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# AMERICAN INDIAN AGRICULTURAL ACT

**HEARING**  
BEFORE THE  
SUBCOMMITTEE ON  
NATIVE AMERICAN AFFAIRS  
OF THE  
COMMITTEE ON  
NATURAL RESOURCES  
HOUSE OF REPRESENTATIVES  
ONE HUNDRED THIRD CONGRESS

FIRST SESSION

ON

**H.R. 1425**

TO IMPROVE THE MANAGEMENT, PRODUCTIVITY, AND USE OF INDIAN  
AGRICULTURAL LANDS AND RESOURCES

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HEARING HELD IN WASHINGTON, DC  
JUNE 18, 1993

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**Serial No. 103-32**

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# AMERICAN INDIAN AGRICULTURAL ACT

FRIDAY, JUNE 18, 1993

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON NATIVE AMERICAN AFFAIRS,  
COMMITTEE ON NATURAL RESOURCES,  
*Washington, DC.*

The subcommittee met, pursuant to call, at 9:45 a.m. in Room 1324, Longworth House Office Building, Hon. Bill Richardson [chairman of the subcommittee] presiding.

## STATEMENT OF HON. BILL RICHARDSON

Mr. RICHARDSON. I would like to welcome everybody here today to hear testimony on H.R. 1425, the Indian Agriculture Act of 1993.

Native Americans suffer the highest poverty and unemployment rates in the country. Indian agriculture has been a longstanding source of employment and economic development for Indian tribes and Alaska Natives. Although farming and ranching have been major contributors to the economic and social welfare of Indians communities, there has been a steady decline in the conditions of Indian agricultural resources. In 1993, the BIA reports that over 1.15 million acres of Indian agricultural lands are lying idle.

The Federal Government has a trust responsibility for the management of all natural resources on Indian lands. Unfortunately, there are many instances where Indian agricultural lands have been severely mismanaged and their productivity destroyed.

The Federal Government, as trustee, has been a party to the continuing mismanagement of Indian agricultural lands and rangelands. Indian agricultural lands and rangelands do not receive the same level of assistance from the BIA that other federally managed lands receive.

I introduced H.R. 1425 to ensure that the Federal Government meets its trust responsibility to Indian tribes to improve the management of Indian agricultural lands and natural resources. H.R. 1425 provides for improved management of Indian agricultural lands which will increase economic returns to Indian tribes and their members. And finally, it promotes Indian self-determination and increases employment opportunities for Native Americans.

At this time, I ask that the bill, the background, and the section-by-section analysis be made a part of the record.

[The text of the bill, H.R. 1425, and accompanying material follow:]

103D CONGRESS  
1ST SESSION

# H. R. 1425

To improve the management, productivity, and use of Indian agricultural lands and resources.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 18, 1993

Mr. RICHARDSON (for himself, Mr. JOHNSON of South Dakota, and Mr. WILLIAMS) introduced the following bill; which was referred to the Committee on Natural Resources

---

## A BILL

To improve the management, productivity, and use of Indian agricultural lands and resources.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "American Indian Agri-  
5 cultural Act of 1993".

6 **SEC. 2. FINDINGS.**

7 (a) The Congress finds and declares that—

8 (1) the United States and Indian tribes have a  
9 government to government relationship;

1           (2) the United States has a trust responsibility  
2 to protect, conserve, utilize, and enhance Indian  
3 rangelands and farmlands consistent with its fidu-  
4 ciary obligation and its unique relationship with In-  
5 dian tribes;

6           (3) Indian agricultural lands are renewable and  
7 manageable natural resources which are vital to the  
8 economic, social and cultural welfare of many Indian  
9 tribes and their members; and

10          (4) increased development and intensive man-  
11 agement of Indian agricultural lands will produce in-  
12 creased economic returns, enhance Indian self-deter-  
13 mination, promote employment opportunities, and  
14 improve the social and economic well-being of Indian  
15 and surrounding communities.

16 **SEC. 3. PURPOSES.**

17 The purposes of this Act are to—

18           (1) meet the trust responsibility of the United  
19 States and promote self-determination of Indian  
20 tribes by managing Indian lands and related renew-  
21 able resources in a manner consistent with identified  
22 tribal goals and priorities and nationally adopted  
23 multiple use and sustained yield principles;

24           (2) allow the Secretary to take part in the man-  
25 agement of Indian agricultural lands, with the par-

1 participation of the lands' beneficial owners, in a man-  
2 ner consistent with the Secretary's trust responsibil-  
3 ity and with the objectives of the beneficial owners;

4 (3) provide for the development and manage-  
5 ment of Indian agricultural lands at a level commen-  
6 surate with the level of development and manage-  
7 ment afforded to federally owned or controlled lands;  
8 and

9 (4) increase the educational and training oppor-  
10 tunities available to Indian people and communities  
11 in the practical, technical and professional aspects of  
12 agriculture, natural resources, and land management  
13 to improve the expertise and technical abilities of In-  
14 dian tribes and their members.

15 **SEC. 4. DEFINITIONS.**

16 For the purposes of this Act:

17 (1) The term "agricultural land" means land  
18 that is used for the production of agricultural prod-  
19 ucts, and lands occupied by industries that support  
20 the agricultural community, regardless of whether a  
21 formal inspection and land classification has been  
22 taken. The term shall include farmlands and range-  
23 lands.

24 (2) The term "agricultural product" means—

1 (A) crops grown under cultivated condi-  
2 tions whether used for personal consumption,  
3 subsistence, or sold for commercial benefit;

4 (B) domestic livestock, including cattle,  
5 sheep, goats, horses, buffalo, swine, reindeer,  
6 fowl, cultivated fish, or other animals specifi-  
7 cally raised and utilized for food, fiber, or as  
8 beast of burden;

9 (C) forage, hay, fodder, feed grains, crop  
10 residues and other items grown or harvested for  
11 the feeding and care of livestock, sold for com-  
12 mercial profit, or used for other purposes; and

13 (D) other marketable or traditionally used  
14 materials authorized for removal from agricul-  
15 tural lands.

16 (3) The term "agricultural resource" means—

17 (A) all the primary means of production,  
18 including the land, soil, water, air, plants, wa-  
19 tersheds, human resources, natural and physical  
20 attributes and man-made developments, which  
21 together comprise the agricultural community;  
22 and

23 (B) all the benefits derived from agricul-  
24 tural land and enterprises, including cultivated  
25 and gathered food products, fibers, horticultural

1 products, dyes, cultural or religious condiments,  
2 medicines, water, and other traditional values of  
3 agriculture.

4 (4) The term "Bureau" means the Bureau of  
5 Indian Affairs of the Department of the Interior.

6 (5) The term "farmland" means land that is  
7 used for production of food, feed, fiber, forage and  
8 oil seed crops, or other agricultural products, and  
9 may be either dryland or irrigated.

10 (6) The term "Indian" means an individual  
11 who is a member of an Indian tribe.

12 (7) The term "Indian land" means land that  
13 is—

14 (A) held in trust by the United States for  
15 an Indian or Indian tribe; or

16 (B) owned by an Indian or Indian tribe  
17 and is subject to restrictions against alienation.

18 (8) The term "Indian tribe" means any Indian  
19 tribe, band, nation, pueblo, or other organized group  
20 or community, including any Alaska Native village  
21 or regional corporation as defined in or established  
22 pursuant to the Alaska Native Claims Settlement  
23 Act, which is recognized as eligible for the special  
24 programs and services provided by the United States  
25 to Indian tribes because of their status as Indians.

1           (9) The term "land management activity"  
2 means all activities, accomplished in support of the  
3 management of Indian agricultural land, including  
4 but not limited to—

5           (A) preparation of inventories and manage-  
6 ment plans;

7           (B) agricultural land and infrastructure  
8 development, and the application of accepted  
9 soil or range management techniques to im-  
10 prove or restore the productive capacity of the  
11 land;

12           (C) protection against agricultural pests,  
13 including development, implementation, and  
14 evaluation of integrated pest management pro-  
15 grams to control noxious weeds, undesirable  
16 vegetation, and vertebrate or invertebrate agri-  
17 cultural pests;

18           (D) administration and supervision of agri-  
19 cultural leasing and permitting activities, in-  
20 cluding determination of proper land use and  
21 proper stocking rates of livestock, appraisal, ad-  
22 vertisement, negotiation, contract preparation,  
23 collecting, recording, and distributing lease  
24 rental receipts;

1           (E) technical assistance to individuals and  
2           tribes engaged in agricultural production or ag-  
3           ribusiness; and

4           (F) educational assistance in agriculture,  
5           natural resources, land management and relat-  
6           ed fields of study, including direct assistance to  
7           tribally controlled community colleges in devel-  
8           oping and implementing curriculum for voca-  
9           tional, technical and professional course work.

10          (10) The term "landowner" means the Indian  
11          or Indian tribe that—

12                 (A) owns such Indian land, or

13                 (B) is the beneficiary of the trust under  
14                 which such Indian land is held by the United  
15                 States.

16          (11) The term "rangeland" means land on  
17          which the native vegetation is predominantly  
18          grasses, grass-like plants, forbs, or shrubs suitable  
19          for grazing or browsing use, and includes lands  
20          revegetated naturally or artificially to provide a for-  
21          age cover that is managed like native vegetation.  
22          Rangelands include natural grasslands, savannahs,  
23          shrublands, most deserts, tundra, alpine commu-  
24          nities, coastal marshes, and wet meadows.

1           (12) The term "Secretary" means the Secretary  
2 of the Interior.

3           **TITLE I—RANGELAND AND**  
4           **FARMLAND ENHANCEMENT**

5           **SEC. 101. MANAGEMENT OF INDIAN RANGELANDS AND**  
6           **FARMLANDS.**

7           (a) **MANAGEMENT ACTIVITIES.**—The Secretary shall  
8 undertake rangeland and farmland management activities  
9 on Indian lands, either directly or through contracts, coop-  
10 erative agreements, or grants as provided for under the  
11 Indian Self-Determination Act.

12          (b) **MANAGEMENT OBJECTIVES.**—Indian rangeland  
13 and farmland management activities undertaken by the  
14 Secretary designed to achieve the following objectives:

15           (1) Protecting, conserving, utilizing, and en-  
16 hancing rangelands and farmlands so that they are  
17 in a perpetually productive state through the appli-  
18 cation of sound agronomic and economic principles  
19 to the planning, development, inventorying, classi-  
20 fication, and management of agricultural resources.

21           (2) Increasing production and expanding the di-  
22 versity and availability of agricultural products for  
23 subsistence, income, and employment of Indians  
24 through the development of renewable agricultural  
25 resources.

1           (3) Managing agricultural resources to protect  
2           and enhance other associated values such as wildlife,  
3           fisheries, cultural resources, recreation; to regulate  
4           water runoff; and to minimize soil erosion.

5           (4) Enabling Indian farmers and ranchers to  
6           maximize the potential benefits available to them  
7           through their land by providing technical assistance,  
8           training, and education in conservation practices,  
9           management and economics of agribusiness, sources  
10          and use of credit and marketing of agricultural  
11          products, and other applicable subject areas.

12          (5) Developing Indian rangelands and farm-  
13          lands and associated value-added industries of Indi-  
14          ans and Indian tribes to promote self-sustaining  
15          communities.

16          (c) INDIAN AGRICULTURAL RESOURCE MANAGE-  
17          MENT PLANNING PROGRAM.—(1) The Secretary shall es-  
18          tablish the Indian agricultural resource management plan-  
19          ning program in order to achieve the objectives set forth  
20          in subsection (b).

21          (2)(A) The Secretary shall provide for the develop-  
22          ment of an agricultural resource management plan for any  
23          interested Indian tribe. The plan shall be developed by the  
24          tribe working cooperatively with the local personnel from  
25          the Bureau. The tribe and the Bureau shall conduct a se-

1 ries of public meetings to determine and document the  
2 specific tribal agricultural resource goals and objectives.

3 (B) The Secretary and the Indian tribe shall develop  
4 a 10-year agricultural resource management plan to attain  
5 the goals and objectives as developed pursuant to subpara-  
6 graph (A). In the development of the 10-year plan, the  
7 tribe shall rely on the public meeting records, existing sur-  
8 veys, documents, reports and other research from Federal  
9 agencies, tribal community colleges, and land grant insti-  
10 tutions.

11 (3) The Secretary shall ensure that each plan con-  
12 tains specific agriculture and land management programs  
13 and activities which have been approved by tribal resolu-  
14 tion.

15 (4) Tribal agricultural plans developed under this sec-  
16 tion shall provide the direction to the Bureau and the In-  
17 dian tribes in the management and administration of trib-  
18 al agricultural resources and lands.

19 (5) The contract and grant provisions of the Indian  
20 Self-Determination and Education Assistance Act shall be  
21 applicable to the development of these management plans.

22 **SEC. 102. INDIAN PARTICIPATION IN LAND MANAGEMENT**  
23 **ACTIVITIES.**

24 (a) **TRIBAL RECOGNITION.**—The Secretary shall con-  
25 duct all land management activities on the lands of an

1 Indian tribe in accordance with goals and objectives set  
2 forth by the Indian tribe and in accordance with all tribal  
3 laws and ordinances except in specific instances where  
4 such compliance would be a violation of trust responsibility  
5 of the United States for Indian Trust Lands.

6 (b) TRIBAL LAWS.—Unless otherwise prohibited by  
7 Federal law, the Secretary shall comply with adopted trib-  
8 al laws and ordinances pertaining to Indian agriculture  
9 lands, including laws regulating the environment, historic  
10 or cultural preservation, and laws or ordinances adopted  
11 by the tribal government to regulate land use or other ac-  
12 tivities under tribal jurisdiction. The Secretary shall—

13 (1) provide assistance in the enforcement of  
14 such tribal laws;

15 (2) provide notice of such laws to persons or en-  
16 tities undertaking activities on Indian agricultural  
17 lands; and

18 (3) upon request of an Indian tribe, require ap-  
19 propriate Federal officials to appear in tribal fo-  
20 rums.

21 (c) WAIVER OF REGULATIONS.—In any case in which  
22 a regulation or administrative policy of the Department  
23 of the Interior conflicts with the objectives of the manage-  
24 ment plan provided for in section 101, or with a tribal  
25 law, the Secretary shall waive the application of such regu-

1 lation or administrative policy unless such waiver would  
2 constitute a violation of a Federal statute or judicial deci-  
3 sion or would conflict with his general trust responsibility  
4 under Federal law.

5 **SEC. 103. COMPARATIVE ANALYSIS OF INDIAN RANGELAND**  
6 **AND FARMLAND AND MANAGEMENT PRO-**  
7 **GRAMS.**

8 (a) **COMPARATIVE ANALYSIS.**—Within 90 days after  
9 the date of enactment of this Act, the Secretary shall as-  
10 semble a 12 member Task Force consisting of 1 represent-  
11 ative from each of the Bureau of Indian Affairs, the Bu-  
12 reau of Land Management, the United States Park Serv-  
13 ice, and a national Indian agriculture organization, and  
14 8 representatives of Indian tribes to develop a comparative  
15 analysis of Federal investment and management efforts  
16 for Indian trust and restricted lands as compared to feder-  
17 ally owned lands managed by other Federal agencies or  
18 instrumentalities. The Secretary shall request the Sec-  
19 retary of Agriculture to make available on a  
20 nonreimbursable basis appropriate personnel from the De-  
21 partment of Agriculture to assist in the development of  
22 such analysis.

23 (b) **PURPOSES.**—The purposes of the comparative  
24 analysis shall be—

1 (1) to establish a comprehensive assessment of  
2 improvement, funding, and development needs for  
3 each reservation and tribal jurisdiction with Indian  
4 agricultural land;

5 (2) to establish a comparison of management  
6 and funding provided to comparable lands owned or  
7 managed by the Federal Government through Fed-  
8 eral agencies other than the Bureau of Indian Af-  
9 fairs; and

10 (3) to identify any obstacles to Indian access to  
11 Federal or private programs relating to agriculture  
12 or related rural development programs generally  
13 available to the public.

14 (c) IMPLEMENTATION.—Within 6 months from the  
15 date of enactment of this Act, the Secretary shall provide  
16 the Subcommittee on Native American Affairs of the Nat-  
17 ural Resource Committee of the House of Representatives  
18 and the Select Committee on Indian Affairs of the Senate  
19 with a status report on the development of the compara-  
20 tive analysis required by this section and shall file a final  
21 report with the Congress not more than 9 months from  
22 the date of enactment of this Act.

23 **SEC. 104. LEASING OF INDIAN RANGELANDS AND FARM-**  
24 **LANDS.**

25 The Secretary—

1           (1) in accordance with a general policy estab-  
2           lished by the tribal government having jurisdiction  
3           over agricultural lands as set forth by a tribal reso-  
4           lution on record with the Secretary—

5                   (A) shall promote the use of such agricul-  
6                   tural lands by Indian people, and

7                   (B) notwithstanding any other provision of  
8                   law, may approve any agricultural lease or per-  
9                   mit which contains a provision authorizing the  
10                  renewal or renewals of such lease or permit for  
11                  a period of years determined by the tribal gov-  
12                  ernment to be necessary to meet the purposes  
13                  of this Act, including any such lease or permit  
14                  with a tenure up to 10 years, or a tenure longer  
15                  than 10 years when, in the opinion of the Sec-  
16                  retary, such lease or permit requires substantial  
17                  investment in and development of the lands by  
18                  the lessee and such longer tenure is determined  
19                  by the Secretary to be in the best interest of  
20                  the landowners;

21                  (2) may offer for lease or permit on the open  
22                  market only those lands which are surplus to the  
23                  needs of Indian communities; and

24                  (3) may lease or permit agricultural lands for  
25                  rates which reflect local economy based rental rates

1 of less than the Federal appraisal when such action  
 2 would be in the best interest of the landowner, and  
 3 in such instances, when such land has been satisfac-  
 4 torily advertised for lease, the highest reasonable bid  
 5 shall be accepted.

## 6 **TITLE II—EDUCATION IN** 7 **AGRICULTURE MANAGEMENT**

### 8 **SEC. 201. INDIAN AND ALASKA NATIVE AGRICULTURE MAN-** 9 **AGEMENT EDUCATION ASSISTANCE PRO-** 10 **GRAMS.**

11 (a) NATURAL RESOURCES INTERN PROGRAM.—(1)  
 12 Notwithstanding the provisions of title 5, United States  
 13 Code, governing appointments in the competitive service,  
 14 the Secretary shall establish and maintain in the Bureau  
 15 or other appropriate office or bureau within the Depart-  
 16 ment of the Interior at least 20 agricultural resources in-  
 17 tern positions for Indian students enrolled in an agri-  
 18 culture study program.

19 (2) For purposes of this subsection, the term—

20 (A) “agricultural resources intern” means an  
 21 Indian who—

22 (i) is attending an approved postsecondary  
 23 school in a full-time agriculture or related field,  
 24 and

1           (ii) is appointed to one of the agricultural  
2           resources intern positions established under  
3           paragraph (1);

4           (B) "agricultural resources intern positions"  
5           means positions established pursuant to paragraph  
6           (1) for agricultural resources interns; and

7           (C) "agriculture study program" includes, but  
8           is not limited to, agricultural engineering, agricul-  
9           tural economics, animal husbandry, animal science,  
10          biological sciences, geographic information systems,  
11          horticulture, range management, soil science, and  
12          veterinary science.

13          (3) The Secretary shall pay, by reimbursement or  
14          otherwise, all costs for tuition, books, fees, and living ex-  
15          penses incurred by an agricultural resources intern while  
16          attending an approved postsecondary or graduate school  
17          in a full-time agricultural study program.

18          (4) An agricultural resources intern shall be required  
19          to enter into an obligated service agreement with the Sec-  
20          retary to serve as an employee in a professional agri-  
21          culture or natural resources position with the Department  
22          of the Interior or other Federal agency or an Indian tribe  
23          for 1 year for each year of education for which the Sec-  
24          retary pays the intern's educational costs under paragraph  
25          (3) of this subsection.

1 (5) An agricultural resources intern shall be required  
2 to report for service with the Bureau of Indian Affairs  
3 or other bureau or agency sponsoring his internship, or  
4 to a designated work site, during any break in attendance  
5 at school of more than 3 weeks duration. Time spent in  
6 such service shall be counted toward satisfaction of the  
7 intern's obligated service agreement under paragraph (4).

8 (b) COOPERATIVE EDUCATION PROGRAM.—(1) The  
9 Secretary shall maintain, through the Bureau, a coopera-  
10 tive education program for the purpose, among other  
11 things, of recruiting Indian students who are enrolled in  
12 secondary schools, tribally controlled community colleges,  
13 and other postsecondary or graduate schools, for employ-  
14 ment in professional agricultural or natural resource relat-  
15 ed positions with the Bureau or other Federal agency pro-  
16 viding Indian agricultural or natural resource related serv-  
17 ices.

18 (2) The cooperative educational program under para-  
19 graph (1) shall be modeled after, and shall have essentially  
20 the same features as, the program in effect on the date  
21 of enactment of this Act pursuant to chapter 308 of the  
22 Federal Personnel Manual of the Office of Personnel Man-  
23 agement.

24 (3) The cooperative educational program shall in-  
25 clude, among others, the following:

1           (A) The Secretary shall continue the established  
2 specific programs in agriculture and natural re-  
3 sources education at Southwestern Indian Poly-  
4 technic Institute (SIPI) and at Haskell Indian Jun-  
5 ior College.

6           (B) The Secretary shall develop and maintain a  
7 cooperative program with the tribally controlled com-  
8 munity colleges to coordinate course requirements,  
9 texts, and provide direct technical assistance so that  
10 a significant portion of the college credits in both  
11 the Haskell and Southwestern Indian Polytechnic  
12 Institute programs can be met through local pro-  
13 gram work at participating tribally controlled com-  
14 munity colleges.

15           (C) Working through tribally controlled commu-  
16 nity colleges and in cooperation with land grant in-  
17 stitutions, the Secretary shall implement an informa-  
18 tional and educational program to provide practical  
19 training and assistance in creating or maintaining a  
20 successful agricultural enterprise, assessing sources  
21 of commercial credit, developing markets and other  
22 subjects of interest to the rural community.

23           (D) Working through tribally controlled com-  
24 munity colleges and in cooperation with land grant  
25 institutions, the Secretary shall implement research

1 activities to improve the basis for determining ap-  
2 propriate management measures to apply to Indian  
3 resource management.

4 (4) Under the cooperative agreement program under  
5 paragraph (1), the Secretary shall pay, by reimbursement  
6 or otherwise, all costs for tuition, books, and fees of an  
7 Indian student who—

8 (A) is enrolled in a course of study at an edu-  
9 cation institution with which the Secretary has en-  
10 tered into a cooperative agreement; and

11 (B) is interested in a career with the Bureau,  
12 an Indian tribe or a tribal enterprise in the manage-  
13 ment of Indian rangelands, farmlands, or other nat-  
14 ural resource assets.

15 (5) A recipient of assistance under the cooperative  
16 education program under this subsection shall be required  
17 to enter into an obligated service agreement with the Sec-  
18 retary to serve as a professional in an agricultural natural  
19 resource related activity with the Bureau, or other Federal  
20 agency providing agricultural or natural resource related  
21 services to Indians or Indian tribes, or an Indian tribe for  
22 1 year for each year for which the Secretary pays the re-  
23 cipients educational costs pursuant to paragraph (3).

24 (c) SCHOLARSHIP PROGRAM.—(1) The Secretary is  
25 authorized to grant scholarships to Indians enrolled in ac-

1 credited agriculture related programs for postsecondary  
2 and graduate programs of study as full-time students.

3 (2) A recipient of a scholarship under paragraph (1)  
4 shall be required to enter into an obligated service agree-  
5 ment with the Secretary in which the recipient agrees to  
6 accept employment for one year for each year the recipient  
7 received a scholarship, following completion of the recipi-  
8 ents course of study, with—

9 (A) the Bureau or other agency of the Federal  
10 Government providing agriculture or natural re-  
11 source related services to Indians or Indian tribes;

12 (B) an agriculture or natural resource program  
13 conducted under a contract, grant, or cooperative  
14 agreement entered into under the Indian Self-Deter-  
15 mination and Education Assistance Act; or

16 (C) a tribal agriculture or natural resource re-  
17 lated program.

18 (3) The Secretary shall not deny scholarship assist-  
19 ance under this subsection solely on the basis of an appli-  
20 cant's scholastic achievement if the applicant has been ad-  
21 mitted to and remains in good standing in an accredited  
22 post secondary or graduate institution.

23 (d) EDUCATIONAL OUTREACH.—The Secretary shall  
24 conduct, through the Bureau, and in consultation with  
25 other appropriate local, State and Federal agencies, and

1 in consultation and coordination with Indian tribes, an ag-  
2 ricultural resource education outreach program for Indian  
3 youth to explain and stimulate interest in all aspects of  
4 management and careers in Indian agriculture and natu-  
5 ral resources.

6 (e) ADEQUACY OF PROGRAMS.—The Secretary shall  
7 administer the programs described in this section until a  
8 sufficient number of Indians are trained to ensure that  
9 there is an adequate number of qualified, professional In-  
10 dian natural resource managers to manage the Bureau  
11 natural resource programs and programs maintained by  
12 or for Indian tribes.

13 **SEC. 202. POSTGRADUATION RECRUITMENT, EDUCATION**  
14 **AND TRAINING PROGRAMS.**

15 (a) ASSUMPTION OF LOANS.—The Secretary shall es-  
16 tablish and maintain a program to attract Indian profes-  
17 sionals who are graduates of a course of postsecondary  
18 or graduate education for employment in either the Bu-  
19 reau agriculture or natural resource programs or, subject  
20 to the approval of the tribe, in tribal agriculture or natural  
21 resource programs. According to such regulations as the  
22 Secretary may prescribe, such program shall provide for  
23 the employment of Indian professionals in exchange for  
24 the Secretary's assumption of the employee's outstanding

1 student loans. The period of employment shall be deter-  
2 mined by the amount of the loan that is assumed.

3 (b) POSTGRADUATE INTERGOVERNMENTAL INTERN-  
4 SHIPS.—For the purposes of training, skill development  
5 and orientation of Indian and Federal natural resource  
6 management personnel, and the enhancement of tribal and  
7 Bureau natural resource programs, the Secretary shall es-  
8 tablish and actively conduct a program for the cooperative  
9 internship of Federal and Indian natural resource person-  
10 nel. Such program shall—

11 (1) for agencies within the Department of the  
12 Interior—

13 (A) provide for the internship of Bureau  
14 and Indian natural resource employees in the  
15 natural resource related programs of other  
16 agencies of the Department of the Interior, and

17 (B) provide for the internship of natural  
18 resource personnel from the other Department  
19 of the Interior agencies within the Bureau, and,  
20 with the consent of the tribe, within tribal natu-  
21 ral resource programs;

22 (2) for agencies not within the Department of  
23 the Interior, provide, pursuant to an interagency  
24 agreement, internships within the Bureau and, with  
25 the consent of the tribe, within a tribal natural re-

1 source program of other natural resource personnel  
 2 of such agencies who are above their sixth year of  
 3 Federal service;

4 (3) provide for the continuation of salary and  
 5 benefits for participating Federal employees by their  
 6 originating agency;

7 (4) provide for salaries and benefits of partici-  
 8 pating Indian natural resource employees by the  
 9 host agency; and

10 (5) provide for a bonus pay incentive at the  
 11 conclusion of the internship for any participant.

12 (c) CONTINUING EDUCATION AND TRAINING.—The  
 13 Secretary shall maintain a program within the Trust Serv-  
 14 ices Division of the Bureau and Indian natural resource  
 15 personnel which shall provide for—

16 (1) orientation training for Bureau natural re-  
 17 source personnel in tribal-Federal relations and re-  
 18 sponsibilities;

19 (2) continuing technical natural resource edu-  
 20 cation for Bureau and Indian natural resource per-  
 21 sonnel; and

22 (3) development training of Indian natural re-  
 23 source personnel in natural resource based enter-  
 24 prises and marketing.

1 **SEC. 203. COOPERATIVE AGREEMENT BETWEEN THE DE-**  
2 **PARTMENT OF THE INTERIOR AND INDIAN**  
3 **TRIBES.**

4 (a) COOPERATIVE AGREEMENTS.—

5 (1)(A) To facilitate the administration of the  
6 programs and activities of the Department of the In-  
7 terior, the Secretary is authorized to negotiate and  
8 enter into cooperative agreements with Indian tribes  
9 to—

10 (i) engage in cooperative manpower and  
11 job training,

12 (ii) develop and publish cooperative envi-  
13 ronmental education and natural resource plan-  
14 ning materials, and

15 (iii) perform land and facility improve-  
16 ments, and other activities related to land and  
17 natural resource management and development.

18 (B) The Secretary may enter into agreements  
19 when the Secretary determines the interest of Indi-  
20 ans and Indian tribes will be benefited.

21 (2) In cooperative agreements entered into  
22 under subparagraph (A), the Secretary is authorized  
23 to advance or reimburse funds to contractors from  
24 any appropriated funds available for similar kinds of  
25 work or by furnishing or sharing materials, supplies,  
26 facilities or equipment without regard to the provi-

1 sions of section 3324 of title 31, United States  
2 Code, relating to the advance of public moneys.

3 (b) SUPERVISION.—In any agreement authorized by  
4 this section, Indian tribes and their employees may per-  
5 form cooperative work under the supervision of the De-  
6 partment of the Interior in emergencies or otherwise as  
7 mutually agreed to, but shall not be deemed to be Federal  
8 employees other than for the purposes of sections 2671  
9 through 2680 of title 28, United States Code, and sections  
10 8101 through 8193 of title 5, United States Code.

11 (c) SAVINGS CLAUSE.—Nothing in this Act shall be  
12 construed to limit the authority of the Secretary to enter  
13 into cooperative agreements otherwise authorized by law.

14 **SEC. 204. OBLIGATED SERVICE; BREACH OF CONTRACT.**

15 (a) OBLIGATED SERVICE.—Where an individual en-  
16 ters into an agreement for obligated service in return for  
17 financial assistance under any provision of this title, the  
18 Secretary shall adopt such regulations as are necessary to  
19 provide for the offer of employment to the recipient of  
20 such assistance as required by such provision. Where an  
21 offer of employment is not reasonably made, the regula-  
22 tions shall provide that such service shall no longer be re-  
23 quired.

24 (b) BREACH OF CONTRACT; REPAYMENT.—Where an  
25 individual fails to accept a reasonable offer of employment

1 in fulfillment of such obligated service or unreasonably  
2 terminates or fails to perform the duties of such employ-  
3 ment, the Secretary shall require a repayment of the fi-  
4 nancial assistance provided, prorated for the amount of  
5 time of obligated service that was performed, together with  
6 interest on such amount which would be payable if at the  
7 time the amounts were paid they were loans bearing inter-  
8 est at the maximum legal prevailing rate, as determined  
9 by the Treasurer of the United States.

10 **TITLE III—GENERAL**  
11 **PROVISIONS**

12 **SEC. 301. REGULATIONS.**

13 Except as otherwise provided by this Act, the Sec-  
14 retary is directed to promulgate final regulations for the  
15 implementation within 18 months from the date of enact-  
16 ment of this Act. All regulations promulgated pursuant  
17 to this Act shall be developed by the Secretary with the  
18 participation of the affected Indian tribes.

19 **SEC. 302. TRUST RESPONSIBILITY.**

20 Nothing in this Act shall be construed to diminish  
21 or expand the trust responsibility of the United States to-  
22 ward Indian trust lands or natural resources, or any legal  
23 obligation or remedy resulting therefrom.

1 **SEC. 303. SEVERABILITY.**

2 If any provision of this Act, or the application of any  
3 provision of this Act to any person or circumstance, is held  
4 invalid, the application of such provision or circumstance  
5 and the remainder of this Act shall not be affected there-  
6 by.

7 **SEC. 304. AUTHORIZATION OF APPROPRIATIONS.**

8 There are authorized to be appropriated such sums  
9 as may be necessary to carry out the purposes of this Act.

○

**BACKGROUND FOR HEARING ON H R. 1425,  
THE AMERICAN INDIAN AGRICULTURE ACT OF 1993.**

Farming and ranching is the primary source of economic opportunity for many Indian people. There are over 33,000 individual and tribal agricultural enterprises nationwide. Of the 54.4 million acres of Indian-owned land held in trust by the Federal Government for individual Indians or Indian tribes, approximately 75 percent (47 million acres) is used for agricultural production and another 15 percent (5.8 million) are commercial forest lands. Although farming and ranching have been major contributors to the economic and social welfare of Indian communities, there has been a steady decline in the services to and profitability of agricultural businesses on reservations. According to a 1993 Bureau of Indian Affairs report, there are in excess of 1.15 million acres of Indian agricultural lands lying idle.

The Federal Government has a trust responsibility for the management of all natural resources on Indian lands. Over the past 20 years, the Indian agricultural program in the BIA, which has responsibility for the leasing of farm and range lands, has become ineffective. Funding levels for the management of Indian agricultural resources have significantly declined due to inflation and increased administrative costs over the same period. The number of BIA personnel engaged in agricultural or natural resource management activities has dropped off dramatically and is not commensurate to the number of federal employees providing comparable natural resource services on public lands. The Bureau of Indian Affairs has not adequately developed educational programs and other opportunities for American Indians and Alaska Natives to pursue educational and training opportunities in the natural resource field. Furthermore, the Bureau of Indian Affairs has failed to develop proper agricultural and natural resource base line data to indicate condition and current productivity on Indian lands. The Federal government has developed similar data for all other Federal lands, but has failed to develop this badly needed information for Indian lands. Currently 12 million acres of Indian agricultural lands do not have the basic soil and range inventories necessary to develop tribal management plans for Indian reservations.

**AMERICAN INDIAN AGRICULTURAL ACT OF 1993**

On September 22, 1992, the House Committee on Interior and Insular Affairs held a joint hearing with the Senate Select Committee on Indian Affairs on HR 5744, the Indian Agricultural Resources Management Act of 1992. Testimony was heard from several tribal witnesses, the Intertribal Agricultural Council and the Bureau of Indian Affairs. At this hearing the Administration raised several concerns regarding the legislation. One of the major issues raised by the Administration was that certain provisions in the bill would result in a Fifth Amendment "taking". The Administration was concerned that the legislation did not require the Secretary to obtain the consent of the heirs who own a given tract of land before it is leased or permitted. The Administration stated that this provision may give rise to potential Fifth Amendment takings claims. The Administration also raised an objection to the bill because it significantly expands the Secretary's trust

responsibility to manage Indian agricultural lands. The Administration was concerned that HR 5744 would impose new responsibilities on the Secretary and would require him to "manage" Indian lands.

On March 18, 1993, Chairman Richardson introduced HR 1425, the American Indian Agricultural Act of 1993. It was co-sponsored by Representatives Johnson and Williams. The purpose of the Act is to ensure that the United States meets its trust responsibility to Indian tribes and to promote tribal self-determination through the effective management of Indian agricultural lands and natural resources. The bill authorizes the Secretary with participation of Indian tribes to take part in the management of Indian agricultural lands in a manner consistent with the Secretary's trust responsibility. It also provides for the development and management of Indian agricultural lands at a level commensurate with the level of development and management afforded to federally owned or controlled lands. The bill also increases the educational and training opportunities for Indian people in the professions of agriculture, natural resource and land management. This program shall improve the expertise and technical abilities of Indian tribes and their members.

#### **SUBCOMMITTEE HEARING**

On June 18, 1993, the following witnesses shall be testifying at the hearing on HR 1425, the Intertribal Agricultural Council, the Jicarilla Apache Tribe, the Seminole Tribe, the Yakima Tribe, the Gila River Indian Community, the Colorado River Tribes, the Confederated Salish & Kootenai Tribes, the Navajo Nation, the Shii Shi Keyah Association, the Indian Soil Conservation Association and the Bureau of Indian Affairs.

March 18, 1993

**SECTION BY SECTION SUMMARY ANALYSIS OF  
THE AMERICAN INDIAN AGRICULTURAL ACT OF 1993**

**SECTION 1        SHORT TITLE**

Section 1 cites the short title of the Act as the "American Indian Agricultural Act of 1993."

**SECTION 2        FINDINGS**

Section 2 sets out the findings of the Congress.

**SECTION 3        PURPOSES**

Section 3 provides that the purposes of the Act promote Indian self-determination by managing Indian agricultural lands pursuant to tribal priorities and nationally adopted multiple use and sustained yield principles, to provide for the development and management of Indian agricultural lands at a level commensurate with the level of development and management of other federal lands, and to increase educational and training opportunities for American Indians in agriculture.

**SECTION 4        DEFINITIONS**

Section 4 sets out the definitions used in the Act.

**TITLE I - RANGELAND AND FARMLAND ENHANCEMENT**

**SECTION 101     MANAGEMENT OF INDIAN RANGELANDS AND FARMLANDS**

Subsection (a) provides that the Secretary shall, either directly or through contracts, undertake rangeland and farmland management activities on Indian lands.

Subsection (b) sets out the Indian rangeland and farmland management objectives. These objectives include protecting and conserving Indian agricultural lands, increasing the production and diversity of Indian agricultural products, and managing agricultural resources to protect and enhance other associated values.

Subsection (c) provides that the Secretary shall establish the Indian agricultural resource management planning program to assist in the development of tribal agricultural resource management plans. It provides that the Bureau of Indian Affairs and the tribe shall conduct public meetings to identify tribal goals and objectives. The Secretary and the tribe shall develop a 10 year agricultural resource management plan based on the records of the public meetings and other reports and research.

**SECTION 102 INDIAN PARTICIPATION IN LAND MANAGEMENT ACTIVITIES**

Subsection (a) requires the Secretary to conduct all land management activities on tribal lands in accordance with the tribal goals and objectives established under the Act and in accordance with all tribal laws.

Subsection (b) provides that the Secretary shall comply with tribal laws and ordinances pertaining to Indian agriculture. It further provides that the Secretary shall provide assistance in the enforcement of tribal laws and require appropriate federal officials to appear in tribal forums.

Subsection (c) authorizes the Secretary to waive any regulation or administrative policy which conflicts with the objectives of the tribal management plan or tribal laws.

**SECTION 103 COMPARATIVE ANALYSIS OF INDIAN RANGELAND AND FARMLAND AND MANAGEMENT PROGRAMS**

Subsection (a) authorizes the Secretary to establish a 12 member task force which consists of 8 representatives of Indian tribes and a representatives of the Bureau of Indian Affairs, the Bureau of Land Management, the U.S. Park Service and a national Indian agriculture organization. This task force shall develop a comparative analysis of Federal investment and management in Indian agricultural lands and other federally managed lands.

Subsection (b) provides that the purposes of the comparative analysis shall be to provide a comprehensive assessment of the improvement and funding needs for Indian agricultural lands, to compare management and funding policies on Indian agricultural lands and other federal lands, and to identify barriers to Indian access to agriculture or rural development programs.

Subsection (c) provides that the Secretary shall provide the final comparative analysis report to the Congress within 9 months from the date of enactment.

**SECTION 104 LEASING OF INDIAN RANGELANDS AND FARMLANDS**

Subsection 104 provides that the Secretary may approve any agricultural lease for a term of 10 years and for a longer term where in the opinion of the Secretary such lease requires substantial development of and investment in the lands by the lessee and it is in the best interest of the landowner. The Secretary is also authorized to offer lands which are surplus to tribal needs, for lease or permit on the open market. Further, the Secretary is authorized to lease Indian agricultural lands at rates below the Federal appraisal when it is in the best interest of the landowner and reflect the local economy.

**TITLE II - EDUCATION IN AGRICULTURE MANAGEMENT****SECTION 201 INDIAN AND ALASKA NATIVE AGRICULTURE MANAGEMENT EDUCATION ASSISTANCE PROGRAMS**

Subsection (a) authorizes the Secretary to establish in the Bureau of Indian Affairs at least 20 Indian agricultural resources intern positions. It provides that the Secretary shall pay costs of tuition, books, fees, and living expenses of an intern. It further provides that an Indian agricultural resources intern shall be required to enter into an obligated service agreement to serve as an employee within the Department of the Interior for one year for each year that their educational costs are paid.

Subsection (b) requires the Secretary to maintain a cooperative education program in the Bureau of Indian Affairs to recruit Indian students for employment in professional agricultural positions within the Bureau of Indian Affairs and other federal agencies.

Subsection (c) authorizes the Secretary to grant scholarships to Indians for postsecondary or graduate programs in the area of agriculture. Scholarship recipients shall be required to enter into an obligated service agreement to serve as an employee with a Bureau or tribal agriculture or natural resource program.

Subsection (d) authorizes the Secretary to conduct an agricultural education outreach program for Indian youth.

Subsection (e) requires the Secretary to administer the programs until there is an adequate supply of professional Indian natural resource managers for Bureau of Indian Affairs and tribal natural resource programs.

#### **SECTION 202 POSTGRADUATION RECRUITMENT EDUCATION AND TRAINING**

Subsection (a) provides that the Secretary shall establish and maintain a recruitment program for Indian professionals for employment in a Bureau or tribal agriculture or natural resource program.

Subsection (b) provides that the Secretary shall establish a cooperative internship program for Federal and Indian natural resource personnel in other agencies of the Department of Interior or with Bureau or tribal natural resource programs.

Subsection (c) provides that the Secretary shall maintain a continuing education and training program for Bureau and tribal natural resource personnel.

#### **SECTION 203 COOPERATIVE AGREEMENT BETWEEN THE DEPARTMENT OF THE INTERIOR AND INDIAN TRIBES**

Subsection (a) authorizes the Secretary to enter into cooperative agreements with Indian tribes to engage in cooperative manpower and job training, perform land and facility improvements, and other activities related to land and natural resource development.

