	.0	.0	54.0	54.0
HOOPA VALLEY	160.0	.0	.0	160.0
ISABELLA	23.8	.0	.0	23.8
J. TOWN KIALAM	150.0	.0	.0	150.0
JEMEZ	112.7	.0	.0	112.7
LEECH LAKE	66.6	.0	.0	66.6
LOWER ELWA	25.0	.0	.0	25.0
LUMBI	.0	133.4	120.0	253.4
MENOMINEE	.0	50.0	.0	50.0
MISS. CHOCTAW	122.8	.0	.0	122.8
MUCKLESHOOT	215.0	139.2	.0	354.2
NAMBE	.0	9.9	.0	9.9
NEZ PERCE	95.9	.0	124.0	219.9
NISQUALLY	58.2	.0	.0	58.2
ONEIDA WEST	.0	91.2	.0	91.2
PALA	.0	.0	149.9	149.9
PASCUA VAQUI	.0	8.6	.0	8.6
PAUMA	.0	.0	122.8	122.8
PORT GAMBLE	70.4	100.3	.0	170.7
PYRAMID LAKE	94.4	.0	.0	94.4
QUARTZ VALLEY	.0	37.5	.0	37.5
QUILEUTE	240.0	240.0	.0	480.0
QUINWALT	.0	58.7	12.6	71.3
RESIGHTI	.0	25.0	.0	25.0
ROBINSON	11.7	.0	.0	11.7
ROCKY ROYS	.0	38.6	.0	38.6
ROSEBUD	63.4	212.8	.0	276.2

RESERVATION	BIA 1989 FUNDING	BIA 1990 FUNDING	BIA 1991 FUNDING	BIA TOTAL FUNDING	RESERVATION	BIA 1989 FUNDING	BIA 1990 FUNDING	BIA 1991 FUNDING	BIA TOTAL FUNDING
COCOPAH	1003.9	.0	.0	1003.9	MISS. CHOCTAW	320.0	404.0	405.0	1129.0
COLORADO RIVER	85.2	77.1	488.8	651.1	MOAPA RIVER	6.0	8.5	.0	14.5
COLVILLE	74.3	307.6	50.3	432.2	MORONGO	.0	54.8	119.5	174.3
COUSHATTA	117.0	118.0	120.0	355.0	NARRAGANSETT	128.0	147.0	770.0	1045.0
COW CREEK	101.5	101.5	91.3	294.3	NAVAJO	7034.1	1668.2	6226.6	14928.9
CROW	.0	.0	129.3	129.3	NETT LAKE	149.1	105.4	132.9	387.4
CROW CREEK	101.6	101.6	91.4	294.6	NO. CHEYENNE	282.5	13.4	36.2	332.1
DEVILS LAKE	83.0	51.0	51.0	185.0	OIL SPRINGS	.0	.0	1.4	1.4
DUCKWATER	80.2	80.1	28.8	189.1	OMAHA	117.6	212.6	86.8	417.0
E. CHEROKEE	203.0	174.0	280.0	657.0	ONEIDA WEST	58.0	156.7	309.1	474.8
FALCON	223.9	279.2	6.0	509.1	TAMPA	609.8	797.2	879.0	2286.0
SALISH-KOOTENAI	385.7	7.5	161.2	554.4	PAIUTE OF UTAH	42.1	.0	.0	42.1
FOND DU LAC	205.3	251.3	494.5	951.1	PALA	.0	19.0	136.0	155.0
FT. BELKNAP	522.8	2.3	39.4	564.5	TOHONO O'ODHAM	2123.0	.0	.0	2123.0
FT. BERTHOLD	308.0	243.5	243.5	795.0	PASCUA YAQUI	.0	7.0	66.9	73.9
FT. HALL	118.0	131.0	133.0	382.0	PAUMA	.0	.0	7.0	7.0
FT. INDEPENDENCE	.0	.0	79.8	79.8	PECHANGA	89.0	.0	75.0	164.0
FT. McDERMITT	14.0	.0	.0	14.0	PENOBSCOT	961.0	668.0	936.0	2565.0
FT. McDOWELL	.0	41.5	.0	41.5	PINE RIDGE	369.4	357.1	216.6	943.1
FT. MOJAVE	.0	85.0	.0	85.0	PLEASANT POINT	193.0	189.0	160.0	542.0
FT. PECK	517.9	.0	19.7	537.6	POARCH CREEK	145.0	120.0	134.0	399.0
GILA RIVER	50.0	3000.0	.0	3050.0	QUECHAN	110.0	.0	.0	110.0
GOSHUTE	42.0	195.8	18.8	456.6	POOTAWATOMI KS.	20.0	.0	23.5	43.5
GRAND PORTAGE	162.6	155.4	284.2	602.2	POTAWATOMI WISC.	.0	26.6	11.2	37.8
GRAND TRAVERSE	.0	393.4	406.4	799.8	PYRAMID LAKE	279.5	1142.7	4321.0	5743.2
HANNAHVILLE	3.1	.0	10.0	13.1	RED CLIFF	314.2	240.4	840.9	286.3
HAVASUPAI	10.0	.0	151.3	161.3	RED LAKE	385.7	498.1	697.6	1581.4
HOLLYWOOD	439.6	574.7	613.6	1647.9	RESIGHINI	.0	70.0	.0	70.0
HOOPA VALLEY	571.3	175.6	.0	746.9	RINCON	.0	44.3	29.3	73.6
HOPÍ	315.4	500.0	288.0	1103.4	ROCKY BOYS	110.2	123.2	.0	233.4
HUALAPAI	47.5	138.5	339.5	525.5	ROSEBUD	140.6	147.0	230.1	517.7
IMPAKOLEE	56.7	74.2	81.8	212.7	ROUND VALLEY	.0	80.0	176.1	256.1
INDIAN TOWNSHIP	214.0	429.0	547.0	1190.0	ST. CHOIX	47.4	59.2	98.6	205.2
IOWA	20.0	21.5	.0	41.5	SAN CARLOS	524.1	311.4	143.0	978.5
JICARILLA APACHE	.0	531.0	30.0	561.0	SANTA YSABEL	81.0	73.2	166.1	320.3
KAIHAB	60.4	.3	.0	60.7	SANTEE	.0	51.8	165.4	217.2
KALISPEL	25.3	25.3	25.3	75.9	SAULT STE. MAINE	30.7	667.6	745.5	1443.8
KAROK	.0	95.0	100.0	195.0	SISSETON	.0	69.3	17.8	87.1
KICKAPOO	104.4	117.9	129.2	351.5	SOKAGON CHIPPEWA	.0	3.3	3.3	6.6
LAC COURTE OR.	189.0	188.4	216.5	613.9	SOUTHERN UTE	.0	147.5	82.9	230.4
LAC DU FLAMBEAU	407.0	417.9	953.0	1777.9	SPOKANE	774.0	52.4	20.0	846.4
LAC VIEUX DESERT	.0	.0	20.0	20.0	STANDING ROCK	499.2	839.0	879.7	2217.9
LAGUNA	.0	.0	33.0	33.0	STOCKBRIDGE HUMS.	49.7	51.0	137.8	240.5
LA JOLLA	.0	42.4	36.4	78.8	SUMMIT LAKE	131.0	92.5	130.0	353.5
L'ANSE	36.5	15.5	139.8	191.8	TABLE BLUFF	.0	18.0	.0	18.0
LEECH LAKE	594.5	598.9	666.4	1850.8	TAOS	.0	316.5	137.3	453.8
LOWER BRULE	.0	119.4	119.4	238.8	TE-MOAK	95.1	105.8	.0	200.9
MANZANITA	4.6	4.0	20.0	28.6	TORRES-MARTINEZ	.0	.0	50.0	50.0
MESCALERO APACHE	217.0	261.0	47.2	525.2	TORRICA-BILOXI	48.0	.0	.0	48.0
MICCOSUKEE	125.3	117.3	668.0	1166.0	TURTLE MOUNTAIN	35.0	134.8	114.8	304.6
MILLE LACS	.0	.0	19.5	19.5	UMATILLA	4.4	4.4	4.4	13.2

RESERVATION	BIA 1989 FUNDING	BIA 1990 FUNDING	BIA 1991 FUNDING	BIA TOTAL FUNDING	RESERVATION	EPA 1989 FUNDING	EPA 1990 FUNDING	EPA 1991 FUNDING	EPA TOTAL FUNDING
UTE MOUNTAIN	86.8	123.2	226.9	436.9	CARSON	.0	.6	.6	1.2
WALKER RIVER	.0	86.8	.0	86.8	CATTARAUGUS	.0	1.0	17.6	18.6
WARM SPRINGS	.0	17.1	17.1	34.2	CHEHALIS	.2	1.8	43.7	45.7
WHITE EARTH	398.1	505.9	571.1	1475.1	CHEMUNUEVI	.8	.9	.0	1.7
WHITE MOUNTAIN	165.0	324.6	64.5	554.1	CHEYENNE RIVER	43.6	87.4	228.2	359.2
WIND RIVER	44.6	.0	16.0	60.6	CHITINACHA	.6	.7	1.5	2.8
WINNEBAGO NEBR.	89.2	89.2	.0	178.4	COCHITI	2.6	2.0	9.5	14.1
WINNEBAGO WISC.	.0	7.5	.0	7.5	COCOPAH	4.0	9.7	11.0	24.7
YAKIMA	177.6	20.9	20.9	219.4	COEUR D'ALENE	.0	144.1	233.0	377.1
YAVAPAI	13.0	5.0	.0	18.0	COLORADO RIVER	177.8	337.9	48.4	564.1
VERINGTON	13.5	9.4	.0	22.9	COLVILLE	33.4	118.0	171.0	322.4
YOMBA	12.0	12.0	.0	24.0	COOS, L UMPQUA, S	.0	1.8	.7	2.5
YUOK	.0	.0	100.0	100.0	COQUILLE	.0	1.8	.7	2.5
					COUSHATTA	.6	.7	1.5	2.8
					COW CREEK	.0	1.8	.7	2.5
					COYOTE VALLEY	.0	15.0	89.0	104.0
					CROW CREEK	85.4	34.3	32.7	152.4
					CROW CREEK	3.3	31.2	40.4	74.9
					DEVILS LAKE	.8	4.0	38.7	43.5
					DRESSLERVILLE	.0	.8	.8	1.6
					DUCK VALLEY	.0	3.4	9.7	13.1
					DUCKWATER	.0	.2	.2	.4
					E. CHEROKEE	.0	32.5	218.6	251.1
					ELK VALLEY	.0	.6	1.0	1.6
					ELY	.0	.6	.6	1.2
					FALLO	.0	2.0	5.8	7.8
					FLANDREAU	1.0	3.8	1.5	6.3
					FOND DU LAC	17.8	26.5	84.0	128.3
					FT. BELKNAP	16.8	39.1	317.1	373.0
					FT. BERTHOID	45.8	63.4	95.8	205.0
					FT. HALL	56.1	190.9	383.9	630.9
					FT. McDERMITT	.0	1.4	3.9	5.3
					FT. McDOWELL	1.2	1.8	2.0	5.0
					FT. MOJAVE	4.8	292.8	6.0	303.6
					FT. PECK	86.4	245.3	222.4	554.1
					GILA RIVER	49.2	456.7	1167.9	1673.8
					GOSHUTE	1.3	.0	.0	1.3
					GRAND PORTAGE	1.8	3.6	57.7	63.1
					GRAND RONDE	.0	3.6	1.4	5.0
					GRAND TRAVERSE	3.6	6.8	5.8	16.2
					HANNAHVILLE	.9	2.5	23.6	27.0
					HAVASUPAI	1.2	1.8	2.0	5.0
					HOL	.2	341.8	59.3	401.3
					HOLLYWOOD	.0	11.1	.0	11.1
					HOOPA VALLEY	.8	225.4	205.3	431.5
					HOP	6.6	5.5	929.6	941.7
					HUALAPAI	1.2	1.8	2.4	5.4
					IMMAKOLEE	.0	.6	.8	1.4
					INDIAN TOWNSHIP	.0	10.6	.0	10.6
					IOWA	.0	1.7	2.9	5.5
					ISABELLA	1.5	3.2	20.8	25.5

NUMBER OF RESERVATIONS RECEIVING BIA FUNDING: 130
 *Portland Area BIA data missing for hazardous waste and fisheries.

DEPARTMENT OF ENERGY

RESERVATION	DOE 1989 FUNDING	DOE 1990 FUNDING	DOE 1991 FUNDING	DOE TOTAL FUNDING
DEVILS LAKE	.0	134.6	134.6	269.2
DUCK VALLEY	90.1	90.1	901.0	1081.2
FT. HALL	.0	.0	500.0	500.0
MESCALERO APACHE	.0	.0	1000.0	1000.0
NAVAJO	83.0	83.0	83.0	249.0
UMATILLA	137.0	370.1	4100.0	4607.1
YAKIMA	687.1	1029.8	1029.8	2746.7

NUMBER OF RESERVATIONS RECEIVING DOE FUNDING: 7

ENVIRONMENTAL PROTECTION AGENCY

RESERVATION	EPA 1989 FUNDING	EPA 1990 FUNDING	EPA 1991 FUNDING	EPA TOTAL FUNDING
ACOMA	14.0	563.7	270.4	848.1
AK-CHIN	2.6	1.8	5.0	9.4
ALA./COUSHATTA	1.2	1.3	1.5	4.0
ALLEGANY	.0	3.4	60.9	64.3
BAD RIVER	2.1	945.9	45.7	993.7
BAY MILLS	1.5	1.2	18.5	21.2
BIG CYPRESS	.0	1.5	2.0	3.5
BISHOP	.0	.0	5.0	5.0
BLACKFEET	38.0	212.6	157.3	407.9
BRIGHTON	.0	1.8	2.4	4.2
BURNS PATUTE	.0	1.8	.7	2.5
CAMPO	.0	.0	10.0	10.0
CAMP VERDE	1.2	1.8	2.0	5.0

RESERVATION	EPA 1989 FUNDING	EPA 1990 FUNDING	EPA 1991 FUNDING	EPA TOTAL FUNDING
ISLETA	398.9	399.5	249.2	1047.6
J'TOWN KLALLAM	.2	1.8	59.3	61.3
JEMEZ	6.3	6.8	30.6	43.7
JICARILLA APACHE	7.6	8.0	11.7	27.3
KALIBAB	1.2	1.8	2.0	5.0
KALISPEL	.2	3.9	11.0	15.1
KAKOK	1.5	8.7	34.1	44.3
KICKAPOO	1.0	5.4	96.5	102.9
KOOTENAI	.0	1.8	50.7	52.5
LAC COURTE OR.	4.9	22.7	70.1	97.7
LAC DU FLAMBEAU	2.1	10.2	20.2	32.5
LAC VIEUX DESERT	.3	1.8	5.0	7.1
LAGUNA	8.9	9.2	11.2	29.3
LA JOLLA	.0	.0	1.3	1.3
L'ANSE	1.8	3.5	2.8	8.1
LAS VEGAS	.0	.0	35.0	35.0
LATONVILLE	.0	.0	1.3	1.3
LEECH LAKE	39.3	134.7	197.5	371.5
LOVELOCK	.0	.2	.2	.4
LOWER BRULE	3.8	6.7	32.4	42.9
LOWER ELWA	.4	49.3	101.2	150.9
LOWER STOUX	1.1	2.7	30.9	34.7
LUMMI	1.0	55.0	100.4	156.4
MAKAI	35.2	61.8	101.2	200.2
MASHANT, PEQUOT	.0	.5	27.8	28.3
MENOMINEE	42.6	375.7	82.2	500.5
MESCALERO APACHE	5.8	9.3	13.7	28.8
MICCOSUKEE	.0	.0	18.4	18.4
MILLE LACS	5.3	70.0	304.2	379.5
MISS. CHOCTAW	.0	.8	57.3	58.1
MOAPA RIVER	.0	.4	.0	.8
MURONGO	43.8	.0	.0	43.8
MUCKLESHOOT	1.0	32.2	102.5	135.7
NAMBE	2.6	16.2	21.2	40.0
NARRAGANSETT	.0	46.2	30.0	76.2
NAVAJO	1010.1	846.2	1055.8	2912.1
NETT LAKE	7.3	298.1	70.3	375.7
NEZ PERCE	.0	324.0	38.3	362.3
NISQUALLY	.4	1.8	59.3	61.5
NOOKSACK	.2	1.8	59.3	61.3
NO. CHIEYENNE	90.6	126.6	181.9	399.1
N.W. SHOSHONI	1.3	1.8	1.2	4.3
OIL SPRINGS	.9	.0	.0	.9
OMAHA	4.3	10.2	52.5	67.0
ONEIDA WEST	95.9	133.0	154.4	383.3
ONONDAGA	.0	.0	37.0	37.0
PATUTE OF UTAH	1.3	2.1	2.6	6.0
PALA	.0	.0	2.5	2.5
PASCUA YAQUI	1.0	1.8	4.0	6.8
PECHINGA	.0	.0	2.5	2.5
PEHOBCOT	.0	10.8	151.5	162.3
PICAYUNE	.0	.0	.0	1.3
PICURIS	1.5	6.7	9.9	18.1
PINE RIDGE	281.2	1458.5	518.1	2257.8
PIT RIVER	.0	.9	4.1	5.0
PLEASANT POINT	.0	6.8	.0	6.8
POARCH CREEK	.0	.2	107.5	107.7
POJOAQUE	2.3	847.9	28.4	878.6
PORT GAMBLE	.2	1552.8	101.2	1654.2
POTANATOMI KS.	2.2	5.4	9.9	17.5
POTANATOMI WISC.	.7	3.7	2.5	6.9
PRAIRIE ISLAND	1.1	2.7	.5	4.3
PUYALLUP	28.0	171.4	155.3	354.7
PYRAMID LAKE	115.0	184.0	213.7	512.7
QUARTZ VALLEY	.0	.3	.5	.8
QUECHAN	24.8	44.9	26.4	96.1
QUILEUTE	.2	1.8	99.3	101.3
QUINIAULT	1.0	5.4	60.1	66.5
RED CLIFF	3.9	12.1	63.5	79.5
REDDING	.8	4.8	19.1	24.7
RED LAKE	25.3	137.1	84.2	246.6
RENO-SPARKS	.0	1.6	134.1	135.7
RINCON	25.0	157.7	203.5	386.2
ROCKY BOYS	6.8	21.6	16.3	44.7
ROHNERVILLE	.0	.6	1.0	1.6
ROSEBUD	45.3	114.2	183.9	343.4
ROUND VALLEY	.0	.0	3.8	3.8
SAC & FOX - IA.	4.0	118.9	539.7	662.6
ST. CHOIIX	2.1	9.5	7.5	19.1
ST. REGIS	207.0	216.5	270.1	693.6
SALISH-KOOTENAI	164.5	292.4	295.6	752.5
SALT RIVER	18.1	54.6	63.6	136.3
SAN CARLOS	7.7	5.5	51.2	64.4
SANDIA	1.8	1.4	22.3	25.5
SAN FELIPE	6.3	6.8	30.6	43.7
SAN ILDEFONSO	1.4	15.5	17.1	34.0
SAN JUAN	5.1	56.8	181.1	243.0
SANTA ANA	1.0	1.4	5.5	7.9
SANTA CLARA	3.9	84.7	53.2	141.8
SANTA YSAHEL	.0	.0	3.8	3.8
SANTO DOMINGO	.9	170.5	36.8	208.2
SAUK-SUIATLE	8.9	9.5	139.2	157.6
SAULT STE. MARIE	.2	1.8	32.2	34.2
SHAKOPEE	20.7	44.0	86.7	151.4
SHOALWATER	1.1	2.7	.5	4.3
SHOALWATER	.2	1.8	2.4	4.4
SILETZ	.0	3.6	1.4	5.0
SISSETON	3.1	10.3	1.3	14.7
SKOKOMISH	.2	1.8	141.2	143.2
SKULL VALLEY	1.3	2.9	2.1	6.5

RESERVATION	EPA 1989		EPA 1990		EPA 1991		EPA TOTAL
	FUNDING	FUNDING	FUNDING	FUNDING	FUNDING	FUNDING	
SMITH RIVER	.0	.3			.5	.8	
SOBOBA	.0	.0			2.5	2.5	
SOKAGON CHIPPEWA	.7	3.7			52.5	56.9	
SOUTHERN UTE	17.1	157.2			88.1	262.4	
SPOKANE	.4	29.8			107.7	137.9	
SQUAXIN ISLAND		3.6			59.7	63.7	
STANDING ROCK	31.3	63.0			129.3	223.6	
STILLGUAISH	.2	1.8			59.3	61.3	
STOCKBRIDGE MUNS.	3.0	10.4			16.5	29.9	
SUMMIT LAKE	.0	.2			.2	.4	
SUQUAMISH	1.6	59.2			121.2	182.0	
SUSANVILLE	.0	.9			4.1	5.0	
SWINOMISH	20.2	67.2			127.0	214.4	
TABLE BLUFF	.0	25.3			.5	25.8	
TAMPA	.0	6.7			.0	6.7	
TAOS	3.9	41.2			46.8	91.9	
TE-MOAK	.0	3.4			9.7	13.1	
TESUQUE	1.4	10.2			12.8	24.4	
TOHONO O'ODHAM	76.0	122.8			132.1	330.9	
TULALIP	550.0	1734.6			59.7	2344.3	
TULE RIVER	.0	.0			2.5	2.5	
TUNICA-BILOXI	.6	.7			1.5	2.8	
TURTLE MOUNTAIN	77.0	40.2			88.5	205.7	
TUSCARORA	.0	.0			9.0	9.0	
UINTAH & OURAY	40.3	37.9			23.3	101.5	
UMATILLA	.0	3.6			5.4	9.0	
UPPER STOUX	1.1	2.7			20.1	23.9	
UPPER SKAGIT	6.3	1.4			108.7	116.4	
UTE MOUNTAIN	13.6	25.4			64.5	103.5	
WALKER RIVER	.0	1.8			4.3	6.1	
WARM SPRINGS	13.7	20.2			60.3	94.2	
WHITE EARTH	72.3	181.7			135.2	389.2	
WHITE MOUNTAIN	56.6	474.2			492.5	1023.3	
WIND RIVER	16.4	370.3			214.6	601.3	
WINNEBAGO NEBR.	12.0	261.1			44.3	317.4	
WINNEBAGO WISC.	.0	15.0			25.4	40.4	
WINNEMUCCA	.0	.4			.4	.8	
YAKIMA	30.0	113.6			159.2	302.8	
YAKUTON	3.4	12.2			129.0	144.6	
YAVAPAI	1.2	1.8			2.0	5.0	
YERINGTON	.0	1.0			1.0	2.0	
YOMBA	.0	.2			.2	.4	
YUKON	1.5	29.3			25.0	55.8	
ZIA	1.4	1.4			5.5	8.3	
ZUNI	21.6	94.6			166.2	282.4	