Subsection (b) provides that Indian tribes and their employees performing work under a cooperative agreement shall not be deemed to be Federal employees except for purposes of sections 2671-2680 of title 28 and section 8101-8193 of title 5 of the United States Code.

Subsection (c) provides that nothing in the Act shall be construed to limit the authority of the Secretary to enter into cooperative agreements otherwise authorized by law.

**SECTION 204 OBLIGATED SERVICE; BREACH OF CONTRACT**

Subsection (a) provides that the Secretary shall adopt regulations to provide for an offer of employment to an individual who receives financial assistance in exchange for a service obligation under the Act. It further provides that where an offer of employment is not reasonably made, the regulations shall provide that such service is no longer required.

Subsection (b) provides that where an individual fails to accept a reasonable offer of employment, unreasonably terminates, or fails to perform their duties, the Secretary shall require repayment of the prorated amount with interest calculated at the maximum legal prevailing rate, as determined by the Treasurer of the United States.

**TITLE III - GENERAL PROVISIONS**

**SECTION 301 REGULATIONS**

Section 301 directs the Secretary to promulgate final regulations within 18 months from the date of enactment of this Act.

**SECTION 302 TRUST RESPONSIBILITY**

Section 302 provides that nothing in this Act shall be construed to diminish or expand the trust responsibility of the United States to Indian trust lands or natural resources.

**SECTION 303 SEVERABILITY**

Section 303 provides that if any provision of this Act is held invalid the remainder of this Act shall not be affected thereby.

**SECTION 304 AUTHORIZATIONS OF APPROPRIATIONS**

Section 304 authorizes to be appropriated such sums as are necessary to carry out the provisions of this Act.

Mr. RICHARDSON. I would like to remind all the witnesses that your entire written statements will be made a part of this committee hearing record, so you will be asked to summarize in five minutes your statements. The hearing record will remain open for two weeks.

I would like to recognize the gentlelady from Arizona who has already left her mark in the Congress in her four months in this body.

The gentlelady from Arizona.

Ms. ENGLISH. Mr. Chairman, I just want to thank you for holding the hearing and I have little to say except I am anticipating, looking forward to the testimony, and reading the witness' comments later.

Thank you.

Mr. RICHARDSON. I thank the gentlelady. We are going to have four panels today and I would like to ask Mr. Patrick Hayes, the Director of the Office of Trust Responsibility of the BIA, Department the of Interior to please step forward.

Mr. Hayes, as you know, we ask you to summarize within five minutes. Welcome to this subcommittee, and we ask you to proceed. If you could identify the individuals with you just for the record.

**STATEMENT OF PATRICK HAYES, DIRECTOR, OFFICE OF TRUST RESPONSIBILITIES, BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR, ACCOMPANIED BY RAY SMITH, CHIEF, BRANCH OF AGRICULTURE; LARRY MORRIN, DIVISION CHIEF, REAL ESTATE SERVICES; AND DAVID ETHERIDGE, ASSISTANT SOLICITOR, ENVIRONMENT, LAND AND MINERALS, DIVISION OF INDIAN AFFAIRS**

Mr. HAYES. I will do that, Mr. Chairman. I am accompanied today, Mr. Chairman, by, on my right, Mr. Ray Smith, who is the Chief of our Branch of Agriculture and Range with the Bureau of Indian Affairs. To my immediate left is Mr. Larry Morrin, who is the Division Chief for our Division of Real Estate Services, and to his left is Mr. David Etheridge, who is an attorney in the Solicitor's Office for Indian Affairs in the Department of the Interior.

Good morning, Mr. Chairman and members of the committee. I am pleased to be here this morning to present the views of the Department of the Interior on H.R. 1425, the American Indian Agricultural Act of 1993. The bill is one to improve the management, productivity and use of Indian agricultural lands and resources.

I have already introduced the individuals that I am accompanied by, and as the chairman has pointed out, I have submitted a prepared statement that I would ask be formally entered into the record and I do have a summary that I would like to present.

We are highly pleased, Mr. Chairman, to see the interest you and the members of this committee have taken in Indian agriculture. We are particularly pleased that you have called for an early hearing on this legislation because it covers a subject that is critical in Indian country and should receive widespread input and comment.

You and other members of this committee have been strong supporters of Indian ranchers and farmers. You, too, recognize that they are the backbone of Indian reservation economies all across

this Nation. Mr. Chairman, we are supportive of H.R. 1425, generally, but we do have some concerns which we would urge the committee to consider and address.

Last year, Mr. Chairman, similar legislation was introduced in the 102d Congress and hearings were held. The administration at that time took a different position, one opposite to that being taken at this time. I believe that this change of position is a tribute to one thing primarily, and that is the level of effort undertaken by the staff of this committee and your counterpart committee on the Senate side, along with the staff of the Bureau of Indian Affairs and key individuals from the Intertribal Agricultural Council to work out our differences.

We committed at last year's hearing to working with you on this legislation and our joint efforts have brought us a lot closer to resolution of the issues than we were a year ago. We are not yet in total agreement, but we believe that our differences can be worked out.

I would start, Mr. Chairman, by urging the committee to give some consideration to possibly looking at a demonstration project or projects. Because this legislation has potentially far-reaching impact on the individual rights versus tribal authority, we believe that demonstration projects would provide us all with a realistic assessment of the effectiveness of H.R. 1425. Annual reports and a final summary report could be required. The demonstration project could be short-term in duration, say, 3 to 5 years.

We would like to see a number of terms and phrases tightened up or defined, such as the definition of Indian tribe only including federally recognized tribes.

We believe that a definition or clarification of a couple of phrases would be helpful, particularly the phrases at Section 101(b)(5), "associated value-added industries," and at Section 104 (2), "surplus to the needs of Indian communities." The latter phrase may have as its purpose and meaning that Indian preference is intended. While in and of itself there is nothing wrong with Indian preference, such an intended result may or may not be beneficial to individual Indian landowners.

Development of an agricultural resource management plan is consistent with our efforts to see integrated resource management plans developed by tribes across the country. In the past 5 years or so of effort to get IRMPs in place, we have only 9 so far. There are 7 in our Albuquerque area, and 2 in the Billings area. I am told that there are 4 more plans, 2 in each of the Billings and Albuquerque areas, which are essentially completed which would in short order bring us to a total of 13.

It needs to be understood that a resource plan standing by itself will not mean an automatic improvement in management practices or enhanced productivity. It is a start. There needs to be a commitment to follow and abide by the terms of the plan itself from not only the Secretary, but also the tribe and the tribal members. It is often tempting to go with the expedient solution rather than the solution provided in the plan.

There also needs to be an awareness of the physical costs associated with plan development and that they are not done quickly or without a tribal buy-in to the process. We are greatly concerned

about the requirement for the Secretary to provide all manner of notice about a wide variety of tribal laws covering a wide variety of topics to persons undertaking activities on Indian agricultural lands.

How far is the Secretary administratively required to go? Do we need to provide a copy of every appropriate tribal law to every prospective lessee or merely post a listing on the bulletin board in every realty office of every pertinent law? The answer I am sure lies somewhere in between and includes some contribution and responsibility for some of this by the cognizant tribal government.

The requirement that the Secretary shall waive any regulation or policy at Section 102(c) causes us some concern. In order to minimize these types of conflicts which would give rise to the need for a waiver, we think it is preferable that the plan be developed with a broad range of consulted agencies and the conflicts worked out beforehand. We understand that the waiver provision could include other Interior agencies who operate in close proximity to Indian lands and thus its scope should be clarified to apply only to Indian lands.

We further are concerned about the mandatory nature of the waiver provision and would urge greater discretionary authority for the Secretary. While agriculture is important and is a priority, that is not to say that it is the only priority, as the tribe may have other equally pressing needs and priorities, so may the Secretary.

Mr. Chairman, there are some costs associated with the implementation of this legislation which need to be identified and addressed consistent with the President's deficit reduction plan. We believe the educational provisions of the bill are extremely worthwhile. We have been as supportive as our resources permit to a similar effort to retrain and retain Indian youth in all the disciplines within the natural resources field.

And finally, Mr. Chairman, we would urge that you consider, and you can be assured of our full cooperation, holding additional field hearings on this legislation. This legislation impacts on a time-tested relationship between the rights and authorities of a tribe and the rights and authorities of individual Indian landowners and the expectations of Indian farmers and ranchers. Throw in a changed role of the Bureau of Indian Affairs, and potential problems will surely arise, even though all of our intentions are good.

Mr. Chairman, that concludes my summary statement. I would be pleased to respond to any questions that you may have. I believe that if I cannot personally answer your question, then I have great faith that the gentlemen who are at the table with me can.

[Prepared statement of Mr. Hayes follows.]

STATEMENT OF PATRICK HAYES, DIRECTOR, OFFICE OF TRUST RESPONSIBILITIES, BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR, BEFORE THE HOUSE SUBCOMMITTEE ON NATIVE AMERICAN AFFAIRS, ON H.R. 1425, THE "AMERICAN INDIAN AGRICULTURAL ACT OF 1993".

June 18, 1993

Mr. Chairman and Members of the Committee, I am here today to present the views of the Department of the Interior on H.R. 1425, a bill "To improve the management, productivity, and use of Indian agricultural lands and resources."

We commend the Committee for their interest in the management of Indian rangelands and farmlands and while we have a number of concerns with the bill, we could support H.R. 1425 if amended to meet our concerns.

In light of several controversial issues within the proposed legislation relating primarily to individual landowner rights and tribal authority, we strongly recommend that before moving to a full scale program the Committee authorize two to three demonstration projects to study the effect and impact H.R. 1425 could have on a particular reservation. We recommend a three- to five-year tenure for the demonstration projects to obtain a realistic assessment of the effectiveness of H.R. 1425.

In authorizing the demonstration projects we suggest that the bill include a provision requiring each participating project to provide an annual report to the Secretary on how the project has accomplished the following: (1) protection of Indian resources; (2) improvement of Indian income; (3) improvement of Indian employment; and (4) clarification of the relationship between tribal authority and the rights of Indian landowners. In addition, it would be desirable for a final report to the Secretary to include specific recommendations as to how to proceed with permanent legislation. In conjunction with the demonstration project, we suggest that a provision be added requiring an objective analysis to be conducted which quantifies and compares the expected costs of the bill to the expected benefits.

H.R. 1425 involves very complex issues that will affect many parties and completely restructure the relationship between the tribes and individual Indian landowners. H.R. 1425 will increase tribal authority over individual Indian landowners and over their decisions to lease their lands. We are aware of Department of Justice concerns that H.R. 1425 could generate a substantial amount of breach of trust litigation. The Department of Justice will provide the Committee a separate report articulating its concerns. However, we believe these concerns could be alleviated if the Department's concerns are met.

Many terms and phrases used in the bill are undefined and are left open to interpretation. Section 4(8) defines "Indian tribe" as including any "other organized

group or community." This language leaves the definition open to interpretation which could include non-federally recognized tribes. We recommend this language be changed to include Federally recognized tribes only. Section 104(2) includes the phrase "surplus to the needs of Indian communities." Again, this phrase is undefined and left open to interpretation and could be taken to mean Indian preference in leasing.

Section 101(b)(5) includes the term "associated value-added industries". This language is vague and undefined. We therefore recommend that the Committee clarify what is included under the term "associated value-added industries".

Section 101(c)(2)(B) directs the Secretary to provide for the development of an agricultural resources management plan for any interested Indian tribe. We agree there is a need for sound resource planning. Since 1988, the Bureau has strongly emphasized the Integrated Resources Management Planning initiative. To date, nine of these reservation plans have been completed. The purpose of this initiative, in cooperation with the tribe and the local Indian communities, is to prepare an integrated management plan for each reservation. These management plans include specific information on demographics, renewable and non-renewable natural resources, transportation, existing businesses and business opportunities, educational facilities, and economic and marketing data. These plans outline the various options available to tribal decision makers for developing resources on a reservation in an integrated fashion to improve the economic well-being of the local Indian population.

Section 102(b)(2) directs the Secretary to provide notice of all tribal laws relating to the environment, historic or cultural preservation, zoning and land use, and Indian agriculture to all persons or entities undertaking activities on Indian agricultural lands. This provision would greatly increase our administrative responsibilities. Providing due notice should be a local tribal government responsibility. The tribal governing body would be in the best position to provide notice to individuals rather than requiring the Secretary to do so. This is particularly significant when tribes are administering Bureau of Indian Affairs (BIA) programs under compacts and contracts.

Section 102(c) requires the Secretary to waive the application of any regulation or administrative policy that conflicts with objectives of a management plan, unless the waiver would violate a Federal statute or judicial decision or would conflict with his general Federal trust responsibility. We fully support mutual consultation, coordination and participation in development of management plans under this bill by land and resource management agencies. We strongly recommend requirements for participation and consultation with Department of the Interior agencies as well as other affected land managers in development of the management plans. It is our understanding, as currently drafted, the requirement to waive regulations and policies may be applicable to all land-managing agencies under the jurisdiction of the Secretary within the vicinity of Indian lands. For this reason we recommend that section 102(c) be clarified to apply only to Indian lands. Section 102(c) provides that

the Secretary "shall waive" regulations or administrative policies which conflict with the objectives of the management plan or a tribal law. We recommend that the waiver provision be made discretionary not mandatory because the policy priority it creates in favor of agriculture may well be inconsistent with other tribal needs as well as important Secretarial policies.

We also recommend the inclusion of a new subsection 102(d) as follows:

"Nothing in this Act shall constitute a waiver of the sovereign immunity of the United States nor authorize tribal courts to review actions of the Secretary."

Section 103 directs the Secretary to assemble a Task Force to develop a comparative analysis of Federal investment and management efforts for Indian trust and restricted lands as compared to federally owned lands managed by other Federal agencies or instrumentalities. In 1990, the BIA completed a Position and Land Analysis Survey comparing staffing levels for Indian agricultural and range trust land to staffing levels for similar agricultural and range management activities on other Federal and private lands. The analysis revealed that the BIA would have to double its range and soils staffing levels in order to maintain a staff-to-acreage-managed ratio similar to other agencies. The data collected in this analysis is still valid as staffing patterns in the agricultural and land range disciplines have remained fairly stable in the last few years. If an additional study is necessary, we recommend that a provision be added to require that the comparative analysis address similar Federally owned land in the same geographic area as those Indian lands being studied.

Section 104(1)(B) authorizes the Secretary to approve any lease or permit on Indian lands containing a provision for the renewal or renewals of such lease or permit for a period of years determined by the tribal government. We feel it is not prudent to provide rights of renewal as a provision of the lease agreement given that the conditions under which the lease was agreed to and the desires and needs of the landowner may change over the course of the lease.

We therefore recommend section 104(1)(B) be amended by striking the following language:

"which contains a provision authorizing the renewal or renewals of such lease or permit for a period of years determined by the tribal government to be necessary to meet the purposes of this Act, including any such lease or permit"

Section 104 directs the Secretary to promote the use of agricultural lands by Indian people and authorizes the Secretary to offer for lease only those lands surplus to the needs of Indian communities. In other words, the best bid from an Indian would be accepted even if there were better bids from non-Indians. This implies that Indian preference in leasing will be instituted in accordance with a tribal resolution. Indian

preference in leasing will restrict the economic market for the Indian landowner and may result in a decrease in rental income. We therefore recommend that the allottees be allowed the opportunity to opt out of the mandated Indian preference in leasing.

While at this time there is no cost analysis of H.R. 1425, it is evident from the creation of the task force outlined in the bill, the intensive expanded management requirements, and the educational initiative, that implementation of H.R. 1425 would require the investment of significant amounts of money above and beyond the tens of millions of dollars already spent in this area. The Federal cost of the Indian agricultural bill should recognize the efforts by the President and Congress to reduce the Federal deficit and not create unrealistic expectations among tribes and their members.

Section 101 directs the Secretary to undertake rangeland and farmland management activities on Indian lands and sets out the objectives of such undertakings by the Secretary. We do not interpret the objectives under section 101 to define or extend the Secretary's trust responsibilities beyond its current level. We favor exploring whether adopting the objectives set out in section 101(b) would produce the desired results and would support a demonstration project to resolve this issue.

Because H.R. 1425 could have a substantial impact on the rights of the tribe vis-a-vis the rights of Indian farmers and landowners, we recommend that field hearings be conducted to allow these individuals to fully express their views and concerns.

We also recommend a provision be added to clarify that the Act is not intended to exclude the applicability of any other Federal agricultural programs for which the Indian farmers and landowners may be eligible.

This concludes my prepared statement. I would be pleased to respond to any questions the Committee may have.

Mr. RICHARDSON. Thank you, Mr. Hayes. Before we get into some substantive questions, I want to discuss a matter that troubles me. I know that Secretary Babbitt is making significant improvements in the BIA and I know that the Assistant Secretary of Indian Affairs is not yet in place.

I also know that you are known for running your division well and you have actually submitted substantive testimony on this bill with suggested amendments, which is something we haven't seen from BIA witnesses in about 12 years, so I am commending you before I express some very serious concerns.

The concerns that I am expressing relate to a BIA memorandum dated March 31 of this year from the acting director of your office to all area directors. Basically this memo tells allottees to lobby me and Senator Inouye on the Indian agriculture bill, and I would like you to explain this memo and whether you think this was proper for the executive branch to do.

Mr. HAYES. Mr. Chairman, I am very much aware of the memorandum to which you refer. The memorandum, as you mention, is one dated March 31, 1993, and was a memorandum from our office to all area directors to the attention of their realty officers.

It was the furthest thing from our intent that this memo would have the result of lobbying either you or Senator Inouye. It is not the purpose of the memorandum. The purpose of the memorandum was to disseminate the legislation which was currently before the Congress on the Senate side, and we wanted to do the same thing with the House side, to ask our area offices to make this information about this legislation available as best they could to all individual Indian landowners.

We are of the belief that most, if not all of the tribes, are aware of this, but the individual landowners I think are not so much aware. We wanted them to be aware that this had some fairly far-reaching impact on them and their relationship with their land, and if they wanted to provide comment, then your name and Senator Inouye's name were included in there.

In retrospect, I regret that we did that; however, it was not intended as a lobbying effort. That was the furthest thing from our intention, Mr. Richardson.

Mr. RICHARDSON. Well, Mr. Hayes, I am not comfortable with your answer, because in the last two days, the subcommittee received 30 telefaxes from allottees, which normally we don't mind, but every one of them was faxed from the BIA Anadarko agency. Some are form letters and the language is pretty explicit about what they want us to do.

I have read your memo, and while I understand this was not your intent, the language in the memo is quite specific about what you want these allottees to do. The proposed bill may affect the real property rights of Indian allottees. We are concerned that the Indian allottees may not be aware of this proposed legislation.

We have got enough lobbyists here in Washington and we have got enough people lobbying me and Congressman Thomas and Faleomavaega and Representative English. I am concerned about it because this does not seem to be proper. Is it your view that these faxes from the BIA Anadarko agency are proper to be sent to me on behalf of Indian allottees?

Mr. HAYES. I don't believe it proper that they have come from the Anadarko area office of the Bureau of Indian Affairs. I am aware and have been provided with copies of a couple of the documents that were faxed to you. Late yesterday afternoon, I checked into that matter and the situation was, as I essentially suspected, that individuals from the Anadarko area came into the Bureau of Indian Affairs office and asked if the agency office would fax these to you.

Providing assistance of one sort or another to Indian people at an agency or area or even in the Washington office is not uncommon. I worked for a few years at the Colorado River agency in Parker, Arizona, and was with some regularity asked to do this, that or some other thing for Indian people.

I don't think that we are ever asked to telefax anything to a congressman or to a senator, but we are often asked by an individual who will walk in and they will ask if they can make a telephone call or if we might type a letter or if we might notarize something for them, a whole variety of things.

Mr. RICHARDSON. Let me read you one BIA Anadarko agency fax to me. "Honorable sir, in opposition to H.R. 1425, I oppose this bill and I want my people's land to remain under the BIA Anadarko." The letter is from AO Spotted Bird, Hobart, Oklahoma.

I mean, I have bunches of letters and they are lobbying. They are telling us they don't like the bill, in handwriting. I will provide these to you. You know, Mr. Hayes, I was hoping that you would say that you were wrong, this will not happen again, and the people involved are going to be disciplined.

I am a little perturbed that you are coming to me and saying that this was not the intent when these letters are all over and have been documented. I am trying to get you to assume responsibility for this and tell me that this will not happen again and that those involved are to be disciplined.

This is not right. Area offices of the BIA should not be used to lobby Members of Congress. BIA should not be lobbying the Congress. That is not your role.

Mr. HAYES. Mr. Chairman, if I might respond, I agree with you, it is not right, and I believe that I can assure the chairman that we will look into why these letters in opposition were telefaxed to you from the agency office. If there has been some violation, then we will take appropriate action.

It is improper for the Bureau of Indian Affairs to lobby the Congress, as you correctly point out. In fact, I believe it is probably against the law for us to do that, and I just was attempting to point out to the chairman that it was not our intention to lobby Congress and we will do whatever is appropriate to see that this does not happen. If it is necessary for us to rescind this memorandum and provide some greater clarification to our field offices, we will do so. But we will stop this lobbying.

Mr. FALEOMAVAEGA. Will the chairman yield?

Mr. RICHARDSON. Yes, and let me say to the gentleman from American Samoa, the chairman has to make a quick one-minute statement on the floor of the House, and I would ask the gentleman to proceed with the questions and assume the chair for a few minutes until I return.

Let me say to Mr. Hayes, I will take what you said under advisement. I like your later answers a little better. Let me just ask the gentleman from American Samoa to proceed.

Mr. FALEOMAVAEGA [presiding]. Thank you, and I will be very happy to do so.

I would just like to ask Mr. Hayes if, for the record, that you will give assurance that there will be disciplinary action taken against the people who are responsible for this memorandum and this development. Do I hear that correctly or does it merit this kind of an investigation by the Department?

Will the Inspector General be involved in the process or is this just going to be done on a casual basis? I would just like to know for the record what you intend to do definitely with this matter.

Mr. HAYES. Mr. Chairman, yesterday afternoon I was visited by two attorneys from our Solicitor's office, one from the Indian Affairs Division and one from General Law, and we had some discussion about this memorandum and what was being considered to be done.

At the conclusion of our discussion, they were going to go back to their offices and develop a memorandum. I am not sure of the precise contents of that memorandum, but they were going to develop a memorandum to our field offices, instructing them to disavow the memorandum in question and to rescind it so that there would be no further lobbying either factually or not factually. By that, I mean by sending in letters of opposition to either committee.

Mr. FALEOMAVAEGA. I can understand what you intend to do after we are discussing this issue, but what I want to know, assurances from you, will there be disciplinary action taken against those who are responsible for this memorandum and its activities?

Mr. HAYES. Mr. Chairman, I can't sit here and give you an assurance that a disciplinary action will be taken. I can assure you that the matter will be investigated and action appropriate to the results of that investigation will be taken.

Whether that involves some Inspector General action or not, I can't tell you. I can only go back to the intent of the memorandum, which was far from trying to lobby the Congress. That was not our intention at all.

Mr. FALEOMAVAEGA. Am I to understand that the regional offices had no knowledge or understanding of this kind of activity if they were to do this kind of coaching or being involved in the process? Is this correct? Are you saying that the regional offices had no understanding of the ramifications of what they have done?

Mr. HAYES. I can't—

Mr. FALEOMAVAEGA. What I am saying is: Is there some regulation within the Department of the Interior that says you cannot do this kind of thing?

Mr. HAYES. I believe there is a prohibition against lobbying. I believe it is contrary to the law. Mr. Chairman, our reading of this memo is, we are not lobbying. We are trying to get information out to individual Indian landowners so that they can make informed decisions and they can take whatever action they feel appropriate. We don't want to be involved in lobbying.

Mr. FALEOMAVAEGA. We will have to proceed on with this issue. I do have a couple questions I would like to ask, Mr. Hayes.

There have been extensive environmental impact statements developed for all public lands during the 1980s and in the process, these statements included inventories of natural, cultural and fiscal resources. How many acres of Indian trust lands have been similarly inventoried?

Mr. HAYES. Mr. Chairman, the Bureau has not undertaken a massive effort to perform environmental impact statements on Indian trust lands. Many of our environmental impact statements are project-specific and cover a certain number of acres or a certain project on reservations across the country.

We do believe that there are approximately 20 percent of the Indian trust lands that have had some sort of environmental assessment, environmental impact statements done, and much of this activity is undertaken through the auspices of the development of resource management plans.

Mr. FALEOMAVAEGA. I see. In the communications with this committee, the Bureau has taken the position that the Federal Government has no general trust obligation to use its funds to manage, make improvements upon, or develop Indian lands or resources.

Isn't it true, however, that there are 164 Indian irrigation projects operated and maintained by the Bureau and the Federal Government has failed to complete even one of these projects?

Mr. HAYES. That is correct.

Mr. FALEOMAVAEGA. So where do we go from there?

Mr. HAYES. Mr. Chairman, Indian irrigation projects was the subject of an oversight hearing a couple of years ago, and at that time the Bureau testified that none of the Indian irrigation projects have been completed. None have been completed for any one of a number of reasons, primary among them is fiscal.

We have had over the past decade or so great difficulty in obtaining monies to move forward on irrigation construction. Irrigation construction has not been a real high priority within the Bureau of Indian Affairs or within the Department of the Interior. Much of the effort and progress has been attributable to the Congress with the Congress appropriating funds for irrigation construction.

Mr. FALEOMAVAEGA. There is a manual issued by the Bureau of Indian Affairs, No. 55 to be specific, and it includes requirements that the BIA shall conduct interior natural land and rangeland plans for Indian trust lands.

Does this seem to agree with what we are discussing here with reference to this legislation or do you differ in opinion in terms of what we are trying to project here as far as giving this kind of assistance to develop trust lands for purposes of agricultural enhancement?

Mr. HAYES. Mr. Chairman, I agree that the Bureau of Indian Affairs is obliged to work with tribes or individual Indians in the development of management plans. Tribes and individual Indians put their property into units and we participate with them in the development of use plans. If that constitutes management activity, then, yes, we are involved in management activity.

However, management activity in a real strict definitional sense, I think, involved some direction, some requirement that whoever is the manager give direction to whoever is using it.

Mr. FALCOMVAEGA. Mr. Hayes, how many years have you been with the Bureau of Indian Affairs?

Mr. HAYES. I have been about 20 years, sir.

Mr. FALCOMVAEGA. And Director of the Trust Land Responsibilities for—

Mr. HAYES. I have been Director of the Office of Trust Responsibilities for about four years, Mr. Chairman.

Mr. FALCOMVAEGA. Four years.

Mr. HAYES. Yes.

Mr. FALCOMVAEGA. Do you consider this piece of legislation is a new, novel idea about trying to promote agricultural development in trust lands? Do you consider this to be a good idea, or do you think it is a lousy idea to have the Indians be more self-supporting in that respect with the use of their lands for purposes of agricultural enhancement?

Mr. HAYES. Mr. Chairman, I think the legislation is probably a good idea in that it will set out the parameters of responsibility and it will require, if you will, the tribes to have a greater say and more self-determination in what happens to their trust land.

It has some effects which I have testified to discomfort about. There are some matters contained within the legislation that we would be happy to work with this committee and the committee staff to alleviate our concerns. We think that there is a great deal of potential in this legislation, but it is going to be essentially a different ball game and it is going to require a greater amount of understanding by individual landowners as to their relationship with their tribal governments in regard to their land.

Mr. FALCOMVAEGA. All we are trying to do is to provide a little more than one option for some of these landowners and those of the trust lands to give the Indian community another opportunity other than just, you know, for what it is.

And I realize that perhaps the BIA is not the expert agency that could provide guidelines and expert advice on how best to utilize trust lands for purposes of agricultural development, and all this piece of legislation attempts to do is to bring about this added ability and perhaps to work with your agency.

Quite obviously, the Department of Agriculture probably is aware where the possible resources can lay, but we can do that on an interagency basis. But what I am not getting clearly from you is, Can you see this to be a viable option where trust lands and Indian-owned lands can be used for agricultural development in a good, positive way?

Not that it means that we are going to alienate the Indian landowners from the land, but for purposes of enhancing the value of the land for agricultural purposes, is this a bad idea?

Mr. HAYES. Mr. Chairman, no, it is not. We applaud that intent in this legislation. We support that intent in this legislation. We are supportive of Indian agriculture and Indian ranching. As I have testified earlier, we believe that Indian ranchers and farmers are the backbone to economic stability on Indian reservations. They contribute greatly to the reservation economies, and we recognize that.

We make no pretense that we have provided a service, provided counsel and advice to individuals and tribes which has been 100

percent good with no comments or no problems. We don't make that claim and we would never make that claim.

Mr. FALEOMAVAEGA. See, but here is the problem I am faced with. All we are simply trying to do is give this opportunity, let the Indian farmers and the ranchers say, hey, this may be another way to help you develop your lands in the best way possible, whether it be for farming or ranching or what it is.

And we get memos like this going around issued by the Department saying they are going to take away your lands. You are going to have problems. In other words, rather than being part of the solution, we make even more problems and this was never the intent of this piece of legislation. It was to give assistance, to provide help for the Indian farmers and ranchers, to enhance the value of whatever could be the most they use and the lands could be provided for.

So what I am still trying to get from you, sir, is that you do approve the principle behind this piece of legislation?

Mr. HAYES. That is correct.

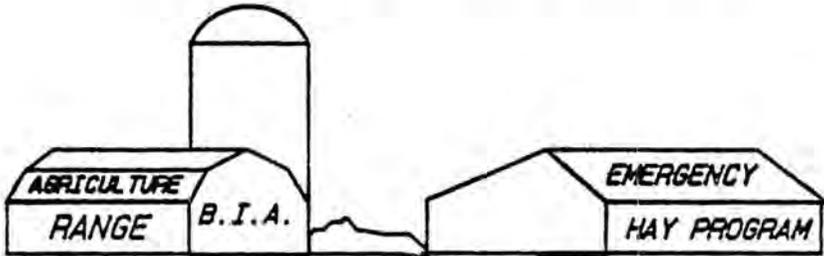
Mr. FALEOMAVAEGA. We want to help the Indian farmer, the Indian ranchers. We want to enhance the use of the trust lands. Now, perhaps as a matter of record, can you share with us what has been the BIA record in promoting farming and ranching among the Indian people?

Has the BIA been responsible for this over the years, to give assistance to the ranchers and the farmers?

Mr. HAYES. Mr. Chairman, the Bureau of Indian Affairs has been responsible. There is a great deal of commentary available which addresses the quality that has been provided by the Bureau of Indian Affairs, well, quality and quantity. There was a report to the Congress in 1986, and we would be happy to submit that again to this committee, which addressed many of the problems in Indian agriculture. It pointed out many of the shortcomings and made a number of recommendations on how to fix problems.

[The report follows:]

# REPORT TO CONGRESS



B.I.A. AGRICULTURE – RANGE PROGRAMS

Submitted by:  
Bureau of Indian Affairs  
Washington, D.C.  
September, 1986

## FOREWORD

The conservation and management of nearly 47 million acres of Indian farmland and rangeland, and the economic health of the Indian agriculture/range industries is a primary concern of the Indian community and the Bureau of Indian Affairs. Tribes and their individual tribal members have long depended on reservation renewable natural resources for food and fiber. Recently, tribes have also begun to realize how important income from their agriculture/range resources is, when developing annual tribal budgets. For a majority of tribes in the United States, the income used to support tribal government comes from their renewable natural resources.

In December 1985, Congress passed Public Law 99-190 providing an appropriation of \$6,000,000 for the purchase of hay and its transportation in Montana, North Dakota and South Dakota to mitigate drought impacts on Indian reservations. The Act directed the Secretary of the Interior to submit a report to Congress by September 1, 1986, on the use of the emergency hay appropriation and the effectiveness of carrying out the roles of the Federal and tribal governments in agriculture and ranching throughout the United States. This report addresses the four Congressional questions, and the additional questions submitted by the Senate Select Committee on Indian Affairs.

Farming and range issues cannot be addressed by themselves. They need to be considered with other economic, social, cultural and environmental questions, if long-term strategies to fit the needs of individual tribal governments are to be developed. This report will address the issues in broad terms except where specific tribal problems are addressed or where issues deal specifically with one Area Office.

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## 1. EXECUTIVE SUMMARY

Through Public Law 99-190 enacted in December 1985, Congress appropriated \$6,000,000 to provide emergency hay relief to drought stricken Indian livestock producers on reservations in Montana, North Dakota, and South Dakota. The appropriation required that the Secretary of the Interior submit a Report to Congress on: 1) the use of the emergency hay appropriation; 2) the impact of the drought on the affected Indian reservations; 3) long-term strategies to address the disaster, and 4) the effectiveness of federal and tribal roles in resource management related to ranching, agriculture, and other land use on Indian reservations throughout the United States, with recommendations to improve that effectiveness.

In addition to the report requirements stated above, the United States Senate Select Committee on Indian Affairs in a letter dated March 17, 1986, provided recommendations for the report preparation and additional specific questions to be answered in the report.

A report was prepared by each reservation (Blackfeet, Crow, Fort Belknap, Fort Peck, Northern Cheyenne, Rocky Boys in the Billings Area and Cheyenne River, Crow Creek, Lower Brule, Fort Berthold, Standing Rock, Rosebud and Pine Ridge in the Aberdeen Area) receiving assistance from the hay program and consolidated into an Area Office report by each Area. The Area Office reports were consolidated into a single draft report by the Central Office and provided to all tribes and interested parties for review and comment. Public hearings were held in Billings, Montana, and Aberdeen, South Dakota to solicit comments and testimony on the Central Office draft report and the general state of agriculture and ranching on reservations in the Billings and Aberdeen Areas.

The individual reservation reports, public testimony, additional tribal and individual comments, and inputs from other Federal agencies which supply services to on reservation agricultural producers, have been consolidated in this report with recommendations for improvement.

Agricultural and ranching pursuits are a major source of income to reservation economies throughout the United States. On the Northern Great Plains reservations, beef cattle production and dryland farming of small grains are the major agriculture pursuits and the primary source of income and employment to the Indian people. The primary source of income to Indian land owners is provided through the leasing of their lands for agriculture or grazing purposes.

The impact of the drought on the subject reservations has been severe in both resource and economic terms. Loss of production income is estimated at \$14.9 million from both small grain and beef losses for 1985. Landowner income losses due to reduction in lease and permit payments total \$2.2 million for the same period. Total crop failures of small grains and hay were realized over much of

Northern Montana, but these resources will recover quickly following increased rainfall. Drought damages to rangelands is severe on the Fort Peck Reservation, and on areas of the Rocky Boy's Reservation and Blackfeet Reservation. Several years of intensive management including shortened grazing seasons and reduced livestock numbers will be necessary to restore the grazing resource to pre-drought condition.

Indian farming and ranching enterprises differ significantly from off-reservation operations. Smaller scale, lack of sufficient capital, isolation, increased distance to markets, and reduced land tenure terms contribute to a lack of long-term stability and increased impact from short-term market fluctuations or adverse weather conditions. A general lack of resource development increases drought impacts on Indian land, and results in a longer recovery period.

A primary reason for the differences between Indian and non-Indian agriculture enterprises is that undivided heirship and tribal ownership prevents Indian operators from acquiring title to most of the lands in their operation. Indian farmers and ranchers are therefore dependent on leased lands with a term limited to five years by regulation. This results in a lack of collateral to support necessary capital acquisition and reduced involvement in USDA programs requiring long-term land tenure. As a whole, these influences result in under capitalized, small scale operations with minimal on-farm development, little stability, and complete dependence on fluctuating markets.

The Bureau has a primary responsibility to protect the interests of the trust landowner as established through treaty, Executive Orders, court decisions, and regulation. This responsibility may place the Bureau in direct conflict with the interests of the land user, most frequently an Indian farmer or rancher. Under the Indian Self-determination Act and the Indian Priority System of budgetary formulation, Bureau agriculture programs have been given low priority. Over the past decade, total agriculture programs have been funded at only 2% of the total Bureau budget, even though 87% of the 54.5 million acres administered by the Bureau are used for agricultural purposes.

Other federal agencies with a responsibility to on-reservation agriculture have also been ineffective due to a lack of Indian participation on local boards or committees, and the expectation that Indian needs are met through Bureau programs.

In order to improve conditions on Indian reservations and resolve problems with Indian agriculture and range pursuits, it is important to take the following actions:

1. Establish a Commission similar to the Intertribal Timber Council on a National/Regional level for Agriculture/Range. The Commission will be established to review Bureau and tribal policy, the rapidly changing goals and objectives of tribal

governments, and recommend changes in Bureau/tribal policy to effectuate improved opportunities for management and increased productivity from Indian agriculture/range resources.

2. Establish a schedule to continue the hearing process on a regional basis to obtain testimony from other tribes concerning improving the effectiveness of the Federal and tribal role in Indian agriculture.
3. Review and recommend actions to improve the availability of cost effective long-term financing for the Indian agricultural community. This will include improving coordination with Federal and private lending institutions, improving land tenure regulations, establishing an Agriculture Lending Title in the Indian Financing Act, and investigating options for the protection of Indian lands from alienation of trust status.
4. Review the Bureau's mission and goals relative to encouraging tribal participation in the management of reservation lands including enforcement services on lease and permit lands.
5. Identify requirements and needs for the Bureau's agriculture program and provide funding for seed money and/or cost share assistance for agriculture resources development and Indian range and farm management improvement projects.
6. Include an agriculture extension service activity in the Bureau's Agriculture Program budget to improve and enhance Indian agricultural education programs for the needs of the Indian people through cooperative agreements with the Department of Agriculture and land grant universities. This program must include reestablishment of Extension Agents at the reservation level to provide Agriculture Extension assistance and re-implement the FFA and 4-H programs for Indian youth.
7. Set aside a percentage of the Bureau scholarship fund for Indian students to complete degrees in the renewable natural resources sciences.
8. Modify Department of Agriculture programs and procedures at the county or local level to enhance Indian agricultural producer involvement in agriculture programs administered by the Soil Conservation Service (SCS), Agricultural Stabilization and Conservation Service (ASCS), and the Cooperative Extension Service (CES).
9. Review the Agriculture/Range programs and projects to encourage cost sharing with trust land owners, individual land users and other Federal, state and local agencies. Projects with cost sharing potential should be given priority which will enhance the Bureau's funding for Agriculture/Range projects throughout the reservations.

## II. INTRODUCTION AND BACKGROUND

Adverse drought conditions in the States of Montana, North Dakota and South Dakota have threatened massive failures in the Indian ranching industry and concurrent financial crisis to tribal governments. Drought conditions in several locations have been long and continuous and described by some as the worst since the 1930's. Forage and hay production has been reduced, on the average, by 50 percent. Decreased hay production has caused hay prices to more than double the cost for normal years. Adding to this situation, a very harsh early winter starting in November 1985, reduced hay supplies further, which in turn, created a longer and more costly feed period. Snow coverage of 20 to 30 inches, and subzero temperatures early this last winter prevented the use of the range for winter forage.

During early fall and late winter of 1985, the Governors of Montana, North Dakota and South Dakota declared large portions of their states as disaster areas. The Department of Agriculture concurred that the reservations were drought-disaster areas and the Farmers Home Administration made low-interest emergency loans available. Indian ranchers could not access this program because they were unable to service any additional debt load. At the request of tribal governments, the Bureau arranged for the Commodity Credit Corporation to provide surplus grain under the Indian Acute Distress Donation Program (IADDP).

Feed grain assistance was badly needed; however, cows as ruminating animals also require roughage in order to survive. In order to utilize the sparse range vegetation, Indian tribes and the Bureau delayed spring livestock turn-out dates in Montana; operators reduced herds up to 50 percent, most grazing fees were deferred; and for most of the three state area, the overall grazing season was reduced.

Indian tribes brought their concerns and needs to the attention of the Bureau of Indian Affairs and the Congress in late 1985.

The Congressional Record - Senate, December 10, 1985, in testimony by Senator John Melcher, describes the conditions of the situation:

"The only options which remain are to completely eliminate herds, thereby forcing Indian ranchers out of business, or to implement a hay supplement program. However, let us make no mistake--Indian ranchers have already tolerated all they can take. If they go out of business, they will not re-enter the industry. They will join State, Federal, and tribal welfare rolls, swelling the overcrowded ranks of American Indians who are without opportunity to provide for themselves or their families."

On December 19, 1985, the President approved H.J. Resolution 465 (the Continuing Resolution) (Public Law 99-190). The Act provided for an appropriation of \$6,000,000 to purchase hay and its transportation for the drought disaster on Indian reservations in Montana, North Dakota and South Dakota.

The Act also directed the Secretary of the Interior to make a report, or reports, to the Congress by September 1, 1986, on (1) the use of the appropriation for an emergency hay program, (2) the impact of the drought disaster on the Indian reservations in Montana, North Dakota and South Dakota, (3) long-term strategies to address the disaster on each of the reservations, and (4) the effectiveness of the carrying out of the roles (including resource management and the establishment, waiver, and collection of grazing fees and rents or other payments) of the Federal and tribal governments in ranching, agriculture, and other land use on Indian reservations throughout the United States, with recommendations to improve that effectiveness.

The four (4) mandated requirements of P.L. 99-190 are discussed in detail in the text of this report. Meetings were held with representatives of tribal governing bodies and farm and ranch operators concerning the preparation of this report. Hearings, in accordance with Section 16 of P.L. 73-383 (25 U.S.C. 476), the Indian Reorganization Act, have been held to solicit further comment and input. Hearings were held in Billings, Montana, and Aberdeen, South Dakota, on July 10-11, 1986, respectively. A summary of testimony received is included in Section V of this report. Copies of the hearings proceedings are available upon request.

The United States Senate Select Committee on Indian Affairs provided guidance to the Bureau in a letter dated March 17, 1986, to the Assistant Secretary for Indian Affairs. The letter reaffirmed the requirements of the Continuing Resolution, made recommendations for preparation of the report, and recommended that additional items be addressed in the report due on September 1, 1986. The Senate Select Committee questions are discussed in Part III of this report.

### III. THE SENATE SELECT COMMITTEE'S QUESTIONS AND BUREAU ANSWERS

On March 17, 1986, the United States Senate Select Committee on Indian Affairs provided the Bureau with additional items to be addressed. Those questions are discussed in this section.

Question 1: What is the Bureau policy for protection of trust land in the event of foreclosure on land which has been mortgaged for Federal loans? What is the Bureau role in conjunction with other Federal agencies when foreclosure is threatened?

Answer: Pursuant to 25 U.S.C. 483a, any individual Indian owner of land held in trust or that is subject to restrictions against alienation may execute a mortgage against such land, subject to the approval of the Secretary of the Interior.

Once an encumbrance has been approved by the Secretary, the Bureau's trust responsibility does not extend to preventing foreclosure by bona fide lenders; however, the Bureau has an understanding with lenders in each of the Areas to notify the particular tribe and the Agency office when a defaulted loan is in danger of being foreclosed. The Bureau will assist the tribe in an attempt to obtain funds to purchase the land from the borrower if the tribe so desires.

The Bureau will also assist the borrower and the lender to work out a solution which protects trust land from foreclosure action. Tribal council officials and Bureau employees have succeeded in limiting trust land foreclosures to less than one (1) percent of the total number of acres currently under mortgage. The Bureau's Indian Financing Act and the FmHA Land Acquisition Program is available to assist the Tribal Land Acquisition Programs.

Question 2: It appears to the committee that there is a disparity between the animal unit month (AUM) rates for allotted tribal land, as opposed to the AUM rates for other Federal land in nearby locations. How does the Bureau establish AUM rates for allotted Indian land and how does this compare with the method for establishing AUM rates for other Federal land, for example BLM land? How does the AUM rate which the Bureau establishes for allotted land affect the establishment of tribal AUM rates?

Answer: Indian lands are private lands held in trust by the Federal Government, not public lands. The Leasing and Permitting Regulations (25 CFR 162) and General Grazing Regulations (25 CFR 166) require that allotted land be leased and permitted at a fair annual rental return to land owners. The method for establishing annual rental value is a fair market value determined by using arms length transactions of leases and permits on and off the reservation. After a fair market value is established, there are several deductions, such as Bureau execution fees and advance payments of rentals, before a minimum rate per animal unit month is established.

The method of establishing grazing rental rates on public lands administered by the Bureau of Land Management (BLM) is provided in Section 6 of the Public Rangelands Improvement Act (P.L. 95-514). The BLM determines fair market value, then uses a formula provided in Section 6 of the Act to establish the rental value per AUM. The BLM rate takes into consideration public use of the rangeland and cost of operations on public land.

The establishment of grazing rental rates on tribally owned lands is the responsibility of tribal governments. Rental rates at fair market value or a rate below fair market (subsidized rate) may be set for enrolled tribal members. Rental rates for non-Indians using tribal land will not be less than the minimum rate established for allotted land throughout the reservation. The Area Director and Agency Superintendent will provide the tribe with all available appraisal data and recommended minimum grazing rental rates.

Question 3: What is done to train existing natural resources employees to further working relationships with tribal governments in the areas of trust responsibility and management of the range and agricultural land resource?

Answer: There is a lack of specific on-the-job or other training for existing or newly recruited natural resources staff regarding working relationships with tribal governments, or concerning the trust responsibility. Professional staff persons recruited by the Bureau are generally equipped with skills and knowledge on the management of range, agriculture, and resources. The scope of natural resource work on Indian owned land has no counterpart in the practice of agriculture and land resource management on lands administered by other public agencies. Indian lands are unique privately-owned lands, where beneficial ownership is in the name of tribes or allotted individuals or heirs, but where legal title is held in trust, restricted from alienation by the United States.

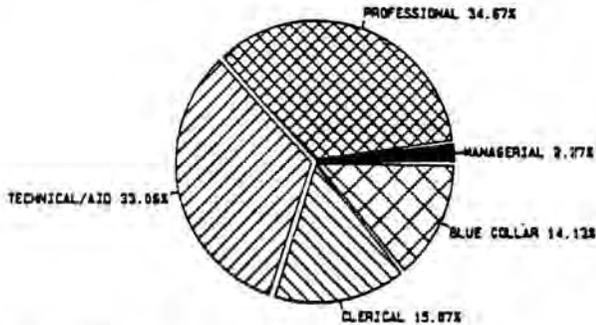
Bureau Manuals, such as 55 BIAM - Land Operations, and the Code of Federal Regulations, Title 25 - Indians, are the only existing natural resource program guidelines available as training material for current or new employees. The Land Operations part of the Bureau manual has not been completely updated since the early 1950's. It needs revision to reflect current policies and objectives for carrying out the Bureau's Indian Agriculture/Range Program.

Question 4: What system and standards does the Bureau use to determine staffing requirements for range and agricultural positions? How many Indians are currently employed in these positions? What is being done to train and recruit Indians for employment in natural resources positions? Do you have any plans to establish a para-professional training program for natural resources careers?

Answer: The Bureau of Indian Affairs' Personnel staff utilize the Federal Position Classification System Occupational Codes in designing professional and technician positions at Agencies. Position Classification Standards establish the complexity and grade

level of each job in the Bureau organization at each reservation location. Position staffing ceilings are based upon Full Time Equivalency (FTE) hours allocated to each Agency Superintendent by the Area Director. Decisions to fund Agency positions are made using the Indian Priority System (Banded Funds). The authorized FTE for the Agriculture/Range program for FY 1986 is 506. The following Figure identifies the present staffing at 750 positions itemized by managerial, professional, technical/aid, clerical and blue collar.

Figure 1. BUREAU-WIDE STAFFING PERCENTAGES IN AGRICULTURE RANGE PROGRAMS



These staffing categories are defined as follows:

**Managerial:** Classified as General Management (GM), these are distinguished from professional positions by policy formulation responsibilities. These positions are generally classified in the General Biological Science Series (401).

**Professional:** Life Science, Engineering, and Natural Resources positions with specialized disciplines applicable to the Bureau Agriculture and Range Programs. These positions are classified as General Schedule (GS) and generally at a mid-level grade (9-12).

**Technical/Aid:** Life Science, Engineering, and Natural Resources positions with generalized responsibilities implementing Bureau Agriculture and Range Programs. These positions are classified as General Schedule (GS) and generally at grade levels of 1 to 7.

**Clerical:** Secretarial, Stenographic, Clerical staff, and Data Transcribers with assigned responsibilities of Agriculture/Range staff support. These positions are classified as General Schedule and generally at grade levels of 2 to 5.

**Blue Collar:** Wage Grade and Wage Supervisory positions such as Equipment Operators, Mechanics, Pest Controllers and Laborers.

The following Table indicates the distribution of these positions to the various areas throughout the Bureau:

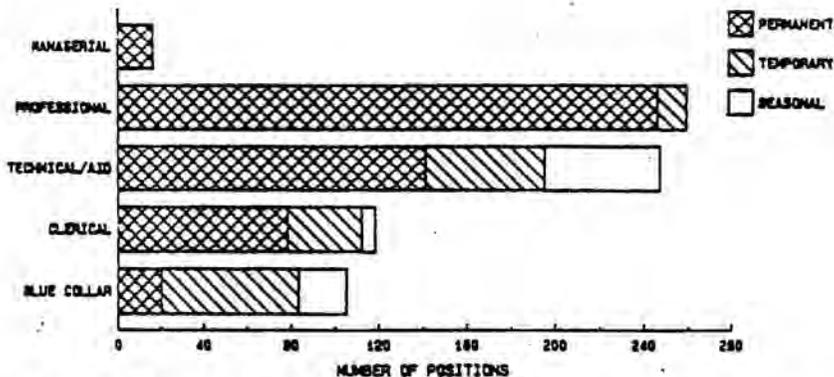
Table 1. STAFFING OF AGRICULTURE/RANGE PROGRAMS BY AREA

	Manage- rial	Profes- sional	Technical/ Aid	Clerical	Blue Collar	
Aberdeen	4	45	81	25	15	170
Albuquerque	2	48	30	15	52	147
Anadarko	0	15	10	9	0	34
Billings	0	30	27	14	4	75
Eastern	0	0	0	0	3	3
Junesau	0	1	0	0	0	1
Minneapolis	0	0	0	0	0	0
Muskogee	1	8	11	8	0	28
Navajo	4	47	52	20	5	128
Phoenix	1	35	21	17	24	98
Portland	3	30	15	11	3	63
Sacramento	0	0	0	0	0	0
Central Office	2	1	0	0	0	3
TOTALS	17	260	248	119	106	750

Figures represent positions rather than FTE's. Figures are based on Position Listing, Report Format 6 (5/29/86 and 6/13/86).

The difference between the allowed FTE and the number of positions listed reflects the extensive use of seasonal and short-term temporary employees in field operations in Agriculture/Range. The following figure illustrates the Agriculture/Range positions by tenure categories in permanent, career-seasonal, or temporary positions:

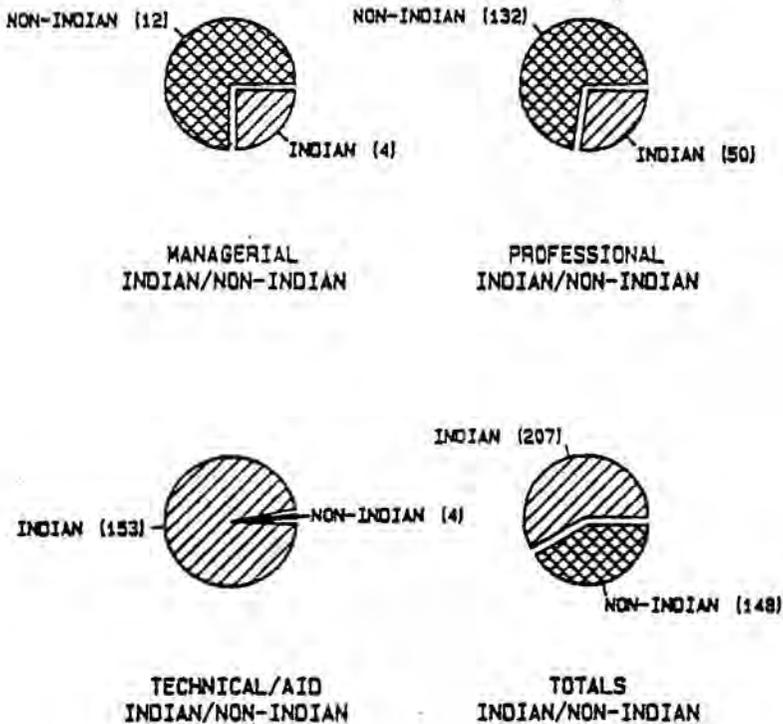
Figure 2. TENURE CATEGORIES OF AGRICULTURE-RANGE STAFF AT THE AGENCY LEVEL BUREAU-WIDE



FIGURES REPRESENT POSITIONS RATHER THAN FTE'S.  
FIGURES BASED ON REPORT FORMAT 6 POSITION LIST.

Within Agriculture/Range in the Bureau, non-Indians are frequently employed in managerial or professional positions, while Indians are most frequently employed in the technician, blue collar, and clerical positions. Managerial and professional positions in Agriculture/Range established through the Federal Position Classification System have specific formal education requirements, usually tied to the specific area of expertise. Non-Indians frequently occupy these positions because Indian college students have not traditionally studied these subjects. The figures below compare Indian and non-Indian staffing in managerial, professional, and technical positions. Blue collar and clerical positions are not represented graphically as they are virtually 100% Indian.

Figure 3. COMPARISON OF INDIAN AND NON-INDIAN EMPLOYMENT IN AGRICULTURE/RANGE POSITIONS



CLERICAL AND BLUE COLLAR POSITIONS NOT INCLUDED  
 FIGURES BASED ON REPORT FORMAT & POSITION LIST.

There are no formal programs to train and recruit Indians for employment in Natural Resource positions. There is, however, an avenue for recruiting Indians through the Indian preference requirement. By exercising Indian preference rights, minimally qualified Indian applicants for Bureau Natural Resource positions are selected in preference over higher qualified non-Indian applicants.

**Question 5:** Since drought is a cyclical phenomena in the Great Plains area, what specific activities are recommended for long-term agricultural planning?

**Answer:** Long-term strategies to avert the cyclic phenomenon of future disaster (drought) are discussed in detail in Section IV of this report. Existing Bureau grazing permits issued to Indian and non-Indian livestock owners provide a conservative stocking rate, using Soil Conservation Service standards designed to take cyclic weather patterns into consideration. This system is used throughout the Country; however, under long-term drought conditions experienced in Montana over the past five years, there is no specific program in place to protect the livestock owners or rangeland resources.

Research in range management conducted by universities and Agricultural Research Stations over the past 50 years has concluded that rotational grazing systems with sufficient stockwater development offer the best opportunity to mitigate long-term drought impacts, without significant loss of income to livestock producers and land owners. Where these systems are not in place it is recommended that livestock operators reduce the size of their livestock herds and that agencies reduce stocking rates on range unit permits, to meet severe or long-term drought conditions.

Today's high technology agriculture provides several alternatives to traditional dryland farming practices. Very little can be done to increase rainfall, but much can be done to conserve stored soil moisture and to improve management. Under an intensive management system, a more efficient cropping system can be carried out.

The use of conservation tillage has increased in recent years due to the awareness of the on-site cost of erosion and the need to cut agriculture operating costs. The practices consist of a multitude of tillage patterns designed to reduce the number of tillage operations and leave significant amounts of residue on the surface. Indian and non-Indian operators on Indian lands must be encouraged to incorporate new conservation practices and cooperate in ASCS and SCS farm programs.

In summary, recent investigations on Indian reservations in the Northern Great Plains indicate that improved on-farm management can reduce drought impacts on crop production and stored soil moisture. Similarly, improved ranch management, coupled with good cross fencing, spacing of livestock water developments and crop/pasture rotations can reduce deterioration of forage and livestock production during long periods of drought.

Question 6: What is the current acreage of trust land under mortgage to federal and private lenders, and what percentage is at risk? Please provide estimates on a reservation-by-reservation basis.

Answer: As of December 31, 1985, there were 800,331 acres of trust land mortgaged in the Aberdeen and Billings Areas.

The following Tables will illustrate acres by reservation, amount of loans by reservation and lender, and totals by Area. The Tables also show the acres purchased by tribes and the amounts of each tribal loan. While it is important to note that tribal income has been pledged as security for many tribal loans, some tribes have also mortgaged lands as security for FmHA loans. Due to the Lender/Client relationship, the Bureau does not know the percentage of loans at risk.

Table 2. TRUST LANDS PRESENTLY UNDER MORTGAGE IN THE ABERDEEN AREA

	No. of Mortgages	Acres	Amount Financed	Private	PCA	FmHA
				Lender (Individual)		
Cheyenne River	172	133,689.85	\$13,834,955.23	78,000.00	4,103,327.95	6,865,740.00
Crow Creek	17	9,336.88	885,303.75	.00	.00	442,780.00
Lower Brule	7	1,071.05	259,300.00	.00	52,000.00	58,700.00
Fort Totten	1	35.20	2,700.00	.00	.00	2,700.00
Winnebago	0	.00	.00	.00	.00	.00
Sisseton	13	744.98	335,511.20	.00	.00	91,810.00
Rosebud	40	11,613.11	1,710,053.72	.00	.00	952,500.00
Yankton	28	580.12	809,340.00	5,000.00	.00	329,140.00
Turtle Mtn.	32	371.09	805,648.00	.00	.00	234,650.00
Stndg Rock	126	52,756.60	3,519,331.46	.00	24,099.88	2,969,222.05
Ft. Berthold	268	93,901.10	13,702,397.19	.00	161,129.52	11,900,300.92
Pine Ridge	264	159,272.40	9,401,680.33	214,338.50	1,580,320.01	3,833,501.79
TOTALS	958	463,372.38	\$46,266,220.88	297,339.50	5,900,877.38	27,681,044.76

	Commercial	Federal	Indian	SEA	BIA
	Lender (Banks, etc.)	Land Bank	Credit Corp.		
Cheyenne River	578,829.58	1,350,000.00	58,255.38	279,700.00	469,300.00
Crow Creek	268,722.00	46,100.00	.00	.00	109,701.75
Lower Brule	.00	28,000.00	.00	.00	120,600.00
Fort Totten	.00	.00	.00	.00	.00
Winnebago	.00	.00	.00	.00	.00
Sisseton	216,473.86	.00	27,227.34	.00	.00
Rosebud	691,053.72	22,500.00	.00	44,000.00	.00
Yankton	475,200.00	.00	.00	.00	.00
Turtle Mtn.	115,698.00	9,000.00	.00	66,000.00	380,300.00
Stndg Rock	129,315.63	86,000.00	310,693.90	.00	.00
Ft. Berthold	489,785.50	606,700.00	252,920.58	45,000.00	197,110.67
Pine Ridge	1,524,259.57	1,930,700.00	113,559.46	215,000.00	.00
TOTALS	4,489,337.96	4,079,000.00	762,656.66	649,700.00	1,277,012.42

Tribal Land Acquisition Loans

	<u>FtHA</u>	<u>Acres</u>	<u>Amount</u>
Cheyenne River		20,021	1,000,000
Crow Creek		9,336	4,240,000
Lower Brule		1,071	3,280,000
Fort Totten		9,884	1,250,000
Sisseton		11,826	1,500,000
Rosebud		11,435	9,000,000
Yankton		3,558	800,000
Standing Rock		52,756	4,300,000
Fort Berthold		93,901	1,700,000
Pine Ridge		158,152	16,000,000
		371,940	43,070,000

TRUST LAND PRESENTLY UNDER MORTGAGE IN THE BILLINGS AREA

Agency	Individual Loans	Acres	Total	PCA	FtHA	Banks	FLE
Blackfeet	154	113,567	\$18,248,756	\$6,386,290	\$6,579,270	\$3,229,896	\$2,048,300
Crow	143	101,105	9,100,083	316,660	1,614,744	4,539,898	2,414,500
Flathead	35	8,118	2,173,559	412,497	909,236	207,326	644,500
Fort Belknap	175	70,415	7,628,604	781,954	4,416,923	943,437	1,485,290
Fort Peck	22	29,393	5,710,546	786,139	1,654,540	636,660	2,517,799
N. Cheyenne	33	12,655	3,076,037	1,656,902	1,226,130	-0-	-0-
Wind River	17	1,698	898,116	-0-	295,230	397,386	205,500
<u>Non-Bureau</u>							
Lenders	579	336,949	46,835,701	10,320,442	16,696,073	9,954,603	9,316,889
Revolving Credit Loans		40,490	5,335,563				
<u>TOTAL Individual Mortgages</u>		377,449	52,171,244				

(Cont'd)	<u>AIACC</u>	<u>CCC &amp; SEA</u>	<u>Tribal Credit Program Loans</u>	<u>Acres</u>
Blackfeet		25,000	\$1,421,524	10,368
Crow	214,282		835,730	11,577
Flathead			898,689	8,319
Fort Belknap		39,010	1,092,640	6,799
Fort Peck	76,398		417,037	3,000
N. Cheyenne	193,005		669,943	427
Wind River				
<u>Non-Bureau Lenders</u>	483,684	64,010	5,335,563	40,490

TRIBAL LAND ACQUISITION LOANS

	<u>FtHA</u>	<u>Acres</u>	<u>Amount</u>	<u>BIA Revolving Fund</u>	<u>LOAN AMOUNT No Real Estate Mortgage</u>
Blackfeet		58,515	\$4,891,000		\$1,100,000
Crow		33,834	4,548,000		970,000
Fort Peck		68,692	6,000,000		
N. Cheyenne		9,464	250,000		926,950
Wind River		10,139	2,500,000		
		** 184,644	18,189,000		2,996,950

\*No Real Estate Mortgages

\*\*Real Estate Mortgages

**Question 7:** What is the current loss of income to individual allottees and tribal governments from existing agriculture leases and permits, including both range and farm land?

**Answer:** Figures for projected loss of 1986 income from leases and permits are contained in the accompanying Table for those reservations assisted through the Emergency Hay Program. The losses to allotted land owners and tribal governments are a result of unsubsidized stocking reductions, grazing deferments, and lapsed leases and permits due to reductions and liquidations of agricultural operations on the reservations. Projected figures were provided by Agency and tribal staffs in May 1986 based on the best information available at that time.

Table 3. 1986 LAND OWNER INCOME LOSSES FROM RANGE UNIT PERMITS AND AGRICULTURAL LEASES IN THE BILLINGS AND ABERDEEN AREA RESERVATIONS INVOLVED IN THE EMERGENCY HAY PROGRAM

AREA OFFICE	RESERVATION	AMOUNT OF LOSSES
Aberdeen:	Pine Ridge, South Dakota	\$673,000
	Rosebud, South Dakota	168,000
	Fort Berthold, North Dakota	18,000
	Cheyenne River, South Dakota	102,000
	Standing Rock, North Dakota	7,000
	Total	\$968,000
Billings:	Blackfeet, Montana	621,000
	Fort Belknap, Montana	245,000
	Fort Peck, Montana	325,000
	Northern Cheyenne, Montana	40,000
	Total	\$1,231,000
No loss of income for reservations not reported.		
		Grand Total \$2,199,000

**Question 8:** To what extent are tribes contracting with the Bureau for agricultural programs? What limitations are there on contracting by virtue of trust responsibility?

**Answer:** Contracting is an expression of support for Indian self-determination. Indian tribes throughout the country have been evaluating the overall agricultural programs for contracting purposes; however, over the past year, most tribes have only contracted for non-technical, labor-intensive programs. Most tribes have not developed the technical capabilities, nor expressed the desire to contract for more technically oriented resource programs. They have difficulty acquiring or retaining qualified staff when technical programs are contracted.

Bureau natural resources programs can be contracted as outlined in 25 CFR Section 271, Subpart C. Range and soil inventories, plans, assessments and compliance are all

contractible. The Bureau cannot contract its approval authority on leases and permits.

Question 9: Can the Bureau comment on the issues surrounding competency leases on the Crow Reservation in Montana? Will it affect the ability to provide resource management?

Answer: Specific policy and direction is contained in 25 CFR 162.15. Competent Crow Indians owning land with less than five heirs can lease their lands without Secretarial approval. Full responsibility for obtaining compliance with lease terms lies with the individual Crow lessor. Conservation stipulations are not required, however, they may be incorporated and made a part of the lease by the lessor. According to the regulations, the Secretary of the Interior is not precluded from taking action to assure conservation and protection of these lands. However, protection is the responsibility of each Crow lessor since he or she has the right to manage the property - free, clear, and unencumbered for farming or grazing purposes. A copy of each lease is to be recorded with the Crow Agency Superintendent after it has been completed and signed.

The Competency Lease Act severely impacts the Bureau in providing resource management. Abuse or mismanagement of land occurs without the knowledge of the Agency Superintendent. Legislation and its regulations pertaining to the Competency Act do not clearly define the responsibility of the Secretary of the Interior to manage these lands. Lessee and lease brokers tend to interpret the regulations and legislation to their own benefit. As a result of land abuse, the Bureau has exercised authority on several competent leases, and appeals have been generated, challenging Bureau authority. It is anticipated that litigation will be filed in the near future.

## IV. LEGISLATIVE REQUEST, P.L.- 99-190 AND ABSTRACT BUREAU RESPONSE

A. The Use of The Appropriation For The Emergency Hay Program

The six million dollar appropriation was divided equally between the Aberdeen and Billings Areas. Through Public Law 93-638 grant provisions, seven tribes in the Aberdeen Area and six tribes in the Billings Area received a pro-rata share of the Congressional Appropriation, based on Indian livestock ownership, drought severity, and need.

Tribes designated Emergency Hay Committees to determine operator and livestock eligibility, based upon requirements within the grant special provisions. The Hay Committees and Bureau staff reviewed terms and conditions of contracts or requests for bids from hay sources available in the Areas.

Tribal personnel administered the program functions of hay purchase, hay receipt and distribution, financial records, and report requirements. The tribes, Agencies and recipients contributed cash or labor to take care of secondary costs involved in unloading, storage, local handling, and delivery of the purchased hay. Tribal committees and Agency staff checked emergency hay application information with Indian Acute Distress Donation Program (IADDP) applications and affidavits, range unit allocations, and range unit stock counts. Bureau and tribal field staff conducted simultaneous overnight inspections and spotchecks of the participant, for livestock numbers, hay on hand, and feeding rates. In cases of discrepancies or incorrect information provided by recipients, further investigations were conducted and the information referred to proper authorities for action. The 1986 emergency hay program expenditures by reservation are as follows:

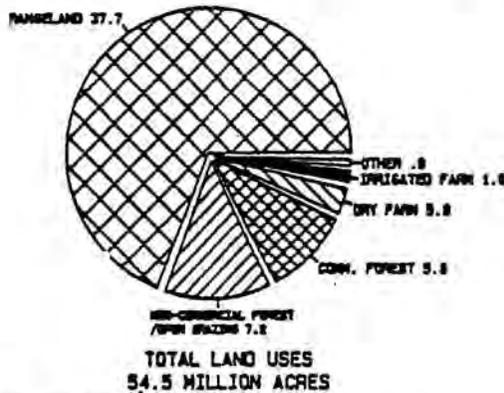
AREA	Reservation	Indian Recipients	No. Live-stock	Tons Hay	Total 538 Granted Tribe
ABERDEEN-	Pine Ridge	214	26,000	13,043	979,000
	Rosebud	71	11,464	4,024	365,000
	Cheyenne River	106	30,506	5,973	585,500
	Standing Rock	78	13,873	5,311	543,769
	Fort Berthold	69	11,189	3,489	222,524
	Crow Creek	9	1,500	395	54,275
	Lower Brule	19	4,290	1,430	86,068
		556	98,822	34,378	\$2,836,136
BILLINGS-	Blackfeet	206	19,819	9,984	1,068,288
	Crow	94	13,809	4,953	529,971
	Fort Belknap	94	6,767	3,176	339,832
	Fort Peck	61	6,194	4,176	446,832
	Northern Cheyenne	61	8,875	3,176	339,832
	Rocky Boy's	39	2,308	1,208	129,256
		555	57,765	26,873	\$2,854,011
			SUBTOTAL:		\$5,690,147
			GRAMM-FLIDMAN REDUCTION:		292,000
			UNOBLIGATED RETURNED TO THE TREASURY:		17,853
			TOTAL PROGRAM AUTHORIZATION:		\$6,000,000

## B. Impacts of the Drought Disaster

The national agriculture (farm, livestock and feed) system is one of the largest sectors in the United States economy. Indian agriculture also provides the largest economic impact on most reservations.

The Bureau administers 54.5 million acres of Indian-owned land held in trust by the Federal Government. This land comprised of both allotted and tribally owned land, is primarily used for agricultural production. As indicated in the following figure, 69% of all Indian lands are rangelands and 10% is non-commercial forest lands used for the grazing of livestock, 13% are commercial and forest lands, 4% are used for dryland farming, 2% are irrigated farm lands, and less than 2% are used for all other purposes.

Figure 4. LAND USE CATEGORIES FOR ALL LANDS UNDER BIA JURISDICTION



F.A.I.E. FIGURES THROUGH DATE 6/25/85.

Based on 1984 figures, agricultural products grown on Indian lands are valued at \$548.6 million annually; oil, gas, and mineral income totals \$230.7; and forest products (stumpage) are valued at \$61.5 million.

In addition to the actual production income, Indian land owners and tribes receive \$50.5 million in agricultural lease income and range unit permit fees, compared with \$17.6 in business lease income, and \$2.9 in all other lease categories.

The farming and ranching sector also provides the main source entrepreneurial opportunity to the Indian people, with 33,572 individual Indian families and tribes engaged in agricultural pursuits.

The full impact of the drought in the northern Great Plains may not be evident for many years; however, it is concurrent with the agricultural financial crisis impacting the Nation. All sectors of the agricultural economy are affected, including farm supply stores, tractor dealers, fertilizer distributors, and farm implement manufacturing plants. Extending forward through the chain are all activities that are involved in food and fiber, from the farm to the dinner table or the clothes closet. On the food side, processing, transportation, and distribution are major parts of the system and all these activities interface with each other on and off the reservation.

Although all aspects of the national agriculture community are impacted by the problems of poor markets and drought, the on-reservation Indian farming and ranching community is impacted much more severely due to the differences between Indian and non-Indian operations.

Off-reservation agricultural operations generally consist of large private land holdings supplemented with much smaller acreages of crop-share or leased land. Traditionally, the farmer or rancher will own their croplands, haylands, and improved pasture land. Leases are generally limited to summer pastures on Federal lands. In low crop years a farmer may seek out additional acres to farm or crop-share to improve his cash flow in the short-term. Ranchers in the same situation may attempt to cut additional hay for livestock feed through crop-share agreements. Due to the large land holdings associated with these agricultural operations, there is significant collateral to support long-term commercial financing of acquisition and operational costs.

Commercial farming and ranching enterprises owned and operated by Indians on the drought impacted reservations in Billings and Aberdeen Areas do not follow the national trend. Due to the multiple heirship status of a majority of the allotted land, and legal barriers preventing sale of tribally-owned land, Indian farmers and ranchers do not own and can not acquire the majority of their land holdings. Consequently, the majority of land cropped by Indians is leased land. The following Table provides acreages and percentages of land owned and leased by Indian farmers and ranchers in the Aberdeen and Billings Areas:

Table 5. COMPARISON OF OWNED AND LEASED LANDS IN INDIAN AGRICULTURAL OPERATIONS IN BILLINGS AND ABERDEEN AREAS

	Owned	Leased	Total	Percent Leased
<b>Aberdeen</b>				
Cropland	87,921	87,090	155,011	56%
Grazing Land	1,179,858	2,891,486	3,071,344	71%
<b>Billings</b>				
Cropland	110,725	320,297	431,022	74%
Grazing land	345,536	3,285,707	3,631,243	80%

Because Indian agriculture producers do not own the majority of their operation lands as indicated above, they do not have the same collateral position to acquire financial backing. This results in many operations being under-capitalized, with resultant marginal financial security from year-to-year.

Additionally, impacts are caused by the cost of leasing compared to owning. The Bureau is legally required to obtain fair market rental for the allotted land owner, based on appraisals of on and off reservation lease rates. The combination of this established minimum rate and the dependency on lease lands to maintain operational scale may result in an artificially high competitive rate.

The result is a smaller scale of operations, less long-term stability, more direct impact from short-term market fluctuations, more severe impact from drought or other crop reducing influences, which combined, cause an increased rate of operational failures.

Indian farmers and ranchers are liquidating both livestock herds and farming equipment at an accelerated rate, due to deflated prices within the commodities and beef industry. Production costs have been compounded by the drought, increasing crop losses, feed costs, livestock death losses, lower calving percentages, lighter weaning weights and lack of livestock subsidies.

The first and most noticeable impact of the drought was the loss of livestock water within range units. Under stress conditions, the need for new sources and reconditioning of the existing structures for livestock watering became apparent.

Since Agriculture Conservation Practices (ACP) payments have been cut back, development of these structures has decreased significantly and need is beyond the funding capability of the Bureau and tribal range improvement funds. The estimated cost to provide adequate water developments to range units in the Billings and Aberdeen Areas is \$14,000,000.

Another critical impact is the loss of forage for winter feed, which means longer feeding periods that, in turn, create a high demand for existing scarce supplies, thus inflating prices. Loss of income to land owners is seen through liquidation of farm and ranch operators who are defaulting on leases and permits. For small grain operators, the 1985 gross value of production losses was estimated at \$4,588,000 for hay program reservations in Aberdeen, and \$10,320,000 for hay program reservations in Billings. A list of rental loss of lands not leased or permitted was presented earlier and totals \$968,000 and \$1,231,000 for Aberdeen and Billings Areas, respectively. Losses in beef production are estimated at \$2,520,000 for reservations in the Aberdeen Area, and \$1,200,000 for reservations in the Billings Area which participated in the hay program.

Drought has a cumulative negative impact upon range conditions, usually causing deterioration; however, this becomes somewhat limited when the drought occurs over only one growing season as is the situation in the Aberdeen Area. Short-term drought has less harmful effect on rangelands when stocking rates are conservative, which is the Bureau's policy.

A drought which continues over a five-year period such as in northern Montana, impacts in combination with the depressed commodity prices and beef industry, creating a situation so severe that all but the most proficient managers may become insolvent.

Many Indian livestock operators are experiencing decreased productivity levels in cow herd size, calving percentages and weaning weights. Under drought conditions, these problems are amplified and are attributed to the lack of range improvements, which includes poor livestock water distribution systems, low quality and quantity feed for calving and flushing, limited pasture rotation areas to defer grazing, and increased cost to control noxious weeds and rodents.

C. Long-Term Strategies to Avert the Cyclic Phenomena of Future Disasters (Drought)

Studies and actual field investigation provide evidence that the effect of short-term droughts can be completely avoided or significantly mitigated. In order to accomplish drought avoidance or mitigation, proper management techniques and practices must be utilized. For the most part, effective management and agricultural practices are non-existent on Indian lands. Listed below are a number of methods that are available to avoid/mitigate drought effects, provided that adequate funding and expertise are made available:

1. Reduce livestock numbers to the point where they are in balance with the reduced levels of forage produced during a drought period.
2. Delay turning livestock onto range lands until cool season vegetation has matured during the critical spring growing season.
3. Perform annual range readiness examinations and vegetative transect studies to determine proper livestock turn-out dates, determine range condition and trend, assess stock water needs and availability, and to determine if livestock reductions are required.
4. Improve livestock water supply and watering structures to avert/mitigate drought effects. Current water developments are inadequate. Windmills, spring developments, dams, dugouts and wells are few in number on Indian lands. Their scarcity limits the use of grasslands remote from water, and precludes the use of pasture rotation.

5. Develop hay lands to provide adequate hay production for wintering livestock and to supplement periods of low forage production. Many Indian grazing units, and even entire reservations, lack adequate hay production and tame grass pastures. Tame grass pastures allow livestock a place to graze in early spring, prior to the native range readiness date, and consequently promote better utilization of existing forage, extend the grazing season, reduce hay feeding periods and enhance range conditions.
  6. Establish and maintain proper range unit stocking rates. Establish a conservative stocking rate that will ensure forage reserves to make it through short-term droughts.
  7. Improve recordkeeping capabilities of farmers and ranchers. Where available, direct operators to the Extension Services for training in recordkeeping related to breeding, weight gains, grazing management (new systems such as savory grazing method) and other general business and recordkeeping requirements. Tribes should strive to increase funding for agriculture extension programs.
  8. Establish a conservation/range improvement fund for development projects, and reserve funds to be utilized in emergencies and drought. Encourage land owners to allow a portion of their lease income to be placed into an account for the development of water facilities, cross fencing or other management tools that will help in livestock distribution and use of forage production. In addition, a percentage of this fund should be placed in an account for emergencies and drought.
  9. Increase Bureau funding for agriculture/range programs and rehabilitate areas on a priority system or cost/benefit return.
  10. Remove Agriculture from the present priority system in the Bureau for determining funding.
  11. Implement as appropriate, new technologies to preserve soil moisture and reduce soil erosion on farm lands. Continuous cropping, stubble mulch farming, chemical weed control, etc., are some of the methods that can be utilized. Educational/technical expertise is required by the Indian people and can be acquired from the Bureau, Extension Services and Soil Conservation Service.
- D. Effectiveness of the Roles of the Tribal and Federal Governments in Agriculture and Ranching Operations

Public Law 99-190 required that comments be provided on the effectiveness of the carrying out of the roles (including resource management and the establishment, waiver and collection of grazing fees and rents or other payments) of the

federal and tribal governments in ranching, agriculture, and other land use on Indian reservations throughout the United States, with recommendations to improve that effectiveness.

There are, in addition to tribal governments, a number of Federal agencies who have roles in the management and development of Indian lands. Below are discussions of the effectiveness of the tribal governments and Federal agencies, including the Bureau of Indian Affairs, in administration of Indian lands held in trust by the United States Government.

### 1. Tribal Governments

Through treaty, historical practice, and the President's policy statement on Indian Affairs, it is and has been the policy of the United States to maintain a government-to-government relationship with the tribal government on each reservation. Implied in this statement is the recognition of the sovereign right of the tribal councils to govern their respective reservations.

In this brief discussion, it is important to consider that each tribe is a unique entity. As each tribe is unique, each tribal government is also unique, having its own strengths, weaknesses, and characteristics. It is, therefore, necessary to generalize on tendencies perceived in these governments, with the understanding that what may be a weakness in one government may be a strength in another.

In general, and despite the previously mentioned policy statement on sovereign rights, tribal governments are not empowered to take direct and effective action in land management, impacting the agriculture industry on the reservations.

Tribal governments may take action directly in establishing rental terms and conditions on leases to tribal members on tribally owned lands. However, in many instances, Great Plains reservations contain a majority of allotted or fee land over which the council does not have direct authority. Land use provisions, including stocking rates and season-of-use, rental rates on allotted lands, rental rates on tribal lands permitted and leased to non-Indians, and actual approval of the lease contract all rest with the Secretary of the Interior by regulation.

As sovereign entities, tribal councils have been effective in acquiring needed assistance for their agricultural communities through the political process and direct access to Congress as evidenced by the Emergency Hay Program. However, once Congressional assistance is obtained, the tribes are invariably directed in the use of the assistance by Executive Branch agencies, and are monitored extensively by the Inspector General's office.

Tribal council members, as elected officials, represent their constituents and the best interest of the tribe. In many cases, tribal government does not regulate allotted land owners, but serves in an advisory capacity. Tribes and allotted land owners compete for funds and other services provided by the Bureau. Due to political pressure from their constituents, tribes sometimes take action which may violate existing statutes, regulations, tribal constitutions or tribal ordinances. This places the tribe in direct conflict with the Agency Superintendent, who must advise the tribe of any violations and the consequences of their actions.

Examples of weaknesses in tribal governments include some of the following:

- Tribal business enterprises are frequently not free from tribal political interference.
- Tribal government programs lack continuity.
- Few tribal representatives have formal education in natural resource disciplines.
- There is no Tribal Civil Service Personnel System to maintain trained and qualified tribal staff free of political pressure.
- There is limited accountability for actions.
- There are limited long-range plans for resource development and related budgeting.

## 2. Bureau of Indian Affairs

It cannot be clearly stated that the Bureau of Indian Affairs is as totally effective now as it has been in the past in carrying out its management roles in the fields of resource management and economic development of the Indian agricultural community.

Public testimony on the draft of this report and specific comments contained in Congressional testimony on P.L. 99-190, expressed concern that the Bureau has not been as responsive as it should be in protecting the Indian agricultural community from the economic impacts of drought or the current agricultural crises. Public testimony also pointed out that the Bureau was not as effective in providing direct or technical assistance to Indian agricultural operators.

Reported lack of services to individual Indians and tribes from other Federal agencies, is blamed on the Bureau because the Indian people and other agencies believe that the Bureau is responsible for coordinating those services.

Some comments from public testimony indicate that the Bureau has also been ineffective in developing the agricultural resources of the reservations.

There are three primary reasons why the Bureau has not been totally effective in the roles listed above. These are: a) existing regulations prevent accomplishment in those areas; b) the Indian Priority System has established other goals for the Bureau; and c) Bureau programs have been discontinued or rejected based on standards developed in off-reservation situations and misapplied to reservation economies.

#### a. Regulations

The authority of the Secretary of Interior for range and agriculture on Indian lands is contained in the Code of Federal Regulations, Title 25, Part 166.2. This is "to protect individually owned and tribal lands against waste." Waste is further defined as "improper use which threatens destruction of the range and soil resource." In the same regulation it states, "It is also the Secretary's responsibility to improve the economic well being of the Indian people through proper and efficient resource use."

In the regulations on Farm/Pasture Leases (25 CFR, Part 162), there is no provision for leasing lands at less than fair market rental and no authority to grant preference to Indians in the awarding of leases. These examples are provided in this report to illustrate that existing regulations prevent the Bureau from taking logical actions necessary to assist Indian farmers and ranchers in surviving drought and economic crises. The regulations require protection of the land base and economic well being of the land owner, not the land user.

#### b. Current Priorities

Program priorities for the Bureau as a whole, and for each individual reservation, are set through the Indian Priority System. In recent years, Agriculture has generally been given a low priority and agricultural funds have gradually been moved into higher priority programs. Although agriculture is the primary contributor to reservation economies and employment, funding for all agriculture programs has averaged only 2.25% of the total Bureau budget for the past ten years. Since the Bureau has a statutory requirement to protect land owner interests, and tribes have formally expressed higher priorities in other programs, technical assistance programs such as agricultural extension services have been curtailed or discontinued.