NUMBER OF RESERVATIONS RECEIVING EPA FUNDING: 211

HOUSING AND URBAN DEVELOPMENT

RESERVATION	HUD 1989		HUD 1990		HUD 1991		HUD TOTAL
	FUNDING	FUNDING	FUNDING	FUNDING	FUNDING	FUNDING	
ALA./COUSHATTA	50.6	.0	.0	.0	.0	50.6	
CHITIMACHIA	.0	.0	.0	.0	351.5	351.5	
DRY CREEK	.0	137.0	.0	.0	.0	137.0	
GRINDSTONE CREEK	.0	.0	.0	.0	200.0	200.0	
HOOPA VALLEY	.0	.0	.0	.0	896.5	896.5	
HOPJ	780.0	.0	.0	.0	.0	780.0	
HOPLAND	324.9	.0	.0	.0	.0	324.9	
J'TOWN KLALLAM	.0	250.0	.0	.0	.0	250.0	
KALISPEL	226.6	.0	.0	.0	.0	226.6	
LUMMI	46.4	73.6	.0	.0	130.0	250.0	
MAHAH	.0	250.0	.0	.0	.0	250.0	
NAVAJO	2171.5	2471.5	.0	.0	.0	4643.0	
SANDIA	.0	284.0	.0	.0	.0	284.0	
SMITH RIVER	.0	.0	.0	.0	15.0	15.0	
SPOKANE	.0	141.3	.0	.0	.0	141.3	
TE-MOAK	.0	.0	.0	.0	803.3	803.3	
TOHONO O'OKHAM	942.4	.0	.0	.0	1672.1	2614.5	
WASHOE	12.0	.0	.0	.0	.0	12.0	
YUOK	.0	.0	.0	.0	35.0	35.0	

NUMBER OF RESERVATIONS RECEIVING HUD FUNDING: 19

INDIAN HEALTH SERVICE AND OVERALL FUNDING TOTAL

RESERVATION	IHS 1989		IHS 1990		IHS 1991		IHS TOTAL	SIX-AGENCY	
	FUNDING	FUNDING	FUNDING	FUNDING	FUNDING	FUNDING		FUNDING	TOTAL
ACOMA	.0	.0	.0	.0	.0	.0	.0	848.1	
AGUA CALIENTE	.0	.0	.0	.0	.0	.0	.0	164.4	
AK-CHIN	264.0	133.0	.0	160.0	.0	557.0	557.0	566.4	
ALA./COUSHATTA	.0	.0	.0	5358.0	.0	5358.0	5358.0	5737.7	
ALLEGANY	176.0	2180.0	.0	.0	.0	2356.0	2356.0	2559.3	
BAD RIVER	60.0	191.0	.0	.0	.0	251.0	251.0	1781.3	
BAV MILLS	40.0	57.0	.0	219.0	.0	316.0	316.0	1272.7	
BERRY CREEK	.0	.0	.0	455.0	.0	455.0	455.0	455.0	
BIG CYPRESS	.0	.0	.0	225.0	.0	225.0	225.0	2159.8	
BIG PINE	.0	.0	.0	.0	.0	.0	.0	140.1	
BIG SANDY	90.0	34.0	.0	357.0	.0	481.0	481.0	493.4	
BISHOP	.0	.0	.0	.0	.0	.0	.0	186.0	
BLACKFEET	157.0	658.4	.0	577.9	.0	1593.3	1593.3	2829.6	
BLUE LAKE	.0	32.0	.0	.0	.0	32.0	32.0	82.0	
BRIGHTON	.0	.0	.0	.0	.0	.0	.0	642.1	
BURNS PAUTE	150.0	.0	.0	.0	.0	150.0	150.0	152.5	
CAHUILLA	.0	100.0	.0	.0	.0	100.0	100.0	413.5	
CAMPO	.0	.0	.0	.0	.0	.0	.0	99.5	
CAMP VERDE	.0	.0	.0	.0	.0	.0	.0	5.0	
CARSON	.0	.0	.0	.0	.0	.0	.0	1.2	
CATTARAUGUS	.0	1644.0	.0	2115.0	.0	1759.0	1759.0	3809.6	

RESERVATION	IHS 1989 FUNDING	IHS 1990 FUNDING	IHS 1991 FUNDING	IHS TOTAL FUNDING	SIX-AGENCY FUNDING TOTAL	RESERVATION	IHS 1989 FUNDING	IHS 1990 FUNDING	IHS 1991 FUNDING	IHS TOTAL FUNDING	SIX-AGENCY FUNDING TOTAL
CHIEHALIS	0	0	0	0	45.7	INDIAN TOWNSHIP	49.2	0	555.0	604.2	1804.8
CHEMUNUI	0	0	90.0	90.0	188.1	IOWA	0	0	0	0	49.0
CHEYENNE RIVER	1900.0	106.5	0	2181.2	2610.4	ISABELLA	101.2	0	0	101.2	150.5
CHITINACHA	0	0	216.0	216.0	590.1	ISLETA	150.1	0	158.0	108.1	1355.7
COCOPAI	122.0	0	0	122.0	124.1	J'TOWN KLALLAM	0	0	0	0	462.3
COEUR D'ALENE	100.0	0	0	100.0	1150.6	JEMEZ	0	150.0	0	150.0	306.4
COLORADO RIVER	100.0	0	0	100.0	705.0	JICARILLA APACHE	124.3	0	0	124.3	712.6
COLUSA	0	0	128.0	128.0	1593.2	KAIABAB	0	0	40.0	40.0	105.7
COLVILLE	195.5	0	98.0	98.0	98.0	KALISPEL	197.0	0	0	197.0	514.6
COOS, I. UMPQUA, S.	0	0	185.0	185.0	1645.1	KAROK	0	0	148.4	348.4	587.7
COQUILLE	0	0	0	0	115.6	KICKAPOO	0	0	0	0	454.4
COQUINATTA	0	0	0	0	2.5	KOOTENAI	0	0	0	0	52.5
COW CREEK	0	0	55.0	55.0	412.8	LAC COURTE OR.	0	60.0	115.0	375.0	1086.6
COYOYE VALLEY	0	0	0	0	296.8	LAC DU FLAMBEAU	6.5	72.0	0	78.5	1888.9
CROW CREEK	271.8	0	0	271.8	104.0	LAC VIEUX DESERT	0	0	16.0	16.0	43.1
DEVILS LAKE	0	0	111.0	111.0	580.0	LAGUNA	270.0	0	0	270.0	352.3
DRESSERVILLE	0	0	825.0	825.0	861.7	LA JOLLA	0	0	0	0	80.1
DRY CREEK	0	0	275.0	275.0	1264.5	L'ARISE	50.0	128.0	472.0	650.0	849.9
DUCK VALLEY	0	0	15.0	15.0	1.6	LA POSTA	0	0	0	0	35.0
DUCKWATER	0	0	440.0	440.0	1695.3	LAS VEGAS	0	0	0	0	0.4
E. CHEROKEE	0	0	0	0	601.0	LAYTONVILLE	0	474.0	291.0	767.0	3064.9
ELK VALLEY	431.4	653.0	110.0	1394.4	409.5	LEFCH LAKE	0	224.0	183.7	407.7	407.7
ELY	80.0	0	0	80.0	2870.5	LONE PINE	0	0	0	0	0
FALLON	0	0	0	0	81.6	LAVELACK	0	0	0	0	0.4
FLARGREAU	68.0	0	0	68.0	1.2	LAWER BRULE	138.1	115.7	664.1	918.1	1199.8
FT. BELKNAP	59.0	72.0	359.0	489.0	516.9	LAWER ELMHA	0	400.0	0	400.0	575.9
FT. BERTHOLD	610.0	0	215.0	825.0	74.1	LAWER STOUX	15.0	96.0	0	111.0	185.7
FT. HALL	168.0	35.0	510.0	713.0	1680.4	LUMMI	0	0	0	0	659.8
FT. INDEPENDENCE	0	0	0	0	1283.5	MAKAH	5750.0	45.0	170.0	6165.0	6615.2
FT. McDERMOTT	41.0	144.0	0	185.0	2244.4	MANZANITA	27.9	0	43.0	70.9	99.5
FT. MOJAVE	0	0	51.0	51.0	2225.9	MASH. PEQUOT	0	0	0	0	28.3
FT. PECK	159.0	485.0	200.0	1044.0	79.8	MENOMINEE	141.0	74.0	256.0	671.0	1221.5
GILA RIVER	1119.0	1168.0	646.0	1111.0	204.3	MESCALERO APACHE	168.0	0	643.0	1011.0	2113.0
GOSHUTE	0	0	0	0	99.5	MICCOSUKEE	100.0	0	720.0	820.0	2004.4
GRAND FORTAGE	42.0	40.0	61.0	143.0	188.6	MILLE LACS	10.0	60.0	50.0	140.0	801.6
GRAND RONDE	0	0	0	0	2172.9	MISS. CHOCTAW	422.0	246.0	481.0	1149.0	2458.9
GRAND TRAVERSE	100.0	69.0	88.0	257.0	7856.8	MOAPA RIVER	0	0	0	0	15.3
GRINDSTONE CREEK	0	0	0	0	457.9	MURONGO	21.0	0	192.1	213.1	431.2
HANNAHVILLE	76.0	0	0	76.0	810.1	MUCKLESHOOT	0	84.7	0	84.7	574.6
HAVASUPAI	298.0	58.0	728.0	1084.0	69.7	NAHARR	0	0	241.0	241.0	290.9
HOH	47.0	0	0	47.0	1073.0	HARRAGANSETT	40.0	14980.3	50.0	90.0	1211.2
HOLLYWOOD	0	0	0	0	200.0	NETT LAKE	192.0	50.0	75.0	317.0	73203.5
HOPKINS VALLEY	10.0	488.0	487.0	985.0	287.1	REZ HERCE	61.4	250.0	0	311.4	1080.1
HOPKINS	248.6	556.0	1390.0	2194.6	1250.3	RISQUALLY	0	0	0	0	119.7
HUALAPAI	170.7	160.0	526.0	856.7	502.3	ROCKSACK	0	5.0	0	5.0	66.3
IMHAROLLE	25.0	60.0	0	85.0	1659.0	RO. CHEYENNE	0	626.9	201.0	827.9	1559.1
					1219.9	RM. SHOSHONI	0	0	0	0	4.3
					5019.7	OWL SPRINGS	0	0	0	0	2.3
					139.0	OHAMA	0	0	0	0	484.0
					856.7	ONEIDA EAST	0	70.0	200.0	270.0	770.0
					1187.6						
					299.1						

RESERVATION	IHS 1989 FUNDING	IHS 1990 FUNDING	IHS 1991 FUNDING	IHS TOTAL FUNDING	SIX-AGENCY FUNDING TOTAL
ONEIDA WEST	120.0	57.0	178.0	155.0	118.6
ONONDAGA	.0	.0	.0	.0	17.0
PAITE OF UTAH	60.0	.0	.0	60.0	108.1
PALA	.0	.0	.0	.0	107.4
PASCUA YAGUI	40.0	414.0	400.0	854.0	943.1
PAUMA	.0	.0	.0	.0	129.8
PECHANGA	.0	.0	.0	.0	189.5
PEHOBSCOT	.0	156.0	190.0	346.0	1073.1
PICAYUNE	.0	.0	.0	.0	1.1
PICURIS	.0	.0	.0	.0	18.1
PINE RIDGE	730.0	649.0	530.0	1909.0	5309.9
PIT RIVER	.0	85.0	.0	85.0	40.0
PLEASANT POINT	50.0	98.0	1740.0	1888.0	2436.8
POINT CREEK	.0	.0	.0	.0	506.7
POINT ARENA	.0	178.4	.0	178.4	178.4
POLONOQUE	.0	17.5	.0	17.5	896.1
POTOMACOMI KS.	.0	1680.0	440.0	2120.0	1944.9
POTOMACOMI WISC.	54.2	.0	.0	.0	61.0
PRAIRIE ISLAND	.0	42.0	70.0	112.0	156.7
PVALLUP	.0	11.0	15.0	26.0	57.5
PYRAMID LAKE	347.0	707.0	250.0	1104.0	380.7
QUARTZ VALLEY	.0	.0	.0	.0	7654.1
QUECHAN	.0	.0	.0	.0	18.1
QUILEUTE	75.0	980.0	400.0	400.0	606.1
QUINVAULT	106.8	10.0	.0	136.8	1896.1
RED CLIFF	160.0	.0	60.0	220.0	274.6
REDDING	.0	.0	46.0	46.0	1140.4
RED LAKE	175.0	.0	478.5	653.5	70.7
REHO-SPARKS	997.0	142.0	170.0	1509.0	2483.5
REHIGHINI	.0	.0	.0	.0	1644.7
RINCON	.0	.0	.0	.0	95.0
ROBINSON	.0	.0	125.0	125.0	458.8
ROCKY ROYS	718.0	894.3	2123.0	1735.1	136.7
ROHNERVILLE	.0	.0	348.0	148.0	405.2.0
ROSEBUD	378.2	180.0	1625.8	2184.0	149.6
ROUND VALLEY	.0	.0	.0	.0	1121.1
SAC & FOX - 1A.	.0	.0	.0	.0	259.9
ST. CHOIX	87.7	52.0	.0	139.7	662.6
ST. REGIS	328.6	220.0	250.0	798.6	164.0
SALTISH-KOOTENAI	371.0	335.0	414.5	1120.5	1492.2
SALT RIVER	.0	265.0	489.0	754.0	2806.0
SAN CARLOS	1094.0	758.0	.0	1852.0	890.1
SANDIA	.0	589.7	89.0	1015.3	1015.3
SAN FELIPE	.0	75.0	398.0	473.0	1342.3
SAN ILDEFONSO	.0	.0	.0	.0	516.7
SAN JUAN	.0	.0	100.0	100.0	128.8
SANTA ANA	.0	126.0	.0	126.0	343.0
SANTA CLARA	.0	.0	880.0	880.0	1021.8
SANTA YSABEL	88.0	41.0	.0	131.0	455.1
SANTLE	.0	6.0	150.0	156.0	581.4
SANTO DOMINGO	300.0	.0	.0	.0	.0
SAUK-SUATTILE	.0	.0	.0	.0	.0
SAULT STE. MARIE	60.0	159.0	.0	.0	.0
SHAKOPEE	27.0	100.0	.0	.0	.0
SHERWOOD VALLEY	.0	.0	450.0	.0	.0
SHINGLE SPRINGS	.0	.0	.0	.0	.0
SHOALWATER	.0	.0	.0	.0	.0
SILETZ	265.0	110.0	375.0	970.0	1128.0
SISSETON	145.0	110.1	710.0	965.1	1066.9
SKOKOMISH	.0	291.0	35.0	326.0	704.5
SKULL VALLEY	.0	.0	.0	.0	.0
SMITH RIVER	111.0	.0	.0	.0	.0
SOBOBA	.0	.0	74.0	185.0	200.8
SOVAGCON CHIPPEWA	25.0	.0	.0	.0	.0
SOUTHERN UTE	227.0	75.0	193.9	115.0	117.5
SPOKANE	400.0	18.4	207.0	293.9	357.4
SQUAXIN ISLAND	341.0	60.0	612.8	452.4	1439.4
STANDING ROCK	125.0	.0	.0	1092.8	2254.9
STILLAGUASH	.0	215.0	111.0	472.0	742.6
SUMMIT LAKE	.0	.0	22.0	555.0	2996.5
STOCKBRIDGE-MUNS.	24.0	43.0	275.0	142.0	83.3
SUQUAMISH	.0	.0	45.0	45.0	600.9
SUSANVILLE	.0	285.0	.0	285.0	535.9
SWINOMISH	.0	.0	.0	.0	.0
TABLE BLUFF	.0	.0	.0	.0	.0
TAMPA	94.0	260.0	.0	635.6	783.9
TAOS	.0	348.0	.0	154.0	2646.7
TE-HOAK	340.1	.0	127.0	475.0	1020.7
TESQUE	.0	.0	131.7	471.8	1489.1
TOHONO O'ODHAM	4112.4	.0	210.0	210.0	234.4
TORRES-MARTINEZ	.0	1120.0	1418.0	8870.4	19938.8
TRINIDAD	65.0	.0	.0	.0	.0
TULALIP	210.0	1331.0	46.0	111.0	111.0
TULE RIVER	.0	117.0	160.0	1921.0	4348.7
TUNICA-RITAXI	.0	.0	.0	137.0	139.5
TUOLUMNE	.0	.0	.0	.0	.0
TURTLE MOUNTAIN	497.0	193.1	900.0	1790.1	2300.4
TUSCARORA	.0	.0	.0	.0	.0
UNTAH & OURAY	150.0	179.6	76.0	405.6	507.1
UPPER LAKE	6.4	.0	.0	.0	.0
UPPER SIOUX	218.0	10.0	188.1	436.1	4721.7
UPPER SNAKIT	12.8	30.0	.0	30.0	436.1
UTE MOUNTAIN	99.0	.0	.0	149.2	53.9
WALKER RIVER	.0	412.0	.0	511.0	1080.6
WARM SPRINGS	162.6	100.0	.0	.0	.0
WASHOE	1070.0	.0	101.0	563.6	728.7
WHITE EARTH	257.0	295.0	.0	1070.0	1082.0
WHITE MOUNTAIN	550.0	1953.2	691.0	1243.0	3319.6
WIND RIVER	129.4	168.1	802.0	2503.2	4145.1
WINNEBAGO NEBR.	30.0	27.0	551.5	608.5	2449.6
					1104.3

RESERVATION	IHS 1989 FUNDING	IHS 1990 FUNDING	IHS 1991 FUNDING	IHS TOTAL FUNDING	SIX-AGENCY FUNDING TOTAL
WINNEBAGO WISC.	80.0	125.0	32.0	237.0	284.9
WINNEMUCCA	.0	.0	.0	.0	.8
YAKIMA	269.9	410.4	.0	680.3	4387.2
YANKTON	.0	.0	.0	.0	144.6
YAVAPAI	.0	148.0	90.0	238.0	349.6
YERINGTON	70.0	.0	.0	70.0	220.5
YOMHA	.0	.0	45.0	45.0	69.4
YSLETA DEL SUR	.0	.0	65.0	65.0	65.0
YUOK	131.0	168.0	34.0	333.0	541.6
ZIA	93.0	.0	.0	93.0	101.3
ZUNI	.0	450.0	18.0	468.0	750.4
NUMBER OF RESERVATIONS RECEIVING IHS FUNDING: 174					