As a result of lower priority and resultant reduced budget levels, staff has been reduced, and direct services not required by regulation have been discontinued. Program funds previously available to Area Offices for technical assistance and resource management projects have been eliminated or redirected to the Agency level to maintain staff to meet administrative requirements.

c. Application of Off-reservation Standards

Attempts by tribes and Agencies to obtain or continue development projects have been thwarted by the application of off-reservation economic standards to cost/benefit ratios. For example, in public testimony, the need for development or rehabilitation of irrigation systems was stated several times. However, irrigation construction funding has not been requested nor appropriated by Congress other than in the "Jobs Bill" of 1983. Part of this lack of priority may be because of fiscal constraints and the need to fund higher priority programs based on an Inspector General's finding that irrigation on Indian lands is generally not cost effective in the traditional sense. This is due to the low value placed on Indian lands, the generally low value of crops produced under irrigation on Indian lands, and the distance to markets from isolated reservation communities. No consideration is given to the fact that without "low value" hay crops grown under irrigation on the arid or semi-arid reservations, the entire Indian livestock industry collapses or is dependent on federal "emergency" programs such as the IADDP.

The Bureau is, and has been, effective in fulfilling its role in protecting the resources and economic interest of the land owners. Reservation rangelands remain, generally, in much better condition than off-reservation private or federally-owned rangelands. Due to conservation stipulations substantially fewer acres of erodible soils are farmed on trust lands than in neighboring off-reservation areas.

The Bureau responded to the drought on heavily impacted reservations by applying established range management practices to protect the forage resource. These practices included deferral of all livestock grazing in some units, large reductions in the number of cattle permitted into non-deferred units, and postponement of the start of summer grazing on rangelands until after the critical growth period of native grasses was complete. These actions were taken to protect the long-term productivity of the trust resources even through there was strong opposition from some tribes, Indian livestock operators, and allotted land owners.

Even with little reductions in funding and staffing, land owners are receiving permit/lease income, fees and bonds are not routinely waived, collection actions on rentals is continuing even against insolvent Indian farmers threatened with foreclosure by FmHA, and the trust resources are being protected against waste and abuse.

These actions, required by regulation, do not enhance the use of Indian lands by Indians, do not provide technical or direct assistance to Indian farmers and ranchers, and do not assist the Indian agricultural community in developing a self-sufficient economy on the reservations.

**Recommendations:**

If it is to become a goal of the Bureau to actively assist the Indian community in fully developing its natural resources, provide technical assistance, develop a stable Indian agriculture community on the reservation, and provide assistance to individual Indian farmers and ranchers in mitigating disaster impacts such as the recent drought, then several interrelated actions are necessary.

- (1) Redefine the Bureau's role in agriculture and land management on the reservation.
- (2) Review and modify as necessary existing Federal regulations pertaining to leasing and permitting of trust lands.
- (3) Prioritize resource and agriculture programs to reestablish operable funding and staffing levels as funds permit
- (4) Increase the priority of resource development on Indian lands.
- (5) Establish realistic criteria for evaluating Indian development projects on the basis of long-term impacts on the affected community.

In the public testimony, several individuals suggested establishment of an Indian Agricultural Commission. That commission, if established, may be effective in offering direction and solutions on the issues raised above.

**3. Corps of Engineers**

The United States Army Corps of Engineers is responsible for activities relating to rivers, harbors and waterways; administration of laws for protection of and preservation of navigable waters and related resources such as wetlands.

It is recommended that a Memorandum of Agreement or Memorandum of Understanding be developed at the Central

Office level to handle the return of title to lands "taken" for flooding by main stem dams and for bank protection where erosion is occurring on trust lands below several major dam sites.

#### 4. Agricultural Stabilization and Conservation Service

The Agricultural Stabilization and Conservation Service (ASCS) administers commodity and related land use programs designed for voluntary production adjustment, resource protection, and market price and farm income stabilization.

Indian land owners have benefitted through the Emergency Assistance and Agriculture Conservation Program which has complemented the Bureau renewable natural resource program goals for many years. This program has recently been greatly reduced through budget cuts. Programs available through ASCS have been limited because 1), most of the ASCS program assistance is directed to off-reservation land owners due, in part, to a lack of Indian representation on county committees, 2) short-duration leases established by regulation on Indian lands which do not provide for their inclusion in long-term programs and, 3) the ASCS has not publicized programs or assistance available to Indian operators in a manner which could increase reservation involvement.

To resolve these problems the following actions are recommended:

- a. In those counties containing Indian reservations establish positions on county committees exclusively for Indian representatives. Base the Indian/non-Indian ratio for the committee on the demographics of the county in question.
- b. As recommended elsewhere in this report, review and modify as necessary the land tenure portions of 25 CFR 162 and 25 CFR 166 to provide for inclusion in long-term ASCS programs.
- c. Develop a procedure for the dissemination of program information at the Washington level for channeling to county and Agency offices.

#### 5. Soil Conservation Service

The Soil Conservation Service (SCS), which has responsibility for developing and carrying out a national soil and water conservation program in cooperation with land owners and operators, other land users and developers, and with community planning agencies and regional resource groups, has exhibited a

good working relationship with the Bureau, Indian tribes, and individual land owners. However, due to personnel cuts and reduced funding, the Indian land owners requests for assistance have been drastically reduced.

The Great Plains program administered by the SCS has been of great value in resource development on reservation lands. Unfortunately, this program has not been widely applied due to short duration Bureau of Indian Affairs leases, and curtailment of SCS funding. The SCS also conducts soil surveys under the National Cooperative Soil Survey Program, which is a cost share arrangement between the Bureau, tribes and SCS, but this program has been severely curtailed by funding and staffing cuts.

Recommendations for improvement are included under the ASCS discussion.

#### 6. Farmers Home Administration

The Farmers Home Administration (FmHA) provides credit for those in rural America who are unable to get credit from other sources at reasonable rates. It is the major lender for agriculture loans on Indian reservations. To be eligible for a loan from FmHA, the borrower must be unable to obtain financing from other lenders.

FmHA is considered to be a very conservative lender, with very few delinquencies and foreclosures. However, in recent years, the number of loans has increased significantly because of the emergency and disaster programs.

The size of FmHA staff in the county offices has not increased in relation to the workload, and this has resulted in delays in processing loans. Delays of several months for approval action may put a new loan in financial trouble from the start.

FmHA has required that borrowers' real estate be mortgaged, regardless of the amount of the loan and the value of the land. They inform the Indian borrowers that this is a requirement to approve the loan.

Many loans have been made to farmers and ranchers who are now unable to meet their commitments due to the general agriculture crises compounded by drought or other disasters. In many cases, these emergency loans were secured by second position collateral with only limited repayment ability.

As a result of several years of drought and other weather related disasters, this lender now has over 60 percent of their loans in delinquent status and may be forced to foreclose on a large percentage of these loans. As pointed out previously in this report, almost one million acres of trust land are mortgaged

in the drought impacted Billings and Aberdeen Areas. It is possible that significant acreages of trust Indian lands could be foreclosed upon by FmHA in the immediate future.

The involvement of FmHA on reservation lands could be improved through the following steps:

- a. In reservation areas, require that an FmHA loan officer maintain an on-reservation office at the Agency headquarters, and be present in that office a percentage of time equal to the percentage of Indian clients served.
- b. As recommended under the ASCS comments, establish positions on county committees exclusively for Indian representatives based on the area demographics.
- c. At the national level, FmHA and Bureau directors should meet to determine what actions can or should be pursued to prevent alienation of trust lands threatened with foreclosure.

#### 7. Agriculture Extension Service

The Agriculture Extension Service program used to provide a variety of agricultural technical assistance aids to Indian people in concert with allied Bureau programs. These services included educational assistance in agricultural matters, help in preparing and maintaining farm plans and financial documents, direction of Indian 4-H and FFA youth activities, and coordinating the needs of individual Indian farmers and ranchers with services available throughout the agricultural community.

Cooperative Extension Agents assigned to specific reservations have been well received and largely successful in their programs. A major reason for this is that they are not involved in the enforcement of Federal or tribal regulations and therefore do not have the negative encounters common to Bureau employees. Unfortunately, changed priorities and decreasing federal assistance in the last decade have resulted in almost total absence of Extension Agents within reservation areas.

Numerous requests for bringing the Extension Service program back into the reservations were received during the public hearings held July 10-11, 1986. The Bureau agrees that the lack of Extension Service programs are detrimental to the overall efficiency of agricultural operations on reservations and supports tribal requests to have funding added to the Bureau's budget for supporting the Extension Service.

It is recommended that the Agriculture Extension Service activity be included as a line item in the Bureau's Agriculture Program budget, and that monies so appropriated be used to reestablish resident Extension Agents at reservations through cooperative agreements with the USDA and land grant universities.

8. U.S. Department of Justice

All court cases involving Indians and the Bureau of Indian Affairs are handled by the United States Attorney General. The only major problem is the reluctance of the U.S. Attorney General to take many cases, due to shortage of staff and the present emphasis on negotiated settlement.

9. State Historic Preservation Offices

The State Historic Preservation Office (SHPO) established in each state is organized primarily to insure compliance with Section 106 of the National Historic Preservation Act. Problems with this office occur for several reasons:

- a. The tribes distrust the SHPO because the very name of the organization implies state jurisdiction.
- b. Coordination and consultation with the SHPO often takes significant periods of time which serve to delay projects relating to management and development of Indian lands.
- c. Controversy exists whether Sections 106 should apply to individual Indian land owners. At this time, an individual Indian is required to have an archeological examination performed on his/her land prior to any land disturbance.

This requirement is additional to any requirement imposed on non-Indians and does impede Indian land usage.

The SHPO is only marginally effective in dealing with Indian needs and requirements. Increased educational efforts and a possible exception of rules on Indian land is required.

10. Bureau of Land Management/U.S. Forest Service

There is generally little or no formal assistance to reservation agriculture from either the Bureau of Land Management (BLM) or the Forest Service (USFS). On reservations which share boundaries with national forests or BLM resource districts, informal cooperative agreements frequently exist between the local Bureau agency and the neighboring jurisdiction to handle problems of mutual concern such as livestock trespass.

The BLM is responsible for providing all cadastral surveys on federal trust lands, including reservations. These surveys are accomplished using Bureau of Indian Affairs appropriated monies, under agreement between the two Agencies.

The establishment of grazing rates on BLM and USFS administered land has caused major conflict with Indian livestock operators and tribes. The Bureau of Indian Affairs is required by regulation to set minimum rates which provide fair market return to the Indian land owner based on rental appraisal data. These rates are invariably several times higher than BLM or USFS rates and place Indian livestock producers at a competitive disadvantage in the market place. Indian livestock producers and livestock associations frequently use comparisons with BLM/USFS rates in their efforts to have Bureau of Indian Affairs grazing rates reduced.

11. Bureau of Reclamation

The Bureau of Reclamation (BOR) has provided some technical assistance in irrigation-related studies on some reservations. Most BOR irrigation projects which impact Indian lands are accomplished with tribal input. Cooperation has improved since a Federal court judge in Montana admonished the Regional Director, BOR, that the trust responsibility applies to all federal agencies, not just to the Bureau of Indian Affairs.

The BOR is frequently accused of insensitivity to Indian needs and water rights in their operation of river systems and storage facilities used by Indian and non-Indian irrigation projects. Until recently, BOR appeared to be concerned with the needs of the non-Indian districts, leaving the Bureau of Indian Affairs to represent often conflicting needs of the Indian districts.

Since these problems are more attitudinal than procedural or regulatory, directors of the two Bureau's should meet to formulate working policies and agreements for transmittal to Area and Regional offices.

12. U.S. Department of the Interior Solicitor's Office

The Solicitor's Office provides legal service to Bureau officials. While legal advice is sound, some offices have slow response times.

13. The Animal and Plant Health Inspection Service

The Animal and Plant Health Inspection Service (APHIS) of the Department of Agriculture provides for insect and

animal damage control for the Department of the Interior through a Memorandum of Agreement. Their assistance has been adequate and timely even though the Agency suffers from lack of staff and uncertain budgets.

14. U.S. Fish and Wildlife Service

The Fish and Wildlife Service (FWS) is recognized as the fact-finding arm of the Department of the Interior on sport fishery and wildlife matters. FWS policy states that the costs of services provided by the FWS to the Bureau be reimbursed by the Bureau. The nature and scope of activities performed by the FWS is defined in memoranda of agreement negotiated annually between the two agencies. The Bureau supports the reimbursement of the FWS for technical fish and wildlife services provided to tribes in cases where the Bureau cannot provide such services and where the tribes have not as yet developed the capabilities to perform such services for themselves. The Bureau recommends that its limited resources be utilized in developing full tribal capability in the management of fish and wildlife resources through tribal contracting.

15. United States Geological Survey

The United States Geological Survey (USGS) provides the Bureau with water investigations, data for water rights cases, topographic and other map outputs and digitized data bases for geographic information system applications. The services received by the Bureau are professional and timely. In the last year, this agency has become more visible and accessible in the promotion of their services and products. All direct services provided by USGS are funded by the Bureau.

V. SUMMARY OF PUBLIC TESTIMONY ON THE BUREAU DRAFT REPORT TO CONGRESS ON THE EMERGENCY HAY PROGRAM - P.L. 99-190

Hearings: July 10, 1986, in Billings, Montana and July 11, 1986 in Aberdeen, South Dakota

Public hearings to obtain tribal and public input on the report to Congress mandated by P.L. 99-190, were held in Billings, Montana, on July 10, 1986, and in Aberdeen, South Dakota on July 11, 1986.

These hearings were attended by 176 participants, of which 84 gave oral and/or written testimony. The record was kept open until July 25, 1986, to provide increased opportunity for tribal input, and two tribes submitted additional testimony during that period.

Tribal Chairmen, or their designated representatives, presented testimony on behalf of their tribes in the morning sessions. The afternoon sessions on both days provided opportunity for testimony from other tribal officials and the general public, which included Indian ranchers and land owners.

All of the Billings Area tribes, one tribe in the Portland Area, and nine of the Aberdeen Area tribes presented formal testimony.

The comments received are summarized below and incorporated into the body of the report, where appropriate. Comments received prior to the public hearings and previously submitted for inclusion in the draft report are not repeated here.

A. Emergency Hay Program Impacts

Twenty (20) respondents testified that the Emergency Hay Program authorized through P.L. 99-190 was of great benefit to the Indian livestock owner recipients. These comments are largely summarized by the statement of Mr. Paul Iron Cloud, Vice-Chairman of the Oglala Sioux Tribe, who stated that the program "saved numerous tribal member stockgrowers from total liquidation of their herds." Every tribe presenting testimony expressed gratitude to Congress for the appropriation.

Two individuals commented that the program was beneficial but was not a long-term solution to agricultural problems in Indian country.

Two comments were received that the hay should have been made available also for the horse, buffalo, and elk herds.

There were no negative comments on the program.

B. Agriculture Development

The topic with the largest number of comments (104) was agricultural programs on the reservations. These comments are broken down as follows:

1. Importance of Agriculture to Reservation Economies

Twenty-one (21) respondents, consisting of nine tribal chairmen, the Executive Director of the United Sioux Tribes Development Corporation, two presidents of Indian Livestock Associations, and nine Indian ranchers or land owners, provided testimony that "Agriculture is the main source of income for Tribal Governments and individual land owners." Included in this testimony is the explanation that earned income from agricultural resources includes direct income from farming and ranching enterprises and indirect income from the leasing of agricultural lands or range units.

2. Requests for development programs in Natural Resources/Agriculture

Seventy-one (71) comments were received requesting significant resource improvement programs related to agriculture. Four tribes submitted extensive proposals covering several aspects of agricultural development, complete with multi-year funding levels.

The number of requests for specific projects fall into the following categories:

- |   |      |
|---|------|
| a. General rangeland improvement programs     | (10) |
| b. Weed control                               | (10) |
| c. Irrigation construction/rehabilitation     | (9)  |
| d. Stock water development                    | (9)  |
| e. Cross fencing and grazing systems          | (9)  |
| f. Proposals for small agri-business ventures | (6)  |
| g. Hay base development                       | (5)  |
| h. Insect control                             | (5)  |
| i. Rodent control (prairie dogs)              | (4)  |
| j. Erosion/saline seep control                | (4)  |

One tribal chairman indicated that many of the programs requested by his tribe had already been proposed in prior years and submitted through Bureau channels or directly to Congress, with little result.

All the requests for programs included statements such as: "Additional Federal funding over and above the existing Bureau budget must be provided to meet the needs I have mentioned." Mr. Rocky Stump, Chairman of the Rocky Boy's Chippewa-Cree Tribe summarized as follows: "In short, we are a proud people. We would prefer not to need or use programs such as the hay program or IADDP. A long-term strategy of rangeland improvement allowing our operators to balance their needs with availability of the resource would be one preference. However, the magnitude of the funds required is far beyond our capability."

An additional pertinent comment made by Celeste Eagleman of the Fort Berthold Reservation was that "conservation seems to outweigh economic prosperity as the Bureau goal."

### 3. Lease Compliance

One tribal chairman and one land owner commented on the need for improved lease compliance and enforcement actions on trust lands.

### 4. Implementation

In order to implement the recommendations listed above, as well as some to follow in this report, specific comments on the need for an "Agriculture Commission" and an "Indian Natural Resources Development Act" were made by various tribal officials.

Six tribal chairmen, the Executive Director of the United Sioux Tribes, and the president of the Northern Cheyenne Livestock Association recommended the establishment of an agricultural commission at the national level to "review . . . policies, plans, rules, regulations and laws," and to provide guidance in the implementation of 10-year development programs on the reservations.

A final comment on agricultural programs, repeated by many in the testimony, but first stated by Mr. Michael T. Pablo, Vice-Chairman of the Confederated Salish and Kootenai Tribes was: "A blanket policy for all reservations, handled out of the Central Office, on land use and policy will not work." There must be flexibility in addressing each reservation's needs and goals.

## C. Reservation Financing - General Comments.

Ninety-two (92) comments were received on the agricultural financing needs of Indian borrowers. Tribal council representatives indicated that credit is a major problem on the reservations and a determining factor for survival of the Indian rancher.

### 1. Lack of Financing in Agriculture

Twenty-nine (29) people commented on the lack of financing available to Indians. Comments were made that when lenders began to curtail loans to agriculture because of the depressed economic conditions, the Indian borrowers were the first to be dropped. The lack of operating capital was reported to have crippled the farmer and rancher to the point where they cannot plant crops or produce winter feed for their livestock.

Mr. Dennis Huber, Fort Berthold Tribal Council, stated that the major lender on reservations is the Farmers Home Administration (FmHA) and that they have refused to provide operating loans to Indians.

Seventeen (17) operators said it is very difficult to receive loans from commercial lenders who make loans to non-Indians.

2. Indian Financing Act.

Eighteen (18) people commented on the Indian Financing Act of 1974. A concern was that the processing time on a request sent to Washington was too long. They suggested that approval authority be delegated to the Area Director for improved service. Six (6) persons requested legislation to amend the Indian Financing Act to provide lower interest rates and to establish a separate title for agricultural loans with special funding.

Twelve (12) people stated a need for better loan servicing by the Bureau loan programs.

Mr. Norman Hollow, Fort Peck Tribal Executive Board, was critical of the policy established by the Washington Office concerning Bureau guaranteed loans.

3. Land Protection Consolidation.

Fourteen (14) people expressed concern about the amount of trust land that is in danger of foreclosure. It was suggested that funds be established in the Revolving Loan Fund for tribes to purchase land in danger of foreclosure in order to maintain the trust status.

There were three people, including one tribal chairman, that took exception to the draft report statement that the Bureau's trust responsibility does not extend to maintaining the Indian land base.

Six people testified that they would like the Bureau and FmHA people to consider the transfer of problem loans with trust real estate mortgages from FmHA to the Bureau.

4. Revolving Loan Programs.

The court system was discussed several times with an expressed desire to have tribal courts handle foreclosure and bankruptcy cases.

Eleven (11) people requested the restructuring of their existing livestock loans to a lower interest rate and a new repayment schedule. Six (6) tribes with revolving credit loans requested a set aside of their interest for at least

three years to allow the borrowers to reduce their principal or increase their livestock numbers to improve repayment ability.

Four (4) tribal members said that the tribal relending programs have very limited funds and do not adequately finance Indian operators.

Four (4) respondents indicated a need for financing for small agriculture-related businesses.

#### D. Technical Assistance

Twenty-one (21) respondents requested that the Bureau of Indian Affairs greatly increase its level of agriculture technical assistance to the tribes.

Three respondents requested that the Bureau increase staff positions and funding levels to provide the needed technical assistance to operators of Indian lands.

Mr. Michael Pablo, Flathead Vice-Chairman, stated, "The Flathead Agency, with approximately 574,000 acres of tribally-owned land, and 47,000 acres of allotted land to administer, is extremely short-handed and swamped by the workload." This shortage results in land transactions that are two to three years behind schedule.

The need for a close relationship between the individual operator and the Bureau was voiced by four of the respondents. The nature of technical assistance in natural resources requires that it be given on a case-by-case basis.

Mr. Calvin Waln, Rosebud Sioux Councilman, stated: "We've got some younger people coming into our BIA office, our land operations, and they are willing to sit down and listen to us, listen to our ideas. We listen to them...we can sit down and talk to each other...but, together we can possibly come up with a solution."

Twenty respondents cited a void in the technical assistance offered by the state and Federal extension agencies. These extension services were noted to be virtually non-existent on many reservations. The agricultural extension services that are existent were reported to be much more responsive to the non-Indian sector.

Mr. Phil Beaumont, a rancher from Crow Agency summarized the problem: "I would like to somehow get the extension service back into the Bureau of Indian Affairs. And I'd like to somehow see agricultural education having a little more emphasis in the Bureau of Indian Affairs. Because that's the only agency where I could go and receive the kind of services that I

desire. And if they don't have it, I don't think I could possibly find it anywhere."

Six respondents also stated that the Bureau of Indian Affairs should take a more active role in fostering agricultural education programs. Mr. Orville Hicks, Natural Resources Specialist of the United Sioux Tribe Development Corporation of South Dakota, stated: "...The BIA has withdrawn from the education field, from educating the youngsters. Many of these reservations no longer have a 4-H, FFA, nothing in the schools to tell a kid what's going on in agriculture. We're doing a fairly good job of educating the Indians, but they're all coming out of the school teachers and social workers."

Mr. Morgan Garreau, Cheyenne River Sioux Tribal Chairman, suggested that the Bureau provide funding for scholarships in renewable natural resource sciences students, and Mr. William T. Main, Fort Belknap Tribal Chairman suggested a cooperative effort between Indian community colleges and state universities in offering resource training on the reservation.

#### E. Permit Administration

Twenty-three respondents voiced concerns pertaining to the Bureau administration of grazing permits. One tribal councilman expressed his preference for the allocation system over the competitive bidding system as a mode of promoting Indian use of Indian lands. Thirteen respondents called for greater flexibility from the agency in administering grazing permits. One tribal councilman requested that the Agency Superintendents be given more authority to approve leases, especially where tracts with many heirs are involved.

The length of the permit term was a concern of seven respondents, who stated that the five year permit period is too short to obtain optimum financing terms or to participate in ASCS programs. As stated by Mr. Stanford Stephens, Crow tribal member, "To organize an economic unit, it is necessary to assure the lender you are going to be in business long enough to repay the loan. BIA's five year leasing regulation should be waived in some instances and this provision extended, so all ASCS programs could be utilized to the maximum by the operator and land owner."

It was also expressed that ranchers are hesitant to make expensive improvements such as cross fencing and water developments, on the land due to the landowner's ability to withdraw their allotments from the range unit pursuant to 25 CFR 166.15. The rancher is then stuck with the cost of the improvement, but has lost the use of the allotment.

Six respondents complained that the Bureau's minimum rate for allotted land was substantially more expensive than that on

federal land available through the U.S. Forest Service or the Bureau of Land Management. Some complained that due to the Bureau's higher rates, some of the rangeland is not being permitted.

One respondent, Mr. Aljoe Agard of the Standing Rock Sioux Tribe requested a "freeze on existing grazing rates due to the economy." Two respondents suggested that the appraised rates should reflect the productivity of the land. Mr. Ralph Walker, of the Standing Rock Sioux Tribe stated, "The grazing rates should be determined by what the cattle operator is earning, what he can afford..." Mr. Everett Hunt, of the Cheyenne River Sioux Tribe, requested that the Bureau develop a flexible grazing formula for setting grazing rates. He noted that the Bureau must have some flexibility, "looking out for allottees as well as the individuals that lease that land."

Eight respondents also leveled criticism against the requirement that all farm/pasture leases obtain surety bonds to insure payment of the lease pursuant to 25 CFR 162. They requested that the Bureau drop this requirement because many Indian operators have difficulty obtaining a bond or paying the lease and the extra amount for the bond. Mr. Pat McLaughlin, Standing Rock Sioux Tribal Councilman affirmed that there were 45 farm/pasture leases that cannot be approved because the Indian lessees cannot secure bonds.

#### F. Errors and Omissions

There were eleven responses which pointed out errors or omissions in the draft report.

Six individuals from Northern Cheyenne Livestock Association disagreed with revenue sharing of lease income to support development projects, and expressed a desire to take over the Range Program on that reservation.

One individual took exception to language in the draft report which proposed discontinuing the allocation process on Range Units.

There were three tribal representatives who pointed out specific errors, including conflicting recommendations, and these have been corrected in the final report.

The tribal representative from the Wind River reservation in Wyoming requested that all data or reference to that reservation be excluded from the report because they were not included in the hay program.

Additional specific action categories to supplement the above recommendations are contained in the body of this report.

Mr. FALCOMVAEGA. Let me share with you something that really disturbs me quite a bit. In almost every foreign country, there is an attache representing the U.S. Department of Agriculture.

Every month, we send expert agricultural specialists to just about every foreign country that asks for our advice and actual farmers are out there that help these foreign countries with all the expertise and the resources that we have within our own capability as a country.

Yet I am sensing from what I hear from Indian country, we cannot even help the Indian people in the trust lands or landowners to develop their own expertise in farming, provide them with this kind of services as we are able to provide for foreign countries.

Am I wrong in this assessment? Do you feel that the BIA is doing a sufficiently good job giving assistance to our farmers and Indian farmers and ranchers at this point in time? Because the basis of this legislation is to enhance that opportunity.

Mr. HAYES. Mr. Chairman, I don't think that there is any question but that the quantity and quality of services to Indian land owners, be they tribal or be they individual, can be improved. The federal trust responsibility is a responsibility of the Federal Government and we, the Bureau of Indian Affairs, are obliged under the trust responsibility to provide services to these landowners, and we do so within our available resources. We do so within not only the fiscal resources, but also the personnel resources and the resources of equipment and things of that nature. Those resources have not, going back many years, have not been commensurate with the need in Indian country.

Mr. FALCOMVAEGA. Let's say the Bureau does have limited resources, and this is the factor. This bill would say, okay, we would like to allocate a certain amount of funding so that we could enhance Indian farming and ranching. The Bureau has the capacity then to get real experts, because obviously the Bureau does not have farm experts, right. So you need to go to the Department of Agriculture.

So rather than just continuing issuing reports, are you authorized to seek expert assistance from the Department of Agriculture to provide assistance to Indian farmers and ranchers in that regard?

Because obviously you don't have the expert resources for farming purposes, but we have the experts in the Department of Agriculture. Have you sought their assistance in that regard currently as a matter of policy, or interagency assistance?

Mr. HAYES. Mr. Chairman, yes, we have. We have an ongoing Memorandum of Understanding between us and the Department of Agriculture to address many of the things that you are talking about. We recognize that we don't have all the resources, all the technical capability that agriculture does. That is their primary responsibility and we attempt to tap into that as best we can.

Mr. FALCOMVAEGA. So what is really your bottom line objection to this legislation, Mr. Hayes, or if the Department does have a problem with it, what are the concerns? You are concerned that we might alienate the Indian people from their lands or Congress might do something wrong with the trust land that the Indians

have; is this your concern right now? Is this the problem with this legislation?

Mr. HAYES. That is a part of it, Mr. Chairman.

Mr. FALEOMAVAEGA. Can you provide the committee with clarifying language that maybe can resolve the problem of your concern.

Mr. HAYES. We would be happy to work with the committee and the committee staff to resolve our concerns.

[The information follows:]

[EDITOR'S NOTE.—Information not provided at time of printing.]

Mr. FALEOMAVAEGA. That is the only problem or concern you have with this legislation?

Mr. HAYES. No, sir, that is not the only problem.

Mr. FALEOMAVAEGA. Tell me another one.

Mr. HAYES. There are concerns with definitions. There are phrases within the existing legislation which we would feel a lot more comfortable with if definitions were developed for them. We are concerned about some of the requirements laid on the Secretary to do things without any discretion permitted to the Secretary.

We have some other concerns, Mr. Chairman, but as I mentioned, we would be more than happy to continue working with the committee. It is not as though this is the first time that we have met with the committee staff.

Mr. FALEOMAVAEGA. I really appreciate this. Do you think in a matter of the next couple of months that we can be working over the language problems with this piece of legislation? Do you think that we can put something in place by then?

Mr. HAYES. That is a goal that we can shoot for and we would be happy to work with the staff and try to meet that goal. Not only the staff of this committee, but also your counterpart committee on the Senate side has some interest in this also, as does the Intertribal Agriculture Council. We would want all of the players that have an interest in this to be at the table when we talk about it.

Mr. FALEOMAVAEGA. I just want to say that we are joined this morning by our dear friend and a colleague, the distinguished gentleman from the State of Hawaii, Congressman Abercrombie.

I have a bunch of questions, maybe just a couple more, Mr. Hayes. Please bear with me. I am sure that the list will be submitted at a later time for purposes of the time that we have taken.

In the testimony, you indicated that in 1990 the BIA studied and compared the Bureau's staffing patterns with the staffing patterns of other Federal agencies for agricultural lands. This 1990 report recommends the doubling of the Bureau staff in order to reach staffing levels of other Federal agencies.

What has the Bureau done since issuing that recommendation in 1990?

Mr. HAYES. The study that was done by the Bureau of Indian Affairs was an attempt to determine staffing comparisons and land use comparisons. The other land managing agencies of the Federal Government oftentimes manage their lands for purposes which are different than what the Bureau of Indian Affairs and Indian tribes and Indian individuals want to have their lands managed as.

Our concern is the comparative analysis that is recommended and suggested in the legislation. We are only concerned that we compare apples with apples and oranges with oranges. We want to

assure that there is a valid comparison in the study. That is our concern with that portion of the legislation.

Mr. FALCOMVAEGA. In your best judgment, how many acres of Indian trust lands are currently laying idle? Do we have some stats on that?

Mr. HAYES. Yes, sir. The latest information we have from our natural resources report indicates that a bit in excess of 1.1 million acres is being carried on that report as idle lands.

Mr. FALCOMVAEGA. I see. What steps has the Bureau taken to ensure that the Indian lands are being leased and that they are productive? Do you have some kind of a measurement system devised to see how the trust lands and the Indian-owned lands are being utilized under the jurisdiction of your office, or the Bureau, for that matter?

Mr. HAYES. If I understand your question correctly, Mr. Chairman, the information on usage of Indian trust lands is carried on our NRIS report, our Natural Resources Information Report. And that has all the categories of usage at an agency, at an area, on a national basis. That type of information can be supplied to the committee.

Mr. FALCOMVAEGA. Maybe I can reword this. The total amount of Indian trust lands that we now have is 1.7 million acres you said earlier.

Mr. HAYES. Lying idle is a bit in excess of 1.1 million.

Mr. FALCOMVAEGA. How about the total, both use and non-use; what is the total amount of just lands that we have regardless of its use?

Mr. HAYES. There is about 54 million acres.

Mr. FALCOMVAEGA. 54 million acres?

Mr. HAYES. That is correct.

Mr. FALCOMVAEGA. And of the 54 million acres—we are just talking about trust lands—how much of that is being leased?

Mr. HAYES. The total acreage under a lease or grazing permit, according to the data that has been provided to me, is about 42.6 million.

Mr. FALCOMVAEGA. 42.6 million acres are being leased for grazing purposes? Are these the leases about a dollar a year from the ranchers? I am being facetious. I was just curious, what are the leases of these ranges? I mean, is this part of the Indian lands that are being leased at almost a penny an acre or something like this?

Mr. HAYES. These are for both farming and grazing purposes.

Mr. FALCOMVAEGA. So 54 million acres of trust land—

Mr. HAYES. And that does not include commercial timberland. There is about 6 or 7 million acres of commercial timberland.

Mr. FALCOMVAEGA. As the Bureau, I am sure you have an assessed value of this 54 million acres of trust lands that Uncle Sam currently holds in trust for the Indians.

Mr. HAYES. Not that I have ever seen. I have never seen an evaluation done of that 54 million acres.

Mr. FALCOMVAEGA. How many acres are currently used for farming?

Mr. HAYES. Total acres of Indian-operated leased farmland is 478,000, and total acres of non-Indian operated leased farmland is a bit in excess of 781,000 acres, for a total of 1.259 million acres.

Mr. FALEOMAVAEGA. And currently 1.7 million acres are idle?

Mr. HAYES. That is correct.

Mr. FALEOMAVAEGA. Not being utilized?

Mr. HAYES. That is correct.

Mr. FALEOMAVAEGA. Unbelievable.

The gentleman from Hawaii.

Mr. ABERCROMBIE. Mr. Hayes, I want to make sure I understand. Did you say there is in excess of 50 million acres leased that are trust lands?

Mr. HAYES. No. The total acreage under a lease or grazing permit is 42.6 million acres.

Mr. ABERCROMBIE. That is currently under lease?

Mr. HAYES. That is correct.

Mr. ABERCROMBIE. Does the Bureau of Indian Affairs have control over those leases?

Mr. HAYES. Well, the Bureau of Indian Affairs administers the leases, yes, sir. We are involved in all aspects of the leasing process.

Mr. ABERCROMBIE. Well, why don't we simplify everything and turn all this land over to the Indian tribe. Period. Get out of the leasing business. I don't understand why you are involved in it at this stage of our history?

I am looking at your testimony, I understand your situation, and my question is a serious one because I have the same views with respect to the Native Hawaiian situation and leases. Everybody is always deciding for the Indians what they should do and not do and what the money should be and not be.

And every time there is testimony like this which says, you know, protection of Indian resources, improvement of Indian income, employment, the relationship between tribal authority and rights of Indian landowners, why don't you let the Indians settle it? Why don't we have some simple legislation, take all lease land that the Bureau of Indian Affairs is involved with, and turn it over to the various Indian tribes? You want to have an argument about who owns what, we will settle that in legislation, we will vote it here.

Mr. HAYES. Mr. Abercrombie, the reason that the Bureau of Indian Affairs or the Secretary of the Interior is involved in leasing is because of statutes.

Mr. ABERCROMBIE. I understand that.

Mr. HAYES. The Secretary is required by virtue of those statutes to do what he does, what that office does through delegated authority to our agency superintendents who maintain and operate leasing programs at the agency level.

Mr. ABERCROMBIE. I understand.

Mr. HAYES. The idea of the suggestion of turning the leasing process over entirely to Indian tribes, the authority already exists to do that.

Mr. ABERCROMBIE. And why don't we do it?

Mr. HAYES. Public law 93-638 itself allows Indian tribes to enter into contracts to run realty programs, and—I don't have the number that I can give you off the top of my head—but a number of tribes do have realty programs.

Mr. ABERCROMBIE. Your testimony says that and I agree. I am not suggesting this in any pejorative way. For purposes of my question, I am not intending to go into a recitation or have you go into a recitation of the history of why the Bureau of Indian Affairs finds itself in this position, or as to the particular history associated with what you call compacts and contracts.

You would have to enlighten me at some time about what the difference between a compact and a contract is or why one was put in at one point rather than another, why one kind of program was put under a compact and why one was put under contract. But I am asking the question quite seriously, precisely because of the intricacies that you cite in your testimony with respect to trying to settle all these issues. You find yourself in the position of trying to be Solomon, and probably with less resources than Solomon had at his command, among other things, because you can't command much. You can cajole, you can mitigate, you can try to act as an intercessor, you can do all kinds of things.

But I guess I am more or less, Mr. Chairman, making the statement from my point of view as I sit on this committee, and you will hear it from me in time to come if I am still in the Congress, that my experience over the past 20 years of dealing with these issues as an outsider, that is to say, as a legislator having the responsibility but not being a member of either of the tribes or being ethnically or racially related to the entities which have evolved down from previous history, that the best possible solution is for the government to get out of the way of the tribes or the aboriginal contemporary and original entities, get out and let them make such arrangements as they will and let them negotiate as sovereign entities with the United States or with the private entities and let them settle their own problems internally. Not that that will be easy, not that that will be free of rancor or suspicion or difficulty, but at least they are settling their own problems and somebody else isn't coming in to do it for them, which in my estimation always puts one, the tribal entities, at not only a disadvantage in terms of negotiations, but is a not-too-subtle indication that they are still being patronized and condescended to. So why don't we have testimony that says, Look, why don't we get out of all this?

Mr. HAYES. I don't have an answer for you.

Mr. ABERCROMBIE. Okay. That is a reasonable answer, considering that you weren't looking for this question when you walked in today. But maybe you can go back to the Secretary, and I will tell you, it may seem to others at this particular stage that my position may be a somewhat esoteric one, but I am willing to bet by the time I get through, that my view maybe will be shared by a lot of people before this is over and maybe shared more quickly than people think. Now that we have this committee operating, I intend to pursue it relentlessly. I am going to work as hard as I can in as many different venues as I can to get the United States Government out of making decisions for tribes or Native Americans or Native Hawaiians or any other entity group or community. I realize that your testimony there is on the mark, too, as to what those definitions are or should be, but we need to settle all that and get ourselves out of the decision-making process.

If you could go back to the Secretary and indicate that that is at least one point of view and that I believe it is one that will be shared more widely in the Congress in the immediate future, I would be appreciative.

Mr. HAYES. Mr. Abercrombie, I would be happy to take that message back.

Mr. ABERCROMBIE. It is no reflection on your efforts or the sincerity or good will or good faith that you bring to the table, Mr. Hayes, I assure you.

Mr. HAYES. Thank you.

Mr. ABERCROMBIE. Thank you, Mr. Chairman.

Mr. FALEOMAVAEGA. I appreciate the gentleman's comments and opinions concerning this issue.

I don't mean to simplify the issue, but I just want to get some basic figures again in my mind. We have got 54 million acres of trust Indian lands currently under your administration or by the BIA; am I correct on that?

Mr. HAYES. That is correct. There are 54 plus million acres of land held in trust by the Federal Government for either individual Indians or Indian tribes.

Mr. FALEOMAVAEGA. When you say plus, how many additional acres is that to the 54 million?

Mr. HAYES. I don't have the precise number on my list, but I could provide it.

Mr. FALEOMAVAEGA. I am just trying to get some general view of this. And 400,000 acres are currently being leased or used by Indian farmers?

Mr. HAYES. 478,371 are the total acres of Indian-operated leased farmland.

Mr. FALEOMAVAEGA. Okay. How many acres are being used by non-Indian farmers or ranchers?

Mr. HAYES. Total acres of non-Indian-operated leased farmlands is 781,722.

Let me provide two more numbers for you. The total acreage under lease or permit—this is not a farm lease—under lease or permit by Indian operators is 37,861,977. Total acreage under lease or permit, not a farm operation, by non-Indian operators is 4,757,494. These figures have been obtained off of our NRIS report, the Natural Resources Information Report.

Mr. FALEOMAVAEGA. And I assume with all the leasing and the money and the revenues collected from whatever processes, this goes obviously to the tribes, but does some of it come also to the Department or what? Is it being held in trust? What is your collection every year on this, all this trust lands' use and everything? Has there been any—

Mr. HAYES. The total annual rental from grazing permits is \$22,678,000. Total annual rental from Indian operators, grazing, is \$8,234,924. Total annual rental from non-Indian operators, \$14,443,000.

Mr. FALEOMAVAEGA. The Bureau collects this money, Mr. Hayes?

Mr. HAYES. We collect most of it. Some of this money is direct lease between individuals and the lessee.

Mr. FALEOMAVAEGA. How much of it comes to your office, I mean to the bureau?

Mr. HAYES. I don't have a number.

Mr. FALEOMAVAEGA. Can we have some kind of input on this for the record? If you could submit that, I would appreciate it.

Mr. HAYES. We will provide that.

[Additional information follows:]

Our tracking systems do not differentiate between the amount of income generated from leases that are paid directly to the Indian landowners and the amount processed through the BIA for disbursement. We will request more information from the field and prepare a follow-up report.

Mr. FALEOMAVAEGA. Here is what I am trying to get at, Mr. Hayes. Suppose there is 10 million acres out of the 54 million that is agriculturally prime land that can be used, get the Indian farmers in there. Would the Bureau have any objections to that if this legislation attempts to provide this kind of enhancement of these trust lands for the Indians, for the benefit of Indian people?

Mr. HAYES. We are supportive of Indian ranchers and farmers. I have mentioned that a couple of times.

Mr. FALEOMAVAEGA. Yes, you have.

Mr. HAYES. The more Indian farmers and ranchers that we can get into those types of entrepreneurial activities, we support that effort. We also have an obligation, a trust obligation, to both the tribes and the individual Indians, to assure the greatest benefit from their ownership of that land.

Mr. FALEOMAVAEGA. And that is the very point I am making, Mr. Hayes. Shouldn't we let the Indians make that determination, what would be the best economic benefit that could be gotten?

Let me tell you the problem. We had the Trail of Many Tears, Indians were chased from the east coast, even to parts of Texas and Oklahoma. They settled in prime lands. What happens, they were chased out of there again.

The same things happens to Native Hawaiians. They were encouraged to do farming, get back to the land, really be more self-sufficient, and what happens? The big landowners, non-Hawaiians, took the best agricultural lands available, and the poor Hawaiians had rocks to farm.

I want to ask you if this is the same mentality that seems to go through the years. Can the Bureau give us an assessment of what is agriculturally potentially rich lands out of this 54 million acres? Do you have an assessment of this in terms of what can be used for good farming and good ranching of the 54 million acres?

Mr. HAYES. We can provide estimates of that.

[The information follows:]

According to data presented in the Natural Resources Information System (NRIS) report, there are approximately 19,000,000 acres that could be considered agriculturally rich lands. Of this amount 1,500,000 acres are agriculture land and 17,500,000 acres are range lands

Mr. FALEOMAVAEGA. Please, provide that for the record. I would love to have that.

Mr. HAYES. As the committee is aware and as we have discussed briefly, there are 160-plus irrigation projects out there.

Mr. FALEOMAVAEGA. And not one of the projects was completed.

Mr. HAYES. At the present time, a number of those irrigation projects have land that is not at the highest and best-use potential as it would be if the water were able to get there.

Mr. FALEOMAVAEGA. Why do we build 164 irrigation projects and not one is completed? Maybe I am a simpleton in this, Mr. Hayes, but it doesn't make any sense to me at all.

Probably that is really the reason why these projects cannot be completed, because there were not any good enough for purposes of farming. Could that be the reason?

I mean, how do we end up giving money to provide for these projects and not one project completed? Can you explain what really is the actual reason? We can start maybe with two projects and we couldn't do it because we didn't have enough money, but 164 irrigation projects and not one is completed, can you give me some reasoning on this? I am at a loss.

Mr. HAYES. Well, some of the reason is obviously resources.

Mr. FALEOMAVAEGA. Resources? But, Mr. Hayes, please—

Mr. HAYES. Fiscal resources. And I think the responsibility for that lack of resources is the responsibility of both the executive and legislative branches, because we participated together in authorizing these projects.

Mr. FALEOMAVAEGA. Let's say we have got two irrigation projects going on. How could we possibly start another irrigation project when we hadn't even finished the first two? And now we end up with 164. Couldn't we just wait until we finished the first two before we get to the third, the fourth and the fifth?

Mr. HAYES. I don't think the tribes that are number three, four and five would be very appreciative of them having to wait to get something.

Mr. FALEOMAVAEGA. But then the first two tribes who never completed their project, they will be just as unhappy, too.

Mr. HAYES. I agree.

Mr. FALEOMAVAEGA. So can we develop a policy that we can complete the first 2 of the 164? Can you put a priority on this?

Mr. HAYES. I don't know that we can do it by policy. It would require a commitment on the part of both the executive and legislative branches to make sure that the resources are available for completion of those projects. The tribal chairman for the very first project is in the audience and is on one of the panels and his irrigation project is well over 100 years old.

Mr. FALEOMAVAEGA. And it has not been completed?

Mr. HAYES. Has not been completed. It was first authorized back in the mid-1800s, and has not been completed.

Mr. FALEOMAVAEGA. And supposing that one project was completed, what would have been the potential for those Indian farms if that one irrigation project was completed?

Mr. HAYES. It would have been significant.

Mr. FALEOMAVAEGA. And then the second irrigation project, it would have been just the same, too.

Mr. HAYES. That is correct.

Mr. FALEOMAVAEGA. I am sorry, Mr. Chairman, can you help us in finding a way to finish at least 2 of those 164 irrigation projects?

If it means funding, can you give us some sense of evaluation, what it would require for each one of those 164 projects? Maybe some of them are 90 percent completed or maybe all it needs is just a dollar more or a hundred dollars more. But, Mr. Hayes, I am completely at a loss in how we can initiate an irrigation project

that has taken over 100 years and we still have not completed it. And it goes back to the very essence of why this legislation was drafted, because we want to give assistance to the Indian farmers, we want to enhance their economic well-being.

But for the administration to say, "Well, there are some legalities and there is a problem of interpreting this one phrase or this comma or this dot or something here." I just like to see if we can complete that one project first and then go on to the 163 and maybe count the numbers, start with 164 and count down, and then complete the 163 down to the first one. Or maybe we could help the first farmer that lived for 100 years. I can't believe this, Mr. Chairman, 164 irrigation projects and not one has been completed over the last 100 years.

And I hope, Mr. Hayes, that maybe we ought to consult very closely with Secretary Babbitt on this issue. And this is the very essence and the reason why, no wonder the Indians are not farmers. We can't even complete one irrigation project.

I am sorry, Mr. Chairman. I yield back my time.

Mr. RICHARDSON [presiding]. I thank the gentleman, and I appreciate him chairing during my absence. We always appreciate his very specific and positively oriented questions.

Does my colleague from Hawaii have any further questions?

Mr. ABERCROMBIE. I have already asked my specific and pointed and detailed questions, thank you.

Mr. RICHARDSON. Then the chairman will ask his concluding—

Mr. FALEOMAVAEGA. Mr. Chairman, I just want to say, Mr. Hayes, please don't take my thoughts in any personal sense. I am just expressing my sense of frustration. Whatever has been the institution—

Mr. HAYES. I don't do that, sir.

Mr. FALEOMAVAEGA. Okay. I have the highest respect for you and your colleagues, but let's get these figures going so we can work something. I would love to visit that first irrigation project that has taken over a hundred years, personally. What State is this in?

Mr. HAYES. Arizona.

Mr. FALEOMAVAEGA. I would like to visit that first irrigation project, see what seems to be the problem. Then I would also like to visit the 164th irrigation project. What State is that?

Mr. HAYES. I don't know.

Mr. FALEOMAVAEGA. Could you provide that for the record? I really would like to know what these projects are and what have been the problems with them over the years.

Thank you, Mr. Chairman.

Mr. RICHARDSON. Mr. Hayes, in prior hearings the committee has received testimony that a substantial amount of Indian land can't be leased because the lands are highly fractionated and the BIA policy regarding fractionating heirships is inconsistent.

What is your policy on these highly fractionated heirships? Is this policy applied evenly in all the area offices?

Mr. HAYES. Yes, it is, Mr. Chairman. I assume you are referencing the leasing policy—

Mr. RICHARDSON. Yes.

Mr. HAYES [continuing]. Relative to fractionation.

Mr. RICHARDSON. Go ahead.

Mr. HAYES. The policy is found in regulation and that authorizes the leasing official to enter into a lease on behalf of all of the landowners after a 90-day notice period has expired.

Mr. RICHARDSON. Now, is there any requirement in the statute or regulation that the Secretary must obtain the consent of Indian landowners prior to leasing their lands?

Mr. HAYES. Yes, there is. The Secretary is obliged to obtain the consent of the Indian landowners, and as I just mentioned, except in those instances where you have a number of landowners who cannot or will not come to agreement on the leasing of the land, after a 90-day period has expired, then the lease can be consummated by the agency superintendent.

Mr. RICHARDSON. Now, is there any requirement in statute or regulation that the Secretary must receive maximum value for leases of Indian trust lands? Or is the requirement more a fair market value?

Mr. HAYES. The language speaks more to the fair rental value rather than the maximum rental value.

Mr. RICHARDSON. So the answer is fair market value?

Mr. HAYES. That is correct.

Mr. RICHARDSON. Now, is there a liability for the Secretary if the land does not receive maximum value?

Mr. HAYES. The Secretary has no liability if the land is leased at fair market value. That may or may not be the appraised value.

As the chairman is aware, we do appraisals when leases are contemplated. We provide appraisal information to individuals concerned or participating in that lease process. And we oftentimes enter into leases when the bids which establish actual fair market value come in, and they are below the appraised value as the appraisal is done by federal appraisers.

Mr. RICHARDSON. Now, how many acres of Indian trust lands are currently lying idle, Mr. Hayes?

Mr. HAYES. A little bit in excess of 1.1 million. That information, based upon our Natural Resource Information System report.

Mr. RICHARDSON. And what steps have you taken at the BIA to make sure that these lands are leased and are productive? Do you have an active outreach effort?

Mr. HAYES. Well, each agency, Mr. Chairman, hopefully in cooperation and consultation with the tribes, endeavors to the best of our collective ability to get those lands under some sort of productive use.

The 1.1 million-acre figure is one that is currently not susceptible to a common definition. Our NRIS report gives one definition for idle lands and the survey which we have recently undertaken gives some further definition and makes some further exclusions from that. So I think the survey will eventually come to the conclusion that that 1.1 million-acre figure is somewhat high.

Mr. RICHARDSON. Okay. Mr. Hayes, thank you for appearing before the subcommittee. Again, we look forward to working with you on this issue. This is a priority matter for this subcommittee. We hope to move this legislation soon, and we do appreciate the substantive suggestions you have made to us. So thank you all very much.

Did you want to say something?

Mr. HAYES. Just to thank the Chair. I appreciate the opportunity.

Mr. RICHARDSON. Thank you.

Our second panel, we will have the Honorable Wainwright Velarde, Vice President, Jicarilla Apache Tribe, from Dulce, New Mexico; the Honorable Daniel Eddy, Jr., Chairman of the Colorado River Indian Tribes, Parker, Arizona; and the Honorable Mary Thomas, Lieutenant Governor, Gila River Indian Community, Sacaton, Arizona.

Would you please step forward. Now that I have got you seated, let me just ask you to get very comfortable in your chairs because I have to run and vote. It should take me about five minutes. And the hearing will resume at exactly 11:05. My apologies. We are going to have a series of votes today. These votes are very popular, voting to cut White House staff, congressional staff. Everybody is very eager to take these votes and you don't want to risk missing them. So let me just say the hearing will resume at 11:05.

[Recess.]

**PANEL CONSISTING OF HON. WAINWRIGHT VELARDE, VICE-PRESIDENT, JICARILLA APACHE TRIBE, DULCE, NEW MEXICO; HON. DANIEL EDDY, JR., CHAIRMAN, COLORADO RIVER INDIAN TRIBES (CRIT), PARKER, ARIZONA, ACCOMPANIED BY STEVEN McHUGH, ESQ., ASSISTANT ATTORNEY GENERAL FOR CRIT; AND HON. MARY V. THOMAS, LT. GOVERNOR, GILA RIVER INDIAN COMMUNITY, SACATON, ARIZONA, ACCOMPANIED BY ARDELL RUIZ, TRIBAL COUNCILMAN AND VICE CHAIRMAN, GILA RIVER FARM BOARD, AND HARRY CRUYE, CHAIRMAN, GILA RIVER FARM BOARD**

Mr. RICHARDSON. Vice President Velarde, please proceed and welcome. We look forward to your testimony.

#### **STATEMENT OF HON. WAINWRIGHT VELARDE**

Mr. VELARDE. Thank you, Mr. Chairman.

Good morning, Mr. Chairman and members of the committee. My name is Wainwright Velarde and I am the Vice President of the Jicarilla Apache Tribe. I am very pleased to be here this morning to testify on behalf of H.R. 1425, and to urge this committee to report favorably on this long overdue measure to the House. At least portions of it can be enacted into law without significant opposition from the administration.

My prepared statement, which has been submitted for the record, contains more detail regarding the reasons for the comments I would like to make this morning. And I would like very briefly to state for the committee the views of the Jicarilla Apache Tribe with respect to this measure.

The technical assistance provisions, the educational components, and the financial assistance to tribes that will be made available under this law for management and development of their agricultural and rangelands are very sorely needed by every tribe in the country. As I have indicated in my prepared statement, the Jicarilla Apache Tribe has already committed substantial resources of our own in an effort to develop an experimental and development farm and livestock enterprise on our tribal lands. We have

engaged the services of the New Mexico State University and scientists from that institution to develop a feasible plan for turning one of the Tribe's ventures into just such an experimental farm to provide young Jicarilla Apache men and women with the training and practical experience necessary to prepare those who are interested for the productive careers to be derived from lands that have supported my people for hundreds of years.

I realize that a similar measure to H.R. 1425 passed the Senate last year, but without significant time for the House to act upon it. That measure contains some of the provisions that the Department of Justice took great exception to in a letter dated October 5, 1992. Some of those provisions which are objectionable to the Justice Department are to be found in this present bill as well.

I realize the importance to many tribes in dealing with the difficult legal and constitutional issues that may be presented by those portions of the bill that deal with the Secretary's appearance in tribal forms, the leasing of individually owned lands to Indians, and the leasing of lands for less than federally appraised values.

I want to make the point here today that to the extent that the Congress and the administration cannot agree on a mutually acceptable approach to these difficult issues, the rest of Indian country shouldn't be held hostage to the very clear benefits which this measure otherwise affords even those tribes who have need for those legal issues to be resolved.

I would like to ask the committee to tell us whether or not there is an interest in attempting to move this bill with respect to those objectionable provisions if there are difficult issues that cannot be agreed to by the Congress and the administration. The Jicarilla Apache Tribe is very anxious to work with the committee and the committee staff to move this bill forward if there is a reasonable prospect of seeing it enacted into law in this Congress.

On the other hand, if the resource enhancement and management assistance provisions at the Bureau are going to be held hostage to the difficult legal issues that the bill also addresses, I must ask this committee to accord my Tribe the courtesy of letting us know at the earliest possible opportunity.

We have a great deal of very important work to do on our reservation in terms of improvement, development, and managing our agricultural rangeland resources. This bill would provide enormous assistance to us in these areas, but we cannot devote important time and sacred resources to the legal issues that divide communities from their tribal governments in many parts of their country.

The Jicarilla Apache Tribe simply does not have a dog in that fight. Our reservation was allotted at one time, but my parents' generation voluntarily returned every parcel of land that the government had allotted to it and individual Jicarilla Apaches back to the common tribal ownership about some 60 years ago.

Consequently, the challenge for the Jicarilla Apache Tribe today is rather more straightforward: One of prudent, sustainable resource management and development and these portions of these bills that we are very anxious to see this committee report to the House and to see enacted into law.

Finally, I would like to make one other point at this time and that has to do with the constant suggestion throughout the bill that

it is the Secretary of the Interior who is the ultimate manager of our agriculture rangelands. We realize that the Secretary of the Interior is an important trust responsibility and has been neglected for generations. We do not accept, however, the proposition that it is the Secretary or his agent who are the managers of our land.

As I pointed out in my prepared statement, my Tribe spends a small fortune already in protecting ourselves from the effort of this Secretary and previous Secretaries to manage our oil and gas resources, our trust lands and our water resources. We absolutely do not want any suggestions in this or any other bill that the Secretary of the Interior should impose the same caliber of management upon our rangelands and our agriculture lands as well.

What we do want and expect from this bill is technical assistance, educational opportunities, and the financial resource to assist the Jicarilla Apache Tribe in carrying out its own management programs and prerogatives with respect to our agriculture lands.

I want to thank this committee for the initiative that is reflected in the development of this bill. The Jicarilla Apache Tribe looks forward to working closely with this committee and staff in developing this bill in a way that could be passed by both houses of Congress and signed by the President.

That concludes my summary of the prepared statement which I have submitted for the record, and I will be happy to answer any questions the Chair or committee may have.

[Prepared statement of Mr. Velarde follows:]



THE JICARILLA APACHE TRIBE

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TESTIMONY OF

WAINWRIGHT VELARDE, VICE-PRESIDENT  
JICARILLA APACHE TRIBE

Regarding H.R. 1425 (103D Cong., 1st Sess.)  
The American Indian Agricultural Act of 1993

Before the  
SUBCOMMITTEE ON NATIVE AMERICAN AFFAIRS  
of the  
COMMITTEE ON NATURAL RESOURCES

U.S. HOUSE OF REPRESENTATIVES  
Washington, D.C.

June 18, 1993

Mr. Chairman:

My name is Wainwright Velarde, and I am the Vice President of the Jicarilla Apache Tribe located in northwestern New Mexico. I am pleased to be here today to testify on behalf of H.R. 1425, the American Indian Agricultural Act of 1993.

I believe a brief description of the Jicarilla reservation will be useful before I proceed to the substance of my remarks. The Jicarilla Apache Reservation lies in northwestern New Mexico at elevations ranging from 5,000 feet on the southern end to almost 9,000 feet on the northern end. The entire reservation encompasses some 830,000 acres which lie astride the Continental Divide. Some 600,000 acres lie west of the Divide and 200,000 acres east of the Continental Divide. As people familiar with the West will readily appreciate, the lands of the Jicarilla Apache Tribe are at once harsh and unforgiving, and at the same time represent parts of a most fragile ecosystem. Native vegetation ranges from the sagebrush savannah, common to the Colorado Plateau in the southern reaches and gradually give way to pinon-juniper woodlands in the middle reaches and culminates in ponderosa-fir forests in the highest elevations adjacent to the Colorado boarder.

Even though this land supported my people for hundreds of years, most of it was not considered suitable for domestic cultivation during the early westward migration of the non-Indian population of this country. Nevertheless, this land today supports my tribal population of some 2,500 Jicarilla Apache Indians, and is home to a profusion of wildlife that would be considered a national treasure were it a part of a public domain. The Bureau of Indian Affairs presently classifies some 350,000 acres of this reservation as suitable for open grazing, and approximately 406,000 acres as suitable for forest grazing lands. At the last count, there were slightly more than 400 sheep and goats being grazed by Jicarilla Apache Indians on my reservation, 380 horses, and 3,682 cattle. I am pleased to report that all of this livestock is husbanded by members of the Jicarilla Apache Tribe. Viewed strictly as range land, my reservation is considered by the Bureau of Indian Affairs to be capable of supporting between 7,800 and 7,900 animal units. The reservation is presently divided by the Bureau into 63 range units, and is considered to be no more than 50 percent stocked by domestic livestock. The Jicarilla Apache Reservation is presently subject to only 90 farm assignments, each of which has been given to an individual member of the tribe. Out of this more than 830,000 acres, at present fewer than 1,500 acres are under cultivation. Of these 1,500 acres, more than 900 acres are planted in alfalfa for the purpose of growing hay for domestic livestock. Fewer than 500 acres of the Jicarilla Apache Reservation are currently under cultivation for cash crops other than alfalfa hay.

This is not to say that the Jicarilla Apache Reservation is not suitable for immensely valuable agricultural and livestock production. It is to say, however, that this reservation has not since its inception been generally made available for sustainable, renewable, and annually productive agricultural use, except for the very earliest days when vast portions of the reservation were granted by the local Indian agents to neighboring non-Indian ranchers, timber interests and homesteaders for their use at the expense of the availability of their own lands to the Jicarilla Apache people. Even today my tribe continues to pay the price for the gross mismanagement of these agriculture and rangelands in the early days of the reservation. It is against this background that I would like to discuss briefly today the importance of H.R. 1425 for the Jicarilla Apache Tribe and its ability to recapture the inherent values of our agricultural reservation resources.

As written H.R. 1425 reflects both the promise that the agricultural potential of Indian lands affords to their Indian owners throughout the country and, at the same, time, reflects much of what we consider to be the historical constraints that exclusive federal management has imposed upon the ability of Indian tribes to realize the potential of their own lands. For example, much of Title I is devoted to making sure that the Indian tribes themselves will play a significant role in the future management and development of their reservation rangelands and farmlands. The ultimate effect of the Bill as written, however, may well be to require the Secretary to take a more heavy-handed approach to the management of these lands. I want to make it very clear that the Jicarilla Apache Tribe, at least, does not want the Secretary or his agents trying to manage our lands. We spend a small fortune already trying to protect ourselves from his efforts on oil and gas activities and trust funds management. He has already wrecked much of our forests, stopped us from using our water, and we do not want him ruining our agricultural potential as well. We want the technical assistance, education and training and the financial assistance this Bill provides. But we will manage our lands.

In this regard, I would like to respectfully suggest that the findings and purposes sections of the Act should make it clear that the Congress has determined that historically the exclusive reliance upon federal management of Indian rangelands and farmlands has led to the very problems which the Act seeks to correct. In this regard, the provisions of Section 101(c)(2)(B) that require the Secretary and the Tribe to rely on existing documents, reports, and research from other Federal and State agencies carry the seeds of importing into the new program contemplated by this Bill the very mistakes that have led to the historic mismanagement of Indian agricultural lands. I realize that this is not the intention of the authors of this Bill, but I caution the Committee that many of these very federal agencies are still staffed by individuals whose career choices have already established the direction upon which

Indian agricultural and rangelands are presently managed, and those are the very directions that Indian tribes and the Intertribal Agriculture Council seek to change in urging the adoption of this measure.

Likewise, the apparent requirements of Section 101(c)(4) which appear to require the Bureau and Tribes to adhere slavishly to agricultural plans developed pursuant to this measure should also provide for modifications to such plans, changes in direction, and such innovative approaches to increasing the sustainable productivity of these lands as may present themselves during the implementation of such plans. In other words, we must be careful that we do not provide an already ossified bureaucracy with the opportunity to claim that it is locked into a single course of action for ten year periods.

I think, perhaps, an example of the reasoning underlying my concerns will be useful here. The Jicarilla Apache Tribe recently bought a neighboring ranch that we call the Willow Creek Ranch. The Willow Creek Ranch consists of 14,178.08 acres. This Ranch was operated as a cow-calf operation before the tribe purchased it, and presently some 100 acres are devoted to the production of irrigated alfalfa. The tribe is presently under an engagement with New Mexico State University to determine the feasibility of developing this Ranch as a tribal Agricultural Science Center and Demonstration Farm. In determining the feasibility of this use for the Willow Creek Ranch, the tribe does not want to be constrained by any of the historic uses or previous reports developed either by federal or state agencies regarding their view of the most suitable productive uses of these lands.

In significant respects, small farms and ranches in northern New Mexico are unique insofar as livestock and crop production enterprises are concerned. The rugged terrain, the sparse availability of water for irrigation, and the non-agricultural uses of these lands for hunting and fishing, big game habitat, and native vegetation gathering must all be factored into the most suitable uses for these lands. In this regard, it must be understood that the most suitable uses may not be the most productive uses from a purely economic perspective. Indigenous and colonial peoples have cultivated small tracts of irrigated land in the small river valleys in this semi-arid mountain region for hundreds of year, and it is the intention of the Jicarilla Apache Tribe to make the most suitable, sustainable use of this land consistent with the social and cultural values, as well as the economic values, of the peoples indigenous to this region.

Depending upon the outcome of the feasibility study being conducted by the tribe and New Mexico State University, it is the present intention of the Jicarilla Apache Tribe to utilize the Willow Creek Ranch for the establishment of a tribal enterprise that will be used almost exclusively for the career development of

young Jicarilla men and women who are interested in pursuing careers in agricultural and related fields. This means almost by definition that even under the larger perspective of this game plan, that the actual uses to be made of the lands contained in this Ranch may very well change from year-to-year as experience teaches both the tribe and our scientific partners what works and what does not work in this fragile region.

By the very nature of an experimental and demonstration agricultural enterprise, the tribe must insist on maintaining sufficient flexibility to profit from mistakes made, lessons learned, and even to undertake heretofore untried risk ventures in the development of this property. Because of the very limited uses that have historically been made of the lands within this Ranch, we know that there is more unknown than there is known about the agricultural potential of these lands. The tribe intends to experiment with alternative as well as traditional crops on these lands. The tribe intends to experiment with alternative technologies, and perhaps even with alternative livestock mixes in order to determine just what the best and most sustainable uses of these lands may be, from our perspective. All of this is to say that the Jicarilla Apache Tribe does not want to be bound by the book learning of midlevel, career civil servants who may very well have received their training in climates and geographical areas far removed from the semi-arid mountain reaches of the Jicarilla Apache Reservation in the Southern Rocky Mountains.

This is not to say that the Jicarilla Apache Tribe takes particular exception to those Bureau of Indian Affairs employees presently stationed on the Jicarilla Apache reservation. To the contrary, the Jicarilla Apache Tribe is most anxious that those cooperative and intellectually curious and scientifically trained Bureau employees who are available to assist the tribe in these endeavors not be stymied in their efforts to assist the tribe in experimental and developmental programs simply because the Congress of the United States has inadvertently constrained the exercise of their creative powers in an effort to make sure that full advantage is taken of their powers of memory.

In fact, the Jicarilla Apache Tribe is already spending a substantial amount of our own money to develop an Integrated Resource Planning and Management Model, utilizing world-renowned scientists from the private sector and from the University Consortium for Atmospheric Research. This is precisely the kind of planning assistance the Secretary should be making available to all tribes, and which this Bill would require him to provide for agricultural lands. We should not have to be spending our own resources to protect ourselves from our trustee, and we want to make sure that, for our tribe at least, we view this Bill as offering us assistance in our management of our lands, not as offering us a land manager in the form of the Secretary. We

believe this is also the objective of the Committee. We simply need to be sure that the Bill is worded so that the present and future Secretaries understand it the same way.

Having said all this, I am most anxious to commend this Committee and to urge the immediate enactment of those provisions of this Bill which provide for increased federal expenditure and education and technical assistance for the development of Indian agricultural lands.

In particular those portions of Title II that deal with the creation of agricultural internship programs, cooperative education programs with accredited institutions of secondary education, scholarship programs, including those for post graduate education, continuing education for employees working in natural resource related fields with the Bureau of Indian Affairs, and the program for outreach on the part of the Department to attract and recruit those people trained under these programs could not have been more carefully designed to meet the needs of the Jicarilla Apache Tribe. We suspect that every tribe in the country will likewise applaud these initiatives as contemplated in the Bill as written. It is, in fact, precisely to meet such needs that the Jicarilla Apache Tribe on its own initiative entered into a cooperative agreement with New Mexico State University to provide just such a training program for young Jicarilla men and women, to determine in conjunction with the best scientists the academic world can offer the most suitable, future uses of the agricultural lands of the Jicarilla Apache Tribe.

Now, finally, let me turn to some portions of the Bill that give use some concern. Under the previous Administration, the Department of Justice took vigorous exception to certain language of a similar Bill in the last Congress that appears in this Bill as well. Section 3(3) for instance, which provides for the development and management of Indian agricultural lands at a level commensurate with that provided to federally-owned lands was found to be very offensive to the Department of Justice in a letter dated October 5, 1992. In that same letter, the Department of Justice also took exception to those provisions of the Bill presently contained in Section 102(b) regarding the Secretary's acceptance of tribal law and the requirement that he make federal officials available to appear in tribal forum. I understand that the Department of Justice and the Bureau of Indian Affairs also had difficulties with those provisions of the Bill that provided the Secretary may offer for lease or permit on the open market only those lands which are surplus to the needs of any Indian operator who may desire to use the lands.

On behalf of the Jicarilla Apache Tribe, I would like to urge this Committee not to let the important benefits that this Bill represents for Indian tribes in the development of their agricultural lands to be held hostage to these or any other

peculiarly legal issues which the Administration and the Congress may not be able to resolve. As a member of the Intertribal Agriculture Council, the Jicarilla Apache tribe is very familiar with the enormously complex problems represented by the fractionated ownership and the multiple heirship issues which plague many reservation lands throughout the country.

I am anxious that this Committee understand that the Jicarilla Apache Tribe is not faced with these legal difficulties. The Jicarilla Apache reservation was allotted at one time but upon the passage of the Indian Reorganization Act of 1934, every allotted member of the Jicarilla Apache Tribe voluntarily turned his allotment back into common tribal ownership. I hope I do not have to report to my tribe that the wisdom of our ancestors has gone for naught, because the government of the United States and the members of other tribes cannot bring themselves to an acceptable resolution of problems that our parents had the foresight to avoid.

Section 1 of this Bill, dealing with the findings of Congress, makes no mention of these peculiar legal difficulties, and the principal benefits to be derived from this Bill can be enjoyed by every tribe in the country even without resolution of these difficult legal issues. On behalf of the Jicarilla Apache Tribe, I commend this Committee and its leadership for the courage to acknowledge the shortcomings of generations of exclusively federal management of Indian agricultural lands; I commend this Committee for its willingness to take on the apparently intractable difficulties of dealing with the legal consequences of now-repudiated federal policies of more than a century ago; and I urge this Committee to report favorably those provisions of this Bill such as can be cleared with the Administration for prompt enactment into Law.

In conclusion, I would like to urge the Committee also not to be seduced by the careless use of important terms, no matter how venerable or politically correct they may presently seem to be. Section 3(1) of the Bill as written, for instance, constrains the Secretary to manage Indian agricultural lands in a manner consistent with "nationally adopted multiple use" principles. Adherence to the concept of "multiple use," was for much of this Century considered almost a religious sacrament by the environmental community as a way of preventing the wholesale despoliation of the public domain. Today, the entire concept of multiple use is being seriously reconsidered by the Clinton Administration in light of a competing doctrine of "dedicated use" of particularly sensitive or otherwise unique lands.

Speaking for the Jicarilla Apache Tribe, and I suspect for a good many other tribes, whether or not any given piece of land is more suitable for multiple use or a dedicated use is a decision that can ultimately be made only by the tribe itself. In our case, we are convinced that the use of our lands for the cultivation of

cash crops, for instance, will almost certainly have an immediate and direct impact on the amount of water available for other uses, on the quality of wildlife habitat, and even on the availability of the land itself for homesite or other commercial or industrial uses. These are decisions that each tribe must make for itself. The general thrust of this Bill is to recognize the prerogatives of tribes themselves in this area, and I want here merely to caution the Committee not to take away with the left hand what appears to be offered with the right.

If our hoped-for objectives prove feasible, we look forward to developing an agricultural enterprise that utilizes state-of-the-art technology; that permits low-impact and relatively small-scale projects to be profitable; makes maximum use of indigenous crops and labor; that requires a minimum infusion of external capital; and, in short, permits us to utilize modern technology in the ever-changing marketplace to sustain the ancient values and traditions of the Jicarilla Apache people.

Thank you very much for the opportunity to be here today and present the views of the Jicarilla Apache Tribe. We are most anxious to secure the technical assistance, the management advice, the educational training, and the financial assistance that is contemplated by this Bill for Indian tribes in the development and management of their agricultural lands.

Please feel free to call upon the Jicarilla Apache Tribe for any assistance that we might provide to this Committee or Committee staff for the purpose of preparing this Bill for immediate enactment into law.

Mr. RICHARDSON. Thank you, Mr. Velarde.  
The Chair now recognizes Chairman Daniel Eddy.

**STATEMENT OF DANIEL EDDY, JR.**

Mr. EDDY. Good morning, Mr. Chairman, members of the committee. My name is Daniel Eddy, Jr. I am the Chairman of the Colorado River Indian Tribes. With me today is Mr. Stephen McHugh, our Assistant Attorney General of the Tribes.

First of all, we thank you for the opportunity to address the committee on this very important issue concerning agriculture in Indian country. It is important to us because of the fact that agriculture is our economic base.

I think that at this point I want to mention that we are the reservation, we are the first and the oldest irrigation project in the country. The tendency of the tribal governments and people to form cooperative forums and organizations should not impede the Federal Government's recognition that it possesses distinct and solemn obligations to each Indian nation.

For example, the Indian members of the Colorado River Indian Tribes have waited over 128 years for completion of an irrigation project that was promised by the Federal Government. We understand that there is an attempt to establish a formula to prioritize the funding of Indian irrigation project construction. We do not wish to see such a formula require the Colorado River Indian Irrigation Project to compete with other tribal projects.

The obligations the Federal Government may undertake with other Indian tribes should not impede the obligations it has undertaken to each individual tribe. As you all know, many of the general federal laws dealing with agriculture and other issues were written in past eras, with little direct tribal input. In our effort to replace these laws, we should not repeat their common mistake of assuming that all reservations are the same.

To provide you with some information that will assist you in putting this testimony in context, I should point out that approximately 134,787 acres are developed on our 268,500-acre reservation. Of the developed land, 84,000 acres are used for nonpasture agriculture. The remaining developed land is in commercial uses, residential uses or pasturage. Much of this land is owned solely by the Tribes and is leased through long-term development leases to non-tribal member agribusiness. Well over 10,000 acres of that is used by CRIT farms, the tribal enterprise farming operation.

Also, individual tribal members lease and farm over 10,000 acres. Getting back to allotments, 8,410 acres are divided into 10-acre allotments, with almost 900 individuals owning interests. Almost all of those acres make up part of the 80,000 acres in production.

Where acres are not in production, it is almost always the choice of the landowners. Because of the value of the farmland on the reservation and the fact that allotted land has access to completed portions of the irrigation system, those growers interested in leasing allotted lands often put much effort into obtaining allottee interest-holder consent. Generally, this results in a course of dealings. I should point out that the interest holders may be willing to

take a lower price from a grower who has always paid rent rather than taking a chance with someone new.

In listening and talking to other tribal leaders, it is clear that the Colorado River Indian Tribes do not have the same problem with fractionated heirships. There are two reasons.

First, relatively few acres on the reservation are allotted and relatively few owners possess interest in those allotments.

Second, the Colorado River Indian Tribes make use of the C-272 process, which allows for a fee to be charged for processing allotment leases. This allows for us to employ and maintain a staff to manage allotment leasing.

Also, the Tribes have provided staff and resources, such as computers, to expedite their work. It is my understanding that few Indian tribes make use of this program, which could provide much-needed resources for leasing programs.

Also, it allows each individual tribe to construct a program that addresses its unique circumstances. In dealing with allotted lands held in highly fractionated heirships, such tribal discretion is extremely important.

Due to the fact that the allotted land represents a relatively small part of our reservation's land base, our tribal government generally approaches leasing decisions as the sole owner of the land in question. Thus, the following comments on specific portions of the proposed bills should be viewed with that in mind.

Number one, we believe that standing authorization is necessary to provide funding for agricultural resource management plans. We are, of course, concerned that there is not presently an appropriation for this program.

Number two, we agree tribal members should have access to the education and training that will enable them to provide the technical and policy advice necessary to make agricultural management decisions. Therefore, we support provisions in both bills that will provide or enhance such programs.

Number three, both versions of bills provide for the creation of agriculture resource management plans. We prefer the language in S. 410 which establishes that each individual tribe will provide policy direction in this process.

Number four, in that regard, we also prefer S. 410, Section 202, rather than H.R. 1425, Section 102, because it provides a greater recognition of tribal authority. Currently, Federal law fails to define the relative authority of the BIA and the Indian tribes in the leasing process.

Number five, as I mentioned initially, each reservation has unique landownership patterns. Since our reservation has only limited allotments and a thriving agriculture economy on mostly tribally owned lands, we believe that provisions of S. 410 regarding allotment lands were drafted with other circumstances in mind.

Several of the provisions will, however, be beneficial. These include Section 204(c)(2) which recognizes the right of those holding a majority interest in an allotment to enter into an ag lease which provides protection for any mortgage interest holders by requiring that such a lease provide them with at least fair market value. This would effectively freeze into Federal law the current policy at our reservation.

B, we appreciate the language in section 204(e)(1) affirming that it is not intended to alter the rights of a allottee. We believe, however, that it may be helpful to amend this provision in order to provide tribal governments with the opportunity to establish policies allowing majority interest holders to farm their own land, whether or not this results in fair market value.

C, we agree with the idea that tribal governments should have the discretion to waive or modify bond or surety requirements. Again, this freezes arrangements that are already in place in our government's dealings with the local BIA office. Surety bonds are generally not required for tribal members.

That completes my statement to the committee this morning. I will answer questions.

[Prepared statement of Mr. Eddy follows:]



## COLORADO RIVER INDIAN TRIBES

*Colorado River Indian Reservation*

ROUTE 1, BOX 23-B  
TELEPHONE (602) 669-9211  
PARKER, ARIZONA 85344

In reply,  
refer to: \_\_\_\_\_

### STATEMENT OF

DANIEL EDDY, JR., CHAIRMAN, TRIBAL COUNCIL  
COLORADO RIVER INDIAN TRIBES  
BEFORE THE HOUSE SUBCOMMITTEE ON NATIVE AMERICAN AFFAIRS  
OF THE HOUSE COMMITTEE ON NATURAL RESOURCES  
JUNE 18, 1993

Thank you for this opportunity to address the Committee. At the outset, I would like to express appreciation for those who have worked hard to address some of the issues impeding agriculture development on Indian reservations. At the same time, it is important to point out that each reservation has its own unique history, land-ownership patterns, resource base, and aspirations. Any attempt to define the priorities of such a large and diverse group will result in a winnowing effect, where intensely desired needs on one reservation are "cancelled out" simply because they are not concerns on other reservations. For that reason, legislation proposed by "Pan-Tribal" organizations will generally address what might be called the "lowest common denominator" of reservation concerns.

The tendency of tribal governments and people to form cooperative forums and organizations should not impede the federal government's recognition that it possesses distinct and solemn obligations to each Indian Nation. For example, the community members of the Colorado River Indian Tribes have waited over 128 years for completion of an irrigation project that was promised by the federal government. We understand that there is an attempt to establish a formula to prioritize the funding of Indian irrigation project construction. We do not wish to see such a formula require the Colorado River Indian Irrigation Project to compete with other tribal projects. The obligations the federal government may undertake with other Indian tribes should not impede the obligations it has undertaken to each individual tribe.

As you all know, many of the "general federal laws" dealing with Indian agriculture and other issues, were written in past eras, with little direct tribal input. In our effort to replace these laws, we should not repeat their common mistake of assuming that all reservations are the same.

One way to balance the need for general federal standards with the right of each tribe to address its specific concerns would be to provide discretion in programs and allow each tribe to make adjustments so the law conforms with its individual needs. This will require BIA personnel, especially at the local level, to listen to tribal governments and to follow tribal direction, rather than to lead. We do not believe that this is such a bad idea.

For these reasons, I am pleased to note that in most instances, both versions of the proposed bill provide individual tribal governments with the discretion to determine whether a provision of the bill is applicable to their reservation.

To provide you with some information that will assist you in putting this testimony in context, I should point out that approximately 134,787 acres are developed on our 268,500 acre Reservation. Of the developed land, 84,000 acres are used for nonpasture agriculture. The remaining developed land is in commercial uses, residential uses, or pasturage. Much of this land is owned solely by the Tribes and is leased through long-term development leases to nonTribal member agribusinesses. Well over 10,000 acres of that is used by CRIT Farms, the Tribal farming operations. Also, individual tribal members lease and farm over 10,000 acres. Getting back to allotments, 8,410 acres are divided into 10 acre allotments, with almost 900 individuals owning interests. Almost all of those acres make up part of the 80,000 acres in production. Where acres are not in production, it is almost always the choice of the landowners.

Because of the value of farmland on the Reservation and the fact that allotted land has access to the completed portions of the irrigation system, those growers interested in leasing allotted lands often put much effort into obtaining allottee interest-holder consent. Generally, this results in a course of dealings. I should point out that interest holders may be willing to take a lower price from a grower who has always paid rent, rather than "taking a chance" with someone new.

In listening and talking to other tribal leaders, it is clear that the Colorado River Indian Tribes do not have the same problem with fractionated heirships. There are two reasons. First, relatively few acres on the reservation are allotted and relatively few owners possess interests in those allotments.

Second, the Colorado River Indian Tribes make use of the C-272 process, which allows for a fee to be charged for processing allotment leases. This allows us to employ and maintain a staff to manage allotment leasing. Also, the Tribes have provided staff and resources, such as computers, to expedite their work. It is my understanding that few Indian Tribes make use of this program, which could provide much needed resources for leasing programs. Also, it allows each individual tribe to construct a program that

addresses its unique circumstances. In dealing with allotted lands held in highly fractionated heirships, such tribal discretion is extremely important.

For example, even though it was not required to do so by the 1982 Land Consolidation Act, the Colorado River Indian Tribes chose to compensate individual owners whose interest in land returned to Tribal control under the terms of the Act. During times when financial resources existed, we also established a general policy of buying interests in allotments and at times, entire allotments at their assessed value. Word of this program spread fast on the Reservation and soon the Tribes were themselves the owners of significant numbers of fractionated interests in allotments as well as entire allotments that are part of consolidated leasing units.

In many instances, then, our Tribal government, and I assume many other tribal governments, are also minority interest holders whose interest must be balanced against majority interest holders and the interests in the entire tribal community that may wish to see the land developed or to remain in an unaltered state.

Due to the fact that allotted land represents a relatively small part of our Reservation's land base, our Tribal government generally approaches leasing decisions as the sole owner of the land in question. Thus, the following comments on specific portions of the proposed bills should be viewed with that in mind.

1. We believe that standing authorization is necessary to provide funding for agricultural resource management plans. We are, of course, concerned that there is not presently an appropriation for this program.

2. We agree tribal members should have access to the education and training that will enable them to provide the technical and policy advice necessary to make agricultural management decisions. Therefore, we support provisions in both bills that will provide or enhance such programs.

3. Both versions of the bills provide for the creation of agricultural resource management plans. We prefer the language in S. 410, which establishes that each individual tribe will provide "policy direction" in this process.

4. In that regard, we also prefer S. 410's section 202, rather than H.R. 1425 §102 because it provides greater recognition of tribal authority. Currently, federal law fails to define the relative authority of the BIA and the Indian tribes in the leasing process.

5. As I mentioned initially, each reservation has unique land ownership patterns. Since our Reservation has only limited allotments and a thriving agricultural economy on (mostly) Tribally

owned lands, we believe that provisions of S. 410 regarding allotment lands were drafted with other circumstances in mind. Several of the provisions, will however, be beneficial. These include:

- A. Section 204(c)(2) which recognizes the right of those holding a majority interest in an allotment to enter into an agricultural lease and which provides protection for minority interest holders by requiring that such a lease provide them with at least fair market value.

This would effectively "freeze" into federal law the current policy at our reservation.

- B. We appreciate the language in Section 204(e)(1) affirming that it is not intended to alter the rights of an allottee. We believe, however, that it may be helpful to amend this provision in order to provide tribal governments with the opportunity to establish policies allowing majority interest holders to farm their own land, whether or not this results in fair market value.
- C. We agree with the idea that tribal governments should have the discretion to waive or modify bond or surety requirements.

Again, this "freezes" arrangements that are already in place in our government's dealings with the local BIA office. Surety bonds are generally not required for Tribal members.