APPENDIX B: ENVIRONMENTAL FUNDING TO RESERVATIONS BY CATEGORY:
1989-1991

Note: All funding expressed in thousands of dollars.						
RESERVATION	WATER	AIR	SOLID HAZARDOUS WASTE		FORESTRY	WILDLIFE
			HAZARDOUS WASTE	WASTE		
ACONA	628.2	.6	.0	163.5	.0	.0
AGUA CAL.	164.4	.0	.0	.0	.0	.0
AK-CHIN	557.6	.3	.2	3.3	.0	.0
ALA./COUSH.	5384.6	.0	.0	2.5	325.1	.0
ALLEGANY	2391.8	.0	28.5	.0	60.0	.0
ALTURAS	.0	.0	.0	.0	.0	.0
AUGUSTINE	.0	.0	.0	.0	.0	.0
BAD RIVER	317.3	5.4	900.0	39.7	75.5	59.1
BARONA	.0	.0	.0	.0	.0	.0
BAY HILLS	320.0	4.2	4.0	5.0	.0	510.2
BENTON PALUTE	.0	.0	.0	.0	.0	.0
BERRY CREEK	455.0	.0	.0	.0	.0	.0
BIG BEND	.0	.0	.0	.0	.0	.0
BIG CYPRESS	364.2	.0	2.0	.0	.0	.0
BIG LAGOON	.0	.0	.0	.0	.0	.0
BIG PINE	108.3	.0	.0	.0	.0	.0
BIG SANDY	481.0	.0	.0	.0	.0	.0
BIG VALLEY	.0	.0	.0	.0	.0	.0
BISHOP	.0	.0	5.0	.0	.0	.0
BLACKFEET	1747.5	148.4	245.6	32.2	138.8	100.4
BLUE LAKE	32.0	.0	.0	.0	50.0	.0
BRIDGEPORT	.0	.0	.0	.0	.0	.0
BRIGHTON	167.0	.0	2.4	.0	.0	.0
BURNS PALUTE	151.4	.0	.6	.5	.0	.0
CABAZON	.0	.0	.0	.0	.0	.0
CANUILLA	413.5	.0	.0	.0	.0	.0
CAMPO	59.3	.0	10.0	.0	.0	.0
CAMP VERDE	.6	.3	.2	3.1	.0	.0
CAPTAN GRANDE	.0	.0	.0	.0	.0	.0
CARSON	1.2	.0	.0	.0	.0	.0
CATTARAUGUS	1769.0	.0	8.6	.0	18.2	.0
CHADAVILLE	.0	.0	.0	.0	.0	.0
CHENAILIS	44.6	.0	.6	.5	.0	.0
CHENNEVEI	91.3	.0	.0	.0	.0	90.4
CHEY. RI.	2241.3	1.2	6.7	19.7	.0	.0
CHICKEN RANCH	.0	.0	.0	.0	.0	.0
CHITIMACHA	237.3	.0	.0	.0	.0	.0
COCHITI	2.2	.0	.0	1.1	.0	.0
COCOPAH	1126.5	.3	.2	9.9	.0	.0
COEUR D'AL.	374.8	.0	.6	142.5	.0	.0
COLD SPRINGS	.0	.0	.0	.0	.0	.0
COLORADO RI.	956.1	.8	.9	173.3	.0	49.2
COLUSA	98.0	.0	.0	.0	.0	.0
COLVILLE	1177.4	30.0	3.0	2.5	.0	.0
COOS, I.	1.4	.0	.6	.5	.0	.0
COQUILLE	1.4	.0	.6	.5	.0	.0
CORTINA	.0	.0	.0	.0	.0	.0
COUSHATTA	56.3	.0	.0	.0	.0	.0
COW CREEK	1.4	.0	.6	.5	.0	.0
COYOTE VALL.	104.0	.0	.0	.0	.0	.0
CROW	620.9	69.7	2.2	32.3	35.8	.0
CROW CREEK	480.1	55.2	1.0	8.1	.0	147.3
CUYAPAPE	.0	.0	.0	.0	.0	.0
DEVILS LAKE	285.5	26.9	1.3	1.7	.0	92.5
DRESSERVILLE	1.6	.0	.0	.0	.0	.0
DRY CREEK	152.0	.0	.0	.0	.0	.0
DUCK VALLEY	607.8	.0	6.3	.0	.0	1081.2
DUCKWATER	.4	.0	.0	.0	.0	.0
E. CHEROKEE	1431.0	34.0	227.2	.0	600.0	285.0
EL-EM	.0	.0	.0	.0	.0	.0
ELK VALLEY	81.6	.0	.0	.0	.0	.0
ELY	1.2	.0	.0	.0	.0	.0
ENTERPRISE	.0	.0	.0	.0	.0	.0
FALCON	254.0	.0	.0	3.8	.0	.0
FLANDREAU	69.6	.2	.4	2.7	.0	.0
FOND DU LAC	753.0	13.9	13.1	18.1	273.0	295.2
FT. BELKNAP	579.0	10.5	114.4	5.4	61.6	.0
FT. BERTHOLD	807.4	132.0	1.3	12.6	21.1	295.2
FT. BIDWELL	.0	.0	.0	.0	.0	.0
FT. HALL	871.8	136.8	5.9	642.0	.0	.0
FT. INDEPEND.	79.8	.0	.0	.0	.0	.0
FT. MCDEER	187.8	.0	2.5	.0	.0	.0
FT. MCOWELL	53.6	.3	.6	3.3	.0	.0
FT. MOJAVE	289.2	.0	.0	1.7	.0	.0
FT. PECK	1284.7	215.2	3.3	70.6	19.7	.0
GILA RIVER	6666.9	4.5	6.0	837.2	.0	.0
GOSHUTE	1.1	.2	.0	.0	.0	.0
GRAND FORT.	249.3	13.9	13.7	14.7	165.6	165.6
GRAND RONDE	2.8	.0	1.2	1.0	.0	.0
GRAND TRAV.	257.7	.3	.0	2.0	.0	399.9
GREENVILLE	.0	.0	.0	.0	.0	.0
GRINDSTONE	200.0	.0	.0	.0	.0	.0
HANNAHVILLE	249.8	2.6	14.9	3.4	10.0	.0
HANAUAPAI	1111.6	.3	.2	3.3	.0	.0
HOL	107.2	.0	54.6	.5	.0	.0
HOLLYWOOD	431.8	.0	6.2	.0	.0	.0
HOOHA VALL.	2555.0	.0	12.0	.0	442.0	147.1
HOP1	3047.2	3.7	5.2	12.8	.0	.0
HOPLAND	463.9	.0	.0	.0	.0	.0
HUALAPAI	671.4	.3	316.2	1.3	110.7	.0
IMAKAOLIE	140.7	.0	.8	.0	.0	.0
INAJA-COSMIT	.0	.0	.0	.0	.0	.0
INDIAN TSHIP.	604.2	7.4	.0	.0	865.0	.0
IOWA	21.5	.2	.6	.0	.0	23.5
ISABELLA	106.2	4.8	4.6	5.6	.0	.0
ISLETA	527.4	.3	.0	41.3	.0	.0
JACKSON	.0	.0	.0	.0	.0	.0

RESERVATION	WATER	AIR	SOLID WASTE	HAZARDOUS WASTE	FORESTRY	FISHERIES*	WILD-LIFE
J'TOWN MALL.	60.2	.0	.6	.5	.0	.0	.0
JANIL	.0	.0	.0	.0	.0	.0	.0
JENEZ	158.7	.2	.0	.0	.0	.0	.0
JICARILLA A.	134.7	.3	.0	10.0	.0	.0	.0
KAIRAR	40.6	.3	.0	10.9	.0	.0	.0
KALISPEL	437.6	.0	.0	3.3	.0	.0	.0
KANOK	373.9	.0	.0	.5	.0	.0	.0
KICKAPOO	321.3	.0	.0	.0	.0	.0	.0
KOOTENAI	28.4	.0	.0	.0	.0	.0	.0
LAC C. OREL.	415.1	34.9	52.1	.5	.0	.0	.0
LAC DU FL.	317.5	10.7	.6	2.0	.0	.0	.0
LAC VIEUX D.	317.5	3.3	1.3	2.1	.0	.0	.0
LAGUNA	315.0	.3	.0	10.3	.0	.0	.0
LA JOLLA	60.6	.0	1.3	.0	.0	.0	.0
L'ANSE	628.4	.2	.0	1.0	.0	.0	.0
LA POSTA	.0	.0	.0	.0	.0	.0	.0
LAS VEGAS	.4	.0	.0	.0	.0	.0	.0
LAYTONVILLE	.0	.0	.0	.0	.0	.0	.0
LEECH LAKE	1443.8	1.5	144.2	11.1	.0	.0	.0
LONE PINE	407.7	.0	.0	.0	.0	.0	.0
LOOKOUT	.0	.0	.0	.0	.0	.0	.0
LOS COYOTES	.0	.0	.0	.0	.0	.0	.0
LOVELOCK	.4	.0	.0	.0	.0	.0	.0
LOWER BRULE	921.1	30.0	.4	.0	.0	.0	.0
LOWER ELNIA	549.8	.0	.6	.5	.0	.0	.0
LOWER FLOUX	120.3	7.8	7.6	8.6	.0	.0	.0
LUMMI	308.7	.0	2.4	2.0	.0	.0	.0
MAHAH	6419.1	.0	50.6	.5	.0	.0	.0
MANZANITA	70.9	.0	.0	.0	.0	.0	.0
MASH. PEQUOT	27.8	.0	.0	.0	.0	.0	.0
MENOMINEE	955.6	101.6	.0	.0	.0	.0	.0
MESA GRANDE	.0	.0	.0	.0	.0	.0	.0
MES. ATACHE	1022.6	.3	.0	.0	.0	.0	.0
MICCOSUKEE	1852.7	.0	15.7	.0	.0	.0	.0
MIDDLETON	.0	.0	.0	.0	.0	.0	.0
MILLE LACS	520.8	.3	50.0	2.0	.0	.0	.0
MS. CHOCTAW	1249.8	.0	55.3	.0	.0	.0	.0
MOAPA RIVER	.8	.0	.0	.0	.0	.0	.0
MONTGOM. CREEK	.0	.0	.0	.0	.0	.0	.0
MORONGO	324.9	.0	23.8	.0	.0	.0	.0
MUCKLESHOOT	323.5	.0	2.4	2.0	.0	.0	.0
NAMBE	16.4	.2	249.0	13.5	.0	.0	.0
NARRAGANSETT	210.0	.0	.0	.0	.0	.0	.0
NAVAJO	22456.5	315.2	752.9	1881.2	.0	.0	.0
NETT LAKE	732.3	.5	50.0	3.0	.0	.0	.0
NEZ PERCE	389.6	30.0	1.2	1.0	.0	.0	.0
NISQUALLY	60.4	.0	.6	.5	.0	.0	.0
NOOKSACK	65.2	.0	.6	.5	.0	.0	.0
NO. CHEYENNE	816.8	245.0	63.4	11.4	.0	.0	.0
NORTH FORK	.0	.0	.0	.0	.0	.0	.0
NW. SHOSHONI	2.5	.2	.6	.5	.0	.0	.5
OIL SPRINGS	.5	.0	.0	.0	.0	.0	.0
ORAIMA	1.0	.2	.0	.0	.0	.0	.0
OREIDA EAST	270.0	.0	.0	.0	.0	.0	.0
OREIDA WEST	568.7	136.0	.0	.0	.0	.0	.0
ORONDAGA	.0	.0	.0	.0	.0	.0	.0
PAIUTE OF UT.	62.5	.2	.2	.0	.0	.0	.0
PALAI	151.0	.0	.0	.0	.0	.0	.0
PALATKA	854.2	.8	.9	.0	.0	.0	.0
PANAMA YAGUI	129.8	.0	.0	.0	.0	.0	.0
PAQUA	187.0	.0	.0	.0	.0	.0	.0
PECHANGA	187.0	.0	.0	.0	.0	.0	.0
PENOBSCOT	803.5	7.6	10.0	.0	.0	.0	.0
PICAYUNE	.0	.3	.3	.0	.0	.0	.0
PICURIS	7.1	.0	.0	.0	.0	.0	.0
PINE RIDGE	2075.4	601.5	6.5	.0	.0	.0	.0
PINDOLVILLE	87.5	.0	.0	.0	.0	.0	.0
PIT RIVER	600.0	4.8	.0	.0	.0	.0	.0
PLASANT PT.	98.2	.0	.0	.0	.0	.0	.0
POARCH CREEK	178.4	.0	.0	.0	.0	.0	.0
POCAHOQUE	30.6	.2	.0	.0	.0	.0	.0
PORT GARRETT	2278.1	.0	.0	.0	.0	.0	.0
POTAWAT. MS.	49.5	.0	.0	.0	.0	.0	.0
POTAWAT. MI.	113.1	3.2	.0	.0	.0	.0	.0
PRAIRIE ISL.	54.9	.2	.0	.0	.0	.0	.0
PUYALLUP	231.6	.0	.0	.0	.0	.0	.0
PUYALLUP I.	6109.1	27.8	.0	.0	.0	.0	.0
QUARTZ VALL.	427.2	.0	.0	.0	.0	.0	.0
QUECHAN	1375.2	.0	.0	.0	.0	.0	.0
QUILEUTE	200.0	.0	.0	.0	.0	.0	.0
QUINIAULT	200.0	.0	.0	.0	.0	.0	.0
RANONA	241.6	.0	.0	.0	.0	.0	.0
RED CLIFF	60.0	.0	.0	.0	.0	.0	.0
REDDING	948.7	1.2	10.7	.0	.0	.0	.0
RED LAKE	948.7	1.2	10.7	.0	.0	.0	.0
RIDGEMOOR VALL.	.0	.0	.0	.0	.0	.0	.0
RENO-SPARKS	547.7	32.5	15.0	.0	.0	.0	.0
RESIGNINI	300.7	.0	.0	.0	.0	.0	.0
RINCON	300.7	.0	.0	.0	.0	.0	.0
ROARING CR.	125.0	.0	.0	.0	.0	.0	.0
ROBINSON	3770.9	.4	14.6	.0	.0	.0	.0
ROCKY BOYS	149.6	.0	.0	.0	.0	.0	.0
ROHNERVILLE	2392.4	27.8	116.8	41.5	.0	.0	.0
ROSEBUD	.0	.0	.0	.0	.0	.0	.0
ROUND VALLEY	.0	.0	.0	.0	.0	.0	.0
RUMSEY	542.1	1.5	1.7	.0	.0	.0	.0
SAC & FOX	142.6	4.3	.0	.0	.0	.0	.0
ST. CROIX	968.7	120.0	80.0	.0	.0	.0	.0
ST. REGIS	1386.1	456.0	1.6	.0	.0	.0	.0
SALISH-KOO.	757.8	1.4	1.5	.0	.0	.0	.0
SALT RIVER	1639.2	11.6	52.9	.0	.0	.0	.0
SAN CARLOS	.0	.0	.0	.0	.0	.0	.0

RESERVATION	GRAZING	MINING	ENERGY PRODUCTION	WASTE WATER	EDUC. / PLANNING	AGRICULTURE	RESERVATION	GRAZING	MINING	ENERGY PRODUCTION	WASTE WATER	EDUC. / PLANNING	AGRICULTURE
SHAROTEE	.0	.0	.0	.0	1.4	.0	WHITE MOUNTAIN	35.0	.0	.0	1441.2	19.3	.0
SHERWOOD VALLEY	.0	.0	.0	.0	.0	.0	WIND RIVER	212.7	.0	.0	52.0	111.9	75.5
SINGLE SPRINGS	.0	.0	.0	4.0	4.0	.0	WINNEBAGO NERK.	.0	.0	.0	168.8	18.2	34.9
SHOALWATER	.0	.0	.0	.0	.0	.0	WINNEBAGO WISC.	.0	.0	.0	.0	.0	.0
SILETZ	.0	.0	.0	.0	.0	.0	WINNEBICCA	.0	.0	.0	.0	.0	.0
SIESETON	.0	.0	.0	150.3	2.7	.0	WOODFORDS	.0	.0	.0	.0	.0	.0
SIKONIMISH	.0	.0	.0	.0	.0	.0	YAKIMA	.0	.0	.0	.0	.0	219.4
SKULL VALLEY	.0	.0	.0	.2	.5	.0	YAKTON	.0	.0	.0	.5	59.7	25.5
SMITH RIVER	.0	.0	.0	.0	.0	.0	YAVAPAI	.0	.0	.0	.0	99.2	8.0
SOROKA	.0	.0	.0	.0	.0	.0	VERINGTON	.0	.0	.0	.0	.0	148.5
SOKACON CHIPPENAW	.0	.0	.0	.0	1.4	.0	YONDA	.0	.0	.0	.0	.0	24.0
SOUTHERN UTE	50.7	.0	108.8	46.5	17.8	.0	YSIETA DEL SUR	.0	.0	.0	.0	.0	.0
SPOKANE	.0	.0	.0	.0	.0	.0	YUONK	.0	.0	.0	23.0	.0	.0
SQUAXIN ISLAND	.0	.0	.0	135.8	6.2	.0	ZIA	.0	.0	.0	.8	.2	.0
STANDING ROCK	.0	.0	.0	.0	.0	12.4	ZUNI	.0	.0	.0	13.6	2.7	.0
STEWARTS POINT	.0	.0	.0	.0	.0	.0							
STILLAGUAMISH	.0	.0	.0	.0	.0	.0							
STOCKER, MUNSEE	.0	.0	.0	.0	.0	.0							
SUMMIT LAKE	.0	.0	.0	.0	12.8	.0							
SUQUAMISH	.0	.0	.0	.0	.0	45.5							
SUSANVILLE	.0	.0	.0	7.2	61.7	.0							
SUWOMISH	.0	.0	.0	.0	.0	.0							
SYCUAH	.0	.0	.0	.0	.0	.0							
TABLE BLUFF	.0	.0	.0	37.7	18.0	.0							
TABLE MOUNTAIN	.0	.0	.0	.0	.0	.0							
TARPA	.0	.0	.0	.0	.0	1691.8							
TAUS	.0	.0	.0	2.4	.5	.0							
TE-MOAK	.0	.0	.0	.0	.0	189.4							
TESUQUE	.0	.0	.0	.8	.2	.0							
TORORO O'ODHAM	.0	.0	.0	2336.0	4.5	184.6							
TORANANHA	.0	.0	.0	.0	.0	.0							
TORRES-MARTIN.	50.0	.0	.0	.0	.0	.0							
TRINIDAD	.0	.0	.0	.0	.0	.0							
TULALIP	.0	.0	.0	1731.8	43.7	.0							
TULE RIVER	.0	.0	.0	.0	.0	.0							
TURICA-BLOXI	.0	.0	.0	.0	.2	33.0							
TUOLUMBE	.0	.0	.0	.0	.0	.0							
TURTLE MOUNTAIN	.0	.0	.0	1.8	94.7	.0							
TUSCARORA	.0	.0	.0	.0	.0	.0							
TWENTY-NINE PALMS	.0	.0	.0	.0	.0	.0							
UNITAH & OURAY	.0	.0	.0	.3	.0	.0							
UPATILLA	4.0	.0	.0	.0	.0	101.2							
UPPER LAKE	.0	.0	.0	.0	.0	.0							
UPPER SIOUX	.0	.0	.0	.0	1.4	.0							
UPPER SKAGIT	.0	.0	.0	.0	25.0	.0							
UTE MOUNTAIN	14.6	108.7	.0	1.8	.9	14.6							
VIEJAS	.0	.0	.0	.0	.0	.0							
WALKER RIVER	.0	25.3	.0	.0	38.0	25.3							
WARM SPRINGS	.0	.0	.0	12.5	16.7	14.2							
WASHOE	.0	.0	.0	.0	.0	.0							
WHITE EARTH	.0	.0	.0	.3	6.1	212.3							

APPENDIX C: RESERVATION INCOME AND RANKINGS: PER CAPITA
ENVIRONMENTAL FUNDING AND TOTAL FUNDING: 1989-1991

RESERVATION	PER CAPITA ENVIRONMENTAL FUNDING (in \$1000s)	RES. RANK FOR PER CAP FUNDING	TOTAL FUNDING RECEIVED (in \$1000s)	RES. RANK FOR TOTAL FUNDING
ACONA	.14	193	848.1	85
AGUA CALIENTA	.59	95	164.4	163
AK-CHIN	1.26	47	566.4	108
ALA./COUSHATTA	6.45	4	5737.7	6
ALLEGANY	.35	138	2559.3	28
ALTURAS	.00	236	.0	237
AUGUSTINE	.00	237	.0	238
BAD RIVER	1.26	49	1781.3	45
BARONA	.00	238	.0	239
BAY HILLS	2.12	27	1272.7	60
BENTON PAIUTE	.00	239	.0	240
BERRY CREEK	1.70	33	455.0	124
BIG BEND	.00	240	.0	241
BIG CYPRESS	4.81	9	2159.8	39
BIG LAGOON	.00	241	.0	242
BIG PINE	.36	134	140.1	172
BIG SANDY	4.49	11	493.4	117
BIG VALLEY	.00	242	.0	243
RISHOP	.14	195	186.0	161
BLACKFEET	.39	128	2829.6	24
BLUE LAKE	2.48	23	82.0	194
BRIDGEPORT	.00	243	.0	244
BRIGHTON	1.22	50	642.1	99
BURNS PAIUTE	.71	82	152.5	165
CARAZON	.00	244	.0	245
CAHUILLA	1.91	29	411.5	129
CAMP	.45	122	99.5	188
CAMP VERDE	.04	217	5.0	224
CAPTAIN GRANDE	.00	245	.0	246
CARSON	.00	231	1.2	232
CATTARAUGUS	1.75	31	3809.6	15
CEDARVILLE	.00	246	.0	247
CHERIALIS	.06	214	45.7	211
CHEMUNUEVI	1.76	30	188.1	160
CHEYENNE RIVER	.21	174	2610.4	27
CHICKEN RANCH	.00	247	.0	248
CHITTACHUA	1.42	41	590.3	103
COCHITI	.13	196	124.1	178
COCOPAH	1.64	34	1150.6	66
COEUR D'ALENE	.88	68	705.0	249
COLD SPRINGS	.00	248	.0	249
COLORADO RIVER	.66	89	1591.2	51
COLUSA	1.44	40	98.0	190
COVILVILLE	.37	131	1645.1	49
COOS, L. UNPQUA, S	.35	137	114.6	181
COQUILLE	.01	228	2.5	227
CORTINA	.00	249	.0	250
COUSHATTA	1.14	54	412.8	130
COW CREEK	.61	91	296.8	144
COYOTE VALLEY	.52	110	104.0	185
CROW	.13	198	861.7	83
CROW CREEK	.45	121	1264.5	61
CUYAPAPE	.00	250	.0	251
DEVILS LAKE	.22	173	772.7	90
DRESSERVILLE	.01	226	1.6	229
DRY CREEK	.93	65	152.0	166
DUCK VALLEY	1.07	59	1695.3	46
DUCKWATER	3.41	16	409.5	131
E. CHEROKEE	.28	154	2870.5	23
EL-EH	.00	275	.0	276
ELK VALLEY	.33	146	81.6	195
ELY	.00	232	1.2	233
ENTERPRISE	.00	251	.0	252
FALLON	.58	98	516.9	111
FLANDREAU	.15	192	74.3	198
FOND DU LAC	.58	99	1680.4	47
FT. BELKNAP	.53	108	1281.5	59
FT. BERTHOLD	.59	94	2244.4	36
FT. BIDWELL	.00	252	.0	253
FT. HALL	.32	148	2245.9	37
FT. INDEPENDENCE	.65	90	79.8	197
FT. McDONNITT	.10	151	204.3	156
FT. McDOWELL	.13	197	99.5	189
FT. HOJAVE	.85	71	188.6	133
FT. PECK	.32	147	2172.9	38
GILA RIVER	.67	86	7856.8	3
GOSHUTE	4.92	8	457.9	122
GRAND PORTAGE	2.46	24	810.3	87
GRAND RONDE	.04	219	69.7	200
GRAND TRAVERSE	.72	81	1073.0	75
GREENVILLE	.00	253	.0	254
GRINDSTONE CREEK	1.29	46	200.0	158
HANNAHVILLE	1.46	37	287.1	146
HAVASUPAI	2.06	28	1250.3	62
HOH	5.91	6	502.3	116
HOLLYWOOD	1.17	51	1659.0	48
HOOPA VALLEY	1.46	38	3219.9	18
HOPAI	.53	107	5019.7	8
HOPLAND	1.60	15	463.9	119
HUALAPAI	.99	61	1387.6	56
HUALAPAI	.00	282	299.1	143
IMAKOLEE	.00	254	.0	255
IMAJA-COSHIT	.00	19	1804.8	44
INDIAN TOWNSHIP	2.89	206	49.0	210
IOWA	.10			