Although, I should point out that the current limitations on the availability of credit combined with this requirement sometimes make it difficult for farmers to borrow both the capital they need for farming and the required surety. This Committee may wish to spend time exploring ways of addressing this "credit crunch" within Indian country.

Mr. FALCOMVAEAGA [presiding]. Thank you, Mr. Eddy.

I will now hear from the Honorable Lieutenant Governor of the Gila River Indian Community, Mary Thomas.

#### STATEMENT OF HON. MARY V. THOMAS

Ms. MARY THOMAS. Good morning, Mr. Faleomavaega. I hope I didn't destroy that name.

Mr. FALCOMVAEAGA. You did just fine.

Ms. MARY THOMAS. And special greetings this morning from our community to our tribal member who is serving on your staff, Ms. Barbara Robles, and Pete Overton, who is an employee out at Gila River, and also Steve Heeley, who was a former employee but moved on to bigger and better things. God knows we had enough work for him to do.

Mr. Chairman, on behalf of Gila River Community, we have submitted our written testimony for the record with your approval. With me this morning to my extreme left are Mr. Harry Cruye, Jr., Chairman of the Gila River Farms Board, and next to me is Mr. Ardell Ruiz, vice chair of the board and distinguished member of the tribal council.

The Gila River Indian community is represented here today in support of H.R. 1425, the American Indian Agricultural Act of 1993.

Our earliest recorded history by Spanish explorers and missionaries in the early 1500s illustrate the strong agricultural bonds we have with the lands on Gila River. Recent research reveals that our bonds go even further, to an era 2,000 years ago. The conservation principles practiced, although very primitive, by our ancestors has left us with some of the best agricultural lands in the Southwest.

Our recent signing of the Central Arizona Project and pursuit of our water rights assures us of adequate water supplies to secure the future of our children in agriculture. Our goal is to increase fivefold the amount of farmland we are currently farming. We have been limited because of the scarcity of water.

Our long-term goal is to farm a quarter of a million acres. This bill will help us to achieve our goal with everyone's cooperation.

And at this time, I will turn over some of my time to Mr. Harry Cruye, to mention some projects that the farms have instituted at Gila River, which are very beneficial to our community, I believe.

Harry.

Mr. CRUYE. Thank you, Mr. Chairman.

On the education for agriculture, there is a great need for it. And we have a get-together with Colorado River Tribe and Gila River Farms, Gila River Tribe, we started the Southwest Indian Ag Association about five years ago and the idea was to gather what information we have and pass it on to other individual people that will be interested in agriculture. We meet once a year.

There is a need to get that information out to more people that would like to get into agriculture. It is not a 1,000-acre farm; it is somewhere you can start with certain crops, you can do 1 acre or 5 acres, still subsidize your income. So that is one way we are working on agriculture education.

The other one is we are working with juveniles and hope it will be a pilot project, the Juvenile Rehab Program. We helped to get

in fruit trees; we brought in other Federal agencies, the USDA, Department of Agriculture, Communities Extension Service for these youth sent to the juvenile home. Instead of just sitting there in the day room watching TV, now they are out in the fields, they are planting. They planted fruit trees, they planted corn.

If I heard the Lieutenant Governor correctly last night, they sold \$200 a day in corn to the local people. So this is the first year of that program. I think as we work with them and the people work together, we can educate our youth and our individuals that would like to get back into agriculture.

Thank you, Mr. Chairman.

Ms. MARY THOMAS. Ardell?

Mr. RUIZ. Thank you, Mr. Chairman.

Just to comment a little bit on why we support this legislation. At Gila River we have been fortunate to establish a very sophisticated farm. But yet on the other hand, our irrigation district has been poorly managed due to various reasons, inadequately staffed by the bureau, inadequate funding, and always has been a low priority.

I think that explains partially what is happening in all these different projects. But if it became a higher priority, I think we can address those needs and pursue agriculture. It is an economic development and it will address those social and other important parts necessary for our community's livelihood.

The other thing that I want to mention is that we are working closely with our Bureau of Indian Affairs agency to try to address some of these problems. But I think it is going to take more than just one group such as us at Gila River. And we need to include everybody across the country.

Thank you.

Ms. MARY THOMAS. In closing, Mr. Chairman, I strongly commend this committee for their concern about the regulations that are being adhered to or are not being followed by the Bureau of Indian Affairs and other governmental agencies in regards to agriculture. I will go back to my tribe and express the concern this committee has on behalf of Indian tribes. I strongly support all tribes who will benefit from this Act.

Right now we are in the middle of harvesting our watermelons and if I had a purse big enough, I would have brought you one as a sample.

Thank you, Mr. Chairman, for your time.

[Prepared statement of Ms. Thomas follows.]

**TESTIMONY OF**  
**MARY V. THOMAS, LIEUTENANT GOVERNOR**  
**GILA RIVER INDIAN COMMUNITY**  
**TO THE**  
**UNITED STATES HOUSE OF REPRESENTATIVES**  
**HEARING ON H.R. 1425**  
**THE AMERICAN INDIAN AGRICULTURAL ACT OF 1993**  
**JUNE 18, 1993**

Mr. Chairman, members of the Subcommittee on Native American Affairs and staff of this Committee, on behalf of the Pimas and Maricopas of the Gila River Indian Community, Sacaton, Arizona, I thank you for this opportunity to present our views with respect to H.R. 1425, the American Indian Agricultural Act of 1993.

The Community strongly supports H.R. 1425 and commends this Committee for its strong interest and commitment toward reducing and eliminating bureaucratic and administrative barriers to the development and management of Indian agricultural lands. Enactment of H.R. 1425 will afford Native Americans the opportunity to wisely utilize and develop our primary natural resource that we have been blessed with.

Pimas and Maricopas have farmed the Gila and Salt River valleys since time immemorial. We are agrarian people and even at the present time our economy is primarily based on our agricultural enterprises. We own some of the best farmland in the United States and we are limited in agricultural pursuits only by the lack of a firm and stable supply of water. We are working very hard to vindicate our water rights and claims through litigation and through the

water negotiation process. We believe that we will soon achieve an assured and firm supply of water. The Community recently signed a water delivery contract for Central Arizona Project Water ("CAP") for 173,100 acre feet per year. Although CAP water is expensive, we are steadily making progress to achieve our agreed upon water budget amount of 653,500 acre feet a year.

H.R. 1425 and S. 410 are bills that the Community strongly support. H.R. 1425 is intended to improve the management, productivity, and use of Indian agricultural lands and resources.

Section 101 sets out a process for the management of Indian Rangelands and Farmlands. We believe it very important that the Secretary establish an Indian agricultural resource management planning program and that the Secretary and tribes develop ten year management plans. This plan would be extremely helpful at Gila River as it would complement our existing Reservation-wide planning process for the future.

Of special importance is Title II entitled "Education in Agricultural Management" and particularly Section 201. There is no more important effort that the Community could make but to assist and encourage Pima and Maricopa youth to participate in farming activities and to continue their post-high school education in Native American Agricultural Management Programs. The Community now and in the future desperately needs the services of Indian professional resource managers. The issue of leasing of Indian lands is a complex and perennial problem. This issue is made even more complex and difficult when the issue of allotted lands is considered. Of the approximately 372,000 acres of the Community's

Reservation, approximately two-thirds of this amount is owned by allottees and individual landowners. Approximately 266,000 acres of the Reservation is capable of being farmed. However, the primary problem with allotted land is the fractionated undivided heirship problem. At Gila River original allottees were allocated two ten acre allotments. It is not unusual for a ten acre allotment to have hundreds of owners. Obviously, this land fractionated problem makes efficient development and management of farmland difficult. Section 204 of S. 410 seems to set forth more clearly the attempts to deal with problems caused by allotments than Section 104 of H.R. 1425. Section 204 entitled "Leasing of Indian Rangelands and Farmlands" poses some significant problems. Section 104 (a) (2) allows leasing of agricultural land at less than the Federal appraisal when such action would be in the best interest of landowners. This is a difficult call to make. There is no doubt that the individual landowner seeks the highest possible lease rental rate and would feel aggrieved if the approved rental rate was less than the appraised rate. The problem may very well be an incomplete Federal land appraisal but the Secretary must have a very good reason to authorize a lease at less than the Federal appraisal. A second major issue is the power of the Secretary to authorize a lease when the majority of owners desire to enter into a lease. This contemplates that fifty-one percent of landowners could cause a lease to be binding upon the minority landowners. This again is a very difficult decision to make. The Secretary must have a very good reason to approve a lease in these circumstances. The broad discretion allowed the Secretary must be limited by requiring the Secretary or his

authorized representative to make findings justifying his decision to approve a lease.

Tribe should be encouraged to develop policies for the leasing of Indian agricultural lands and Indian operators should be afforded a preference. However, the interests of the individual Indian landowners must be carefully respected and evaluated. Only if a Tribe develops such a leasing policy and only after the Secretary has carefully considered the interests of the individual landowners and makes appropriate findings, should a lease be approved.

The Community strongly supports development of the Comparative Analysis of federal investment and management in Indian agricultural lands and other federally managed lands as set forth in Section 103. This Analysis should prove helpful in identifying problems in federal Indian leasing policy.

I thank you for this opportunity to comment on H.R. 1425 and if you have any questions I will respond or provide you a written response in the near future.

Mr. FALCOMAVAEGA. Thank you very much, Lieutenant Governor. I was really hoping that I would be privileged to eat a watermelon from the Gila River reservation. But maybe when I do visit Arizona, especially when I committed myself, I want to visit the first irrigation project that still has not been completed in over 100 years. And I mean that. I am going to really make it a point to see this.

Thank you very much for the testimony that has been presented before the committee.

I do have a couple questions I want to raise. You have heard the testimony earlier from Mr. Hayes representing the Department of the Interior, and in line with the dialogue that we have established with Mr. Hayes, the problems that the administration has with the provisions of this bill. As always, I say here in the committee, this bill was not written in heaven and cannot be changed. I mean, we are very flexible in that regard.

If there were some very serious concerns about the ownerships of these lands held in trust by the Federal Government for the benefit of the Indian people, but in opposition to that, as was expressed earlier by Congressman Abercrombie, we could just as well give you all the land and make your own development. And, of course, Mr. Hayes was not in a position to express the position of the administration in that regard. But I also am in line with that thinking.

Of course, we do have a serious boundary problem attending to the ownerships of these lands, and pretty much that the responsibility of the Federal Government has not been a very nice record in my humble opinion. But in your opinion, what has been the record in your dealings in the past?

I assume that all of you are involved currently in both farming and ranching in some way or somehow by the use of your lands. Have you had a positive relationship with the Bureau of Indian Affairs over the years in dealing with this very issue of providing the kind of assistance that you need? I just want to hear some feedback from you, if I could, Mr. Velarde.

Mr. VELARDE. For the record here, with the Jicarilla Apache Tribe, what we had to do is go across to ask SCS to help us with some of the technical problems that we were having, and if it wasn't for the IAC, which is the Intertribal Agricultural Council, to bring us the relationship that we have with the U.S. Department of Agriculture, those agencies that were brought into our reservation, that is how we got some technical assistance.

But as far as the BIA was concerned, there has been very little. For example, a case in point, they said we were trying to do an eradication of our carp situation on one of our fishery lakes and we asked them for some money and technical assistance and they sent the problem up here to the main office here in Washington DC and nothing happened. So we had to fund it ourselves again, you know? And this is what we are talking about.

If they could just at least supplement us or give us some people, give us some IAPs or whatever they call it, to help us out, we could manage on our own. We have our own integrated resource management plan in place too and we are getting people from the Atmospheric Research Center in Fort Collins, Colorado, to help us out

too, and we are getting our own people to do all this. But it is costing us money and we are just asking BIA to meet us halfway and they haven't met us halfway yet.

Mr. FALEOMAVAEGA. So, in effect, the very agency that is administering the 54 million acres of trust lands has exactly the same problem we are faced with. Of course always they claim limited resources, we don't have enough money, so go do it yourselves, don't bother us. They say, we will issue a report in two years and that report will tell you what your problems are, but never a solution to the problems.

Mr. VELARDE. Exactly.

Mr. FALEOMAVAEGA. So your contact over the years has been minimal really with the Bureau; they have not really been an agency that you can count on for assistance.

Mr. VELARDE. No.

Mr. FALEOMAVAEGA. With regard to agricultural development?

Mr. VELARDE. No.

Mr. FALEOMAVAEGA. Mr. Eddy.

Mr. EDDY. Thank you, Mr. Chairman. Over the past few years, I guess as I pointed out in the statement and for the record, we have the old irrigation project that exists out there. It was within the last 10 years, I guess, where we began to really get a handle on trying to correct some of the deficiencies on our irrigation project itself, this, I guess, more through the effort of the Tribes than through the efforts of the Bureau of Indian Affairs Office.

Special appropriations were sought, I guess, to help us along those lines, and we began a process of putting the study together on what really needed to be done to handle our critical needs at that point. We have just completed that process. That was a two-year project that has been done.

We are ready to move onto the second phase. The second phase would be to apply some actual construction or renovation, if you will, to the areas that are in dire need right now at this point in a critical stage. I would say that would help get waters to our lands.

So through it all, I guess asking the question of whether or not we have had positive results in dealing with the Bureau of Indian Affairs, I would have to say also like the representative on my right here that it has been very minimal as far as the Bureau of Indian Affairs is involved.

Much of the effort that is being put forward now is the effort of the Tribes. We have begun to seek alternatives other than relying solely on the assistance of the Bureau of Indian Affairs. We utilize them as much as possible. We take advantage of the utilization of the Public Law 93-638 process as much as possible, all this done to really shorten time frames, which is what we have to deal with down there in our part of the country on a constant basis. So that basically is what our situation is.

Mr. RICHARDSON [presiding]. Thank you. Lieutenant Governor Thomas, did you want to answer this question?

Ms. MARY THOMAS. Just very briefly, Mr. Chairman. Our relationship with the Bureau has improved lately. In the past, we have had to litigate and had to come up with some sort of justification for why we were dissatisfied with the Bureau. We have been in-

volved with other tribes in Arizona to assert some action on the part of the Bureau so that we can get satisfaction on how they are dealing with us in Arizona.

Mr. RICHARDSON. We are joined by the distinguished Member from Montana who has been very active on this subcommittee on Indian Affairs over the years, Indian education, many others. I had the good fortune of visiting his State recently. He has got vast agricultural land, a large population.

I wondered if the gentleman from Montana wanted to ask questions now or did he wish that I proceed.

Mr. WILLIAMS. Please proceed, Mr. Chairman. I appreciate your kindness in recognizing me. I have looked over the testimony of these and other witnesses, but why don't we just proceed.

Mr. RICHARDSON. Okay. Let me ask all the witnesses if they can answer the question about surety bond requirements. In your judgment, who should have the authority to waive requirements for the surety bonds? The tribe or the Secretary?

Mr. Velarde.

Mr. VELARDE. Yes, Mr. Richardson. I think it should be the tribe, because of the fact that we have let BIA manage a lot of the stuff that has been happening on our own reservation and it hasn't been very productive. So we would like to take control of everything we are doing, and we are gearing up to do everything on our lands in that manner also, including our resources, including our monetary management and we would like to have that control.

Mr. RICHARDSON. Thank you.

Chairman Eddy.

Mr. EDDY. I believe that authority should rest with the tribes also. We have worked both ways in the past. I mentioned earlier in my statement, a lot of what is contained in the bill now has been practiced on our SCS reservation in the past few years. To us, it is a matter of putting all this practice, policies, procedures in writing before us right now. But I believe that authority should rest with the tribes.

Mr. RICHARDSON. Lieutenant Governor Thomas.

Ms. MARY THOMAS. It is our belief also that the tribes should have a say in that and make the decision. But right now, it is working the other way and we are still having a lot of problems.

Mr. RICHARDSON. Let me now start with you, Lieutenant Governor Thomas. Would your tribe be concerned that without the requirements of some security, a lessee would not undertake specific improvements such as lining an irrigation ditch that are currently required under the lease?

Could this type of security to the tribe and the landowner be provided without requiring surety bonds?

Ms. MARY THOMAS. I would have to refer that question to Ardell.

Mr. RUIZ. Mr. Chairman, in the past, we have been able to go ahead and develop, even though there is a requirement that was set forth, but the way it is managed is the problem. Many times, even though when you put up a bond, it could be for a short period of time, yet the length of the development could be for a number of years.

And because of I guess either shortness in staff or incapability or whatever, it just doesn't work out, and it needs to be established where it can be managed.

Mr. RICHARDSON. Chairman Eddy, what is your view?

Mr. EDDY. The requirement on the surety bonds?

Mr. RICHARDSON. Yes. Some tribes have expressed concerns that without the requirements of some security, that a lessee would not undertake infrastructure improvements that are required under the lease.

Mr. EDDY. We would have to go back and take a look at the type of agreement it is. I guess what we work with down there, short-term lease agreements, 5-year term, which is standard; 10-year lease agreements are what we call improvement leases; between 10- and 25-year, long-term development leases. Each lease is different. They have specific terms that the farmer has to abide by within them.

We do have our own people who make compliance checks to make sure that the terms of the agreement are being met and so forth. I might just point out here that, a couple years ago, we are one of the tribes who did contract the responsibilities of doing the realty services away from the Bureau on our reservation. We handle that function at this time.

But the reason that we have just recently made it mandatory, I guess on the surety bonds, in our case is because of the fact that we have been burned a couple times by farmers not doing what the lease agreement called for and so forth, and at the termination of the agreement, leaving us with the same result that the farmer entered into in the beginning with no improvements to the land and so forth.

But it really has not been that much of a problem, although we do have a large number of acres to look after. We get our personnel right on top of it.

Mr. RICHARDSON. Now, you touched on your testimony, Chairman Eddy, regarding the BIA leasing, regulation, and appeals process. Do you think that the current leasing process and appeals process protect the interests of the tribes and a lessee when a lessee declares bankruptcy, for instance?

Mr. EDDY. That was an issue a few years ago. We went through an experience where exactly that particular situation took place. The appeals process we were in disagreement with at that point because of the time frame. This allows for a dead space there in which absolutely no benefit comes to the tribe as the land lays waiting for the bankruptcy procedures to complete themselves, I guess. We have had land tied up, I think, for a period of 8 years before we learned our first lesson where we couldn't do anything with it.

Immediately after that, or during that interim, we began making some decisions as to how we are going to handle these type of situations when they arise, so the bankruptcy problem on our reservation, I believe, has been taken care of.

Mr. RICHARDSON. Chairman Velarde, do you think the Bureau's leasing regulations and appeals process adversely affect any management efforts on your reservation?

Mr. VELARDE. One in particular is with the other agencies that we deal with in the Department of Agriculture and that is in the area of, you have 5-year leases and 7-year leases and 10-year leases and BIA has 5-year leases. So when you are trying to pay the money back or something like that and you try to set up a program with, for example, the great plains that SCS has, they have a 7-year program and it conflicts right there.

So, you know, you can't get that service because of the lease problems right there.

Mr. RICHARDSON. Lieutenant Governor Thomas, this is my last question before I see if Mr. Williams has any. Does the BIA process, in your judgment, guarantee fair market value for leased lands?

Ms. MARY THOMAS. I will have Harry Cruye answer that question.

Mr. RICHARDSON. Would you identify yourself also, Harry, and both of you just for the record.

Mr. CRUYE. I am Harry Cruye, Chairman of the Farm Board. Also, I do lease 700 acres on my own farm. I really believe they do in the realty section of the agency. In fact, sometimes I think they protect the landowner more than the farmer, but that is the responsibility.

A good example is on the federal appraisal. They will go out and appraise off the reservation a fully developed farm, a 300- to 500-acre farm. You take that same per-acre value and apply it to, say, the appraisal on the leases I am looking at. I might be leasing 6 acres here, 10 acres there, 12 acres there. The plots of land are just scattered all over where the basic appraisal is on a 300- or 500-acre fully developed farm. So I think that is why this language is in there.

But I do feel that they do at least get a fair market value for the per-acre. They don't consider your crops and all that.

Mr. RICHARDSON. Okay. Mr. Williams.

Mr. WILLIAMS. Do any of you, or a couple perhaps may wish to respond, if you had to identify one major problem with regard to the management of agriculture lands in Indian country, one major problem, one major suggestion for the BIA, what would it be? Somebody want to take a shot?

Ms. MARY THOMAS. Mr. Chairman, from Gila River's perspective, I guess it is the identification of our water rights and how we have struggled for many years to have that resolved through litigation and through negotiation.

Mr. WILLIAMS. Anyone else?

Mr. EDDY. I would say it is our irrigation system.

Mr. WILLIAMS. Thank you, Mr. Chairman.

Mr. RICHARDSON. I want to thank this very good group of witnesses. We apologize for the interruptions. We thank you.

**PANEL CONSISTING OF HON. LAURENCE KENMILLE, VICE CHAIRMAN, CONFEDERATED SALISH AND KOOTENAI TRIBES, PABLO, MONTANA; CALVIN E. WALN, SECRETARY, INTERTRIBAL AGRICULTURE COUNCIL (IAC), BILLINGS, MONTANA, ACCOMPANIED BY ROBERT MILLER, PRESIDENT, IAC, AND GREG SMITMAN, EXECUTIVE DIRECTOR; HON. ROSS SOCKZEHIGH, TRIBAL COUNCILMAN, YAKIMA INDIAN NATION, TOPPENISH, WASHINGTON; JULIA MAHSETT, SECRETARY, INDIAN SOIL CONSERVATION ASSOCIATION, ANADRAGO, OKLAHOMA, ACCOMPANIED BY MAY CHUBBEE, COMANCHE TRIBAL MEMBER; AND (MR.) LUPE GOODAY, FT. SILL APACHE TRIBAL COUNCILMAN**

Mr. RICHARDSON. Let me just now turn to our third panel, the Honorable Lawrence Kenmille, vice chairman, Confederated Salish and Kootenai Tribes, Pablo, Montana; Honorable Ross Sockzehigh, tribal councilman, Yakima Indian Nation; Toppenish, Washington; Mr. Calvin Waln, Secretary, Intertribal Agriculture Council from Billings, Montana; and Ms. Julia Mahseet, Secretary, Indian Soil Conservation Association, Anadarko, Oklahoma. Ms. Mahseet will be accompanied by Mr. Lupe Gooday, Ft. Sill Apache tribal councilman, and Ms. May Chubbee, Comanche tribal member.

So if we could have all of these witnesses please step up to the microphone and I will recognize first the gentleman from Montana in case he wishes to introduce or say something about obviously two of his constituents here.

Mr. WILLIAMS. Well, thank you, Mr. Chairman. I want to join in welcoming all of the panelists in the several panels that are before you today, but take particular note of the two Montanans, one an old friend and one an acquaintance who have traveled back here to be with us. Mr. Chairman, I appreciate your willingness to invite both of these Montanans to testify today.

Mr. RICHARDSON. Thank you very much, Mr. Williams. Your statement will be fully inserted in the record.

[Prepared statement of Mr. Williams follows:]

STATEMENT OF PAT WILLIAMS ON H.R. 1425, THE AMERICAN INDIAN AGRICULTURAL ACT

I'm pleased to see that we're coming together to discuss Indian Agriculture. Agriculture has been an important source of income for Native Americans across the country. I know that Montana's tribes are quite concerned with the lack of resource management that has been provided by the Federal Government through the BIA and the subsequent denigration of Indian lands.

Mr. Chairman, as you know, economic development is a big issue for the nation's First Americans. When the subcommittee came to Fort Peck Reservation in north-eastern Montana earlier this year, we discussed many alternatives for economic development. While industrial development is an alternative, I believe we should not forget the businesses that exist, that are primarily agricultural. Through better BIA management productive capacity of agricultural land will most definitely be improved. The trust responsibility is a real one and the BIA has not lived up to its part of the bargain regarding land management.

I look forward to hearing from each of the witnesses. I especially welcome Mr. Lawrence Kenmille of the Confederated Salish and Kootenai Tribes.

Mr. RICHARDSON. We will start with the Honorable Laurence Kenmille.

### STATEMENT OF LAURENCE KENMILLE

Mr. KENMILLE. Good morning, Mr. Chairman. My name is Laurence Kenmille, Vice Chairman of the Confederated Salish and Kootenai Nation, and good morning, Honorable Pat Williams. Appreciate you being in attendance today.

The Confederated Salish and Kootenai Tribes of the Flathead Nation strongly support the Indian Agricultural Resources Management Act of 1993, however, under H.R. 1425, as presently structured, we believe that language needs to be added which more specifically addresses the concerns and goals of Indian people who wish to see the reservation homelands protected.

In addition, we believe H.R. 1425 needs language to more effectively establish identifiable management planning processes for tribal agricultural lands with tribal control, language to better modernize outdated BIA policies and regulations for these lands, and establish educational opportunities needed in management of natural and agricultural resources.

Most importantly, we believe H.R. 1425 could in the long run more effectively promote tribal self-determination.

Some of the specific comments I would like to address, we strongly support the provisions found in Section 102 of the H.R. 1425 which requires the Secretary to abide by tribal law and also specifically provide for assistance with enforcement of tribal law and create special notice provisions which will be very beneficial to the tribes enforcing their laws over non-Indians on tribal lands.

The tribes also wish to comment on the definitions of agricultural lands found in Section 4(1) of H.R. 1425. Forested lands should be included in the definition of agricultural lands. A significant portion of our tribe's grazing resources comes from grazable forest lands.

Traditional agricultural activities, such as grazing and berry picking do occur in the forest and should be acknowledged as agricultural activities. Therefore, we believe forested lands should be included in the definition of agricultural land.

We also suggest that Indian lands be defined consistent with the widely utilized definition as found in 18 U.S.C., subsection 1151, Indian country defined. Alternatively, the Indian lands definition contained in the Native American Free Exercise of Religion Act would be suitable.

All lands within the limits of any Indian reservation, public domain Indian allotments, all other lands title to which is either held in trust by the United States for the benefit of any Indian tribe or individual or held by Indian tribes or individuals subject to restriction by the United States against alienation; all dependent Indian communities and all fee lands owned by an Indian tribe.

The definition of farmland needs to be revised. H.R. 1425 requires farmland to be actively used in order to meet the definition. Some agricultural lands within our reservation may not be in current use or could be lying fallow due to enrollment in the CRP or other USDA programs or for other reasons. Nonetheless, the lands are still farmlands and we believe it is only proper that such lands be defined as suitable for use as farmlands.

The tribes would also like to emphasize support for language which defines the role of the tribe and BIA in land management activities. The tribes are the proper local authority to be respon-

sible for land management activities and regulation of agricultural lands on the reservation.

Furthermore, the tribes support and concur with language to be included which discusses application of tribal law. The House definition appears to limit authority of the tribes over tribal lands. We believe lands under tribal jurisdiction should be subject to this bill.

We ask for language in H.R. 1425 which will allow the tribes to establish local leasing policies relating to Indian preference, fractionated ownership, appraisal value of agricultural lands and terms of lease. Our tribe actively addresses the fractionation of Indian lands problem by buying up fractionated interests in allotments.

On allotment tracts, the tribes are majority owners, yet we have only a limited voice in how these lands are to be leased and managed due to existing BIA policies and CFR requirements. In many cases, the tribe owns 98 percent of a tract, but under BIA regulation, the tract is viewed as an individually owned tract not subject to tribal policies.

Finally, the tribe would like to include language which expands the definition of agricultural study to include natural resources study. The tribes believe that all natural resources management activities require an interdisciplinary planning process and input from all resource disciplines.

Limiting areas of study to agriculture would severely limit the involvement of additional areas and fields of specialized expertise which we believe greatly enhances the management of our large, multifaceted and environmentally complex blocks of agricultural land.

Right now, I would like to say thank you, Mr. Chairman, for this opportunity. The tribal mayor chairman who has been involved in the agricultural bill from its inception, you know, is really following this very, very closely. He is a rancher and an agricultural user and appreciates the time you have allotted us to provide this testimony.

Thank you, Mr. Chairman.

Mr. RICHARDSON. Thank you Mr. Vice Chairman.

[Prepared statement of Mr. Kenmille follows:]

TESTIMONY OF LAURENCE KENMILLE, VICE CHAIRMAN  
OF THE CONFEDERATED SALISH AND KOOTENAI TRIBES  
BEFORE THE HOUSE SUBCOMMITTEE ON NATIVE AMERICAN  
AFFAIRS REGARDING H.R. 1425, THE AMERICAN INDIAN  
AGRICULTURE ACT OF 1993.

FRIDAY, JUNE 18, 1993.

The Confederated Salish and Kootenai Tribes of the Flathead Nation strongly support the "Indian Agricultural Resources Management Act of 1993." However, as presently structured, we prefer the version of this Act currently being debated in the Senate (S. 410) to the House version discussed today (H.R. 1425). We believe that S. 410 more specifically addresses the concerns and goals of Indian people who wish to see the reservation homelands protected. In addition, we believe S. 410 more effectively establishes an identifiable management planning process for Tribal agricultural land, with Tribal control. It better modernizes outdated BIA policies and regulations for these lands and establishes educational opportunities needed in management of natural and agricultural resources. Most importantly, we believe S. 410 more effectively promotes tribal self-determination.

Specific Comments

We strongly support the provisions found in both Section 202 (a) of S. 410 and Section 102 (a) of H.R. 1425 which require the Secretary to abide by Tribal Law, and also specifically provide for assistance with enforcement of Tribal Laws and create special "notice" provisions which will be very beneficial to Tribes enforcing their laws over non-members on Tribal lands.

The Tribes also wish to comment on the definition of

"agricultural land" found in Section 4 (1) of H.R. 1425. Forested lands should be included in the definition of agricultural land. A significant portion of our Tribe's grazing resources come from grazeable forest lands. Traditional agricultural activities such as grazing and berry picking do occur in the forest and should be acknowledged as agricultural activities. Therefore, we believe forested lands should be included in the definition of agricultural land.

We also suggest that "Indian lands" be defined consistent with the widely utilized definition as found in 18 U.S.C. § 1151 (Indian Country Defined). Alternatively, the "Indian Lands" definition contained in the Native American Free Exercise of Religion Act would be suitable.

"all lands within the limits of any Indian reservation; public domain Indian allotments; all other lands title to which is either held in trust by the United States for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to restriction by the United States against alienation; all dependant Indian communities and all fee lands owned by an Indian tribe."

The definition of farmland needs to be revised. H.R. 1425 requires farmland to be actively used in order to meet the definition. Some agricultural lands within our reservation may not be in current use and could be lying fallow due to enrollment in CRP or other USDA programs or for other reasons. Nonetheless, these lands are still farmlands, and we believe it is only proper that such lands be defined as "suitable" for use as farmland.

The Tribes would also like to emphasize support for the language used in Section 202 (a) of S. 410 which defines the roles of the Tribe and BIA in land management activities. The Tribes are the proper local authority to be responsible for land management activities and regulation of agricultural lands on the Reservation.

Furthermore, the Tribes support and concur with Section 202 (b) of S. 410 which discusses application of tribal law. The House definition appears to limit authority of the Tribes over Tribal lands. We feel the definition used by the Senate is more appropriate. We believe all lands under Tribal jurisdiction should be subject to this bill.

We support Section 204 of S. 410 which allows the Tribes to establish local leasing policies relating to Indian preference, fractionated ownership, appraisal value of agricultural land, and term of leases. Our Tribe actively addresses the fractionation of Indian lands problem by buying up fractionated interests in allotments. On many allotted tracts, the Tribes are a majority owner, yet we have only a limited voice in how these lands are to be leased and managed due to existing BIA policies and CFR requirements. In many cases the Tribes own 98% of a tract, but under BIA regulation the tract is viewed as an individually owned tract not subject to Tribal policies.

Finally, the Tribes support and concur with Section 301(c) of S. 410 which expands the definition of agriculture study to include natural resources study. We suggest the definition used by the Senate should be adopted by the House. The Tribes believe that all natural resources management activities require an interdisciplinary planning process and input from all resource

disciplines. Limiting areas of study to agriculture would severely limit the involvement of additional areas and fields of specialized expertise which we believe greatly enhances the management of our large, multifaceted and environmentally complex blocks of agricultural land.

Thank you for the opportunity to present our views to this committee.

Mr. RICHARDSON. The Chair recognizes Mr. Calvin Wain, Secretary, Intertribal Agriculture Council, Billings, Montana. Welcome, Mr. Wain.

#### STATEMENT OF CALVIN E. WALN

Mr. WALN. Thank you, Mr. Chairman. I would like to acknowledge the president of the IAC, Mr. Robert Miller, who is with me, and Harlan Beaulieu from the Red Lake Tribe, and the executive director, Greg Smitman.

Thank you, Mr. Chairman, for introducing us and getting us this far and I greatly appreciate the questions that were asked this morning. You basically got everything on the table, the issues that are affecting us.

I am an enrolled member of the Rosebud Sioux Tribe, and I am a landowner, but the most important part of that is that I am a tribal member. By virtue of that, I am a landowner, even if I was not an allottee. I am a landowner within that tribe.

A little over 200 years ago, the Indian nations were sovereign because we controlled over 500 million acres of land here. As you heard this morning, we control a little more than 54 million acres, of which we are not sovereign, of which we do not make our decisions upon that land. We have forfeited to the Federal Government and ceded the most productive farm ground that we had, a lot of our water and our minerals, and what little we have left we do not control.

This bill has been mailed out in the last five years since 1989 to every single tribe in the country for comment on it. We have worked hard on this bill, we have cooperated with the committees in both houses, we have cooperated with the Bureau of Indian Affairs, but the Federal Government has always made the decisions for Indian country. Economic development, you name it, whatever it is, it comes from here and the Bureau controls that.

The tribes have never been given the opportunity, and the tribal people, to say, this is what we want, let us fix our problems. The management section of this bill needs to be added onto like bill S. 410 that gives the tribes more control to manage and develop their plans. Let the people put these plans together and let them decide what they want.

The community, by developing these, will take into consideration the unique status of each tribe. Each one being different, each tribe is going to have a different plan and they will be able to put their own things together.

The bill this morning talked a little bit about some of their concerns. They were talking about Indian preference being one of their concerns. Their current regulations allow for Indian preference. When you talk about allottees, the problem that we have, the regulations say a majority of the interest holders. We have some areas that are requiring 100 percent of the ownership. So we have 1.1 million acres of land sitting idle.

Some of the problems with idle land is no water, noxious weeds, prairie dogs. The Bureau sits on that land, says it is worth x number of dollars per acre. If you don't want to pay that, we let it sit idle. That is their way of managing the rate. They can drop the rate on these lands if they want to get them developed.

The tribal goals and objectives and tribal law should control the resources of the reservation and all tribes. The IRMPs that bill has; that is, the technical inventory of what is there. It doesn't say, here is the potential that you have, let's develop this. Do something with it. If we wait for them, we wait for another 100 years before we get anything done.

The regs are only used against us, and what we are saying is, let us do this. Let's complete some regs, let's make some stuff happen. A question I would like to see asked of the Bureau this morning is: How does this bill change the relationship between the tribe and the allottees? I would like to see the Bureau respond to that to see what they would come up with.

The Bureau came up with leasing regs in 1988. They came out of a 1986 report by the BIA which was followed by a 1987 report by the Indian land working group, all spelling out the needs and changes in the leasing regs. We need 10 years to stabilize things.

As you heard this morning, some tribes are giving 10- to 25-year leases. The Bureau says that can't happen, but it is happening because these tribes are taking the lead and taking control, and they are being successful at what they are doing.

The value-added industries that the Bureau talked about this morning, they want them identified. Speaking with a friend of mine yesterday, Mr. Pete Taylor, he said that is horse shit. Then he laughed and said, but horse shit could be a value-added industry.

So it is a broad range of things that are out there for value-added industries that we need to take into consideration.

The heirship problem that gets addressed in here, we talked about surplus. The heirship problem, the fractionation problems that we have, the majority of the land is so fractionated that the individuals cannot use it. They actually don't know what the economic value of their land is if it was consolidated. If the Bureau was doing their job assisting people in consolidating their lands, they could have some usable, manageable tracts that could be worth a lot more money than what they are getting right now.

You ask a question about fair annual rental. Just to give you a quick example, right now the current rate on BLM land is I believe \$1.98 an animal unit. In Montana, they are paying \$7 an animal unit, and we are on lands that aren't developed. We are underdeveloped. We are working with the USDA to bring them in and make some things happen, but we are a long ways away.

The Bureau talked about demonstration projects, they would like to see them. You give the Bureau a chance to put in three or four demonstration projects and five years to complete them. You get two or three reports and they are going to say they have done their job and it is over. This planning process needs to happen in the short term, in three years. Let's make something happen and get things going.

The field hearings, that has happened. The 1986 report, read through the reports. You will see the field hearings, everything has taken place in there.

You have heard a lot about irrigation this morning, the Bureau not implementing and doing their job. You look at the Winters Doctrine that was put in place by the Supreme Court. If the Bureau

would have implemented that decision, which they didn't and didn't know how, we wouldn't have the water rights problems we are having today with tribes to develop their agricultural lands.

The limited resources, the Bureau talks about what they have to operate with. The Bureau does not come into Congress during appropriations and request money. They are just not doing it.

And with that, Congressman, I see my time has run out here, but I want to express the appreciation of the IAC, the 60-some tribes that we represent and thanks to all the Indian people and leaders that have come here today and expressed their concerns and support for this bill.

And with that, thank you very much. And I would like for us to be apprised of the answer that the BIA gives to you in response to the questions that you had this morning.

Mr. RICHARDSON. We certainly will do that.

[Prepared statement of Mr. Wain follows.]



# Intertribal Agriculture Council

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**Prepared Statement of the Intertribal Agriculture Council for the June 18, 1993 Hearing on H.R. 1425, the American Indian Agricultural Act of 1993 held by the House Committee on Natural Resources, Subcommittee on Native American Affairs.**

## **Introduction**

Mr. Chairman, I am Calvin E. Wain, a member of the Rosebud Sioux Tribe of South Dakota and Secretary of the Intertribal Agriculture Council (IAC). I am an Indian rancher, and an allotted land owner. I have eight years of service on the Rosebud Sioux Tribal Council where I served on the Land and Natural Resources Committee and on the Board of Directors of Tribal Land Enterprise. In these positions I have considerable experience leasing land as a land user, writing grazing and leasing ordinances and laws, overseeing land purchases and land consolidations on behalf of the Tribe and the Individual Allottee and, therefore, can speak knowingly of the frustrations of my people and myself.

I want to express the warm gratitude of IAC's 65 member Tribes for your sponsorship of H.R.1425. This critical legislation turns around the mismanagement of the two greatest assets of Indian Country, their human and natural resources.

Native American agriculturists have played a great role in forming America. Indian people fed the first European settlers of our country and developed food products that today make up over 50% of the world food supply. However, the majority of our most fertile and mineral-enriched lands were ceded to the Federal Government by treaties in return for the lands we now call reservations. In exchange for ceding our lands, we were promised that the reservation would be ours forever, and would be protected for our exclusive use. This has not happened and is a major reason why 84 Tribes came together in 1987 to found the Intertribal Agriculture Council.

## **Background**

The "American Indian Agriculture Act of 1993" continues the long-term efforts of Congress to improve Indian Agriculture which originated with the passage of PL 99-190 in 1985. That legislation resulted in the 1986 Report to Congress on BIA Agriculture-Range Programs, and the recommendations in that report with the subsequent findings of the National Indian Agriculture Working Group and more recent Congressional Testimonies form the basis for H.R. 1425. The Intertribal Agriculture Council is proud to support this important legislation.

As Congress has started the process of improving the conditions on reservations and in the Indian community by correcting barriers that have kept the Indian agriculture community from fulfilling its potential, significant change has been forced on the U.S. Department of Agriculture. The Cooperative Extension Service and USDA farmer programs are improving cooperation with Indian Communities as a result of legislation in the 1990 FACT ACT. Congress has also been in the lead in correcting Agriculture Credit problems of Indian people in dealing with Farmers Home Administration. The recent entry of Tribally Controlled Community Colleges into USDA services has been entirely due to the work of the Congress, and the members of the IAC are sincerely grateful for these efforts.

The U.S. Department of Agriculture is not the only federal agency with specific authorities and responsibilities in Indian agriculture, however. Numerous recent and historical reports document the reliance of Indian people on agriculture for their sustenance, livelihood, and employment. Many of these documents were prepared or contracted by the BIA and report that the major stumbling blocks to Indian success in rural America are artificial barriers imposed by the BIA.

The BIA exerts significant influence on the Indian Community due to its administration and management of Indian lands, its control of Indian budgets and its formal participation with elected tribal governments. Therefore, it is appropriate that after serious attention to problems within the U.S. Department of Agriculture, attention should be closely focused on the major Indian agency of the federal government and on improvements that can be made in carrying out the duties assigned by Congress.

Unfortunately, the improvement of agricultural resources is not a BIA priority despite agriculture's role as the primary land use and main source of employment and income in Indian communities. As a result of reduced management and low priorities, Indian agricultural lands are not only under-developed but have been increasingly idle and decreasing in productivity and value in recent years, according to the BIA. It is ironic that the stated purpose of the Allotment Act was to make farmers out of the Indians while today the BIA program for Agriculture and Natural Resources is effectively non-existent.

Rather than promoting the use of Indian resources by Indian people, the current lack of long-term development and management ensures that the economic benefit of the land is lost to the owner. In 1896, Dr. Charles F. Meserve, President of Shaw College, in Raleigh, North Carolina noticed that the acreage of allotted Indian lands was dwindling and wrote, "This property all belongs to the Indian, but it is the white men who are felling timber, harvesting the corn and cotton from his rich acres, white men pasturing his beautiful waving prairies and shipping the fat herds to the stockyards of Kansas City and Chicago. The Indian is well-nigh alien in the land of his fathers."