RESERVATION	PER CAPITA ENVIRONMENTAL FUNDING (in \$1000s)	RES. RANK FOR PER CAP FUNDING	TOTAL FUNDING RECEIVED (in \$1000s)	RES. RANK FOR TOTAL FUNDING	RES. RANK FOR PER CAP FUNDING	TOTAL FUNDING RECEIVED (in \$1000s)	RES. RANK FOR TOTAL FUNDING
ISLETA	.39	110	1355.7	57			
JACKSON	.00	255	.0	256			
JAHESITH, KLAILIAN	1.11	58	461.3	120			
JAHUL	.00	256	.0	257			
JENEZ	.12	202	306.4	142			
JICARILLA APACHE	.23	169	712.6	94			
KATIBAB	1.26	48	105.7	184			
KALISPEL	3.65	12	514.6	113			
KAROK	.12	201	587.7	104			
KICKAPOO	.23	172	454.4	125			
KOOTENAI	.37	132	52.5	207			
LAC COURTE OREIL.	.36	136	1086.6	71			
LAC DU FLEBEAU	1.34	45	1888.9	43			
LAC VIEUX DESERT	.29	153	43.1	212			
LAGUNA	.10	207	152.3	137			
LA JOLLA	.16	190	849.9	84			
L'ANSE	1.06	60	35.0	235			
LAS VEGAS	.00	230	.4	231			
LAYTONVILLE	.00	235	1.3	231			
LEECH LAKE	.53	109	3064.9	20			
LOOKOUT	1.38	43	407.7	132			
LOS COYOTES	.00	257	.0	258			
LOVELOCK	.00	233	.4	236			
LOWER BRULE	1.16	52	1199.8	65			
LOWER ELIHA	.50	114	575.9	106			
LOWER STIOUX	.55	105	145.7	170			
LUMMI	.20	178	659.8	98			
MAKAH	6.89	3	6615.2	5			
MANZANITA	1.46	39	99.5	187			
MASHANT, PEQUOT	.18	181	28.3	217			
MENOMINEE	.34	142	1221.5	63			
MESA GRANDE	.00	259	.0	260			
MESCALERO APACHE	.60	95	2113.0	40			
MICCOSUKEE	3.64	11	2004.4	41			
MIDDLETOWN	.00	260	.0	261			
MILLE LACS	.70	85	801.6	88			
MISS. CHOCTAW	.51	112	2458.9	30			
MOAPA RIVER	.08	211	15.3	219			
MONTGOMERY CREEK	.00	261	.0	262			
MORONGO	.42	126	431.2	128			
MUCKLESHOOT	.18	182	574.6	107			
NAHBE	.48	118	290.9	145			
NARRAGANSET	.59	96	1211.2	64			
NAVAJO	.44	121	73203.5	1			
NETT LAKE	.56	101	1080.1	74			
NEZ PERCE	.49	117	893.6	81			
NISQUALLY	.08						
HOOKSACK	.11						
HO. CHEYENNE	.35						
NORTH FORK	.00						
HM. SHOSHONI	.01						
OIL SPRINGS	.57						
OHAMA	.17						
ONEIDA EAST	.24						
ONEIDA WEST	.23						
ONONDAGA	.04						
PAUTE OF UTAH	.25						
PALA	.43						
PASCUA YAQUI	.98						
PAUMA	.26						
PECHANGA	2.89						
PEROSCOT	.00						
PICAYNE	.11						
PICURIS	.25						
PINE RIVER	.00						
PINOLEVILLE	.17						
PIT RIVER	.363						
PLEASANT POINT	.14						
POARCH CREEK	.71						
POINT ARENA	5.51						
POJOAQUE	5.99						
POTANATONHI KS.	.04						
POTANATONHI WL.	.32						
PRAIRIE ISLAND	.31						
PUYALLUP	.04						
PYRAHID LAKE	8.23						
QUARTZ VALLEY	.19						
QUECHAN	.28						
QUILLEUTE	2.42						
QUINAILT	.10						
RAHONA	.00						
RED CLIFF	.75						
REDDING	.03						
RED LAKE	.49						
REDWOOD VALLEY	.00						
REMO-SPARKS	2.27						
RESISTANCE	1.12						
RINCON	.71						
ROARING CREEK	.00						
ROBINSON	.87						
ROCKY BOYS	.91						
ROHNERVILLE	.50						
ROSERID	.26						
ROUND VALLEY	.25						

RESERVATION	PER CAPITA ENVIRONMENTAL FUNDING (in \$1000s)	RES. RANK FOR PER CAP FUNDING	TOTAL FUNDING RECEIVED (in \$1000s)	RES. RANK FOR TOTAL FUNDING
RUMSEY	.00	267	.0	268
SAC & FOX - IA.	.82	74	662.6	97
ST. CROIX	.27	157	364.0	115
ST. REGIS	.24	166	1492.2	53
SALISH-KOOTENAI	.37	133	2806.0	25
SALT RIVER	.21	176	890.3	82
SAN CARLOS	.40	127	1015.3	21
SANDIA	4.69	10	1342.3	58
SAN FELIPE	.20	180	516.7	112
SAN ILDEFONSO	.20	177	128.8	177
SAN JUAN	.16	188	143.0	139
SAN MANUEL	.00	268	.0	269
SAN PASQUAL	.00	269	.0	270
SANTA ANA	.55	104	327.2	140
SANTA CLARA	.59	97	1021.8	77
SANTA ROSA RANCH.	.00	270	.0	271
SANTA ROSA RES.	.00	271	.0	272
SANTA YNEZ	.00	272	.0	273
SANTA YSABEL	.48	119	455.1	123
SAHTEE	1.15	53	581.4	105
SANTO DOMINGO	.23	170	838.6	86
SAN XAVIER	.00	271	.0	274
SAUK-SUIATTIE	.13	199	34.2	216
SAULT STE. MARIE	.26	160	2275.8	34
SHAKOPEE	.57	102	131.3	175
SHERWOOD VALLEY	1.72	32	450.0	126
SHINGLE SPRINGS	.05	215	12.0	220
SHOALWATER	.77	77	287.0	147
SILETZ	.53	106	1128.0	69
SISSETON	.36	135	1066.9	76
SKOKOMISH	.67	87	704.5	96
SKULL VALLEY	.07	212	6.5	222
SMITH RIVER	1.11	57	200.8	157
SOROKA	.12	200	117.5	180
SOKAOGON CHIPPEWA	.83	73	357.4	136
SOUTHERN UTE	1.12	55	1419.4	55
SPOKANE	1.52	16	2254.9	35
SQUAXIN ISLAND	.47	120	742.6	92
STANDING ROCK	.51	111	2996.5	22
STEWARTS POINT	.00	274	.0	275
STILLAGUAMISH	.16	187	83.3	193
STOCKBRIDGE	.74	80	612.4	100
SUMMIT LAKE	15.15	1	600.9	102
SUQUAMISH	.79	76	515.9	110
SUSANVILLE	.01	227	5.0	225
SWINOMISH	.28	155	214.4	154
SYCUAN	.00	276	.0	277
TABLE BLUFF	1.50	15	783.9	89
TABLE MOUNTAIN	.00	277	.0	278

RESERVATION	PER CAPITA ENVIRONMENTAL FUNDING (in \$1000s)	RES. RANK FOR PER CAP FUNDING	TOTAL FUNDING RECEIVED (in \$1000s)	RES. RANK FOR TOTAL FUNDING
TAMPA	1.37	44	2646.7	26
TAOS	.96	63	1020.7	78
TE-HOAK	.95	64	1489.1	54
TESUQUE	.60	92	214.4	152
TOHONO O'ODHAM	.81	75	13938.8	2
TONAWANDA	.00	278	.0	279
TORRES-MARTINEZ	.20	179	50.0	209
TRINIDAD	.87	70	111.0	182
TULALIP	2.54	22	4148.7	11
TULE RIVER	.16	186	139.5	173
TUNICA-BILOXI	1.41	42	50.8	208
TUOLUMNE	.02	221	6.0	223
TURTLE MOUNTAIN	.21	175	2100.4	33
TUSCARORA	.01	224	9.0	221
TWENTY-NINE PALMS	.00	279	.0	280
UINTE & OURAY	.16	189	507.1	114
UMATILLA	2.92	17	4723.7	9
UPPER LAKE	2.91	18	436.1	127
UPPER SIOUX	.32	150	53.9	206
UPPER SKAGIT	.29	152	149.2	169
UTE MOUNTAIN	.84	72	1080.6	73
VIEJAS	.00	280	.0	281
WALKER RIVER	.24	165	206.8	155
WARM SPRINGS	.24	167	728.7	93
WASHOE	.92	66	1082.0	72
WHITE EARTH	.76	78	1319.6	17
WHITE MOUNTAIN	.31	143	4145.1	12
WIND RIVER	.14	141	2449.6	31
WINNEBAGO NEB.	.67	88	1104.3	70
WINNEBAGO WISC.	.11	205	284.9	148
WINNEMUCCA	.00	279	.8	234
WOODFORDS	.00	281	.0	282
YAKIMA	.33	144	4187.2	10
YANKTON	.04	218	144.6	171
YAVAPAI	2.69	21	149.6	138
YERINGTON	.50	115	220.5	153
YOMBA	.57	101	69.4	201
YSLETA DEL SUR	.07	213	65.0	203
YUOK	.16	191	541.6	109
ZIA	.14	194	101.3	186
ZUNI	.09	209	750.4	91

NOTE: 46 reservations (161) received no federal environmental funding during the study period. The computer program determined rankings for those tribes in the order in which they were encountered.

APPENDIX D: MULTIPLE REGRESSION RESULTS: TOTAL FUNDING RECEIVED: WITH NAVAJO RESERVATION

Equation Number 1: Dependent Variable: TOTAL total spending by six federal agencies

Variable(s) Entered on Step Number

1. UNEMPLT unemployment in percent - 1990
2. INCOME per capita income on reservation - 1991
3. SENATOR number of Senators on Indian Affairs Subcommittee
from state
4. DENSITY population density on reservation
5. WAR presence of historical U.S.-tribe warfare
6. DEGREE percent of population with B.A. degree or more
7. RESPOP reservation population - BIA figures
8. IRA presence of Indian Reorganization Act government on
reservation
9. STATECAP contiguous state's environmental capacity

Multiple R .96928
R Square .93950
Adjusted R Square .93747
Standard Error 1146.30608

Analysis of Variance

	DF	Sum of Squares	Mean Square
Regression	9	5488588955.79603	609843217.31067
Residual	269	353470741.10835	1314017.62494

F = 464.10581 Signif F = .0000

----- Variables in the Equation -----

Variable	B	SE B	Beta	T	Sig T
UNEMPLT	-2.189991	4.624931	-.007370	-.474	.6362
INCOME	.002781	.022312	.001934	.125	.9009
SENATOR	-141.458666	142.378004	-.019182	-.994	.3213
DENSITY	-16.095398	5.985987	-.040879	-2.689	.0076
WAR	-40.594655	157.448832	-.004367	-.258	.7967
DEGREE	3.054520	7.480110	.006340	.408	.6833
RESPOP	.435432	.007043	.969021	61.826	.0000
IRA	251.007239	146.123296	.027278	1.718	.0870
STATECAP	-6.823675	3.531534	-.039730	-1.932	.0544
(Constant)	655.812963	377.034837		1.739	.0831

APPENDIX E: MULTIPLE REGRESSION RESULTS: FUNDING RECEIVED BY
AGENCY: WITH NAVAJO RESERVATION

Independent Variables:

1. UNEMPLT unemployment in percent - 1990
2. INCOME per capita income on reservation - 1991
3. SENATOR number of Senators on Indian Affairs Subcommittee from
state
4. DENSITY population density on reservation
5. WAR presence of historical U.S.-tribe warfare
6. DEGREE percent of population with B.A. degree or more
7. RESPOP reservation population - BIA figures
8. IRA presence of Indian Reorganization Act government on
reservation
9. STATECAP contiguous state's environmental capacity

Dependent Variable: BSUM total funding from Bureau of Indian Affairs

Multiple R .86849
R Square .75428
Adjusted R Square .74606
Standard Error 527.21598

Analysis of Variance

	DF	Sum of Squares	Mean Square
Regression	9	229520815.85875	25502312.87319
Residual	269	74770348.39681	277956.68549

F = 91.74923 Signif F = .0000

----- Variables in the Equation -----

Variable	B	SE B	Beta	T	Sig T
UNEMPLT	-.390569	2.127126	-.005759	-.184	.8545
INCOME	-.005292	.010262	-.016125	-.516	.6065
SENATOR	-64.593725	65.483347	-.038380	-.986	.3248
DENSITY	-1.293391	2.753111	-.014394	-.470	.6389
WAR	184.206483	72.414812	.086822	2.544	.0115
DEGREE	.134834	3.440297	.001226	.039	.9688
RESPOP	.087050	.003239	.848832	26.874	.0000
IRA	66.577130	67.205904	.031703	.991	.3227
STATECAP	-2.474396	1.624245	-.063126	-1.523	.1288
(Constant)	234.864690	173.408127		1.354	.1767

Dependent Variable: ESUM total funding from Environmental Protection Agency

Multiple R .62864
R Square .39518
Adjusted R Square .37495
Standard Error 269.18002

Analysis of Variance

	DF	Sum of Squares	Mean Square
Regression	9	12735431.80164	1415047.97796
Residual	269	19491171.06940	72457.88502

F = 19.52925 Signif F = .0000

----- Variables in the Equation -----

Variable	B	SE B	Beta	T	Sig T
UNEMPLT	.849438	1.086044	.038490	.782	.4348
INCOME	-9.24464E-05	.005239	-8.655E-04	-.018	.9859
SENATOR	44.827843	33.433753	.081846	1.341	.1811
DENSITY	-1.358372	1.405653	-.046451	-.966	.3347
WAR	-22.224860	36.972743	-.032188	-.601	.5483
DEGREE	1.876072	1.756508	.052432	1.068	.2864
RESPOP	.019763	.001654	.592160	11.950	.0000
IRA	81.097778	34.313237	.118663	2.363	.0188
STATECAP	.040394	.829289	.003167	.049	.9612
(Constant)	11.407925	88.536778		.129	.8976

Dependent Variable: HSUM total funding from the Department of Housing and Urban Development

Multiple R .85357
R Square .72858
Adjusted R Square .71949
Standard Error 175.55073

Analysis of Variance

	DF	Sum of Squares	Mean Square
Regression	9	22252715.21576	2472523.91286
Residual	269	8290058.02617	30818.05958

F = 80.22971 Signif F = .0000

----- Variables in the Equation -----

Variable	B	SE B	Beta	T	Sig T
UNEMPLT	-.096848	.708284	-.004508	-.137	.8913
INCOME	7.13510E-04	.003417	.006862	.209	.8348
SENATOR	.959922	21.804441	.001800	.044	.9649
DENSITY	-.996082	.916722	-.034988	-1.087	.2782
WAR	-74.789016	24.112458	-.111263	-3.102	.0021
DEGREE	.464526	1.145539	.013336	.406	.6854
RESPOP	.027770	.001079	.854708	25.747	.0000
IRA	7.722892	22.378012	.011608	.345	.7303
STATECAP	-.732966	.540836	-.059022	-1.355	.1765
(Constant)	60.990793	57.740898		1.056	.2918

Dependent Variable: ISUM total funding from Indian Health Service

Multiple R .96615
 R Square .93344
 Adjusted R Square .93122
 Standard Error 821.83824

Analysis of Variance

	DF	Sum of Squares	Mean Square
Regression	9	2548180466.06526	283131162.89614
Residual	269	181687467.93410	675418.09641

F = 419.19393 Signif F = .0000

----- Variables in the Equation -----					
Variable	B	SE B	Beta	T	Sig T
UNEMPLT	-3.784386	3.315820	-.018631	-1.141	.2548
INCOME	.008535	.015997	.008682	.534	.5941
SENATOR	-152.288801	102.077177	-.030210	-1.492	.1369
DENSITY	-12.105127	4.291623	-.044976	-2.821	.0051
WAR	-254.849267	112.882129	-.040103	-2.258	.0248
DEGREE	-.270929	5.362827	-8.227E-04	-.051	.9597
RESPOP	.299290	.005049	.974356	59.273	.0000
IRA	162.476670	104.762345	.025831	1.551	.1221
STATECAP	-4.466977	2.531915	-.038048	-1.764	.0788
(Constant)	391.580723	270.313186		1.449	.1486

APPENDIX F: MULTIPLE REGRESSION RESULTS: FUNDING RECEIVED BY
AGENCY: WITHOUT NAVAJO RESERVATION

Independent Variables:

1. UNEMPLT unemployment in percent - 1990
2. INCOME per capita income on reservation - 1991
3. SENATOR number of Senators on Indian Affairs Subcommittee from
state
4. DENSITY population density on reservation
5. WAR presence of historical U.S.-tribe warfare
6. DEGREE percent of population with B.A. degree or more
7. RESPOP reservation population - BIA figures
8. IRA presence of Indian Reorganization Act government on
reservation
9. STATECAP contiguous state's environmental capacity

**Dependent Variable: ASUM total funding from Administration for Native
Americans**

Multiple R .25783
R Square .06648
Adjusted R Square .03513
Standard Error 87.61763

Analysis of Variance

	DF	Sum of Squares	Mean Square
Regression	9	146504.55478	16278.28386
Residual	268	2057395.59889	7676.84925

F = 2.12044 Signif F = .0281

----- Variables in the Equation -----					
Variable	B	SE B	Beta	T	Sig T
DENSITY	-.106396	.459058	-.013911	-.232	.8169
SENATOR	.454937	11.213237	.003141	.041	.9677
INCOME	6.13076E-04	.001711	.021940	.358	.7204
UNEMPLT	.060661	.356272	.010502	.170	.8649
WAR	8.412921	12.274321	.046473	.685	.4937
DEGREE	.699103	.571957	.074713	1.222	.2227
IRA	-2.821417	11.170236	-.015751	-.253	.8008
RESPOP	.006858	.001992	.223768	3.442	.0007
STATECAP	-.040942	.270878	-.012221	-.151	.8800
(Constant)	17.727515	28.840484		.615	.5393

Dependent Variable: BSUM total funding from Bureau of Indian Affairs

Multiple R .43195
 R Square .18658
 Adjusted R Square .15926
 Standard Error 520.51952

Analysis of Variance

	DF	Sum of Squares	Mean Square
Regression	9	16655243.69145	1850582.63238
Residual	268	72612072.28283	270940.56822

F = 6.83022 Signif F = .0000

----- Variables in the Equation -----					
Variable	B	SE B	Beta	T	Sig T
DENSITY	-.667396	2.727177	-.013711	-.245	.8069
SENATOR	-19.275336	66.615688	-.020911	-.289	.7725
INCOME	-.007619	.010165	-.042845	-.750	.4542
UNEMPLT	.352475	2.116545	.009588	.167	.8679
WAR	224.685544	72.919384	.195021	3.081	.0023
DEGREE	.398924	3.397889	.006699	.117	.9066
IRA	69.474422	66.360225	.060944	1.047	.2961
RESPOP	.054891	.011835	.281428	4.638	.0000
STATECAP	-2.095112	1.609235	-.098268	-1.302	.1941
(Constant)	216.015981	171.335777		1.261	.2085

Dependent Variable: DSUM total funding from Department of Energy

Multiple R .20750
 R Square .04306
 Adjusted R Square .01092
 Standard Error 332.09380

Analysis of Variance

	DF	Sum of Squares	Mean Square
Regression	9	1329914.83987	147768.31554
Residual	268	29556725.67092	110286.28982