The problem Dr. Meserve addressed in 1896 continues to plague Indian Country in 1993. It is still the non-Indian who predominately works our lands. A non-Indian farmer or rancher, with his access to credit, can purchase or lease Indian lands much easier than an Indian. It is not difficult for a tribal member to sell or lease to

a non-Indian; but it is next to impossible for another Indian to purchase or lease these interests under current BIA policies and practices.

The "Meriam Report" released in 1928 reported problems with the management of Indian lands and indicated that if not addressed these problems would continue to grow along with conditions of poverty, disease, poor education and very low economic opportunity. That report concluded that the federal government should "encourage Indian use of Indian lands and strengthening of Indian community life." In 1975 a major report by the GAO titled "Indian Natural Resources: Opportunities for Improved Management and Increased Productivity" was prepared for the Senate Interior and Insular Affairs committee. This report identified three major issues damaging Indian land and resource management. These three were lack of long-term planning for resource development; lack of personnel for technical assistance and advice; and, conflict of tribal and individual Indian desires with accepted resource management practices.

Not much has changed on many reservations since the 1975 report or even since the 1928 report. In fact, conditions have grown considerably worse between 1975 and today, as indicated in the BIA's "1986 Report to Congress on Agriculture Range Programs."

This legislation is the first effort at implementing these recommendations, made almost twenty years ago, and repeated by both BIA and tribal leaders over the past ten years. Its purpose is very simple: since the BIA has not, can not, and will not take action to protect the landowners' interests, stabilize the communities and provide the realistic incentive for self-determination and economic development it is necessary that Congress empower the Tribal Governments to take action.

### **Mission and Goals**

As pointed out in the previously cited BIA Report to Congress and the Findings of the National Indian Agriculture Working Group, there is no overall mission or goals for the BIA Land Operations program, generically referred to as "agriculture." A formally proposed mission statement, with supporting policy and goal statements, was created by the National Indian Agriculture Working Group but has not been adopted or discussed.

The need to develop a formal process to clearly define and document Tribal, Community and Bureau goals for the reservation land base is established by both the BIA reports and numerous tribal testimonies before Congress. Clearly defined and documented goals can serve as the overall foundation for the Bureau (or Tribe) to design the specific land management programs, complete with staffing, funding requirements and short and long-term objectives, which are the critical first step in rebuilding the failed BIA Land Operations program. Section 101(c) of the proposed legislation will accomplish this while providing for the unique situations of each Tribe.

To be successful, long-range management programs must reflect community goals and values, and be approved at the local level. There are numerous examples of

well designed and well meaning projects in Indian country that have failed because they reflected the goals of the BIA or the consultant, not the goals of the local community. We believe that a cooperative working partnership involving the Tribal Government, land owners and land users, the BIA, and other members of the community is necessary and can be achieved.

Successful resource management programs in Indian country are those directed by the local Tribal Governments, not the BIA. For example, Seminole Tribe of Florida, Ak-Chin of Arizona, Colorado River Indian Tribes of Arizona, Gila River Tribe of Arizona, Confederated Tribes of Warm Springs of Oregon, and the Red Lake Tribe of Minnesota are a few who have taken active control of their resources to achieve their success. This Act will empower all Tribes in the United States to exercise local authority on the wise and prudent use of their resources and is one reason that the IAC strongly supports it.

Since 1988, the IAC has repeatedly proposed a program designed to bring the management of Indian-trust lands closer to the level enjoyed by all other Federal lands. This cannot be accomplished in a single year or two, nor can it be done on a wholesale basis from a nationally dictated program. The diversity of the lands, the climate, and the cultures of the Indian people, as well as the overwhelming scope of such a project, precludes short-term solutions. We, therefore, propose a program which will begin this rebuilding process through the involvement of the Tribal Governments and local residents in the decision making process.

Many reservations have obtained resource surveys, inventories, or studies as part of other programs over many years. In some areas, emphasis has been on water rights litigation and documentation of potentially irrigable acres. In other areas, recreation or forest management has been the driving force in data acquisition and resource planning. At the same time, some reservations are lacking even the most basic resource data, such as Public Land Survey and SCS Soil Surveys. Currently, few Tribes have had either the capability or resources to combine these myriad reports into a meaningful working reservation program.

Some Tribes do not have agricultural resources or have strong interest in other primary resources or land uses. This approach grants all the Tribes the leadership role in defining their long-term goals and strategies for their resources without dictating what direction these goals should take. Forest Management plans are largely in place, but no full Natural Resource or Land Management Plans have yet been completed on Indian Lands. This program would provide for equal treatment of all land resources, including soils, water, wildlife, vegetation, minerals, esthetics and so forth, and all proposed uses from agricultural to recreational, cultural preservation, tourism, and numerous alternatives in defining reservation goals and potential uses.

Guidelines and criteria for these plans already exist in the BIA's Land Operations Manual, and can be used with minimal deviation by the Tribes in this effort. We estimate the cost of this planning phase at \$10 million a year for 3 years, or less than 1% of the BIA budget, based on a BIA estimate of \$.37 cents per acre adjusted for inflation, to establish a new direction for the Bureau and to provide a structured,

sanctioned method for the Tribes to clearly define and express their long-term goals and objectives and to plot a course for achieving them. The results would be orderly reservation development that reflects community goals and objectives, and marshals the commitment of tribal and federal resources to meet these objectives. This is the necessary first step toward the reality of tribal self-determination.

For the past two decades, Tribal Leaders have been in the unenviable position of seeking congressional action for even their smallest needs. Without a realistic method to clearly document tribal needs, and in the absence of BIA leadership or responsiveness, only those few Tribes which can afford repeated trips to Washington, D.C. and can retain the most successful lawyers receive some redress. The vast majority of Tribes have seen their resources diminish and BIA services curtailed. This portion of H.R. 1425 can go along way toward returning the BIA to its established role and relieving the Congress of the need to take action individually on virtually every tribal concern throughout the United States.

At least 95% of the appropriated funds should go directly to the Agency/Tribal level to achieve maximum efficiencies in the use of program dollars with no administrative hold back in Central Office and not more than 5% at area offices for planning support. It is suggested that 50% of the above funds be provided directly to the Tribal Governments in the form of block grants to ensure that the Tribes are active participants and maintain the leadership role in this effort. The block grant method is preferred as it allows Tribes the freedom to contract with universities, private consultants or other sources without the difficulties encountered in subcontracting a 638 contract. The remaining 45% should be provided to the BIA agencies to support the tribal efforts, and should be available for 638 contracting at the Tribe's request. It is our recommendation that any funds provided for these programs be kept separate from existing BIA funds for accounting purposes and that formal reports of activities and progress be required by the Congress.

The result of this three-year program will be specific, documented agriculture and land management programs, created and approved by the local community, which address specific community concerns for land use and development. The individual reservation or tribal planning documents will provide the direction and guidance to the BIA and the Tribes in the management and administration of the Indian-owned trust resources. These program documents will also provide the basis for the application of Indian Self-Determination through the tribal contracting of Agriculture and Natural Resources Programs under the new Self-Determination Act amendments contained in PL 100-472. This is exactly the process which has been successful in the development and implementation of the Forest Management Plans which have so greatly contributed to the well-being of the Timber Resource Tribes.

The BIA reports that it is already engaged in this process through its so-called Integrated Resource Management Plan program. However, published results of this effort, which we have reviewed, are merely highly technical resource inventories that require extensive computerized data from numerous sources including satellite imagery. This high technology is very exciting, but after spending millions of dollars, there have been only a total of nine plans completed in 6 years, almost entirely based on already existing Forest Management Plans. Additionally, there is

no evidence of meaningful community input or understanding of these products of computer and satellite technology. At the current rate of accomplishment we can expect to have preliminary inventories of this caliber for only the largest reservations completed in the year 2042- a long time to wait for simple goal setting.

The alternative to waiting another 50 years for the advent of expensive computerized mapping systems is provided for in this legislation. This Act will establish the necessary mission and goals on an individual reservation basis and embark on community-based resource planning which has been successful for both the U.S. Forest Service and the Bureau of Land Management.

### **Leasing and Permitting**

Due to tribal constitutions preventing the sale of tribally owned lands, the small scale of Indian allotments and the fractionated- heirship common to Indian land ownership, and a general lack of credit, Indian farmers and ranchers do not own and cannot buy the majority of the land on which their enterprises are located. Rather, they must lease their lands through the BIA under regulations which originated when a primary function of the federal relationship with Indian people was the sale or lease of Indian lands to hasten settlement of the West. Under these archaic regulations, reservation lands are leased by the BIA to off-reservation interests who harvest the benefits of the land, while the landowner and community receive the pittance supplied to a disenfranchised landowner.

Section 104 contains specific authorities for the Secretary to implement tribal ordinances, based directly on the recommendations of the BIA in the 1986 Report to Congress on Agriculture/Range Programs, and the Final Findings of the National Indian Agriculture Working Group of 1987. These specific items are also included in the BIA draft of proposed new BIA leasing and permitting regulations which have been the topic of questions at every Congressional hearing on Indian Agriculture since the BIA first announced them in 1988. One of the reasons given for not publishing these draft regulations for public comment has been the need for statutory authority for longer term leases, and specific Indian preference to Indian use of Indian lands (although Indian preference in employment, contracting, education and retail supply is clearly established by law and upheld by the courts).

We strongly support the efforts of Congress to provide the statutory authority for the Bureau to implement these changes, which it has recommended in its efforts at self-improvement. Specific recommendations originate on page 24 of the 1986 BIA Report to Congress on Indian Agriculture/Range Programs and are expanded on pages 24 through 30 of the 1987 Final Findings of the National Indian Agriculture Working Group, submitted by the BIA leadership to Congress in direct response to Congressional requests originating with PL 99-190. These recommendations have also been specifically included in testimony by several parties before the Senate Select Committee Oversight Hearing on Indian Agriculture, the Senate Select Committee Oversight Hearings on Indian Irrigation, the Joint Senate Select and Senate Agriculture Committee Oversight Hearings, and each year since 1988 in testimony before the House Appropriation Subcommittee on the Interior.

Most importantly, this section allows the Secretary to implement tribal policies for the leasing and use of reservation lands when the elected Tribal Government has passed such laws, unless the landowner of a specific tract disagrees. Solutions to long-standing problems can be achieved with an authorization to lease highly fractionated lands under tribal ordinances unless the landowners disagree. This one provision will substantially reduce the acreage of idle Indian lands in Oklahoma. A second solution would provide for the granting of Indian preference in leasing when authorized by the elected Tribal Government, when the landowners don't formally disagree, and when a fair rate of return will be achieved for the landowners.

This section can clearly protect the interests of the landowners to ensure that they retain full ownership rights over their lands, firmly establish that the American method of majority rules in issues of equity applies in Indian issues as well, and establish a procedure for the individual landowners to remove their land from jurisdiction under tribal ordinance while finally providing for the Indian use of Indian Resources.

### **Education**

It has been reported by the BIA that almost half of their land-resource professional positions are vacant, and that as many as half of the existing staff is eligible for retirement at the end of this year. Despite the stated concern which has been repeated since the 1986 report to Congress, the Bureau has taken no action to prepare for this exodus of qualified individuals to manage Indian resources. The proposed educational component of this legislation is the first federal effort to recognize this upcoming personnel shortage and to establish a vehicle for developing a professional cadre of Indian Natural Resources managers to begin to fill the vacancies within Indian Country and the Bureau of Indian affairs.

### **Conclusion**

This simple legislation, the result of several years of work and Indian involvement, is the next logical step in empowering Tribal Governments to take responsibility for their futures, and we strongly support that effort. The "Indian Agriculture Resources Management Act of 1993" will resolve long standing and well-documented mismanagement of trust lands by utilizing the elected local governments, with their contact in the local community and on the ground knowledge of local situations, to correct the plague of Bureau imposed issues that have stripped Indian people of their vested ownership in the use and management of their lands. The proposed legislation puts oversight of basic land use at the elected Tribal Government level, similar to the local government authorities throughout the non-Indian community, and only when the Tribal Government and affected landowners choose to exercise this option. In short, it puts control in the hands of local governments elected by Indian land owners. Those very same land owners do not have the opportunity to elect BIA officials whose management for the last 150 years has accomplished nothing to enhance the rights of individuals or Tribal Governments.

Mr. RICHARDSON. The Chair recognizes the Honorable Sockzehigh, Tribal Councilman, Yakima Indian Nation, Toppenish, in the State of Washington.

Welcome.

#### STATEMENT OF ROSS SOCKZEHIGH

Mr. SOCKZEHIGH. Thank you, Mr. Chairman. As you indicated, my name is Ross Sockzehigh. I am a member of the Yakima Tribal Council. Mr. Chairman, in general, the Yakima Nation is supportive of the language in H.R. 1425, the American Indian Agricultural Act of 1993.

After review and discussion with various landowners, BIA representatives, and others in the northwest area, I feel that I can support current Indian agricultural legislation.

At this time though I would like to inform you that I am more supportive of the Senate bill, S. 410, although both bills have similar language. Given the two-week period in which further written testimony may be submitted, I plan to offer more detailed comments or suggestions for H.R. 1425.

Agricultural land resources on the Yakima Reservation include 141,775 acres of irrigated land and 31,817 acres of idle land. There are also 430,000 acres of grassland. Therefore, the implications of language in this bill will be considered more carefully within the given time for submission of written testimony.

I feel quite strongly about the benefits of a tribally adopted 10-year agricultural resource management plan. This management plan would give the Yakima Tribe and its members a better idea in land use plans for the future. Most of the items addressed in H.R. 1425 are already in place on the Yakima Reservation.

However, I understand that there are some agencies where staff are not supportive, cooperative, or informative to our Indian landowners and this Act would put more emphasis on the responsibilities of these BIA staff people.

Establishing a task force with purposes stated in the bill would be a positive step for all tribes and individual Indian landowners.

As to Section 104, leasing of the Indian rangelands and farmlands, which would allow tribes to develop policies for leasing trust lands, including individual lands, I believe this will be acceptable. However, each tribe must work with their own landowners. This could be a very positive step toward allowing individuals an opportunity to give their opinions on land use.

On the Yakima Reservation, the land committee policy regarding leases of tribally owned lands is that leases are not to extend beyond 10 years. The Yakima Tribal Council Land Committee recognizes self-management of lands under its control in the exercise of enterprise. Therefore this policy is used to maintain the ability of the Yakima Nation land enterprise to operate and manage the agricultural lands which they own or have controlling interest in on behalf of the tribe.

However, the Yakima Tribe, through its land committee will, and does, work with individual tribal members owning farmland in regards to leasing of farmland. The grazing and land committees object to Section 104, Subparagraph 3, "May offer for lease or permit

on the open market only those lands which are surplus to the needs of Indian communities."

I am definitely for educational opportunities which will result from this Act, and I feel that this type of opportunity is long past due. With the amount of agricultural land on Indian reservations and the diversity of the agricultural products, the education to allow Indian people to have the expertise to manage the lands is crucial.

A reason for this legislation is due to the lack of support and cooperation by BIA staff. If tribes or the BIA had tribal members in responsible positions with a vested interest in the outcome of the management and leasing of agricultural land, then some of these problems might not have come about.

The purposes of this legislation sound good but as in any legislation, with good intentions, nothing can be done unless funds are appropriated for the programs. Currently at the Yakima agency there is need for more realty specialists to deal with complex land lease issues. If there were adequate appropriations for the programs involved, then once again, problems addressed in this legislation may not have arisen.

And Mr. Chairman, I appreciate this opportunity to present the position of the Yakima Nation on this legislation. There is still time to work out problems or supply amendments to H.R. 1425 and your consideration of our input is appreciated.

I thank the Chairman.

Mr. RICHARDSON. Thank you very much, especially for summarizing so succinctly.

[Prepared statement of Mr. Sockzehigh follows.]

**Testimony of  
Ross Sockzehigh  
Yakima Nation Tribal Council**

**Hearing on HR 1425  
American Indian Agricultural Act of 1993  
June 18, 1993**

**U.S. House of Representatives  
Committee on Natural Resources  
Subcommittee on Native American Affairs**

In general, the Yakima Nation is supportive of the language in H.R. 1425, the American Indian Agricultural Act of 1993. After review and discussion with various landowners, BIA representatives, and others in the Northwest area, I feel that I can support current Indian agricultural legislation.

At this time though, I would like to inform you that I am more supportive of the Senate bill, S. 410, although both bills have similar language. Given the two week period which further written testimony may be submitted, I plan to offer more detailed comments or suggestions for H.R. 1425.

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I feel quite strongly about the benefits of a tribally adopted 10 year agricultural resource management plan. This management plan would give the Yakima tribe and its members a better idea in land use plans for the future.

Most of the items addressed in H.R. 1425 are already in place on the Yakima Reservation. However, I understand that there are some agencies where staff are not supportive, cooperative, or informative to our Indian landowners. This act would put more emphasis on the responsibilities of these BIA staff people.

Establishing a task force with purposes stated in the bill would be a positive step for all tribes and individual Indian land owners.

As to Section 104, Leasing of Indian Rangelands and Farmlands, which would allow tribes to develop policies for leasing trust lands, including individual lands, I believe this will be acceptable. However, each tribe must work with their own landowners. This could be a very positive step toward allowing individuals an opportunity to give their opinions on land use.

On the Yakima Reservation the Land Committee policy regarding leases of tribally owned lands is that leases are not to extend beyond 10 years. The Yakima Tribal Council Land Committee recognizes self-management of lands under its control in the exercise of enterprise. Therefore, this policy is used to maintain the ability of the Yakima Nation Land Enterprise to operate and manage the agricultural lands which they own or have controlling interest in on behalf of the tribe.

However, Yakima Tribe through its Land Committee will, and does work with individual tribal members owning farm land in regards to leasing of farm land.

The Grazing and Land Committees object to Section 104 subparagraph (3), "...may offer for lease or permit on the open market only those lands which are surplus to the needs of Indian communities."

I am definitely for educational opportunities which will result from this act and I feel that this type of opportunity is long past due. With the amount of agricultural land on Indian reservations and the diversity of the agricultural products, the education to allow Indian people to have the expertise to manage the lands is crucial. A reason for this legislation is due to the lack of support and cooperation by BIA staff. If tribes or the BIA had tribal members in responsible positions with a vested interest in the outcome of the management and leasing of agricultural land, then some of these problems might not have come about.

The purposes of this legislation sound good but as in any legislation with good intentions, nothing can be done unless funds are appropriated for the programs. Currently, at the Yakima Agency there is need for more realty specialists to deal with complex land lease issues. If there were adequate appropriations for the programs involved, then once again, problems addressed in this legislation may not have arisen.

I appreciate this opportunity to present the position of the Yakima Nation on this legislation. There is still time to work out problems or supply amendments to to HR 1425 and your consideration of our input is appreciated.

## INDIAN AGRICULTURE RESOURCE MANAGEMENT ACT OF 1993 (S 410)

## THE BILL WOULD:

Reaffirm the federal trust responsibility to protect and enhance Indian farm and rangelands; Good

Define the management objectives of Indian farm and rangeland activities; Good

Require the Secretary of the Interior, in consultation with the Tribes, to develop an agriculture land management plan for each reservation. This would include a three year plan to define local goals, and a ten year management plan. This planning function could be contracted under the Self-Determination Act; This would be an excellent idea not only to have the plan in place, but to create jobs in the natural resource area.

Require the Secretary to comply with Tribal land use laws, unless prohibited by federal statute or judicial decision; Okay - however, at Yakima we already cooperate and recognize Tribal land use, and Zoning

Require the Secretary to waive federal regulations which conflict with tribal land use laws, unless such a waiver is barred by federal statute or court case, or would conflict with the trust responsibility; This can already be done; however, maybe more BIA people would be forced into recognizing needs of owners.

Provide for the establishment of a Task Force - to include federal and tribal officials - to compare federal efforts on farm and range management on Indian lands with those on federally owned lands; This would be a positive step for Indian/Tribes

Authorize agricultural leases of up to ten years, or, where the Secretary determines that the investment so requires, for up to 25 years (This is already provided in 25 CFR 162.8 (c) and is used at Yakima in orchard, hops, asparagus, or business leases.

Authorize leasing at less than fair market appraisal, where land has been satisfactorily advertised; (25 CFR 162.5 (b)(3) already in place.

Authorize waivers of surety and performance bonds; (25 CFR 162.5(c)(1) Prepaid (advance) rental in lease contract).

Authorize Tribes to develop policies for leasing trust lands (including individually owned (?) trust lands) which may include (a) Indian preference in agriculture leases, (b) waiver of bonding requirements; (If assurance is given that tribes cooperate and give individuals an opportunity to withdraw their lands).

Authorize the owners of a 50% or more interest in any tract to (a) lease the tract without the consent of the minority owners and (b) opt out of the tribal provisions under the Act which would otherwise be applicable. (Some individual owners may oppose or feel this is unfair).

Establish a program of natural resource interns at the BIA and other federal agencies, as well as a cooperative education program and a scholarship program for Indian students for the natural resource fields, and establish natural resource education programs in tribally controlled community colleges. (Any educational funds and benefits in this area is strongly recommended.)



Confederated Tribes and Bands  
of the Yakima Indian Nation

COPY

Established by the  
Treaty of June 9, 1855

**Written Testimony of Ross Sockzehigh, Yakima Nation Tribal Council  
H.R. 1425, The American Indian Agricultural Act of 1993**

The current Indian agricultural legislation purposely leaves out some important issues that are fundamentally related to agriculture. Water, irrigation, O & M assessments, and the lack of a federal forum for the criminal taking by non-Indians the benefit of crops, livestock, or natural resources from an Indian landowner are a few of the issues.

The significance of these issues to the Yakima Nation and the Yakima people are of great importance. But, it is understood that solving the problems caused by these issues through the legislative process can be lengthy and may require different strategies in order to be dealt with at all.

At the Hearing on H.R. 1425, the American Indian Agricultural Act of 1993, before the Committee on Natural Resources, Subcommittee on Native American Affairs, I mentioned that I would be providing further comments on the bill following further review and comparison with S. 410, the Indian Agricultural Resources Management Act.

Following are my comments on H.R. 1425:

**Findings:** Section 101(a)(3) of S. 410 has language which states that the trust responsibility of the United States "extends to all federal agencies." This language is not included in H.R. 1425. We would like to see all departments, as extensions of the federal government, to honor the federal trust responsibility to American Indians.

**Purpose:** Section 102(4) of S. 410 intends to "improve Indian access to federal agriculture, rural development and related programs which are available to the American society at large through the various departments of the Federal Government." We are in agreement with the inclusion of this language in S. 410 and ask that such a provision be added to H.R. 1425.

**Definitions:** "Indian forest land." The definition of Indian Forest Land 25 USCS § 3103(3) "Indian Forest Land" means Indian lands, including commercial and non-commercial timberland and woodland, that are considered chiefly valuable for the production of forest products or to maintain watershed or other land values enhanced by a forest cover, regardless whether a formal inspection and land classification action has

been taken." S. 410 makes sure agricultural lands do not include forest land in order not to conflict with the Indian timber management legislation passed in 1990. H.R. 1425 does not include this exclusionary language.

"Indian Tribe." Language in H.R. 1425 does not include dependent Indian community as found in the definition of Indian country, 18 USC 1151.

**Rangeland and Farmland Enhancement:** Include in Title I of H.R. 1425, Management Activities, language found in Sec. 201(b)(5) of S. 410, "...also the benefit of the labor and profit that such land is capable of producing," and (b)(6) "to assist trust and restricted landowners in leasing their farmland and rangeland for a reasonable annual return, consistent with prudent management and conservation practices, and community goals as expressed in the tribal management plans and appropriate tribal ordinances."

**Development of Management Plans:** In Section 201(b) of S. 410, there is no section which establishes an Indian agricultural resource management planning program to achieve the Management Objectives. What S. 410 does provide is a "closed-term three year effort" for the obligation to develop tribal agricultural resource management plans. The Indian agricultural resource management planning program, Section 101(c) of H.R. 1425 gives no length of time to complete the objectives of Section 101(b). The effect of these differences in the language of the bill is unknown. Perhaps this should be discussed further to include the language that would most benefit tribes.

**Indian Participation in Land Management Activities:** Section 202(a) of S. 410 provides that "the Secretary shall recognize tribal governments as the governmental entities with the authority to enact and enforce, for lands under their jurisdiction..." Section 102(a) of H.R. 1425 provides "The secretary shall conduct all land management activities on the lands of an Indian tribe..." The language in S. 410 recognizes that the laws of the tribe extend to all lands under the tribes jurisdiction and is not limited by the interpretation of "lands of an Indian Tribe." Therefore the Senate language is the preferred language.

Also in the Section 102(a) of H.R. 1425 the requirement of Secretarial compliance with tribal laws or ordinances or the resource management plan "in specific instances where such compliance would be a violation of the trust responsibility..." is waived. During the 102d Congress,

language like this was included in Indian agricultural bill but was deleted because it created an inherent tension between the Department of Interior and Indian tribes. This language should be removed from H.R. 1425 for the same reason.

**Leasing of Indian Rangelands and Farmlands:** Section 204 of S. 410 is divided into (a) Authority of the Secretary, (b) Authority of the Tribe, and (c) Rights of the Individual landowner.

Section 204(b) of S. 410 authorizes tribes to adopt general policies relating to the leasing of Indian lands which would be followed by the Secretary in performing his leasing responsibilities. At this time we agree with 204(b)(1) "shall provide a preference to Indian operators in the issuance and renewal of agriculture leases and permits, so long as the lessor receives fair market value for his property" and (3) "When such tribal resolution sets forth a tribal definition of what constitutes 'highly fractionated undivided heirship lands', in order to prevent waste, reduce idle land acreage and ensure income."

A hearing for Yakima tribal landowners regarding this legislation was held this past May. At that time tribal members asked how their rights would be affected by this bill?" The language of Section 204(c)(1) of S. 410, "Nothing in this section shall be construed as limiting or altering the authority or right of an individual allottee in the use of his or her own land or to enter into an agricultural lease of the surface interest of his or her allotment under any other provision of law," would be a good inclusion to the agricultural bill.

We strongly object to the inclusion of the language in Section 104(2) of HR 1425, "may offer for lease or permit on the open market only those lands which are surplus to the needs of Indian communities."

**Education in Agriculture Management:** Section 301(a) of S. 410 has a broader scope for the educational opportunities by including "natural resources" along with "agricultural resources." Education in all natural resource professions would help Indian people, including fisheries management and wildlife biology. Please consider adding these study programs in Section 201(a) of H.R. 1425,

Mr. RICHARDSON. The Chair now recognizes Ms. Julia Mahseet, the Secretary, Indian Soil Conservation Association, Anadarko, Oklahoma. Please proceed, Ms. Mahseet.

#### STATEMENT OF JULIA MAHSEET

Ms. MAHSEET. Mr. Chairman, I am Julia Mahseet, an original allottee under the Dawes Act. I represent the Comanche Tribe of Oklahoma and the Indian Soil Conservation Association, of which I am secretary and treasurer. I have served in this capacity since the organization formation in 1952. My sister Irene and I still actively farm our allotment and have a major concern for our natural resources.

In Oklahoma, we have a unique situation as we have no reservation and the majority of the land is controlled by individual Indian landowners. In my home capacity in Anadarko, Oklahoma, individual Indians control about 97 percent of the land base and the Tribe controls only 3 percent.

My Tribe already has the authority through Public Law 638 to contract natural resources, real estate property management, social service, education, law enforcement, and any program that is administered for the benefit of Indians. My Tribe has already contracted several programs such as housing, law enforcement, education, social services and courts.

The Comanche Tribe has talked in the past about contracting natural resources and real property management, but they do not have support from us as individual landowners.

The implication of this Act is that it makes it easier for tribes to enforce its will on us as individuals where there already exists adequate means to control the natural resources that we as conservationists hold so dear. There are many features of this Act that have an impact on us as individual allottees. Section 201 of H.R. 1425 is positive, as we do need to train our young Indian people in proper management and utilization of our land.

The negative impact is that resource management may infringe upon an individual the right to negotiate leases and to make decisions about the care and use of my own land if the tribe's resource plan does not meet my personal use of my land.

If you proceed to pass this legislation, individual landowners in Oklahoma, where no formal reservation exists, will not be allowed to assist the secretary in addressing our concerns in leasing of idle land through formation of our own section of the 25 CFR that deals with our unique circumstances.

Idle lands are a major concern to all of us as Indians. We have several cases like no access routes that are caused by no roads, no bridges and other Indians not willing to grant easements. Another cause of idle land is requiring 100 percent of owners' signatures to lease in negotiating leases, where we would prefer a simple majority as long as it is fair market value.

Heirship problems exist where families are divided and do not agree on property use and who to lease to. We expect to get fair market value of our property, but we also expect that we leave the property in better shape when we lease. This would be for the benefit and use of our future heirs.

I thank you for your time and enter these comments in your records, plus these facts and figures.

Mr. RICHARDSON. Thank you very much, Ms. Mahseet, for your statement.

[Prepared statement of Ms. Mahseet and attachments follow:]

MS. JULIA MAHSEET  
RT. #1, BOX 211  
APACHE, OKLAHOMA 73006  
(405) 588-2363

TOPICAL OUTLINE OF MATERIAL PRESENTED

- I. Speech presented by Ms. Mahseet
- II. Anadarko Agency Land Base Figures
- III. Report on Service Population and Labor Force  
by Tribe (March, 1991)

Mr. Chairman:

I am Julia Mahseet - an original allottee under the Dawes Act. I represent the Comanche Tribe of Oklahoma and the Indian Soil Conservation Association of which I am Secretary-Treasurer. I have served in this capacity since the organizations's formation in 1952.

My sister, Irene and I still actively farm our allotment and have a major concern for our natural resources. In Oklahoma, we have a unique situation as we have no reservations and the majority of the land is controlled by individual Indian landowners. In my home agency in Anadarko, Oklahoma, individual Indians control almost 97 percent of the land base and the Tribes control only 3 percent. My Tribe already has the authority through PL-638 to contract Natural Resources, Real Property Management, Social Services, Education, Law Enforcement or any program that is administered for the benefit of Indians. My Tribe has already contracted several programs such as Housing, Law Enforcement, Education, Social Services and Courts. The Comanche Tribe has talked in the past about contracting Natural Resources and Real Property Management, but they do not have support from us as individual land owners.

The implication of this Act is that it makes it easier for Tribes to enforce its will on us as individuals where there already exists adequate means to control the natural resources that we as conservationist hold so dear. There are many features of this act that have impacts on us as individual allottees. The portion of Section 201 of H.R. 1425 is positive - as we do need to train our young Indian people in proper management and utilization of our land. The negative impact is that resource management may infringe upon my individual rights to negotiate leases and to make decisions about the care and use of my own land, if the Tribe's resource plan does not meet my personal use of my land.

If you proceed to pass this legislation - individual landowners in Oklahoma where no formal reservations exist - will not be allowed to assist the Secretary in addressing our concerns in leasing and idle land through formation of our own section of the 25 CFR that deals with our unique circumstances.

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I thank you for your time and enter these comments in your records, plus these facts and figures.

## ANADARKO AGENCY LAND BASE

TRIBE	ACRES	PER CENT	PER CENT
APACHE			
TRIBAL	82	0.0317%	
INDIVIDUAL	11,295	4.3659%	4.3976%
FT. SILL APACHE			
TRIBAL	36	0.0139%	
INDIVIDUAL	3,585	1.3857%	1.3996%
CHEYENNE-ARAPAHO			
INDIVIDUAL	160	0.0618%	0.0618%
CADDO			
TRIBAL	37	0.0143%	
INDIVIDUAL	25,092	9.6989%	9.7132%
COMANCHE			
TRIBAL	199	0.0769%	
INDIVIDUAL	107,375	41.5042%	41.5811%
DELAWARE			
TRIBAL	10	0.0039%	0.0039%
KIOWA			
TRIBAL	337	0.1303%	
INDIVIDUAL	76,104	29.4168%	29.5471%
WICHITA			
TRIBAL	10	0.0039%	
INDIVIDUAL	26,472	10.2323%	10.2362%
JOINT HELD			
KCA	5,449	2.1062%	2.1062%
WCD	2,466	0.9532%	0.9532%
TOTAL	258,709	100.0000%	100.0000%
	TRIBAL	8,626	3.3342%
	INDIVIDUAL	250,083	96.6658%

REPORT ON SERVICE POPULATION AND LABOR FORCE Apache		County(ies) Caddo - Kiowa Comanche - Cotton - Tillman		
Data are for March (month) 1991 (year)		State(s) Oklahoma		
		TOTAL	MALE	FEMALE
A	Total Resident Indian Population (b+c EXCLUDING d)	924	446	478
b	Within the reservation.....			
c	Adjacent to the reservation (in Okla., Indians in former reservation areas).....			
d	Other Indians, not included in lines b and c above (In California, rural parts of counties with reservations or rancherias).....			
e	Total under 16 years of age included in line "A"	350	183	167
RESIDENT INDIAN POPULATION OF WORKING AGE (16 years old and over)		XXXXXXXXXXXX	XXXXXXXXXXXX	XXXXXXXXXXXX
F	Total 16 years and Over (A minus e)..... (Age Classes g + h + i + j + k)	574	263	311
g	16 - 24 years.....	169	84	85
h	25 - 34 ".....	171	68	103
i	35 - 44 ".....	114	53	61
j	45 - 64 ".....	91	39	52
k	65 - years and over.....	29	19	10
M	Not in Labor Force (16 years and over), total (n + o + p + q).....	121	50	71
n	Students (16 years and over, including those away at school).....	52	31	21
o	Men, physically or mentally disabled, retired, institutionalized, etc.....	19	19	XXXXXXXXXX
p	Women for whom no child-care substitutes are available.....	40	XXXXXXXXXX	40
q	Women, housewives, physically or mentally disabled, institutionalized, etc.....	10	XXXXXXXXXX	10
R	Potential Labor Force (16 yrs. and over) F minus M	453	213	240
S	Employed, Total (t + u).....	233	130	103
t	Employed, earning \$7,000 or more a year (all jobs).....	201	112	89
u	Employed, earning less than \$7,000 a year (all jobs).....	32	18	14
V	Not employed (R minus S).....	220	83	137
W	Of these, persons actively seeking work.....	131	50	81
Z	Tribal Enrollment.....	1273	621	652
Prepared by <i>Robert L. Goodle, Jr.</i>		See Reverse: Superintendent's Evaluation of Data		
Area Director		Superintendent		
Area	Approval Date	Agency	Approval Date	

REPORT ON SERVICE POPULATION AND LABOR FORCE		Caddo			
Data are for		March	(month)	1991	(year)
		County(ies) Caddo-Kiowa-Comanche-Cotton-Tillman State(s) Oklahoma			
		TOTAL	MALE	FEMALE	
A	Total Resident Indian Population (b+c EXCLUDING d)				
b	Within the reservation.....	924	461	463	
c	Adjacent to the reservation (in Okla., Indians in former reservation areas).....				
d	Other Indians, not included in lines b and c above (In California, rural parts of counties with reservations or rancherias).....				
e	Total under 16 years of age included in line "A"	278	151	127	
RESIDENT INDIAN POPULATION OF WORKING AGE (16 years old and over)		XXXXXXXXXXXX	XXXXXXXXXXXX	XXXXXXXXXXXX	
F	Total 16 years and Over (A minus e)..... (Age Classes g + h + i + j + k)	646	310	336	
g	16 - 24 years.....	162	93	69	
h	25 - 34 ".....	162	76	86	
i	35 - 44 ".....	116	54	62	
j	45 - 64 ".....	130	57	73	
k	65 - years and over.....	76	30	46	
M	Not in Labor Force (16 years and over), total (n + o + p + q).....	224	76	148	
n	Students (16 years and over, including those away at school).....	96	46	50	
o	Men, physically or mentally disabled, retired, institutionalized, etc.....	30	30	XXXXXXXXXX	
p	Women for whom no child-care substitutes are available.....	52	XXXXXXXXXXXX	52	
q	Women, housewives, physically or mentally disabled, institutionalized, etc.....	46	XXXXXXXXXXXX	46	
R	Potential Labor Force (16 yrs. and over) F minus M	422	234	188	
S	Employed, Total (t + u).....	252	144	108	
t	Employed, earning \$7,000 or more a year (all jobs).....	211	112	99	
u	Employed, earning less than \$7,000 a year (all jobs).....	41	32	9	
V	Not employed (R minus S).....	170	90	80	
W	Of these, persons actively seeking work.....	109	71	38	
Z	Tribal Enrollment.....	3041	1457	1584	
Prepared by <i>Quirk L. Ziesler Jr.</i>		See Reverse: Superintendent's Evaluation of Data			
Area Director:		Superintendent			
Area	Approval Date	Agency	Approval Date		

REPORT ON SERVICE POPULATION AND LABOR FORCE Comanche		County(ies)		
Data are for <u>March</u> (month) <u>1991</u> (year)		State(s)		
		Caddo-Kiowa-Comanche-Cotton-Tillman		
		TOTAL	MALE	FEMALE
A	Total Resident Indian Population (b+c EXCLUDING d)	4796	2348	2448
b	Within the reservation.....			
c	Adjacent to the reservation (in Okla., Indians in former reservation areas).....			
d	Other Indians, not included in lines b and c above (In California, rural parts of counties with reservations or rancherias).....			
e	Total under 16 years of age included in line "A"	1260	624	636
RESIDENT INDIAN POPULATION OF WORKING AGE (16 years old and over)		XXXXXXXXXXXX	XXXXXXXXXXXX	XXXXXXXXXXXX
F	Total 16 years and Over (A minus e)..... (Age Classes g + h + i + j + k)	3536	1724	1812
g	16 - 24 years.....	903	446	457
h	25 - 34 ".....	964	497	467
i	35 - 44 ".....	726	379	347
j	45 - 64 ".....	650	294	356
k	65 - years and over.....	293	108	185
M	Not in Labor Force (16 years and over), total (n + o + p + q).....	778	261	517
n	Students (16 years and over, including those away at school).....	274	133	141
o	Men, physically or mentally disabled, retired, institutionalized, etc.....	128	128	XXXXXXXXXX
p	Women for whom no child-care substitutes are available.....	191	XXXXXXXXXX	191
q	Women, housewives, physically or mentally disabled, institutionalized, etc.....	185	XXXXXXXXXX	185
R	Potential Labor Force (16 yrs- and over) F minus M	2758	1463	1295
S	Employed, Total (t + u).....	1138	628	510
t	Employed, earning \$7,000 or more a year (all jobs).....	788	416	372
u	Employed, earning less than \$7,000 a year (all jobs).....	350	212	138
V	Not employed (R minus S).....	1620	835	785
W	Of these, persons actively seeking work.....	1099	661	438
Z	Tribal Enrollment.....	8617	4227	4390
Prepared by <i>Duke S. Zoodle Jr.</i>		See Reverse: Superintendent's Evaluation of Data		
Area Director		Superintendent		
Area	Approval Date	Agency	Approval Date	

REPORT ON SERVICE POPULATION AND LABOR FORCE Delaware		County(ies) Caddo-Kiowa-Comanche-Cotton-Tillman		
Data are for <u>March</u> (month) <u>1991</u> (year)		State(s) Oklahoma		
		TOTAL	MALE	FEMALE
A	Total Resident Indian Population (b+c EXCLUDING d)			
b	Within the reservation.....	332	164	168
c	Adjacent to the reservation (in Okla., Indians in former reservation areas).....			
d	Other Indians, not included in lines b and c above (In California, rural parts of counties with reservations or rancherias).....			
e	Total under 16 years of age included in line "A"	85	38	47
RESIDENT INDIAN POPULATION OF WORKING AGE (16 years old and over)		XXXXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX
F	Total 16 years and Over (A minus e)..... (Age Classes g + h + i + j + k)	247	126	121
g	16 - 24 years.....	49	26	23
h	25 - 34 ".....	78	41	37
i	35 - 44 ".....	31	13	18
j	45 - 64 ".....	61	34	27
k	65 - years and over.....	28	12	16
M	Not in Labor Force (16 years and over), total (n + o + p + q).....	73	26	47
n	Students (16 years and over, including those away at school).....	35	14	21
o	Men, physically or mentally disabled, retired, institutionalized, etc.....	12	12	XXXXXXXXXX
p	Women for whom no child-care substitutes are available.....	10	XXXXXXXXXX	10
q	Women, housewives, physically or mentally disabled, institutionalized, etc.....	16	XXXXXXXXXX	16
R	Potential Labor Force (16 yrs. and over) F minus M	174	100	74
S	Employed, Total (r + u).....	126	75	51
t	Employed, earning \$7,000 or more a year (all jobs).....	94	61	33
u	Employed, earning less than \$7,000 a year (all jobs).....	32	14	18
V	Not employed (R minus S).....	48	25	23
W	Of these, persons actively seeking work.....	38	20	18
Z	Tribal Enrollment.....	1082	536	546
Prepared by <i>Rubel Goodle Jr.</i>		See Reverse: Superintendent's Evaluation of Data		
Area Director		Superintendent		
Area	Approval Date	Agency	Approval Date	