F = 1.33986 Signif F = .2162

----- Variables in the Equation -----					
Variable	B	SE B	Beta	T	Sig T
DENSITY	-.584544	1.739951	-.020416	-.336	.7372
SENATOR	3.950762	42.501109	.007287	.093	.9260
INCOME	-4.00335E-04	.006485	-.003827	-.062	.9508
UNEMPLT	.758033	1.350365	.035056	.561	.5750
WAR	96.112916	46.522896	.141824	2.066	.0398
DEGREE	.003886	2.167868	1.109E-04	.002	.9986
IRA	-65.658842	42.338123	-.097917	-1.551	.1221
RESPOP	.012605	.007551	.109871	1.669	.0962
STATECAP	.640051	1.026699	.051036	.623	.5335
(Constant)	-50.264921	109.312998		-.460	.6460

Dependent Variable: ESUM total funding from Environmental Protection Agency

Multiple R .57845
R Square .33461
Adjusted R Square .31226
Standard Error 246.84576

Analysis of Variance

	DF	Sum of Squares	Mean Square
Regression	9	8211833.95814	912425.99535
Residual	268	16329997.69989	60932.82724

F = 14.97429 Signif F = .0000

----- Variables in the Equation -----					
Variable	B	SE B	Beta	T	Sig T
DENSITY	-2.115974	1.293308	-.082907	-1.636	.1030
SENATOR	-10.018177	31.591130	-.020728	-.317	.7514
INCOME	.002724	.004821	.029211	.565	.5725
UNEMPLT	-.049821	1.003728	-.002585	-.050	.9604
WAR	-71.214143	34.580529	-.117887	-2.059	.0404
DEGREE	1.556460	1.611379	.049847	.966	.3350
IRA	77.591367	31.469982	.129810	2.466	.0143
RESPOP	.058684	.005612	.573827	10.456	.0000
STATECAP	-.418629	.763147	-.037448	-.549	.5838
(Constant)	34.219343	81.252495		.421	.6740

Dependent Variable: HSUM total funding from Department of Housing and Urban Development

Multiple R .35234
R Square .12414
Adjusted R Square .09473
Standard Error 174.48294

Analysis of Variance

	DF	Sum of Squares	Mean Square
Regression	9	1156461.23156	128495.69240
Residual	268	8159071.65851	30444.29723

F = 4.22068 Signif F = .0000

----- Variables in the Equation -----					
Variable	B	SE B	Beta	T	Sig T
DENSITY	-.841865	.914175	-.053539	-.921	.3579
SENATOR	12.124286	22.330193	.040717	.543	.5876
INCOME	1.40249E-04	.003407	.002441	.041	.9672
UNEMPLT	.086204	.709485	.007259	.122	.9034
WAR	-64.816839	24.443250	-.174155	-2.652	.0085
DEGREE	.529585	1.139004	.027529	.465	.6423
IRA	8.436651	22.244559	.022909	.379	.7048
RESPOP	.019847	.003967	.315002	5.003	.0000
STATECAP	-.639528	.539430	-.092855	-1.186	.2368
(Constant)	56.347338	57.433333		.981	.3274

Dependent Variable: ISUM total funding from Indian Health Service

Multiple R .59242
R Square .35096
Adjusted R Square .32917
Standard Error 746.53542

Analysis of Variance

	DF	Sum of Squares	Mean Square
Regression	9	80765125.10943	8973902.78994
Residual	268	149360453.77273	557315.12602

F = 16.10203 Signif F = .0000

----- Variables in the Equation -----					
Variable	B	SE B	Beta	T	Sig T
DENSITY	-9.682427	3.911350	-.123890	-2.475	.0139
SENATOR	23.100767	95.541029	.015609	.242	.8091
INCOME	-4.70903E-04	.014579	-.001649	-.032	.9743
UNEMPLT	-.908686	3.035575	-.015395	-.299	.7649
WAR	-98.188690	104.581866	-.053080	-.939	.3486
DEGREE	.751144	4.873293	.007856	.154	.8776
IRA	173.689663	95.174641	.094894	1.825	.0691
RESPOP	.174827	.016974	.558265	10.300	.0000
STATECAP	-2.999086	2.307984	-.087611	-1.299	.1949
(Constant)	318.633139	245.731853		1.297	.1959

APPENDIX G: TRIBAL GOVERNMENT QUESTIONNAIRE

No. _____

THANK YOU for your help. If a question does not apply to your reservation, put "NA" in the space.

1. Please check all subject areas in which any tribal staff work:

- _____ Water Contamination/Supply
- _____ Air Contamination
- _____ Solid Waste
- _____ Hazardous/Nuclear Waste
- _____ Forestry/Forest Products
- _____ Fisheries
- _____ Wildlife Protection/Management
- _____ Agriculture/Plant Foods
- _____ Grazing
- _____ Mining
- _____ Energy Production - Type: _____
- _____ Acquisition of Environmentally Critical Lands
- _____ Wastewater
- _____ Public Education
- _____ Other - List: _____

2. Number of tribal staff working on environment and natural resources tasks and issues: _____

Please include an organizational chart if there is a natural resources, environment, or other department involved with these efforts and a chart is available.

3. Total annual reservation government budget for 1992:

\$ _____

4. Total funds budgeted for environment/natural resources purposes by your reservation government in 1992:

\$ _____

5. Total tribal government income from the following sources in 1991, if any:

Mineral Extraction/Leases: \$ _____
Forestry/Forest Products: \$ _____
Fisheries: \$ _____
Grazing/Grazing Fees: \$ _____
Agriculture (other than livestock): \$ _____
Other Natural Resources Income: \$ _____
Type(s) of Resource: _____

No. _____

6. How severe would you say pollution problems are on your reservation compared to other reservations?

_____ None _____ Mild _____ Average _____ Severe _____ Very Severe

7. Does your reservation have any tribal regulations regarding environmental and natural resources issues?

_____ No _____ Yes

8. Do you have contact or a working relationship with states that are next to your reservation on environmental and natural resources issues?

_____ No Contact
_____ Occasional Contact
_____ Regular Contact
_____ Regular Working Relationship
_____ State Personnel Oversee Reservation Efforts
_____ Other - Explain: _____

9. Please check all subject areas in which a non-government citizens' group is active on your reservation:

_____ Water Contamination/Supply
_____ Air Contamination
_____ Solid Waste
_____ Hazardous/Nuclear Waste
_____ Forestry/Forest Products
_____ Fisheries
_____ Wildlife Protection/Management
_____ Agriculture/Plant Foods
_____ Grazing
_____ Mining
_____ Energy Production - Type: _____
_____ Acquisition of Environmentally Critical Lands
_____ Wastewater
_____ Public Education
_____ Other - List: _____

_____ CHECK HERE IF YOU WANT A COPY OF OUR REPORT WHEN IT IS DONE.

APPENDIX H: STATE GOVERNMENT QUESTIONNAIRE

No. _____

STUDY OF STATE ORGANIZATIONS FOR COORDINATION OF NATIVE AMERICAN AFFAIRS

Various states have taken different approaches to working with their Native American citizens. Some have advisory commissions, Native American coordinators with differing titles and functions, or special personnel concerned with Indian matters in some of their functional departments (e.g., special coordinators for Native American followup in state Departments of Education).

Because of the importance of effective policy formation and execution by state and local governments, we wish to obtain basic data on how states have approached this matter.

QUESTIONNAIRE

1. State organizational arrangements to facilitate resolution of problems involving Native Americans.

NOTE: Our understanding of your state's organizational arrangements may be facilitated by inclusion of an organizational chart with your response. It might be keyed in some way to the questions that follow.

Is there a part-time or full-time individual reporting to the Governor concerned specifically with issues involving Native Americans?

_____ Yes _____ No (if "No," skip to #2)

If so, please indicate the following:

Title and Department: _____
_____ Full-time

_____ Part-time: Percentage of time on issues involving Native Americans: _____%

Duties: _____

_____ If this person has a staff, please indicate how many staff persons in full-time equivalents: _____

_____ Please include copies of any major reports/studies issued in the last two years that deal with the environment, land, or natural resources. If none, check here: _____

2. Is there a part-time or full-time individual reporting to the Legislature concerned specifically with issues involving Native Americans?

_____ Yes _____ No (if "No," skip to #3)

If so, please indicate the following:

Title and Department: _____

_____ Full-time
_____ Part-time: Percentage of time on issues involving
Native Americans: _____%

Duties: _____

_____ If this person has a staff, please indicate how many staff
persons in full-time equivalents: _____

Please include copies of any major reports/studies issued in
the last two years that deal with the environment, land, or
natural resources. If none, check here: _____

3. Is there an advisory commission or similar organization
concerned with issues related to Native Americans?

_____ Ad Hoc _____ Permanent _____ None (if "None," skip to #4)

Is there a relationship between the commission and the
person defined in #1? _____ Yes _____ No

Is there a relationship between the commission and the
person defined in #2? _____ Yes _____ No

Describe the duties of the advisory commission, its
subcommittees or its members, or include a copy of statute or
executive order establishing commission, if pertinent.

4. State policy concerning Native Americans.

Has the legislature adopted a policy statement concerning
Native Americans within the last five years?

_____ Yes _____ No

Please list the subject(s) of any such statement:

Any specific legislation (as distinct from a policy
statement) within the last five years?

_____ Yes _____ No

Please list the subject(s) of any such legislation:

5. Has the Governor (incumbent or previous) taken a stand on Indian
policy, issued an Executive Order, or taken other action on matters
specific to Native Americans within the last five years?

_____ Yes _____ No

Please list the subject(s) and briefly indicate the
nature(s) of any such actions, or enclose a copy of the

relevant document(s):

6. Have there been important court cases in the last five years concerning Native Americans and their relation to the state (e.g., fishing rights, water rights, gaming, etc.)?

_____ Yes _____ No

Federal cases: Please list citation(s):

State cases: Please list citation(s):

7. Are there any state activities especially oriented to Native Americans in the area of the environment and natural resources?

_____ Yes _____ No (if "No," go to #8)

Please check the categories in which such programs or activities exist:

- _____ Water Contamination/Supply
- _____ Air Contamination
- _____ Solid Waste
- _____ Hazardous/Nuclear Waste
- _____ Forestry/Forest Products
- _____ Fisheries
- _____ Wildlife Protection/Management
- _____ Agriculture/Plant Foods
- _____ Grazing
- _____ Minerals -- non-energy
- _____ Minerals -- energy
- _____ Energy Production -- Type: _____
- _____ Wastewater
- _____ Public Education/Planning
- _____ Spiritual/Religious Use
- _____ Other -- Describe: _____

8. Is there one (or more) reservation(s) within or bordering your state?

_____ Yes _____ No (if "No," skip to #10)

Do state officials or employees have contact or a working relationship with reservations that are within or next to your state on environmental and natural resource issues?

- _____ No Contact
- _____ Occasional Contact
- _____ Regular Contact
- _____ Regular Working Relationship
- _____ State Personnel Oversee Reservation Efforts
- _____ Other -- Please explain: _____

Would you say such contact is:

- ☐ Generally Cooperative
- ☐ Mixed, depending mainly on the reservation involved
- ☐ Mixed, depending mainly on the issue involved
- ☐ Generally Conflictual
- ☐ Other: explain: _____

Would you say environmental problems originating on these reservations are:

- ☐ None Exist
- ☐ Mild
- ☐ Average
- ☐ Severe
- ☐ Very Severe

9. Do state officials or employees have contact or a working relationship with federal officials regarding reservation environmental and natural resource issues?

☐ Yes ☐ No (if "No," go to #10)

Which agency(ies): _____

Would you say such contact is:

- ☐ Sporadic and Informal
- ☐ Regular but Informal
- ☐ Through Regular Formal Channels
- ☐ State and Federal Efforts Overlap
- ☐ Other -- Describe: _____

Would you say such contact is:

- ☐ Generally Cooperative
- ☐ Mixed, depending mainly on the federal agency involved
- ☐ Mixed, depending mainly on the issue involved
- ☐ Generally Conflictual
- ☐ Other: explain: _____

10. Does the state have Governor's representation on any groups concerned with interstate matters involving Native Americans?

☐ Yes ☐ No

If so, please list group(s): _____

IF YOU WISH TO OBTAIN A COPY OF THE RESULTS OF THIS SURVEY, PLEASE CHECK HERE: _____

THANK YOU FOR YOUR ASSISTANCE!

APPENDIX I: STATE ADMINISTRATIVE CAPACITY

<u>STATE</u>	<u>GOV STAF</u>	<u>LEG STAF</u>	<u>ADVISE</u>	<u>ADV GOV</u>	<u>ADV LEG</u>	<u>FEDERAL</u>	<u>GOV REP</u>	<u>LEG TIME</u>	<u>GOV TIME</u>	<u>STATE CAPACITY</u>
Alabama	1	1	2	1	1	m	1	5	5	17
Arizona	1	1	2	1	1	1	1	1	10	19
Arkansas	0	0	0	0	0	m	0	0	0	0
California	1	0	2	1	0	1	1	0	10	16
Colorado	1	1	2	1	1	1	0	5	5	17
Connecticut	0	0	2	1	0	1	0	0	0	4
Delaware	0	0	0	0	0	m	0	0	0	0
D.C.	0	0	0	0	0	m	0	0	0	0
Florida	0	0	0	0	0	m	m	0	0	0
Georgia	1	0	2	1	0	0	0	0	1	5
Hawaii	0	0	0	0	0	m	0	0	0	0
Idaho	1	1	0	0	0	1	1	3	3	10
Illinois	0	0	0	0	0	m	m	0	0	0
Indiana	1	0	2	0	0	m	0	0	7	10
Iowa	1	0	2	1	0	1	0	0	1	6
Kansas	0	0	0	0	0	m	m	0	0	0
Kentucky	0	0	0	0	0	m	0	0	0	0
Louisiana	1	1	2	1	1	1	0	5	5	17
Maine	m	m	1	1	1	1	m	m	m	4
Maryland	1	0	2	m	0	m	0	0	5	8
Massachusetts	1	0	2	1	0	m	1	0	m	6
Michigan	1	1	2	1	1	1	0	0	10	17
Minnesota	0	0	2	0	0	1	1	0	0	4
Mississippi	0	0	0	0	0	1	0	0	0	1
Missouri	0	0	0	0	0	m	0	0	0	0
Montana	1	0	0	0	0	1	0	0	10	12
Nebraska	1	0	2	1	1	1	1	0	10	17
Nevada	1	1	0	0	0	1	0	5	10	18
New Hampshire	1	0	0	0	0	m	0	0	1	2
New Jersey	1	0	2	1	0	0	1	0	0	5
New Mexico	1	m	m	m	m	1	m	m	10	12
New York	1	0	0	0	0	1	1	0	6	9
North Carolina	1	1	2	1	1	1	1	5	5	18
North Dakota	1	1	2	1	1	1	1	1	10	19
Ohio	0	0	0	0	0	m	0	0	0	0
Oklahoma	1	1	0	0	0	0	0	5	5	12
Oregon	1	1	m	m	m	1	m	m	m	4
Pennsylvania	1	0	1	1	0	0	1	0	0	4
Rhode Island	0	0	0	0	0	1	1	0	0	2
South Carolina	0	0	0	0	0	0	0	0	0	0
South Dakota	1	1	0	0	0	1	1	5	5	14
Tennessee	1	1	2	1	1	0	0	5	5	16

<u>STATE</u>	<u>GOV</u> <u>STAF</u>	<u>LEG</u> <u>STAF</u>	<u>ADVISE</u>	<u>ADV</u> <u>GOV</u>	<u>ADV</u> <u>LEG</u>	<u>FEDERAL</u>	<u>GOV</u> <u>REP</u>	<u>LEG</u> <u>TIME</u>	<u>GOV</u> <u>TIME</u>	<u>STATE</u> <u>CAPACITY</u>
Texas	1	0	0	0	0	0	1	0	2	4
Utah	1	1	2	1	1	1	0	5	5	17
Vermont	0	0	1	0	0	m	m	0	0	1
Virginia	1	1	2	1	1	1	0	5	5	17
Washington	1	0	0	0	0	1	1	0	10	13
West Virginia	0	0	1	0	0	m	1	0	0	2
Wisconsin	0	1	2	0	1	1	0	10	0	17
Wyoming	1	0	2	1	0	1	m	0	8	13

KEY

m = Missing data.

GOVSTAF = Presence (1) or absence (0) of staff person reporting to Governor.

LEGSTAF = Presence (1) or absence (0) of staff person reporting to Legislature.

ADVISE = Absence (0) or presence of ad hoc (1) or permanent (2) advisory committee on issues involving Native Americans.

ADVGOV = Presence (1) or absence (0) of relationship between commission and Governor's staff person.

ADVLEG = Presence (1) or absence (0) of relationship between commission and Legislature's staff person.

FEDERAL = Presence (1) or absence (0) of contact with federal officials regarding reservation environmental issues.

GOVREP = Presence (1) or absence (0) of Governor's representation on group concerned with interstate matters related to Native Americans.

LEGTIME = Percent of Legislative staff member's time spent on issues involving Native Americans (0 = none; 1 = 10%; 2 = 20%; etc.)

GOVTIME = Percent of Governor's staff member's time spent on issues involving Native Americans (0 = none; 1 = 10%; 2 = 20%; etc.)

STATE CAPACITY = GOVSTAF + LEGSTAF + ADVISE + ADVGOV + ADVLEG + FEDERAL + GOVREP + LEGTIME + GOVTIME.

APPENDIX J: CONTENT ANALYSIS DATA-GATHERING FORM

CONTENT ANALYSIS DATA GATHERING FORM

NAME _____

ENTRY NO. SOURCE MONTH DATE YEAR PAGE

GOVT. BODIES INVOLVED:

RES. INTERTRIBAL	US EXEC.	US AGENCY+	US COURT	US CONGRESS- H S BOTH	OTHER ^
-	-	-	-	-	-

*WHICH: _____

STATE EXEC.	STATE AGENCY+	STATE COURT	STATE LEGISL.	OUTSIDE US*	CITIZEN GROUP-	IND. INDIV.	NON-IND. INDIV.
-	-	-	-	-	-	-	-

*WHICH: _____ *WHICH: _____

*WHICH: _____ *WHICH: _____

RESOURCES:

WATER	AIR	S.WASTE	H.WASTE	FOREST	FISH	WILF	AGRIC.	GRAZING
-	-	-	-	-	-	-	-	-

NON-ENERGY	MINING-ENERGY	ENERGY PRODUCT.+	LAND ACQU.	WASTE-WATER	SPIRIT. USE	LAND	UNSPEC.	OTHER+
-	-	-	-	-	-	-	-	-

*TYPE: _____

*WHICH: _____

NATURE OF RELATIONSHIP:

NATIVE/NON-NATIVE	NATIVE/NON-NATIVE	WITHIN NATIVE	STATE-FEDERAL	OTHER+
-	-	-	-	-

*DEFINE: _____

LEGAL BASIS OF ISSUE:

TREATY	TRIBAL LEGISL.	TRIBAL COURT	US LEGISL.	US COURT	STATE LEGISL.	STATE COURT	COUNTY	OTHER+
-	-	-	-	-	-	-	-	-

*WHICH: _____

OUTCOME:

NONE	UNCLEAR	TRIBAL GOVT.	INTER-TRIBAL	US GOVT.	US EXEC.	US AGENCY	US COURT	US CONGRESS
-	-	-	-	-	-	-	-	-

STATE EXEC.	STATE AGENCY	STATE COURT	STATE LEGIS.	OUTSIDE US	CITIZEN GROUP	IND. INDIV.	NON-IND. INDIV.	OTH+
-	-	-	-	-	-	-	-	-

*WHO: _____

APPENDIX K: PERCENTAGE OF ARTICLES WITH VARIOUS ACTOR OUTCOMES FOR ARTICLES WITH CLEAR OUTCOMES

Actor	Outcome	All	Indian Media	Non-Ind. Media
Number of Clear Outcomes		N = 430	N = 277	N = 153
Tribal Govt.	Wins	28	28	28
	Loses	32	32	31
U.S. Govt. --General	Wins	57	56	58
	Loses	5	5	4
	Mixed	5	4	7
U.S. Executive	Wins	13	13	11
	Loses	0	0	0
U.S. Congress	Wins	24	26	21
	Loses	1	1	0
U.S. Agency	Wins	43	43	42
	Loses	8	7	9
U.S. Courts	Wins	18	18	18
	Loses	1	0	1
State Executive	Wins	8	7	10
	Loses	3	4	2
State Agency	Wins	11	8	17
	Loses	4	3	5
Non-U.S. Actor	Wins	11	14	5
	Loses	2	3	1
Citizen Group	Wins	6	5	8

Actor	Outcome	All	Indian Media	Non-Ind. Media
	Loses	10	8	14
Company	Wins	29	30	27
	Loses	5	4	7
Local Govt.	Wins	11	11	10
	Loses	3	3	3
Individual	Wins	20	20	20
	Loses	25	27	21
	Mixed	33	37	27
Indian				
Individual	Wins	23	24	20
	Loses	47	52	37
Non-Indian				
Individual	Wins	31	32	31
	Loses	10	9	12
Other Actor	Wins	10	11	8
	Loses	3	2	5

APPENDIX L: MULTIPLE REGRESSION RESULTS: NUMBER OF CONFLICTUAL
RELATIONSHIPS: BY REGION

Independent Variables:

1. INDMEDIA indian or non-indian media
2. TREATY treaty as basis for issue
3. WATER water contamination/supply
4. INDWIN presence and level of indian win
5. USCRT u.s. court action as basis for issue
6. YEAR decade of article
7. ACTOR number of actors mentioned in article
9. USLEGIS u.s. legislation as basis for issue

Dependent Variable: CONF number of conflictual relationships: Southwest

Multiple R .39511
R Square .15611
Adjusted R Square .14924
Standard Error .73374

Analysis of Variance

	DF	Sum of Squares	Mean Square
Regression	8	97.80210	12.22526
Residual	982	528.68831	.53838

F = 22.70753 Signif F = .0000

----- Variables in the Equation -----					
Variable	B	SE B	Beta	T	Sig T
YEAR	-.032506	.032610	-.029787	-.997	.3191
INDWIN	-.071397	.053993	-.039078	-1.322	.1864
TREATY	.341424	.085334	.118955	4.001	.0001
USLEGIS	.143993	.052935	.084329	2.720	.0066
USCRT	.523944	.087938	.181543	5.958	.0000
ACTOR	.115653	.014653	.244330	7.893	.0000
WATER	-.201678	.049264	-.122278	-4.094	.0000
INDMEDIA	.045989	.049287	.027459	.933	.3510
(Constant)	.286034	.098254		2.911	.0037

Dependent Variable: CONF number of conflictual relationships: Northern Plains

Multiple R .32815
R Square .10768
Adjusted R Square .09390
Standard Error .69156

Analysis of Variance

	DF	Sum of Squares	Mean Square
Regression	8	29.89538	3.73692
Residual	518	247.73270	.47825

F = 7.81377 Signif F = .0000

----- Variables in the Equation -----

Variable	B	SE B	Beta	T	Sig T
YEAR	.010163	.048484	.010184	.210	.8341
INDWIN	-.070578	.086673	-.034429	-.814	.4158
TREATY	.129901	.069377	.080759	1.872	.0617
USLEGIS	-.063060	.068736	-.041468	-.917	.3593
USCRT	.330636	.091459	.164294	3.615	.0003
ACTOR	.079497	.019069	.189757	4.169	.0000
WATER	-.219567	.072319	-.131403	-3.036	.0025
INDMEDIA	.014643	.072312	.009790	.202	.8396
(Constant)	.642315	.124455		5.161	.0000

Dependent Variable: CONF number of conflictual relationships: Northeast

Multiple R .37088
R Square .13755
Adjusted R Square .12194
Standard Error .73041

Analysis of Variance

	DF	Sum of Squares	Mean Square
Regression	8	37.60987	4.70123
Residual	442	235.80920	.53350

F = 8.81198 Signif F = .0000

----- Variables in the Equation -----

Variable	B	SE B	Beta	T	Sig T
YEAR	-.118146	.055309	-.096209	-2.136	.0332
INDWIN	-.187078	.101782	-.081557	-1.838	.0667
TREATY	.022574	.077974	.013748	.290	.7723
USLEGIS	-.132418	.076818	-.085008	-1.724	.0854
USCRT	-.097981	.127420	-.034955	-.769	.4423
ACTOR	.109682	.015007	.385834	7.309	.0000
WATER	-.114636	.074394	-.072101	-1.541	.1240
INDMEDIA	-.035887	.098608	-.016786	-.364	.7161
(Constant)	1.108868	.142190		7.798	.0000

APPENDIX M: MULTIPLE REGRESSION RESULTS: NUMBER OF ACTORS: BY REGION

Independent Variables:

1. INTLAW international organization's action or law as basis for issue
2. COOP number of cooperative relationships in article
3. YEAR decade of article
4. USCRT U.S. court action as basis for issue
5. STLEG state legislation as basis for issue
6. TREATY treaty as basis for issue
7. RESOURCE number of resources involved in article
8. NONE outcome of issue
9. USLEGIS U.S. legislation as basis for issue
10. CONF number of conflictual relationships in article

Dependent Variable: ACTOR number of actors mentioned in article: Southwest

Multiple R .49400
R Square .24404
Adjusted R Square .23632
Standard Error 1.46864

Analysis of Variance

	DF	Sum of Squares	Mean Square
Regression	10	682.35346	68.23535
Residual	980	2113.75956	2.15690

F = 31.63588 Signif F = .0000

----- Variables in the Equation -----					
Variable	B	SE B	Beta	T	Sig T
RESOURCE	.125307	.023937	.148857	5.235	.0000
YEAR	.083201	.064714	.036089	1.286	.1989
TREATY	.683514	.171408	.112724	3.988	.0001
USLEGIS	.845358	.106931	.234345	7.906	.0000
USCRT	.978529	.178265	.160490	5.489	.0000
STLEG	1.117580	.168556	.189256	6.630	.0000
NONE	-.361858	.107856	-.096133	-3.355	.0008
CONF	.619331	.064310	.293158	9.630	.0000
COOP	.416539	.077040	.161675	5.407	.0000
INTLAW	.683960	.495741	.038627	1.380	.1680
(Constant)	2.358585	.181197		13.017	.0000

**Dependent Variable: ACTOR number of actors mentioned in article:
Northern Plains**

Multiple R .48012
R Square .23052
Adjusted R Square .21561
Standard Error 1.53586

Analysis of Variance

	DF	Sum of Squares	Mean Square
Regression	10	364.64064	36.46406
Residual	516	1217.18099	2.35888

F = 15.45822 Signif F = .0000

----- Variables in the Equation -----					
Variable	B	SE B	Beta	T	Sig T
RESOURCE	.164795	.039867	.167819	4.134	.0000
YEAR	.281861	.099687	.118326	2.827	.0049
TREATY	.754367	.151929	.196478	4.965	.0000
USLEGIS	.826920	.154691	.227813	5.346	.0000
USCRT	1.132161	.201996	.235686	5.605	.0000
STLEG	.561181	.217293	.104362	2.583	.0101
NONE	-.352191	.182100	-.079709	-1.934	.0537
CONF	.456464	.097324	.191231	4.690	.0000
COOP	.475016	.123444	.155302	3.848	.0001
INTLAW	.428334	.900372	.018601	.476	.6345
(Constant)	2.126581	.274811		7.738	.0000

**Dependent Variable: ACTOR number of actors mentioned in article:
Northeast**

Multiple R .68247
R Square .46576
Adjusted R Square .45362
Standard Error 2.02685

Analysis of Variance

	DF	Sum of Squares	Mean Square
Regression	10	1575.89478	157.58948
Residual	440	1807.56863	4.10811

F = 38.36057 Signif F = .0000

----- Variables in the Equation -----					
Variable	B	SE B	Beta	T	Sig T
RESOURCE	.235457	.032386	.266453	7.270	.0000
YEAR	.136005	.158948	.031484	.856	.3927
TREATY	1.206151	.209896	.208820	5.746	.0000
USLEGIS	1.815133	.199089	.331251	9.117	.0000
USCRT	1.120960	.348837	.113681	3.213	.0014
STLEG	1.276026	.387450	.116089	3.293	.0011
NONE	-.288496	.232567	-.043910	-1.240	.2155
CONF	.999486	.126761	.284126	7.885	.0000
COOP	.861991	.149657	.212552	5.760	.0000
INTLAW	.073119	.417520	.006333	.175	.8611
(Constant)	.885276	.351488		2.519	.0121

APPENDIX N: MULTIPLE REGRESSION RESULTS: NUMBER OF RESOURCES: BY TYPE OF MEDIA

Dependent Variable: RESOURCE number of resources involved: Non-Indian Media

Variable(s) Entered on Step Number

1. CONF number of conflictual relationships in article
2. USWIN presence and level of U.S. government win
3. STAGEN state agency
4. MILITARY military agency
5. NFS national forest service
6. MEDIA media
7. TRADL traditional government
8. BLM bureau of land management
9. CORP corporation/business
10. USCRT U.S. court action as basis for issue
11. REGION region
12. COOP number of cooperative relationships in article
13. INDWIN presence and level of indian win
14. LAWENF law enforcement agency

Multiple R .50558
R Square .25561
Adjusted R Square .24119
Standard Error 1.74401

Analysis of Variance

	DF	Sum of Squares	Mean Square
Regression	14	755.10988	53.93642
Residual	723	2199.06356	3.04158

F = 17.73302 Signif F = .0000

----- Variables in the Equation -----					
Variable	B	SE B	Beta	T	Sig T
COOP	.566887	.111233	.174053	5.096	.0000
INDWIN	-.351951	.186496	-.064941	-1.887	.0595
REGION	-.170703	.105077	-.055560	-1.625	.1047
USCRT	-.417761	.222555	-.064195	-1.877	.0609
MILITARY	.803818	.220890	.119211	3.639	.0003
LAWENF	-.605619	.240424	-.089817	-2.519	.0120
CORP	1.327190	.148389	.304220	8.944	.0000
BLM	1.100077	.431346	.084816	2.550	.0110
NFS	.281801	.298841	.031511	.943	.3460
STAGEN	.653481	.160162	.136084	4.080	.0001
TRADL	.583542	.256452	.075302	2.275	.0232
USWIN	-.027086	.151293	-.006145	-.179	.8580
MEDIA	-9.34249E-04	.280917	-1.094E-04	-.003	.9973
CONF	.105626	.094829	.039879	1.114	.2657
(Constant)	2.112485	.208017		10.155	.0000

Equation Number 1: Dependent Variable: RESOURCE number of resources involved: Native-Controlled Media

Variable(s) Entered on Step Number

1.	CONF	number of conflictual relationships in article
2.	BLM	bureau of land management
3.	STAGEN	state agency
4.	USWIN	presence and level of U.S. government win
5.	CORP	corporation/business
6.	USCRT	U.S. court action as basis for issue
7.	TRADL	traditional government
8.	LAWENF	law enforcement agency
9.	NFS	national forest service
10.	MILITARY	military agency
11.	INDWIN	presence and level of indian win
12.	MEDIA	media
13.	COOP	number of cooperative relationships in article
14.	REGION	region

Multiple R .44911
R Square .20170
Adjusted R Square .19251
Standard Error 2.22216

Analysis of Variance

	DF	Sum of Squares	Mean Square
Regression	14	1517.10821	108.36487
Residual	1216	6004.60422	4.93800

F = 21.94511 Signif F = .0000

----- Variables in the Equation -----					
Variable	B	SE B	Beta	T	Sig T
COOP	.445243	.103545	.117264	4.300	.0000
INDWIN	-.128824	.162228	-.021315	-.794	.4273
REGION	.656634	.077809	.235967	8.439	.0000
USCRT	-.382214	.217042	-.046370	-1.761	.0785
MILITARY	.636572	.233126	.073762	2.731	.0064
LAWENF	-1.181747	.282489	-.112915	-4.183	.0000
CORP	1.427620	.140763	.265814	10.142	.0000
BLM	1.141378	.333523	.089383	3.422	.0006
NFS	.635926	.399090	.042160	1.593	.1113
STAGEN	.474932	.188652	.165626	2.518	.0119
TRADL	.312078	.230435	.035866	1.354	.1759
USWIN	.147027	.116048	.034019	1.267	.2054
MEDIA	.216716	.219250	.026853	.988	.3231
CONF	.068017	.086036	.022688	.791	.4293
(Constant)	1.521641	.173756		8.757	.0000

APPENDIX O: MULTIPLE REGRESSION RESULTS: NUMBER OF RESOURCES: BY REGION

Independent Variables:

1.	INDMEDIA	indian or non-indian media
2.	BLM	bureau of land management
3.	CONF	number of conflictual relationships in article
4.	USWIN	presence and level of U.S. government win
5.	TRADL	traditional government
6.	MEDIA	media
7.	STAGEN	state agency
8.	LAWENF	law enforcement agency
9.	NFS	national forest service
10.	CORP	corporation/business
11.	USCRT	U.S. court action as basis for issue
12.	MILITARY	military agency
13.	INDWIN	presence and level of indian win
14.	COOP	number of cooperative relationships in article

Dependent Variable: RESOURCE number of resources involved: Southwest

Multiple R .37756
R Square .14255
Adjusted R Square .13025
Standard Error 1.86188

Analysis of Variance

	DF	Sum of Squares	Mean Square
Regression	14	562.48421	40.17744
Residual	976	3383.41286	3.46661

F = 11.58983 Signif F = .0000

----- Variables in the Equation -----					
Variable	B	SE B	Beta	T	Sig T
COOP	.333364	.098227	.108921	3.394	.0007
INDWIN	-.084411	.145059	-.018409	-.582	.5608
USCRT	-.393052	.222713	-.054266	-1.765	.0779
MILITARY	.751038	.250888	.092509	2.994	.0028
LAWENF	-.547584	.377107	-.043862	-1.452	.1468
CORP	1.076547	.128478	.257010	8.379	.0000
BLM	.904335	.307481	.089195	2.941	.0033
NFS	.071206	.431223	.005018	.165	.8689
STAGEN	.512595	.159421	.098610	3.215	.0013
TRADL	.568809	.322265	.054042	1.765	.0779
USWIN	-.039405	.109634	-.011292	-.359	.7194
MEDIA	-.376515	.272094	-.041689	-1.384	.1667
CONF	-.097969	.082440	-.039037	-1.188	.2350
INDMEDIA	.066845	.128814	.015903	.519	.6039
(Constant)	2.525325	.153066		16.498	.0000

Dependent Variable: RESOURCE number of resources involved: Northern Plains

Multiple R .41591
R Square .17298
Adjusted R Square .15036
Standard Error 1.62780

Analysis of Variance

	DF	Sum of Squares	Mean Square
Regression	14	283.75582	20.26827
Residual	512	1356.66164	2.64973

F = 7.64918 Signif F = .0000

----- Variables in the Equation -----					
Variable	B	SE B	Beta	T	Sig T
COOP	.104223	.130934	.033461	.796	.4264
INDWIN	-.127097	.210992	-.025506	-.602	.5472
USCRT	-.574166	.215160	-.117372	-2.669	.0079
MILITARY	.101253	.265001	.015543	.382	.7026
LAWENF	-.265494	.257504	-.046007	-1.031	.3030
CORP	.504497	.187864	.112122	2.685	.0075
BLM	1.331599	.463049	.117070	2.876	.0042
NFS	.875673	.294682	.123588	2.972	.0031
STAGEN	.400217	.199768	.083034	2.003	.0457
TRADL	.303471	.227479	.055419	1.334	.1828
USWIN	-.042480	.158102	-.011197	-.269	.7883
MEDIA	-.318296	.285708	-.046094	-1.114	.2658
CONF	-.151037	.105016	-.062135	-1.438	.1510
INDMEDIA	1.021011	.155014	.280826	6.587	.0000
(Constant)	2.135027	.165820		12.876	.0000

Dependent Variable: RESOURCE number of resources involved: Northeast

Multiple R .57490
R Square .33051
Adjusted R Square .30901
Standard Error 2.57940

Analysis of Variance

	DF	Sum of Squares	Mean Square
Regression	14	1432.06370	102.29026
Residual	436	2900.83652	6.65329

F = 15.37438 Signif F = .0000

----- Variables in the Equation -----					
Variable	B	SE B	Beta	T	Sig T
COOP	.874955	.189110	.190651	4.627	.0000
INDWIN	-.511152	.372946	-.055978	-1.371	.1712
USCRT	.019968	.448331	.001789	.045	.9645
MILITARY	.586052	.342560	.071144	1.711	.0878
LAWENF	-1.822285	.370088	-.205156	-4.924	.0000
CORP	2.461058	.267196	.375320	9.211	.0000
BLM	1.001689	.818330	.054071	1.224	.2216
NFS	.434466	.678281	.027438	.641	.5222
STAGEN	.661050	.359958	.076774	1.836	.0670
TRADL	.336738	.364232	.037662	.925	.3557
USWIN	.553687	.261757	.090390	2.115	.0350
MEDIA	.489847	.333674	.061526	1.468	.1428
CONF	.414099	.170118	.104023	2.434	.0153
INDMEDIA	1.126336	.350621	.132346	3.212	.0014
(Constant)	1.379112	.427006		3.230	.0013

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ENDNOTES

CHAPTER TWO

1. For discussions of these issues that compare the experiences of more than one nation-state, see Berger (1991) and Fleras and Elliott (1992).

2. An example was provided by current events as this dissertation was being written. The United States invaded Yugoslavia with the policy aim of protecting Kosovar Albanians from genocide. The mainstream media lamented the forced removal of people from their lands, the denial of Kosovar Albanian identity, the rape of women, and the burning of villages. Native Americans' comments humming through cyberspace expressed outrage that the United States would label another nation "genocidal" and attempt to protect the Kosovar Albanians, while having pursued the same policies and continuing genocidal policies within its own borders.

3. "Indian country" was originally a legal term, but is now in more general use. It includes all land within reservation boundaries, land set aside by the United States for the use or benefit of Native Americans, individually-held native allotments, and land held in trust by the United States for native individuals (Pevar 1992).

4. Young et al. (1999, 26) begin by suggesting that regime effectiveness can be measured by looking at six types of impacts: internal effects, external effects, direct effects, indirect effects, effects that solve the problem, and effects that make the problem worse. They use six behavioral models that look at regimes as modifying actors' utilities, enhancing cooperation, bestowing authority, facilitating learning, defining roles, and "creating new constituencies or shifting the balance among factions or subgroups."

CHAPTER THREE

1. In addition to facing the usual policy design and implementation problems, policies involving native nations have been impacted by the fact that the vast majority of non-Indians have always operated based upon a series of deeply-entrenched stereotypes, which are an important cultural factor in native nation-United States politics. These stereotypes have provided one of the justifications for the theft of native lands (Deloria 1969; Weatherford 1988; Churchill 1992; Bird 1996). This is not simply a situation in which the educational system and the media reinforce stereotypes. For more than a hundred years, the number of Native Americans has been small compared to the non-Indian population, and most reservations are in isolated areas. So most non-Indians never have the opportunity to have their stereotypes challenged, much less to learn what the differences are between Pequots and Tsimshians and Shoshones (Cahn 1969).

2. In an interesting set of parallel quotations, the victors in two massacres reported their success. Writing about his participation in the Earl of Essex's 1574 slaughter of the six hundred residents of

Rathlin Island in Ulster, Edward Barkley said, "how godly a deed it is to overthrow so wicked a race the world may judge: for my part I think there cannot be a greater sacrifice to God" (Livingstone 1984, 15). In 1637, between three hundred and seven hundred Pequots were massacred at Mystic, most of them women and children who were fleeing their burning fort. The governor of Plymouth, William Bradford, observed "the victory seemed a sweet sacrifice, and they gave praise to God, who had wrought so wonderfully for them, as to enclose their enemy in their hands and give them so speedy a victory over so proud and insulting an enemy" (Cave 1996, 152).

3. This removal was the source of important Supreme Court cases, which will be discussed further in Chapters Three and Six.

4. For a thorough and interesting discussion of how the imposed regime coerced land sales by Native Americans during the creation of National Parks, including discussion of the roles of treaties and agreements, see Burnham 2000, Ch. 2.

5. In April 2000, as part of a larger conflict surrounding the IRA government on the Pine Ridge Reservation, the Oglala Lakota declared the establishment of a traditional General Council as the governing body on the reservation. As one commentator put it, "Long standing frustration with the tribal council form of government created by the 1934 Wheeler-Howard Act, more commonly known as the Indian Reorganization Act (IRA), have led many people to want a change" (White Face 2000, A3).

6. Nelson and Sheley (1985) chronicled the BIA's political maneuvering which, among other things, maintained its control of criminal justice issues on reservations.

7. For example, Clinton's 1998 Executive Order 13084 was a hodge-podge of legal theories regarding federal-tribal relations, expressing support for everything from the trust relationship to treaties, and from sovereignty to limited self-government. Clinton's Interior Secretary, Bruce Babbitt, was held in contempt of court because his agency was unable to produce information on the BIA's handling of native financial accounts (Rawls 1996, 74-75; Reno 1998; U.S. President 1998; Brasher 1999).

8. The agenda-setting literature suggests why those were and generally remain non-issues for most decisionmakers (Cobb and Ross 1997; Crenson 1971). First, native nations are spread across the continent, often in isolated areas. Many have small populations. These factors combine to make native peoples both less visible and less electorally important. These are aspects of invisibility under shadow federalism, as discussed in Chapter One, and remain true despite the marked growth in Native American population.

Second, there are huge internal differences within native nations and larger cultural differences among them. This makes formation of a unified Native American agenda difficult, and a "one-size-fits-all" policy unlikely to succeed. These differences will come up again, particularly in Chapter Seven.

Third, native nations' opponents--major corporations, federal and state officials, and sometimes church leaders--have high levels of prestige and much greater access to financial backing (Edmunds 1986, 290-291). Native nations are nearly always outgunned in the public, legal, and Congressional arenas.

Fourth, and critically important, Native Americans usually lose the symbolic battle. The vast majority of the United States' population views the United States as the pinnacle of world history to date--a land of opportunity, growth, progress, and destiny. Native peoples view United States history as one of conquest and destruction--as the largest genocidal tide in world history, sweeping hundreds of cultures out of existence and nearly destroying hundreds more. Since the late 1960s, Native Americans have often held their protests at sites that symbolize that genocide. However, these are also sites that the majority population views as the most hallowed shrines of United States culture--Plymouth Rock, Mount Rushmore, the Super Bowl, the national capital, military sites. It is easy for opponents to characterize such protests as attacks on the United States' symbolic core, and thus to again brand Native Americans with the ironic epithet of being un-American.

These factors have combined to make it hard for either native nations or Native Americans more generally to get their issues before the public and decisionmakers. This means most people do not know that native nations operate within different legal frameworks than other populations, particularly around land issues. It also means that most policymakers do not realize that textbook notions of individuality, land ownership, planning, and zoning are seldom relevant in the reservation context.

9. Authors from Deloria (1974, 165-173) at the beginning of the self-determination era to Wilson in 1998 point to dozens of recognized nation-states, including Switzerland, El Salvador, Israel, and Kuwait, that are smaller than various reservations.

CHAPTER FOUR

1. Typically, the landmark 1970 study on public lands talked about acquisition of those lands without mentioning Native Americans or acknowledging their use of the land and its resources: "In the 100 years after the United States became a Nation, it was presented with an unparalleled opportunity by the acquisition of lands . . . The policy of making these lands available to those who would develop them must be judged as highly successful" (U.S. Public Land Law Review Commission 1970, 19).

2. A study of the Tenth Circuit Court of Appeals concluded that the court's decisions in oil and gas cases are not particularly consistent (Marsh 1997).

3. An actor needed to be mentioned in the headnote or the full opinion in order to be considered "involved" in a case. The presence of additional actors was not inferred. The involvement of Congress included the mention of legislation passed by that body.

4. As in other parts of this research, resources were identified according to the following categories: water contamination or supply, air contamination, solid waste, hazardous or nuclear waste, forestry or forest products, fisheries, wildlife protection/management, agriculture or plant foods, livestock grazing, non-energy mining, energy minerals mining, energy production, acquisition of environmentally-critical lands, wastewater, spiritual/religious use, transportation or right-of-way for travel, recreation and/or tourism, historical/archeological sites, general land issues, unspecified resource issues, and resource(s) not listed above.

5. A parallel situation might be analysis of headnotes in murder cases to determine the gender of those charged, the locations of cases, and whether these variables were related to the cases' outcomes. If ungendered names were omitted, it would still be possible to draw conclusions related to most actors and to the number of times certain levels of conviction were obtained over time. While the final outcome of the convictions might not be known--such as whose case was successfully appealed or whose prison time was reduced for good behavior--it would still be possible to analyze the outcome of the activities of a specific court system, as is done here.

6. The use of land for "recreation" or "hunting" by non-Indians has connotations in Alaska that may not be present on a reservation in the lower forty-eight states, as inferred in Chapter Three. Many Alaskan natives prefer to continue their traditional, subsistence lifestyle. Non-Indian tourists, hunters, or fishers may either disrupt or directly compete with native subsistence needs (Getches 1985; Korsmo 1994).

7. 145 cases, or 27% of all cases, involved both the BIA and at least one Native American participant.

8. The interaction "Discussion" was reserved for situations in which actors were recorded as talking to each other without reaching agreement or entering conflict.

9. ANCSA's development and implementation has involved not only DOI cases, but also several important federal court cases. In addition to the information provided in Chapter 3, Sources on these topics include Kickingbird and Ducheneaux (1973, Ch. 3); Weiss and Maas in Castile and Bee (1992); Berger (1991, Ch. 10); Fife (1998); and Skinner (1997).

10. A single case could have several legal bases.

11. The number thirty was used because it divided actors with little meaningful involvement from actors with enough involvement that it was relevant for statistical purposes. Actors involved in less than thirty cases included the United States executive branch, federal courts, citizen groups, local governments, and inter-tribal organizations.

12. State courts were omitted from this analysis, due to their low level of involvement. The mean number of state government branches involved in a case in Alaska was 0.370. The mean number of branches involved in the forty-eight states was 0.106. The difference between these means was found to be significant using a t-test at the 0.05 level.

13. The highest number of actors in a case was eight, which occurred in one percent of cases.
14. Recreation and tourism did not include hunting or fishing, but did include sightseeing, boating, camping, and hiking.
15. Other explanations might be that the bulk of coastline oil reserves had either been obtained by the United States before the study period, or that they had already passed out of government hands into private control.
16. Six or more identifiable resources were involved in about one percent of cases.
17. States did better over time, while tribal governments and United States agencies did worse. Non-Indian individuals, who won about half the time in earlier decisions, were not involved in any cases with clear outcomes in the 1990s.
18. The number thirty was selected as a rather arbitrary cutoff point because it allowed inclusion of all resources with notable activity. The numbers of cases involving each resource were: agriculture/plant foods--29; energy mining--62; energy production--20; fisheries--17; forestry/forest products--31; grazing--38; historical/archeological site--8; hazardous/nuclear waste--2; land--523; non-energy mining--30; recreation/tourism--13; spiritual/religious use--12; solid waste--1; transportation/right-of-way--32; water--35; wildlife--18; wastewater--0; other resources--6; unspecified resource--14.
19. The respective success rates for the United States government, any involved agency, and Congress for cases in which each were involved and the outcome was clear for these resources were: water: 100%, 79%, 100%; forestry: 100%, 88%, 100%; grazing: 100%, 90%, 100%; non-energy mining: 100%, 83%, 100%; transportation: 95%, 79%, 100%.
20. The success rates for non-Indian individuals and Native American individuals for the relevant resources are listed here. For each resource, the first set of numbers represents non-Indian individuals, and the second set represents Indian individuals. The percentages are the percent of cases won compared to all cases in which that type of actor was involved. The number in parenthesis indicates the number of cases in which that type of actor was involved. The resources considered were: water: 75% (4), 13% (8); grazing: 50% (6), 14% (25); non-energy mining: 40% (5), 29% (7); energy mining: 33% (6), 17% (12); transportation: 100% (5), 38% (13); forestry: 0(2), 33% (3).
21. No correlation was found between the number of actors present and the number of resources or relationships, or the outcomes for federal government participants. There was also no correlation between the number of resources involved and the outcome for United States actors, or between the number of resources and the number of relationships present. In the contiguous forty-eight states, there was a 0.30 correlation between the number of actors involved in a case and a positive outcome for native actors.

22. The statistical help from Philip R. Baumann of Minnesota State University-Moorhead and Robert G. Jones of Southwest Missouri State University was invaluable. Full correlation, regression, contingency, and discriminant analysis results are available from the author.

23. The independent variables used in various models included number of resources involved, number of actors involved, level of conflict, level of cooperation, year, United States government outcome, state executive branch involvement, BLM involvement, and BIA involvement.

24. For Alaskan cases, a model with the same independent variables had an R^2 of 0.11; again, the number of actors was significant with a beta of 0.40. The model that used all cases as the dependent variable had an adjusted R^2 of 0.18. The number of actors was the only significant variable, with a beta of 0.46.

25. The model for all cases that used these independent variables had an R^2 of 0.24. All of these variables except year reached significance, with beta values of 0.41 for level of conflict, 0.23 for number of resources, and 0.16 for Indwin. The presence of conflict as an explanation for involvement by more actors is a reversal of the earlier finding, which was that the presence of more actors explains a higher level of conflict. Clearly, the two variables reinforce each other: conflict draws a crowd, and a crowd leads to conflict. The outcome for Alaskan cases was quite similar. While this finding appears circular, this model's higher R^2 value, combined with the importance of the number of actors to the level of conflict, indicates that while it may be more certain that conflict will draw a crowd than vice versa, once a crowd is present conflict is the likely result.

26. Leaders of the Haudenosaunee (Iroquois) have consistently advised against taking cases to United States courts throughout the past hundred years, both because doing so would violate sovereignty and because native litigants are likely to lose land and resources (George-Kanentiio: 1998).

CHAPTER FIVE

1. At the time this research was conducted, these were the last three years for which data was available. Budget and personnel cuts at the BIA and the 1996 destruction of the HUD office in Oklahoma City made gathering of comparable data from later years impossible.

2. There is one reservation within Alaska, as noted in Chapter Three, but all native lands within the state were omitted. In hindsight, this was unfortunate, as the analysis done for Chapter Four later proved that the differences in Alaska natives' situations are instructive.

3. Allotted lands contiguous to reservations have been included in determining the size of reservations. BIA acreage figures were used.

4. Readers who want detailed information on how amounts were divided by category are invited to contact the researcher.

5. A Senator's response to this idea was instructive: "Then we would have total gridlock, wouldn't we?" (U.S. Congress, Senate, Select Committee 1991a, 19).

6. HUD data were eventually received from the agency's regional offices, generally in the form of reports prepared for more general purposes. It was necessary to avoid reporting HUD funding twice, because some funds are passed through the IHS. This money, approximately \$26 million, is considered here as IHS funding. Funds provided to Indian Housing Authorities were included, regardless of the Authorities' formal statuses in relation to tribal governments. It required 17 contacts with HUD personnel, seven of them initiated by the researcher, to receive the data included here.

As for ANA, originally an official indicated that his agency provided no environmental or natural resources funding to reservations. Eventually, information was provided in the form of nearly 700 pages of ANA contract descriptions, which required sorting out the relevant items. Dollar amounts were requested separately and sent in the form of reports prepared for more general purposes. It required 22 contacts with ANA personnel, 14 of them initiated by the researcher, to receive the data included here.

The second HHS agency, the Indian Health Service, is responsible for a range of health-related programs on reservations. The original IHS response consisted of very general information and a publicity brochure. Reservation-level information was eventually received in printout form. However, it was difficult in some cases to determine which reservation received money due to the agency's inability to decode some of its codes. It took twelve contacts with IHS personnel to obtain full information, five of them initiated by the researcher.

7. EPA funding was divided by program (air, water, solid waste, etc.), making categorization of expenditures easy. However, it was often difficult to determine which reservation received funding due to region-level reporting. For purposes of this study, when region-level data was supplied, funding amounts were broken down according to the population of reservations within that region. This may unrealistically decrease or increase funding to some reservations, depending on the actual distribution of regional efforts. It required six contacts with agency personnel to obtain full information, four of those initiated by the researcher.

Funding not directly received by reservation governments was included in some instances, primarily technical assistance that was expressed in dollars, rather than in work years. This may have inflated EPA spending, compared to other agencies. EPA personnel indicated that there have been major changes at the agency since 1991 that have impacted reservation programs.

8. A Department representative explained that some computer programming had to be done to provide the requested data. This indicated that, despite the Department's past administrative problems--or perhaps because of them--it was able and willing to respond to less than routine information requests. This was also in line with the DOE's open information policy during the first Bush Administration (Gonzalez 1993; Rosenbaum 1991, 106-107). It required five agency contacts to get full

information, three of them initiated by the researcher. For more information on the DOE's search for a nuclear waste site, see LaDuke 1999, Ch. 5.

9. One problem was that the BIA's 1980s attempt to computerize its funding data was abandoned. Hence, there was no central repository of data. Data on acreage and funding could only be found in the area offices, often after employees searched individual files that were apparently not carefully prepared, logged, or stored.

In the Minneapolis area, the request had to be handled at the local agency level, and some data may be missing due to the destruction of records after "a couple of years." There was at least one indication of accuracy problems: several Anadarko area office employees provided inaccurate information on the reservation status of area tribes.

There was also resistance to responding, which has been reported by other researchers (Lawson 1977). For example, one area staffer expressed her determination not to send any information, even if a Freedom of Information Act request was filed. Another area representative, when first approached, said that no money was spent in the subject categories. He later "found" expenditures when informed that it seemed odd that all other areas had funded environmental projects.

BIA data came in a wide variety of forms, from computer-generated printouts to handwritten logs. It required 154 contacts to obtain this information, 104 of them initiated by the researcher.

Having said this, an official who deals with the BIA on a regular basis suggested that the researcher practice gratitude, as this project was limited in time. Tribal governments must have ongoing contact with the Bureau.

10. Ten BIA areas were included: Aberdeen, Albuquerque, Anadarko, Billings, Eastern, Minneapolis, Navajo, Phoenix, Portland, and Sacramento.

11. This data-gathering experience was instructive for anyone interested in public administration and led to several ideas for improvement. The first is that it would be to the benefit of the federal government, tribal officials, and all those interested in efficiency, cost-effectiveness, and issues related to Native Americans to improve the BIA's capacity for record-keeping and information provision.

Another result of this research is the suggestion that coordination between the six agencies be improved. It would be helpful if they all used either tribal government names or reservation names in their record-keeping. It would also help if the same units of government were used for all official records: for example, if either the Minnesota Chippewa Tribe or its six constituent reservations were used as a basis for record-keeping. A number of problems were encountered due to these irregularities. Some questions could only be resolved by calling reservation governments for information. This was true even for those with a number of years' experience in reservation-based research, primarily due to geographical limitations on knowledge. For those who did not have a solid background in Native American-related research, it was nearly impossible to deal with the data accurately, and much work had to be redone.

12. The literature offered little information on environmental agencies' capabilities in the reservation context, other than the complaints about the EPA and BIA. However, those two agencies may not do so badly, after all. A 1993 National Tribal Environmental Council interim report (National Tribal Environmental Council 1993) provided data on tribes' opinions of five of the agencies covered here. Responses from eighty-three reservation governments indicated that, when "graded" on cooperation, competency, helpfulness, and cultural sensitivity, the DOE, EPA, and IHS all averaged a "B." The BIA got a "B-," while HUD received a "D." ANA was not included.

13. Sources for this variable were Blaine 1979; Brown 1970; Churchill 1993; Danziger 1978; Eckert 1992; Ingenthron 1970; Jacobs 1972; Jennings 1975; Josephy 1968; Norton 1979; O'Brien 1986; Ruby and Brown 1981; Speck 1970; Sturtevant and D'Azevedo 1986; Trafzer and Scheuerman 1986.

14. Somewhat more surprising, the Eastern Area received the most funding for mining, while the Aberdeen Area received the most funding for air quality projects. The Eastern Area's dominance in mining funding is apparently the result of the small number of reservations receiving funding in this category, combined with a large amount of funding provided to the Penobscot Reservation.

15. The name Dine' is generally preferred to Navajo. The latter is generally used in this research to avoid confusion, because in this chapter, "Navajo" is the name of the BIA Area under discussion. In Chapter 7, discussion turns to the newspaper named the *Navajo Times*. Readers should be aware that both terms refer to the same nation.

16. While obviously a rough measurement, the intention was to gain some indication of the importance of state governments in United States-reservation relations involving a wide range of resource and environmental issues. It was also important to create a variable that was late enough to incorporate some of the results of Reagan-era funding cuts.

17. Note that this analysis used all reservations within the contiguous forty-eight states, rather than a sample population.

18. When the initial multiple regressions were run, multicollinearity was suspected. The offending variables were identified as population and acreage. This was not surprising, considering the similarity of the correlation results for these two variables. The regressions were rerun using only population, not acreage.

19. The level of ANA funding received was not explained by the variables used in the model. The level of DOE funding was explained, but the adjusted R square was only 0.004.

20. Population density also reached significance in the IHS model (beta of 0.05). The presence of an IRA government was significant for the EPA model (0.12). Historical warfare involving the United States and the nation(s) represented on a reservation was significant for funding from the BIA (0.09), the DOE (0.16), HUD (-0.11), and the IHS (-0.04). These results were weak.

21. When the agency-by-agency data were run without the Navajo Reservation, the adjusted R^2 's for the BIA model (0.16), the DOE (0.01), HUD (0.09), and the IHS (0.33) also dropped precipitously. These results appear in Appendix F. The EPA model's R^2 value remained comparatively stable at 0.31, and the ANA model achieved significance, but just barely, with an adjusted R^2 of 0.04. The presence of warfare, population density, and presence of an IRA government retained approximately the same importance, except that the presence of warfare jumped to a beta of 0.20 for the BIA, and became significant to EPA funding (-0.12). Population density reached a beta of 0.12 for the IHS model. Again, these results were weak.

22. Reservations were categorized as more or less compliant with the imposed regime. A reservation whose residents had no history of warfare with the United States and who had adopted a United States-style IRA government would be considered more compliant than a reservation whose residents had both fought the United States militarily and refused to adopt an IRA government. The presence of warfare and the absence of an IRA government were combined to designate some reservations as "resistant" to United States policy, while the absence of warfare and the presence of an IRA government were combined to designate others as "compliant." Thirty-seven reservations fell into the former category, seventy-six into the latter, and 166 reservations had a "mixed" status.

Correlations were run between the statuses of "resistant" or "compliant" and severity of pollution, state-reservation relationship, per capita income, and education level. There was no correlation between any of these four variables and a reservation being either compliant or resistant.

There were weak correlations between being resistant and higher reservation acreage (0.23) and population (.20), receiving more overall funding (0.20), and receiving more funding from the BIA (0.20), DOE (0.21), HUD (0.13), and IHS (0.18). When the Navajo Reservation was omitted, there was no correlation for HUD and IHS funding, and the other relationships weakened further.

When all three statuses were considered--resistant, compliant, and mixed--there remained a weak correlation between level of cooperation with the United States and population, acreage, total funding received, and amount received from the BIA and DOE. The most resistant reservations scored highest on these variables.

23. Where possible, a staff member with responsibilities in these areas was identified.

24. In the "Other" category, four reservation governments reported staff working on wetlands management, and four noted self-protection activities. These were not defined in any detail, but were summarized as rights protection or cultural resource protection. Citizen group activity focused on self-protection, but several development activities were also mentioned. One reservation noted the absence of "citizen groups," because all adults were members of the general council that directs reservation activities.

25. The correlation results for staff activity and various agencies were: ANA 0.26; BIA 0.30; DOE 0.39; EPA 0.31; HUD 0.28; IHS 0.30. The correlation result for staff activity and total federal funding was 0.34.

26. When the Navajo Reservation was removed from consideration, the reservation capacity-EPA funding relationship became stronger (0.63). Correlations also became significant between capacity and both reservation population (0.41) and total federal funding (0.33).

CHAPTER SIX

1. An example of the type of problems this can cause occurred in July, 1997, on the Pine Ridge Reservation. A non-Indian who provided portable toilets for reservation events emptied his wastes into Cglala Lake, which provides drinking water and recreation for local reservation residents. The tribal government was unable to prosecute him, the state claimed lack of jurisdiction, and the federal government declined to get involved. The water was unusable due to contamination, but the polluter got away without punishment and continued his business (Personal Observation).

2. Reservation populations were taken from a BIA report on Native American populations on and near reservations. Total state Indian populations were gathered from U.S. Census reports. The mean reservation population within a state was 18,820, with totals ranging from zero to 257,000. The mean overall Indian population in a state was 38,588, ranging from 2,000 in four states to 259,000. Three states included native populations of over 200,000 in 1990, and eleven topped 50,000. This compares to Taylor's observation that only five states had native populations of over 50,000 in 1970 (U.S. Department of the Interior, Bureau of Indian Affairs 1991b; U. S. Department of Commerce 1994; Taylor 1972, 76).

3. Georgia's Council on American Indian Concerns, for example, was created in 1992. Its function is limited to dealing with these two issues (Survey from State of Georgia).

4. Examples of this dual role include bodies in Montana, North Dakota, Wyoming, South Dakota, and New Mexico (Survey returns).

5. These terms were not defined by the survey instrument.

6. Gaming may or may not be a matter of treaty rights and/or land rights. Due to lack of information on the specific situations involved, gaming was not included in treaty rights calculations. However, it was included in land rights calculations where tribal governments have purchased land for gaming sites and sought to have it transferred to federal trust status, which would take it off the state tax rolls. Five state legislatures and thirteen governors had been active on this issue.

7. Writings on stereotyping discuss aspects of this observation, particularly the impacts of the "noble savage" and "vanishing red man" stereotypes on Easterners (Bird 1996; Deloria 1970; Churchill 1992b). Many writers have described the enmity of states to neighboring tribes, as noted earlier in this Chapter. However, while I have repeatedly heard observation of this difference in conversation, and have observed it myself as a teacher and traveler, I am unaware of any public opinion data directly addressing the subject.

8. The reservation capacity measure, developed in Chapter Five, included the number of tribal government staff working on natural resource issues, the presence or absence of tribal environmental regulations, the presence of any resource income, and the amount of money budgeted for reservation natural resource matters. These measures were totaled for all reservation governments that returned surveys which were contiguous to each state, then divided by the number of reservations. Because state government capacity and reservation government capacity were created using different variables, their means cannot be compared.

9. Survey responses indicating that states had cooperative, conflictual, or mixed relationships with federal or tribal officials were broken down for purposes of regression analysis into dummy variables indicating cooperation with federal officials, conflict with federal officials, cooperation with tribal officials, and conflict with tribal officials.

CHAPTER SEVEN

1. The few studies that have been done tend to support Native Americans' claims. In one reporter's recent effort to gather information on press coverage of native issues, none of the mainstream press even responded to her request (Norrell 1998, A3). Studies of network television news have also confirmed the problems raised by Native Americans. For example, while the amount of coverage of all disadvantaged minorities declined between 1974 and 1981, Native Americans "virtually disappeared" from the screen (German 1994). Baylor's (1996) look at how network television coverage of Indians was framed found substantial stereotyping, a focus on splits among native groups, and routine references to Native American activists as "militants" even before the confrontations of the 1970s had occurred. He argued that, while media coverage is usually considered desirable by disadvantaged groups, Native Americans may actually have hurt themselves by attempting to gain media attention. Weston's (1996) discussion of the written media's coverage of the events of the 1970s also found routine framing of Native Americans as "militant" and "hostiles," using wording not far removed from the "ruthless savage" stereotypes of earlier centuries.

2. I was not able to identify any independent native-controlled newspaper that published throughout the study period. The term "Mohawk Nation" was used on Akwesasne Notes' nameplate, which is why it is used in this chapter, instead of the more proper Kanien'kehaka.

3. In one case where the lack of information was documented, there were four relevant articles in forty days in the *Rapid City Journal*.

4. The *Albuquerque Journal* ran 30 - 40 pages on weekdays in 1973; it averaged around 75 pages in the mid-1980s. The *Navajo Times* varied from 20 - 30 pages per week. During the first half of the study period, it ran about the same length on a weekly basis as each daily *Rapid City Journal*. Akwesasne Notes began at 48 pages, was 36 pages by 1979, and rebounded to 40 pages in 1988. The *Lakota Times* began with about twelve pages per issue, but had doubled by 1985. In 1992, it became *Indian Country Today*, expanding its coverage from its original focus on the

Northern Plains and again doubled in length. The *New York Times* daily editions during the study period ranged from sixty to eighty pages. None of these numbers include inserts or supplements. For the daily papers, Sunday editions ran much longer.

5. This somewhat over-emphasized this paper's weight in the data, as three months per year were considered, but its coverage of resource issues was heavy. Originally, data were gathered from every other month, but this proved unwieldy and led to the downscaling of data gathering from all the newspapers. By the time the discrepancy between three-month coverage of the *Navajo Times* and two-month coverage of the other papers was recognized, it was nearly impossible to go back and redo the work. It took over a year to get the microfilms of the *Navajo Times* and *Albuquerque Journal* issues considered here. The *Rapid City Journal* was only available on microfilm in two locations. Dropping one month of the *Navajo Times* from consideration would have disrupted the effort to adjust for seasonal differences in coverage of various issues.

6. The latter were published regularly in the *Navajo Times* and concerned what type of fish were biting at what locations.

7. The largest percentage of articles (33%) came from the *Navajo Times*. Even if the number of articles was cut by one-third due to the fact that three months per year were considered, rather than two like the other publications, the *Navajo Times* would have had the highest number of articles on resource issues of any paper. *Akwesasne Notes* was second, with 380 articles, or nineteen percent of the total. The *Albuquerque Journal* and *Rapid City Journal* were close behind, each contributing seventeen percent. The *Lakota Times* was next, with ten percent, but it was not issued during four of the nine study years. If it had been issued during all the study years, it is likely that all three native-controlled papers would have had a higher number of articles than all three of the non-native papers, despite the fact that all three mainstream publications were dailies. The *New York Times* had the least coverage, four percent of the total or seventy-one articles, for just under eight articles per year. As a large percentage of these articles in some study years considered native issues outside the boundaries of the United States, the *Times'* coverage of Native American lands and resources was quite skimpy.

Articles on Native Americans throughout the hemisphere were included from all six newspapers. Including these articles was seen as necessary to a full discussion of shadow federalism because, as indicated in Chapter Two, native nations do not recognize United States boundaries that bisect their territories, and many articles involved this type of situation. Others involved United States policy or United States-based corporations in Latin America and their impacts on indigenous populations in that region. In most articles, the United States government was mentioned as an actor. In many cases, Native Americans from within the boundaries of the United States were also involved.

8. If *Lakota Times* had published the same number of land and resource articles in the 1970s as in the 1980s, the Northern Plains region would have seen the same pattern as in all other regions and all the individual newspapers.

9. This was exacerbated by the lack of 1994 issues of the paper, but even if this problem was accounted for by estimating that 1994 coverage would have equaled 1991 coverage, the drop would still have been forty-eight percentage points.

10. In the "Other Actor" category, the most common actors mentioned were probably churches.

11. The Joint Use Area Relocation Commission oversaw implementation of the federal law that required relocation of Dine' and Hopi tribal members from the lands that had been used by both native nations under earlier reservation boundary arrangements (Benedek 1992).

12. Several of these actors, while not included in Table 7.3, had regional importance. These included the National Forest Service, which was mentioned in seven percent of Northern Plains articles, primarily because the Black Hills were (and are) administered by that agency. The EPA was mentioned in five percent of Southwestern articles. The United Nations was mentioned in eight percent of Northeastern articles, due to *Akwesasne Notes'* focus on international issues. State courts were mentioned in five percent of articles in both the Northern Plains and the Northeast.

13. In one month's coverage in the *Navajo Times* (November, 1976), the following federal agencies were mentioned: BIA; BLM; National Forest Service; DOI; Department of Health, Education and Welfare; Energy Research and Development Administration; Bureau of Reclamation; and National Park Service. In January, 1979, the following were mentioned: BIA, U.S. Geological Service; Department of Energy; Department of Agriculture; Nuclear Regulatory Commission; Tennessee Valley Authority; EPA; Federal Bureau of Investigation; General Accounting Office; BLM; Bureau of Reclamation; Comprehensive Employment and Training Act administrators; Public Health Service; Army Corps of Engineers; Department of Justice; DOI; National Park Service; Atomic Energy Commission; Department of Labor; Social Security Administration; Legal Services Corporation; Department of Education; and Energy Research and Development Administration.

14. Interestingly, at the beginning of this study, a colleague in the Southwest suggested that traditional governments not be considered, so they were dropped from the data coding sheets. However, they turned up so frequently as "other" actors that a separate category was re-created. This suggested that even scholarly attention in the Southwest was not attuned to the activities of traditional governments. There is no doubt that regional differences exist in American Indian Studies more generally. It is simply impossible to specialize in all native nations' cultures and political affairs. We tend to know what we deal with on a regular basis, just like Americanists tend to place more importance on what happens within the United States than do Internationalists.

15. It was also more common for individuals to be mentioned as the media sources moved east. Overall, there was a thirty-one percentage point difference between mentions of Native American individuals in the Southwest and in the Northeast and a twenty-five point difference in the mention of non-native individuals. It was not surprising that the Department of the Interior and Congress received less mentions in the Northeast, where reservation populations were lower. Local governments,

meanwhile, were mentioned more in the East, partly because of conflicts over land control that directly involved cities and counties. Corporations were less important in the Northern Plains, while citizen groups were less prominent in the Southwest.

The media was mentioned as an actor more often in the Northeast, partly as a result of *Akwesasne Notes'* detailed coverage of the 1972 Trail of Broken Treaties and 1973 Siege of Wounded Knee. This included discussions by those involved of how they used the media's reports to design strategies, a fascinating study of the media as an actor in political events. The media was also identified as an actor in research by Weston (1996, 146-147), which looked at the *Rapid City Journal's* role in the Wounded Knee siege. The paper's coverage was notably more anti-American Indian Movement than wire service reports. Weston said that the paper's coverage reinforced the stereotype of Native Americans, "in the parlance of Western movies, as 'renegade' or 'hostile' Indians who had attacked the 'pacified' village" (Weston, 1996, 146).

16. There were fewer actors mentioned in the Southwest (mean of 4.4) than in the other regions, with a mean of 5.4 in the Northeast. Again, media in the Northeast covered these issues somewhat differently from media in the other regions.

17. The most common "other" resource mentioned was probably atomic weapon materials. Unspecified resources, including wording such as "natural resources" or "the environment," were mentioned in seven percent of the articles, but were not considered further here. As might be expected, the mention of solid waste did go up substantially in the 1990s, reaching eleven percent of articles for that decade.

18. The higher mainstream media focus on historical and archeological resources was understandable due to the implementation of the Native American Graves Protection and Repatriation Act, discussed in Chapter Six. This topic was present in only three percent of non-native coverage in the 1970s, but reached seventeen percent in the 1990s.

19. The *Rapid City Journal* and *Lakota Times* both had the lowest percentage of mentions, which can be traced to two factors. First, the *Lakota Times* was not yet publishing when the resumption of uranium mining was a regional issue in the late 1970s and early 1980s. Second, because uranium mining did not resume, there was little energy-related mining for the *Rapid City Journal* to cover. The *Journal* usually does not cover the western slope of the Black Hills, where coal stripmining became a major industry during the study period.

Other resources for which there was at least a fifteen-point spread between any two regions were water, forestry, fisheries, and energy production. The Northeastern focus on forestry and fisheries, and the Southwestern focus on energy production were predictable. The high focus on water in the Northeast was explained by *Akwesasne Notes* having the highest percentage of mentions of water issues. That paper was published from a location on the Saint Lawrence Seaway that faces severe water pollution. In addition, the United States and Canada have continuously attempted to control native access to the Seaway.

20. The increased focus on historical and archeological resources can, again, probably be traced to NAGPRA, as can part of the increase in mentions of spiritual use. The increased attention to spiritual resources has also been linked to the non-Indian encroachment into ever

more remote areas, which has threatened sacred sites. Native Americans have also been increasingly willing to identify the locations of sacred sites in order to protect them (Indigenous Environmental Network 1998).

21. Clearly, state-federal relationships during Native Americans' struggles for treaty and other rights were not like those seen in the South during African Americans' struggles for civil rights, when state-federal conflict was often the norm (Branch 1988).

22. In native-controlled newspapers, state-federal relations were portrayed as being cooperative four times as often as they were portrayed as involving conflict. Non-Indian media showed a similar result, but the spread between the levels of conflict and cooperation was less.

23. The most striking differences among regions involved perceptions of native - non-native relationships. Reporting on those relations was most prominent in the Northeast, where ninety-eight percent of articles mentioned them. Both Southwestern newspapers failed to mention any such relationship in at least ten percent of articles.

This could be the result of a variety of factors. First, population balances differ; Native American populations total a tiny minority in the Northeast, and this may necessitate more contact with non-Indians. Cooperation among native actors may also be more necessary. It is also possible that the Northeast's lower native population means there are simply fewer differences among Native Americans. An additional explanation would be differences in cultural cohesiveness, with the Southwestern tribes being more self-sufficient and, thus, having less dealings with outsiders.

Either explanation suggested that there were, indeed, lower levels of conflict in the Southwest. However, due to Navajo tribal government policy, which was particularly pro-business during the 1970s, this difference may not have been as extreme as the data indicate. Mentions of Native American - non-Indian conflict in the *Navajo Times* were sixteen percentage points lower than those in the *Lakota Times/ICT* and twenty-nine points lower than in *Akwesasne Notes*. This indicated a difference in tone, particularly between the *Navajo Times* and *Akwesasne Notes*, and that difference was easily observable. Especially during the 1970s, the *Navajo Times* was pro-business, as was its Tribal Chairman during much of the study period, Peter MacDonald. This was apparently part of a policy to encourage economic development on the reservation (Iverson 1981, Chs. 5-6; Citizens' Review Commission 1981, 63-72; Grinde and Johansen 1995, Ch. 5). Articles talked about the desirability of energy development, despite health, land control, and environmental problems on the reservation. So while there was evidence that relationships between Native Americans and non-natives were more harmonious in the Southwest, the MacDonald administrations' efforts to create a business-friendly climate apparently included providing a harmonious picture of tribal relations with outsiders.

24. Coverage in the Northern Plains over time was most like the general data. In the Southwest, mentions of cooperation did not rise much (32% to 34%), and there was no drop in physical violence over time. Discussion rose from the 1980s to the 1990s (16% to 24%), and the rise-then-drop pattern in verbal conflict was less pronounced. The percentages of articles mentioning both types of violence were lower than for other regions.

25. In the Northeast, discussion grew in the 1980s, being mentioned in 22% of articles, then faded back to 14%. Unlike the stable pattern of cooperation in the Southwest, in the Northeast the percentage of articles mentioning cooperation doubled over the study period.

26. These intra-Indian patterns held in the Southwest, and all regions saw a steady increase in cooperation. However, in the Northern Plains, verbal conflict rose steadily over time, from thirteen percent to twenty-two percent of articles. In the Northeast, it dipped in the 1980s, then rebounded to a level a bit above that of the 1970s. Physical conflict followed a similar dip-and-rebound pattern. This appeared to be largely the result of conflict among the Mohawk about leadership, but the data might be distorted because only one year's data were available for *Akwesasne Notes* in the 1990s, and that was a very contentious year.

27. The numbers total more than one hundred percent, because articles often mention several legal bases for an issue.

28. State court decisions, county laws, and international law did not reach five percent of total articles. International law was mentioned in six percent of the articles published in the Northeast.

29. The most common legal basis in the "Other" category was the law of a nation outside the United States. The difference in mentions of "other" legal bases between the Native American and mainstream press again reflected the native press's focus on indigenous land and resource issues throughout the hemisphere. Similarly, the high percentage of mentions in the Northeast was primarily the result of *Akwesasne Notes*' being published by the Mohawk Nation, which straddles the Canada-United States border.

30. *Akwesasne Notes* had the highest individual mention of treaties (37%), but the two Northern Plains newspapers showed the most consistent regional focus on this legal base. The *Rapid City Journal* mentioned a treaty in almost one-third of its land and resource articles (30%), and *Lakota Times/ICT* mentioned one in twenty-six percent. Considering the importance of the 1868 Fort Laramie Treaty to the region's fate during the study period, this would be expected. The fact that this treaty was under consideration in the courts was also reflected in the Northern Plains' emphasis on federal court decisions.

While overall mentions of treaties dropped four percent over time, there was only a one percentage point change in the Southwest. In contrast, there was a thirteen-point drop in the Northern Plains from the 1980s to the 1990s. This was primarily the result of a forty-four percentage point drop in mentions by the *Rapid City Journal*, from fifty percent to six percent of articles discussing native land and resources. In the *Lakota Times/Indian Country Today*, on the other hand, coverage dropped only ten percentage points, ending up at twenty-one percent. This indicated that treaties went from being a matter of importance to almost a non-issue in the *Journal*, while remaining an issue in the region's native press.

31. Regional differences were present. Most notably, the rise in mentions of tribal legislation was strongest in the Southwest, from eleven percent to twenty-seven percent. The drop in focus on United States legislation was most pronounced in the Northeast, down from fifty-seven percent to forty-three percent.

32. Two to three, four to three, and four to three, respectively.

33. This also informed the finding that the amount of conflict subsided in the 1980s and 1990s; it may have been partly related to the drop in the mention of treaties.

34. This percentage was slightly higher in the Indian-controlled media than in the non-Indian media (23% versus 21%). It was lower in the Northern Plains (18%) than in other regions.

35. Only actors for whom there were outcomes in at least ten percent of articles were discussed here, because of the low numbers involved below that threshold. This meant that outcomes were not included for intertribal organizations, state courts, state legislatures, traditional governments, or the media.

36. In terms of the percentages of cases won, most actors won less often in the media than they did in DOI cases, probably because there was not as much need for reporters to delineate the results for all parties as there was for the DOI to come to a clear conclusion for a case.

37. The main difference between newspaper outcomes and DOI outcomes is that, in the media, companies win proportionately quite a bit more frequently. Given the corporate tenacity in pursuing resource issues reported by the DOI and companies' superior financial resources, this finding suggests that businesses are likely to reach their goals before it is necessary to resort to the courts.

38. Below that threshold, the small number of cases was considered uninformative.

39. Corporations lost only one in ten times when federal legislation was a legal base, but lost a quarter of the time when it was not.

40. State agencies, non-Indian individuals, and citizen groups won slightly more when federal legislation was a legal basis. When tribal legislation was considered, a difference in outcomes was expected for tribal governments. Such a difference was present, although it was modest, with tribal governments winning slightly more often when tribal legislation was a basis for an issue, and losing slightly more often when it was not. Native individuals also fared well when tribal legislation was present, but non-native individuals did better, winning twice as often when tribal legislation was a legal base. Corporations and the federal government fared best, but tribal legislation did appear to rein in both types of actors.

41. Native individuals' success level was not impacted by the presence of a treaty. On the other hand, non-native individuals fared quite a bit better when a treaty was not involved.

42. If a treaty was not a legal basis, the federal government won eleven times for every loss.

The increased conflict when treaties were involved might indicate that federal actors fought harder when a treaty was invoked. To try to find out if this was the case, the data were considered for articles in which neither a treaty nor federal legislation was a legal base: in other words, situations in which there was less at stake for the imposed regime. In those cases, the federal government did more poorly than when treaties were at stake, winning six times to one loss. Although a cause-effect relationship between the legal basis, the level of federal effort, and the outcome was not determined, this does suggest that federal actors may have won more often when a treaty was involved partly because they fought harder to protect the regime's interests.

The Supreme Court's involvement had little impact on the outcome for either native individuals or tribal governments. However, federal agencies faced notably different outcomes, depending on whether the Court was involved. Agencies lost one-third of the time when the Supreme Court provided a legal basis, but only one-sixth of the time when the Court was not involved. This indicates that the presence of the Supreme Court dampened agency success. While the reasons were not clear from this research, one interpretation would be that the Court provided a damper for agency excesses in this policy arena.

When state legislation was considered, native individuals were recorded as winning in only one-third of the articles that invoked state legislation, but in one-half of the articles that did not include state laws. This indicated that state legislation set up a less favorable forum for native individuals, as would be expected given the information provided in Chapter Six on the anti-Indian nature of much state land and resource legislation.

43. To attempt to get at this relationship, various combinations of tribal government - United States agency wins and losses were calculated over time. What these calculations showed was that, regardless of which of these actors won or lost, there was a large drop in the number of outcomes over time. There were also differences in how the two types of media reported these situations, with native media reporting more about outcomes when both an agency and a tribal government were involved. But there was no clear explanation for the drop in agency success.

44. Several correlations appeared in the 1990s that were not present in earlier data. The strongest was between the number of federal agencies involved in an issue and the number of conflictual relationships (0.92). This correlation was not present in other periods, regionally, in either type of media, or overall. Similarly, the strong correlation between the number of agencies involved and the number of Indian actors winning (0.69) did not show up elsewhere. A scatterplot revealed that the correlations did in fact exist, but that there were very few data points. Apparently, the appearance of these unique correlations was at least partly a result of the drop in the number of articles in the 1990s. However, this did reinforce the idea that there were changes in the roles of federal agencies in the 1990s, as indicated in the last section.

45. While not detailed here, discriminant analysis and contingency tables also reinforced the conclusion that the level of United States government success was critical to the level of Native American success,

as reported in the media.

46. Number of actors was the only one of these that was significant in the DOI data.

47. The other significant variables had less importance. Region had a beta of 0.17, indicating that media coverage contained more conflict as it moved east, which was also reflected in the frequencies. When federal court action was the basis for an issue, the level of conflict also increased. The presence of federal court decisions was also related to state governments' hesitancy to respond to the state survey, as mentioned in Chapter Six. This again reinforced the link between courts and conflict-laden situations. The presence of a treaty as a basis for an issue also increased conflict, as suggested by earlier findings, but not as strongly. The passage of time had a weak impact, and it was negative, as earlier discussion would indicate. So these results reinforced findings suggested by other portions of this research.

48. When the data were divided by type of media, the variable INDMEDIA was not included. Similarly, when the data were divided by region, REGION was not used as an independent variable. Fewer independent variables reached significance in the model for non-native media, but the importance of the number of actors remained, with a beta of 0.26.

49. The models have R^2 values of 0.15, 0.09, and 0.12, respectively, for the Southwest, Northern Plains, and Northeast. These results are presented in Appendix L. Water is significant everywhere but in the Northeast, which could be explained by the relative availability of water in the Northeast. All told, the independent variables of importance in the Northeast model are quite different from those of importance in other regions.

50. Interestingly, the presence of water issues suppressed the number of conflictual relationships. Apparently, even though water was the most common resource under discussion, and even though water issues often involved many actors, the importance of this resource led actors to avoid conflict in some situations. This indicated that actors sought to negotiate outcomes when water was at issue.

51. The beta value for this variable for the media data was the same as for the DOI model.

52. When the data were divided by type of media, the results were generally similar to those found for overall data. The regional results, as was predictable, were more diverse. They are shown in Appendix M. The R^2 values were much lower for the Southwest (0.24) and Northern Plains (0.22), but quite a bit higher for the Northeast, where the model reached an R^2 of 0.45. Again, that region's media coverage of native land and resource issues appeared unique. Neither year nor presence of an outcome reached significance, but the other variables retained about the same relative importance.

53. The negative impact of the involvement of federal law enforcement on the number of resources involved in an article was more of a puzzle, especially since federal marshals and the FBI provided much of the law

enforcement on reservations. The reason for this became clear when articles involving law enforcement were considered separately: nine of the nineteen resources were mentioned in less than ten articles. However, land was at stake in ninety-seven percent of the 145 articles mentioning law enforcement. So this variable was negatively related to the number of resources at stake simply because of the preponderance of land as the only resource mentioned in situations in which law enforcement was present. The reason for this was unclear.

54. When the data were divided by type of media, as shown in Appendix N, fewer variables reached significance. The importance of corporations, the military, law enforcement, and the BLM remained for both native and non-native media. While region was not significant in non-Indian media, it was in Indian media. This indicated more homogeneity in non-native media, with its more simplistic discussion of Native American resource issues, and it also indicated again the strength of differences among native nations.

This shows up again in the regional data for this dependent variable, shown in Appendix O. With R^2 values ranging from 0.13 in the Southwest to 0.31 in the Northeast, each of these results also includes fewer significant independent variables. The presence of a corporation remains most important in the Southwest and the Northeast, but its beta values trail behind four other variables in the Northern Plains. There, type of media is by far the most important, with a beta of 0.28, indicating that the *Lakota Times/Indian Country Today* provides far more detailed coverage than does the *Rapid City Journal*. The BLM and Forest Service, both with betas of 0.12, are more important to the number of resources involved than corporations.

55. The possibility that the perception of more Native American success was a result of more page one coverage of native successes was explored. A higher percentage of coverage of both native successes and losses appeared on page one of Indian-controlled newspapers over time. A similar trend did not exist for non-native newspapers. The actual number of page-one articles that included any successful Native American actor went down over time in both types of media.