REPORT ON SERVICE POPULATION AND LABOR FORCE PSA		County(ies) Caddo-Kiowa-Comanche-Cotton-Tillman State(s)		
		Oklahoma		
Data are for March (month) 1991 (year)		TOTAL	MALE	FEMALE
A	Total Resident Indian Population (b+c EXCLUDING d)			
b	Within the reservation.....	103	55	48
c	Adjacent to the reservation (in Okla., Indians in former reservation areas).....			
d	Other Indians, not included in lines b and c above (In California, rural parts of counties with reservations or rancherias).....			
e	Total under 16 years of age included in line "A"	34	13	21
RESIDENT INDIAN POPULATION OF WORKING AGE (16 years old and over)		XXXXXXXXXXXX	XXXXXXXXXXXX	XXXXXXXXXXXX
F	Total 16 years and Over (A minus e)..... (Age Classes g + h + i + j + k)	69	42	27
g	16 - 24 years.....	24	16	8
h	25 - 34 - .....	12	9	3
i	35 - 44 - .....	12	6	6
j	45 - 64 - .....	13	7	6
k	65 - years and over.....	8	4	4
M	Not in Labor Force (16 years and over), total (n + o + p + q).....	19	6	13
n	Students (16 years and over, including those away at school).....	5	2	3
o	Men, physically or mentally disabled, retired, institutionalized, etc.....	4	4	XXXXXXXXXX XXXXXXXXXX
p	Women for whom no child-care substitutes are available.....	6	XXXXXXXXXX XXXXXXXXXX	6
q	Women, housewives, physically or mentally disabled, institutionalized, etc.....	4	XXXXXXXXXX XXXXXXXXXX	4
R	Potential Labor Force (16 yrs. and over) F minus M	50	36	14
S	Employed, Total (t + u).....	32	21	11
t	Employed, earning \$7,000 or more a year (all jobs).....	23	15	8
u	Employed, earning less than \$7,000 a year (all jobs).....	9	6	3
V	Not employed (R minus S).....	18	15	3
W	Of these, persons actively seeking work.....	10	10	0
Z	Tribal Enrollment.....	339	171	168
Prepared by <i>Dustin L. Zoselle, Jr.</i>		See Reverse: Superintendent's Evaluation of Data		
Area Director		Superintendent		
Area	Approval Date	Agency	Approval Date	

REPORT ON SERVICE POPULATION AND LABOR FORCE Kiowa		County(ies) Caddo-Kiowa-Comanche-Cotton-Tillman		
Data are for <u>March</u> (month) <u>1991</u> (year)		State(s) Oklahoma		
		TOTAL	MALE	FEMALE
A	Total Resident Indian Population (b+c EXCLUDING d)			
b	Within the reservation.....	5037	2549	2488
c	Adjacent to the reservation (in Okla., Indians in former reservation areas).....			
d	Other Indians, not included in lines b and c above (In California, rural parts of counties with reservations or rancherías).....			
e	Total under 16 years of age included in line "A"	1412	738	674
RESIDENT INDIAN POPULATION OF WORKING AGE (16 years old and over)		XXXXXXXXXXXXXX	XXXXXXXXXXXXXX	XXXXXXXXXXXXXX
F	Total 16 years and Over (A minus e)..... (Age Classes g + h + i + j + k)	3625	1811	1814
g	16 - 24 years.....	950	495	455
h	25 - 34 ".....	1101	578	523
i	35 - 44 ".....	691	338	353
j	45 - 64 ".....	611	276	335
k	65 - years and over.....	272	124	148
H	Not in Labor Force (16 years and over), total (n + o + p + q).....	699	260	439
n	Students (16 years and over, including those away at school).....	236	130	106
o	Men, physically or mentally disabled, retired, institutionalized, etc.....	130	130	XXXXXXXXXX
p	Women for whom no child-care substitutes are available.....	185	XXXXXXXXXX	185
q	Women, housewives, physically or mentally disabled, institutionalized, etc.....	148	XXXXXXXXXX	148
R	Potential Labor Force (16 yrs. and over) F minus H	2926	1551	1375
S	Employed, Total (t + u).....	1438	1062	376
t	Employed, earning \$7,000 or more a year (all jobs).....	1011	844	167
u	Employed, earning less than \$7,000 a year (all jobs).....	427	218	209
V	Not employed (R minus S).....	1488	489	999
W	Of these, persons actively seeking work.....	766	322	444
Z	Tribal Enrollment.....	9514	4816	4693
Prepared by <i>Duke L. Zoolley</i>		See Reverse: Superintendent's Evaluation of Data		
Area Director		Superintendent		
Area	Approval Date	Agency	Approval Date	

REPORT ON SERVICE POPULATION AND LABOR FORCE Wichita Data are for <u>March</u> (month) <u>1991</u> (year)		County(ies) <del>Caddo-Kiowa-Comanche-Cotton-Tillman</del> State(s)		
		Oklahoma		
		TOTAL	MALE	FEMALE
A	Total Resident Indian Population (b+c EXCLUDING d)			
b	Within the reservation.....	839	394	445
c	Adjacent to the reservation (in Okla., Indians in former reservation areas).....			
d	Other Indians, not included in lines b and c above (In California, rural parts of counties with reservations or rancherias).....			
e	Total under 16 years of age included in line "A"	424	218	206
RESIDENT INDIAN POPULATION OF WORKING AGE (16 years old and over)		XXXXXXXXXXXX	XXXXXXXXXXXX	XXXXXXXXXXXX
F	Total 16 years and Over (A minus e)..... (Age Classes g + h + i + j + k)	415	176	239
g	16 - 24 years.....	113	54	59
h	25 - 34 ".....	124	53	71
i	35 - 44 ".....	62	34	28
j	45 - 64 ".....	81	27	54
k	65 - years and over.....	35	8	27
M	Not in Labor Force (16 years and over), total (n + o + p + q).....	115	26	89
n	Students (16 years and over, including those away at school).....	45	18	27
o	Men, physically or mentally disabled, retired, institutionalized, etc.....	8	8	XXXXXXXXXX
p	Women for whom no child-care substitutes are available.....	35	XXXXXXXXXX	35
q	Women, housewives, physically or mentally disabled, institutionalized, etc.....	27	XXXXXXXXXX	27
R	Potential Labor Force (16 yrs. and over) F minus M	300	150	150
S	Employed, Total (t + u).....	158	121	37
t	Employed, earning \$7,000 or more a year (all jobs).....	131	109	22
u	Employed, earning less than \$7,000 a year (all jobs).....	27	12	15
V	Not employed (R minus S).....	142	29	113
W	Of these, persons actively seeking work.....	108	20	88
Z	Tribal Enrollment.....	1587	788	799
Prepared by <i>Duke L. Snodde, Jr.</i>		See Reverse: Superintendent's Evaluation of Data		
Area Director		Superintendent		
Area	Approval Date	Agency	Approval Date	

Attachment to "Report of Labor Force, Employment and Unemployment as of (month) MARCH (year) 1991	Area ANADARKO	Reservation ANADARKO AGENCY
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Methods and sources. Few Superintendents are in position to provide an actual count of the population or labor force, although the use of such data by other Federal agencies has stimulated tribal interest in data improvement. Where an actual count has not been made, please describe briefly your method of estimating. Where studies from an earlier period have been drawn upon, identify each by title, author, and date and indicate how the data have been updated.

Age distribution taken from the Anadarko Agency Age Distribution Printout on the seven resident tribes. Other sources were the Oklahoma State Employment Services; Other BIA office (Higher Education, Social Services, Adult Vocational Training Program) School census reports; Oklahoma Department of Human Services; Tribal contracted programs, and Oklahoma State Department of Education.

In the past, this report has been done at a later date in the year than now. As a result census reports, labor trends, and school reports were not completed.

SUPERINTENDENT'S EVALUATION OF DATA	RATING	LINES IN REPORT						
		A	P	M	R	S	V	W
With respect to accuracy of the data in this report, the indicated items are rated as follows:	Highly accurate							
	Reasonably accurate							
	Unsatisfactory...							

(For items marked "unsatisfactory," explain your appraisal.)

- A. The general population has not increased to indicate any significant change in the past two years.
- F. No significant change in numbers in the past two years. A slight drop in the 16-24 year age group, which might indicate students completing and moving out into the job market.
- M. Slight decrease in this figure, also indicating students completing and moving out into labor force.
- T. Potential Labor Force reflects logical increase, student completions and drop-outs plus high school completions and drop outs.
- S. Reflects the lack of work in this area.
- V. Increased population and limited employment contributes to increase in jobless.
- W. This includes skilled workers and college graduates unable to find work.

Notes and Comments:

Unemployment is still high but there has been an increase of local Indian people due to contracting of programs to the tribal groups. However, the economy continues to be poor and job market fluctuates by seasons.

Superintendent's signature \_\_\_\_\_

Date: \_\_\_\_\_



June 7, 1993

Ms. Julia Mahseet  
Rt. 1, Box 211  
Apache, OK 73006

Dear Julia:

I understand you will participate in the House of Representatives Committee Hearing on the "American Indian Agricultural Act of 1993" on June 18, 1993 in Washington, D. C., representing the Indian Soil Conservation Association. Because I am unable to attend the hearing due to previous commitments, I respectfully request that you represent me as well.

Congressman Richardson's bill has considerable merit. I support his effort to enhance the quality and quantity of education in agricultural management (Title II). A distressingly small portion of our peoples' land is operated by its owners. Training our young people and bringing them back to farm our land is one of the keys to the tribe's long term economic prosperity. Continuing education, featured in the bill, is equally beneficial, as are other portions of the bill's Title II.

I endorse the bill's emphasis on developing an agricultural resource management plan, upon tribal request (Title I). Its required comparative analysis of Federal investment and management for Indian lands relative to that for other federally owned lands is also timely and important.

The bill, also in Title I, authorizes important changes in Bureau of Indian Affairs leasing practices. Ten year leases (even longer in extraordinary circumstances) are permitted. This will, I believe, promote investment in the land by "lease men" by providing an incentive to make otherwise unusable land economically productive, and will enhance the long term productivity of our peoples' land.

I note with some concern that the problem of fractionated ownership, which was addressed in Senate Bill 410, is not dealt with in Mr. Richardson's bill. While specific data are not readily available, my impression is that the current general requirement of unanimous approval by all owners in order to execute a lease is a matter of increasing concern among landowners. As we move away in time from the early 1900's individual Comanche allotments, fractionated ownership will only increase. I urge members of Congress to fully consider this important issue in its deliberation.

Julia Mahseet (continued)

Page 2

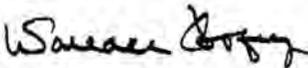
I know from our conversations that you will make the point to Committee members that the "non-reservation" status of Comanche owned land must be kept in mind during their consideration of each of the bill's sections. Some portions of the bill may be appropriate for reservation lands, but not so for individually owned Indian land geographically intermixed with non-Indian land and with non-trust Indian land, the usual situation with Comanche lands. The planning provisions of Title I, for example, if they were to result in a mandatory course of action, would surely draw the ire of many individual Comanche land owners.

Finally, I request that you urge the Committee to actively pursue adequate funding with their colleagues on the Appropriations Committee for the bill, if enacted by Congress. Planning, management, and any other activity without sufficient funding, or with unrealistic requirements for tribal matching funds, would in my judgement produce worse results than no such activities at all.

I have covered only a few points in Mr. Richardson's bill, and reserve the right to comment in more detail as our peoples' views become known. The Comanche peoples' agricultural land base is a primary source of their income, and we generally endorse the efforts of Congress to increase that resource's productivity in cooperation with the tribes and individual Indian land owners.

Please provide a copy of this letter to the Committee for the record.

Sincerely,



Wallace E. Coffey  
Chairman

Mr. RICHARDSON. The Chair recognizes the gentleman from Montana.

Mr. WILLIAMS. I thank the Chairman. There are, as all of you know, two bills: our bill that is being heard today and the Senate bill. Several of you and the other panelists have mentioned some of the differences between the two and a few of you have expressed a preference with regard to one section or another of either bill.

There are a couple of things frankly that I prefer in the Senate bill myself, including the section which allows more flexibility and tribal responsibility. But I thought it might be worthwhile for us if any of you would care to comment further on something either in the Senate bill that you would like to see changed in this bill or something in this bill that is different from the Senate bill, but you greatly prefer keeping it the way we have it rather than the way it is now in the Senate bill.

Like I say, I know a number of you have already expressed an appreciation for one part of the bill or another, but I just thought I would give you additional opportunity if you care to mention something else or emphasize a preference that you have already mentioned.

Do any of you wish to take the opportunity to speak in favor of a certain part of one bill or the other?

Calvin.

Mr. WALN. Thank you, Congressman. I guess the Senate bill, S. 410, basically is the bill starting in 1989 that we have worked on very hard with the input from tribes and everybody. It is what was introduced last year and passed by the Senate, and that is the preference bill with the tribes we worked with and our own member tribes that we would prefer to see passed by the Senate and a compromise put together between the House and the Senate to utilize. S. 410.

Mr. RICHARDSON. Anyone else. Laurence?

Mr. KENMILLE. Thank you, Mr. Chairman. In our written testimony we do list specific areas that are of concern to our Tribe, and I did not bring in Senate 410 because I feel that even though it is good language, the House could probably redraft those specific sections that will address the concerns of the tribes maybe even better.

Mr. WILLIAMS. Anyone else?

Mr. SOCKZEHIGH. Thank you. With regard to the Senate bill, S. 410, the Yakima Tribe feels that if S. 410 is adopted by Congress, that its provisions be strictly carried out and enforced. And with regard to the Secretary of the Interior appearing in tribal forums, I see that as a real good opportunity to prosecute non-Indians that deprive or steal products belonging to Indians from their agricultural efforts, and with that, I make direct reference to theft of hay, livestock rustling.

Out in the West, cattle rustling is still very much a reality and if we could have the Secretary indicate very strongly to the Assistant U.S. Attorneys to prosecute these non-Indians through the Indian Agriculture Management Act bill, S. 410, the Yakima Tribe would certainly appreciate it.

Mr. WILLIAMS. Are your tribal members experiencing problems with rustling?

Mr. SOCKZEHIGH. Definitely are. I am also a victim too. I am a cattle rancher and I have experienced numerous losses, unexplained disappearances of livestock, the yearlings, steers especially.

Mr. WILLIAMS. As Laurence can tell you, Mr. Chairman, years ago Lewis and Clark came through Montana and when they were in Blackfeet country, it was hard not to be in Blackfeet country out on the plains, but when they were in Blackfeet country, the Blackfeet, according to the journal, stole some of Lewis and Clark's horses and people who aren't Indians out there have not only gotten even, but overdone it in getting the animals back in the meantime.

So I appreciate that the same thing happens down your way and we do need to stop it.

Thank you, Mr. Chairman.

Mr. RICHARDSON. I thank my colleague. Let me ask Mr. Sockzehigh, your testimony expressed some concern regarding the provision that authorizes the majority of landowners to enter into a lease for a parcel of land, and what is the BIA policy with regard to leasing undivided heirships?

Is 100 percent of landownership required for that?

Mr. SOCKZEHIGH. The bureau has a policy now where they will negotiate with the majority interest holder and the majority interest holder is 50 percent of anyone holding and at the present time, they will notify the other minority interest holders, but the bureau on the Yakima Reservation leases out land to the non-Indians with the consent of the majority interest holder, in the event that the Bureau is not able to get a hold of the minority interest holders.

Mr. RICHARDSON. Ms. Mahseet, in your testimony you expressed a sense of frustration with BIA leasing policies. I share that frustration because we have heard that over 1.1 million acres of Indian lands are idle.

Now, would you or your association support provisions which allow lands to be leased if a majority of owners agree to lease the land and all owners are guaranteed fair market value in the lease?

Ms. MAHSEET. I am almost sure they would, because that is a problem. Sometimes they can't find everyone that has an interest in an inherited land but there is always a simple majority that is close by that they can have fix a contract and sign.

Mr. RICHARDSON. Now, as an allottee, do you think the tribal government should have the ability to make regulatory laws which govern you? Let's say, what if the tribal government enacted a law defining highly fractionated heirships?

Ms. MAHSEET. I don't agree. I want to manage my own land. I want to say who is going to get the money and all, and probably if the tribe takes over and does the leasing, well, the individual won't get their fair price of their lease, and I would just as soon have it just like it is.

Mr. RICHARDSON. Do you think this committee should be encouraging Native Americans to get into agriculture? Would you consider one way of doing this is to encourage Indian preference and to lease lands at less than fair market value?

Ms. MAHSEET. Well, I could agree with you but you know the Chilocco Indian School, and that was a school that taught them how to farm and manage stock and everything and somehow it got

closed and that hurt the people in our area and there has been some good farmers that have come out of the Chilocco Indian School.

Mr. RICHARDSON. Now, Vice Chairman Kenmille, we have heard testimony regarding surety bond requirements. In your view, who should have the authority for waiving requirements for surety bonds, the tribe or the Secretary?

Mr. KENMILLE. Mr. Chairman, the way the Confederated Salish and Kootenai tribes work it is that we do require a bond on all of our leasing arrangements. The non-Indians had to put up a bond. The tribal members of the reservation have to pledge their per capita so we do make them pledge a bond in one way or another and the tribe provides that procedure.

Mr. RICHARDSON. Now, let me ask Calvin, I guess the final question that I have. Are you concerned that without the requirements of some security, and I asked the previous witnesses in the second panel this same question, that a lessee would not undertake some improvements?

I gave the example of plowing under cotton or lining a ditch which are required under the lease.

Mr. WALN. I guess, Mr. Chairman, is that it should be the tribe that makes that decision because basically the individuals leasing the land, you know them, and the tribal members, the tribal governing body, whoever it is going to be, by virtue of knowing this individual, should be able to make that requirement.

If we have someone that has been a problem in the past, we may require a bond for him. If we have an outsider come in and want to lease a bunch of land that we don't know, then, yes, we will require a bond for that individual.

But I think it should be strictly discretionary because the individuals down there have a hard time getting a bond anyway, and most of them, the majority of them, are people that have been there forever and they lease the land and there is no problem with them, and the tribe knows who should and who shouldn't have a bond.

That is why it should be at the discretion of the tribe.

Mr. RICHARDSON. Could this type of security to the tribe and the landowner be provided without requiring the surety bonds?

Mr. WALN. I feel it could. Like Ross said here, Mr. Chairman, I have faith in tribal courts. I have been in tribal government and I worked there a long time and I think the tribal court, going in on a civil action against any individual in there, if you go in there and you get a judgment against an individual, be it Indian or non-Indian, is one way to prevent that.

My argument has always been, if you do that to two or three individuals, everybody else is going to clean their act up because there are different avenues that the tribe can put in place to do that. It has maybe been a problem in the past for some tribes. Maybe one or two cases at each tribe, but overall, it has never been that huge of a problem.

And also the leases are paid in advance, you know, annually and the bureau also will require you to have a lease to guarantee you are going to pay your lease payment. Do you have to pay it in advance and that also doesn't make a lot of sense.

Mr. RICHARDSON. Let me say to all witnesses before I have any closing statements, Pat, do you want to say anything?

Mr. WILLIAMS. No.

Mr. RICHARDSON. I want to thank all the witnesses that appeared today, especially in light of the interruptions you had with many of these votes.

I think this is very, very valuable testimony. We are going to move this bill very soon. We have had some substantial agreements with the Senate. I think some of the concerns my colleague from Montana made are going to be incorporated and dealt with.

We expect to move this bill soon. This is a priority issue for this subcommittee and you have contributed some very, very valuable testimony and I wish to thank all of you.

Ms. MAHSEET. Mr. Chairman, I would like for you to hear Mr. Gooday.

Mr. RICHARDSON. I will recognize the gentleman, Mr. Gooday.

#### STATEMENT OF LUPE GOODAY

Mr. GOODAY. Mr. Chairman, I am Lupe Gooday, tribal member of the Ft. Sill Apache Tribe of Oklahoma and this bill, it doesn't cover the situations there in Oklahoma. We have a seven-seven tribes located in the southwest part of Oklahoma that deal with 11 counties and we have a lot of problems within these counties, these individual allottees, but my main concern is that the bill is designed for reservation people and it doesn't cover or help us within the State of Oklahoma.

We have no problems with regulations that can be updated that will help us. We started irrigation projects probably earlier than the 1950s. On these individual allotments, irrigation wells are developed. It was paid by the landowners over a seven- to ten-year lease for all of these improvements and now these properties are producing, and once again, it would take the authority away from the individual landowners and we are creating some problems.

At the present time, I think the message is out there on the street in our particular area is telling us in some cases, if the tribe can't handle their business, how are they going to handle these individual allotted lands.

But we work directly with the U.S. Department of Agriculture or BIA personnel or workers, hard workers, or CFR people are there to assist us, or social service and all of these different agencies are there to help us, but we need certain changes within the CFR to really help us.

You don't hear too much from us in the State of Oklahoma because I feel like that we got our stuff together. But if we can't allow changes, then we are in trouble if we don't meet those changes. We have to make changes as we go. If we don't, we are in trouble.

But this is my concern. I have properties of my own, both restricted and taxable properties, and I feel like that as a steerer for my two grandsons, I have to protect these properties. My mother is 94 years old and she is an original allottee and she still leases her own property, and she negotiates for her property. She negotiates very hard for it, for top dollar, and it is very hard.

There is one other thing I would like to add. It is very hard to educate our Indian people, children, and education as far as agri-

culture whenever the price support at the present time is \$3.65 in Oklahoma and the market price at the elevator is \$2.45. So it is very hard for our youth to seek agriculture, but they are working at it.

[Prepared statement of Mr. Gooday follows:]

MR. LUPE GOODAY, SR.  
RT. #3, BOX 138-C2  
ANADARKO, OKLAHOMA 73005  
(405) 247-9225

TOPICAL OUTLINE OF MATERIAL PRESENTED

- I. Speech presented by Mr. Gooday
- II. Minutes of the Indian Soil Conservation Association  
for the last Annual Meeting, March 26, 1993.
- III. Indian Soil Conservation Association  
Articles of the Association

Mr. Chairman:

I am Lupe Gooday, Sr., an individual landowner and Tribal Business Committee person for the Ft. Sill Apache Tribe of Oklahoma.

I am addressing my displeasure over some provisions of H.R. 1425. The language of this bill has come to my attention, plus others in Oklahoma. We have some major concerns with how the bill addresses us as individual landowners. As a tribal leader, I feel that I have to protect my peoples' rights. The control asked for in this legislation allows tribes to determine my right and how I utilized my property that I received through heirship.

As you might not be aware, the tribes in Oklahoma control or own a very small percentage of the land base. We as individuals control 97% of the land base and do not wish to give our control or destiny.

Ownership and use of our land is essential to our existence as a people. This ownership has some responsibilities to it as stewards of the land we have to protect and conserve it, so we can pass it on to the next generation of stewards. I am a father and grandparent, so I have several future stewards to look out for my heritage - which is the land I received from past stewards.

In June, 1992, the Anadarko Agency honored 96 original allottees and 81 are still land owners. When I started to work with the Bureau at Carnegie Soil and Moisture Conservation Unit in the fall of 1959, we had five Soil and Moisture Units and each had approximately 167,000 acres to manage natural resources, which is approximately 835,000 total. We currently have 258,000 and four Soil and Moisture Units. Besides being a tribal representative for the Ft. Sill Apache Tribe, I was a Bureau employee for 32 and 1/2 years and worked with all landowners in leasing of their property in farming and grazing.

Leasing has been a major concern of mine both as an employee of the Bureau and as a landowner. The commitment of the Bureau to require 100% signatures for a negotiated lease has been out dated by the increasing heirship problem. It used to be where you had a handful of heirs to deal with - now we have tracts that exceed 300 owners on one quarter section. Everyday we have deaths by our Tribal members and this compounds our leasing problem.

Currently as mentioned above, we have to have a 100% signature to lease our land for farming and grazing purposes. It causes problems to our people in other areas as well in minerals or oil and gas leasing. A small undivided interest owner can stop the majority from receiving or least delay the other from a fair economic income from minerals. In Rights-of-Way it also requires 100 percent signature and if compensation is not fair to one individual, the transaction can be stopped even if they own less than a percentage point. Is this fair to the majority that stand for progress?

I understand that we in government have to protect everyone's rights - but to the 100 percent margin? I dare to say that this is the only place in government where this is required.

The other area that requires 100 percent signatures is in land sales. I personally do not have a problem with this as I believe that all heirs should agree before a tract is sold. Another major concern to me and my people is the amount of time it takes to probate a will. It is currently averaging two years minimum even in the most simple cases. We do have some that are approaching ten years.

I submit to you that the 25 CFR is in need of update and to allow us the chance to hold the necessary meetings to have our tribes' input into the CFR so that we can be on equal footing with other tribes who have their own rules and regulations in the CFR. We are not a formal reservation, but have the same concerns and needs as the Navajo, Zuni, Hopi, Crow, Ute and others.

Whether this bill is passed or not - let us work with the secretary to overcome this major problem that we face as landowners and citizens of the

United States of America. For your information I am submitting an exhibit that show how many people are located at our agency. (Marked Exhibit One). Thank you.

INDIAN SOIL CONSERVATION ASSOCIATION

## Articles of Association

PREAMBLE

We, the undersigned persons, being Indians enrolled on official tribal rolls, or Indian descendants of such enrolled members, or Indians as defined in the Act of June 18, 1934, (48 Stat. 988, 25 U.S.C. Sec. 479), all of whom reside in the vicinity of Anadarko, in the state of Oklahoma, do hereby voluntarily associate together to promote our social welfare in the economic field by forming a local non-profit cooperative association without capital stock under the provisions of the Act of June 26, 1936 (49 Stat. 1967, 25 U.S.C. Secs. 501-509 inclusive) hereafter referred to as "the Act".

## ARTICLE I

Name: The name of the association shall be the Indian Soil Conservation Association.

## ARTICLE II

Purpose: To carry on the business of land management and to promote soil and moisture conservation on Indian lands and to engage in any activities related thereto.

## ARTICLE III

Powers: The powers of the association which shall exist and be exercised only in legal pursuance of its purpose, shall be: to adopt, use, and alter a corporate seal; to acquire, hold, manage, and dispose of property, to make and perform contracts; to borrow money and give

liens on the property of the association; to assign income; to engage in any business that will further its purpose; to sue and be sued in any court of the State of Oklahoma or of the United States having jurisdiction of the cause of action, subject to the provisions of the Act; and such further powers as may be incidental or necessary to the conduct of its business.

#### ARTICLE IV

Location: The principal place of business of the association shall be Anadarko, Oklahoma.

#### ARTICLE V

Member Participation: The Association shall operate on a cooperative basis. Each member in good standing shall be entitled to one vote and only one vote. There shall be no voting by proxy. Eligibility for membership shall be determined by the bylaws.

#### ARTICLE VI

Management: A board of directors consisting of three (3) directors, chosen in accordance with the bylaws, shall exercise the powers of the association and manage its business in accordance with its articles of association and bylaws, and with the decisions of its members at membership meetings.

#### ARTICLE VII

Member Interests: The interests of members of the association in good standing shall be equal. Members shall not be personally

liable for its corporate debts.

ARTICLE VIII

Disposition of Savings: Operating capital shall be created as provided in the bylaws. Remaining net savings may either be distributed to members in proportion to the amount of business done with each, or may be used to promote soil moisture conservation on Indian-owned lands located in the State of Oklahoma which are under the jurisdiction of the Anadarko Area Office of the Bureau of Indian Affairs, except lands located in Osage County.

ARTICLE IX

Organizing Directors: The following persons shall hold offices as organizing directors until the first annual meeting of members:

<u>Name</u>	<u>Tribe</u>
President, Walter Volz - - - - -	-Caddo
Vice President, Vincent Myers- - - - -	-Comanche
Secretary-Treasurer, Julia Mahseet - - - - -	-Comanche

ARTICLE X

Existence, Dissolution, and Amendments: The association shall exist until dissolved. The association may be dissolved by an Act of Congress of the United States, or upon request of a majority of the members. To effect dissolution, a special meeting shall be called in accordance with the bylaws. The members shall receive notice of the meeting at least thirty days in advance of the date of holding it. The vote of a majority of the members of the association shall be

necessary to effect the dissolution of the association. Dissolution shall not be effective until approved by the Secretary of the Interior, or his authorized representative. If dissolution is so approved, the Secretary or his authorized representative may take possession of the assets of the association and exercise or arrange for the exercise of its powers, and take such action as may be necessary to liquidate the assets of the association, pay its debts, and distribute any balance to members.

Amendments to the articles of the association and bylaws of the association may be made at any annual meeting, or special meeting called for the purpose, provided that two-thirds of the members in good standing approve any amendment. Amendments shall not become effective, however, until approved by the Secretary of the Interior or his authorized representative.

#### ARTICLE XI

Default: While this association is indebted to the United States under the terms of the Act, should the Secretary of the Interior or his authorized representative find that it has violated any of the terms of any loan agreement on which its indebtedness is based, he may take possession of the assets of the association, and exercise or arrange for the exercise of its powers until the indebtedness is paid or until he receives acceptable assurance of compliance with the loan agreement.

Subscribed this 11th day of March, 19 52.

NAME                      ADDRESS                      TRIBE                      ROLL NO. (if any)

*Jackson M. Lane* *Mustard* *Oklahoma*  
*Jack M. Lane* " " "  
*Julia Morrison* *Mtn View, Okla*  
*Paul Finck* *Tawton, Okla.*  
*Dora Palmer* *Mustard Okla.*  
*Campbell Antone* *Carnegie Okla.*  
*John Hunter* *Mustard Okla*  
*John W. Munnich* *Tahoka, Okla.*  
*Vincent Myers* *Apoche area*  
*Julia Madsen* *Apoche, Okla*  
*M. L. 74 Cobb* *Adde*  
*Maggie Morrison* *Mtn View Okla.*

Sworn to this 11th day of March, 19 52,  
 before me by the persons personally known to me to be the same whose  
 signatures appear above.

My Commission expires  
 10-4-52

E. E. Dan  
 Notary Public

MINUTES OF THE ISCA MEETING  
MARCH 26, 1993  
ANADARKO, OKLAHOMA

The 32nd Annual Membership Meeting was called to order at 10:30 am by President Jack McLane. Officers of the Indian Soil Conservation Association were introduced and all present were welcomed to the meeting and awards banquet.

First item on the agenda was the financial statement presented by Mrs. Carolyn Sanders, CPA for the firm of Sanders, Welch, & Wallis. This presentation included the balance sheet and income statement. A motion was made by Jackson McLane to accept the financial statement and seconded by Kenneth Goodin. The motion carried unanimously.

The minutes of the 31st Annual Awards Banquet and Annual Membership Meeting were read by ISCA Secretary Julia Mahseet. A motion was made by Clarence Fodder to accept the minutes and seconded by Don Woothtakewahbitty. The motion carried unanimously.

Mr. McLane asked the group for input regarding the Grasslander. Van Dietrich said one person rented the Grasslander and planted 40 acres. Mr. McLane indicated that the Grasslander was a little difficult to set. Steve York explained how to properly set the drill for different types of grass. Most of the rental income in 1992 came from the Grasslander and the big tye drill. There was discussion about selling one of the small drills that are no longer bringing in much rental money. There was also some discussion on repairing some of the older drills to be able to rent them more often. After discussion, it was decided that the smaller drill should be sold "as is" because it was estimated that repairs to make the drill usable would be approximately \$1000.00. Steve York said the welding shop the association used to build and repair the gopher machines went out of business so parts are almost impossible to find. There was discussion about how much the ISCA equipment was rented. Mr. McLane asked the members if there was anything else the association might have a need for?

The next item on the agenda is the election of the ISCA Secretary. Clarence Fodder made the motion to elect Julia Mahseet by acclamation and seconded by Lawrence Tomah. The motion was carried unanimously.

Jack McLane wants the units to give a report on their equipment to indicate where the rental money generates from. The association was informed that new rental agreements were made and issued to the units.

Julia Mahseet gave an acceptance speech. She told the group that she has held the office since ISCA was formed in 1952 and was grateful for the support of the group.

Mr. York told the members what was happening within the Branch of Land Operations regarding personnel changes. Steve York told the group that Steve Wallace, Soil Conservationist for the Anadarko SMC, will be leaving on April 01, 1993, and Mr. Ray Edmiston will act as the Soil Conservationist until a replacement can be found. Mr. York informed the association that two Soil Conservation Technicians will be retiring soon and the Branch of Land Operations has already requested from the Branch of Personnel to replace these two individuals before they retire as to have some on the job training. Land Operations has also requested an Archeologist to be able to meet regulations to be imposed by the Bureau of Indian Affairs in 1994.

The 1993 Spring Tour will be hosted by the Anadarko Soil And Moisture Unit. It was indicated that the Spring Tour would show some noxious weed eradication that was performed by the unit. The date will be April 30, 1993, with the rain date May 7, 1993.

Helen Tate asked President Jack McLane how people become members of the Indian Soil Conservation Association. Mr. McLane and Ms. Mahseet explained that a person has to rent equipment or go on the tour to become members and be interested and concerned about conservation of our natural resources. Ed and Donnie Spalding are Mrs. Tate's relatives and they want to become members. Mr. McLane invited them to become members and they accepted.

Paul Goombi told the group that all the equipment at the Anadarko Soil and Moisture Unit was in good shape and ready to rent. Those interested in the tour will meet at the Unit at 9:00 am for coffee and donuts and will leave from the Unit at 10:00 am.

The meeting was adjourned at 11:22.

**Mr. RICHARDSON.** We understand, and appreciate your comments and concerns. We will try to address them.

We thank all of you and the subcommittee is adjourned.

[Whereupon, at 12:40 p.m., the subcommittee was adjourned.]



# APPENDIX

June 18, 1993

## ADDITIONAL MATERIAL SUBMITTED FOR THE HEARING RECORD

JUN 18 1993

Honorable Bill Richardson  
Chairman, Subcommittee on Native  
American Affairs  
Committee on Natural Resources  
House of Representatives  
Washington, D.C. 20515-6201

Dear Mr. Richardson:

Thank you for your letter of April 20, 1993, requesting information on (1) status of idle lands under the jurisdiction of the Bureau of Indian Affairs (BIA), (2) status of information developed by the BIA Heirship Task Force to address the problem of fractionated interests, and (3) listing of completed Integrated Resource Management Plans by reservation.

1. At the joint hearing held by the Senate Select Committee on Indian Affairs and the House Committee on Interior and Insular Affairs held on September 22, 1992, on S. 2977 and H.R. 5744 bills entitled "Indian Agricultural Resources Management Act of 1992" (102nd Congress), the subject of idle lands was discussed as one of the principle issues to be addressed in the proposed legislation.

At the joint hearing, Representative Johnson stated that almost 50,000 acres of land lie idle in Oklahoma and are not being leased. Following the joint hearing, we initiated an investigation to determine what constitutes idle lands nationwide and why the lands are idle. While we are still gathering data, we do have the results of the information compiled from the BIA's Anadarko and Muskogee Area Offices in Oklahoma. We will report on these two Area Offices and follow-up with a report on the remaining BIA Area Offices as soon as the information is available.

Our study began with examining the BIA 1990 Natural Resource Information System's Report (NRIS) which contained the following data:

<u>Area Office</u>	<u>Acres of Idle Lands</u>	<u>Total Acreage</u>	<u>% Idle</u>
Aberdeen	171,399	6,186,004	3%
Anadarko	31,844	355,654	9%
Albuquerque	37,093	5,186,570	<1%
Billings	238,291	6,584,041	4%
Eastern	385	781,760	<1%
Juneau	35	1,271,384	<1%
Minneapolis	4,697	1,343,623	<1%
Muskogee	16,564	825,075	2%

Navajo	101,909	15,399,658	<1%
Phoenix	414,588	12,264,855	3%
Portland	87,548	5,023,181	2%
Sacramento	48,662	566,658	9%

The major problem we encountered was the definition of what exactly constitutes "idle lands." For the purpose of the NRIS report, idle lands are defined as "Land not in production, or use other than lands diverted under Federal programs, idle under crop rotations, etc., is included in the idle category. Do not include wildlands in the category; i.e., lands dedicated to wildlife use." In some Area Offices this definition is interpreted as lands not having a legal contractual document such as a lease encumbering the land. However, some of the reasons for lands listed as idle and not being leased could be cemetery lands, wetlands, landlocked lands, cultural, religious or recreational usage lands, tribal farms/ranches, owner's use, reserved lands, barren lands, lands with noxious weeds, lands under timber management (i.e., harvested under a 30-year rotation plan) or lands reserved under the U.S. Department of Agriculture Conservation Reserve Program (CRP). All of the above-referenced categories are not considered idle lands. They have been designated for a specific use by a tribe, an individual Indian landowner, or reserved by Federal, State or local statute. A Task Force has been formed to come up with a clear and concise definition of what constitutes idle acreage to be used uniformly throughout the BIA.

According to our BIA 1990 NRIS report, 31,844 acres lie idle out of a total of 355,654 acres under the jurisdiction of the Anadarko Area Office. Our idle land survey showed only 22,000 acres of leasable lands lying idle. This computes to approximately 6 percent of the land base lying idle which could possibly be leased. Also, please note that the Anadarko Area has administrative jurisdiction over Indian lands in western Oklahoma, Kansas, and Texas.

The 1990 NRIS report states that in the Muskogee Area 16,564 acres of land are considered idle out of a total of 823,269 acres of land under its jurisdiction. Our idle land survey has reported that only 1,787 acres that are leasable lie idle. This accounts for less than 1 percent of the land base consisting of land that is leasable and lies idle.

The question may arise as to why the BIA has reported such a high number of idle lands in certain Area jurisdictions in the NRIS report. This can be explained logically in that our computer and land tracking systems identify lands that have encumbrances on them, such as leases. With the continual reduction of technical staff within the BIA and as we move toward tribal compacts and contracts of real estate programs, we have less staff to monitor those idle lands that are not leased but may be reserved for another purpose.

As stated at the joint hearing on September 22, 1992, we have a trust responsibility to all the landowners, whether a tribe or an individual Indian. We have an obligation as trustee to administer the property for the benefit of the beneficiary and to maximize the benefits for the owners of the land. However, the beneficiary has a major voice in how the lands will be administered; how the land will be used; and, whether or not the lands should or should not be leased.

2. The BIA has an Heirship Task Force, formed in 1991, to address real estate related problems associated with heirship and the administration of fractionated ownership on individually-owned Indian trust lands. The Task Force has met regularly and compiled a long list of concerns and impacts wrought by fractionated ownership. These concerns and impacts have been consolidated and categorized by means of resolution; i.e., administrative and legislative. Accordingly, the Task Force is now in the process of formulating concept/option papers for reducing and/or eliminating the heirship problem. The papers will be presented to this office for consideration in the near future. When completed we would be happy to share them with your staff so that we can work together to resolve this significant problem.

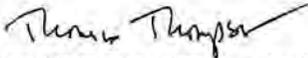
3. A listing of completed Integrated Resource Management Plans by reservation is as follows:

Billings Area  
Fort Belknap  
Northern Cheyenne

Albuquerque Area  
Nambe  
Isleta  
Sandia  
Southern Ute  
Jemez  
Acoma  
Jicarilla

We hope this information is helpful to you. If we can be of further assistance, please advise.

Sincerely,



ACTING Assistant Secretary - Indian Affairs

STATEMENT OF GAIASHKIBOS, PRESIDENT, NATIONAL CONGRESS OF AMERICAN INDIANS, BEFORE THE HOUSE SUBCOMMITTEE ON NATIVE AMERICAN AFFAIRS, ON H.R. 1425, THE "AMERICAN INDIAN AGRICULTURAL ACT OF 1993."

June 18, 1993

The National Congress of American Indians (NCAI) is the oldest and largest tribal organization in the United States and our membership includes 119 tribal governments. We thank the Subcommittee on Native American Affairs for their hard work in support of the management of Indian rangelands and farmlands and for allowing us the opportunity to submit testimony in support of H.R. 1425, the "American Indian Agricultural Act of 1993."

NCAI has three major points to emphasize. The first point is the historical role American Indian Agriculturalists played in the United States, and the significance of agricultural lands to American Indians today. The second point is the need for change from the current Indian Agricultural policy. And finally, to emphasize the importance of the American Indian Agricultural Act of 1993 to Indian Country.

It is important to note that American Indians have long played a significant role in American Agriculture and history. American Indians shared food with early European settlers of this country. Thousands of years ago, Indians developed canal systems in the Southwestern portion of the United States. Through the utilization of modern technology, these canals are still being used today. Contrast this to the 164 irrigation projects begun by the Bureau of Indian Affairs, in which not a single project has been completed (The first irrigation project was started over 160 years ago). In spite of this bureaucratic delay, agricultural products developed by American Indians, currently make up over 50% of the world food supply.

American Indian Tribes once exercised control over all areas between the Atlantic and Pacific Oceans. In return for the cession of Indian lands, American Indians were promised that certain lands, reservations, would be left in the undisturbed sovereign control of the Tribal governments. This is not what happened. Instead, as a result of broken treaties and failed Federal allotment policies, Indians fight to maintain control of less than 55 million acres out of the 550 million acres they once held. Sovereign tribal governments are still stopped from making decisions affecting the management of these 55 million acres of Indian lands and the Federal government continues to total control.

Despite the Federal government's responsibility to protect and manage Indian Trust lands, mismanagement and insufficient attention has resulted in the steady decline of Indian agricultural resources. Today, although a significant number of tribes rely upon the agricultural uses of the remaining Indian lands for sustenance and employment, it is reported by the Bureau of Indian Affairs that over 1.15 million acres of Indian Agricultural land is not being utilized.

The Federal government's management of Indian Trust lands often reflect the concerns of the Bureau of Indian Affairs, rather than the concerns of the tribes. An example of this can be seen in a dilemma faced by a significant number of Indian farmers and ranchers. Currently, most Indian farmers and ranchers must lease their lands through the Bureau of Indian Affairs, under

antiquated regulations. These regulations reflect turn-of-the-century Federal policies which encouraged nonIndian expansion into the West, and greater Federal control over the Indians. In other instances, archaic regulations require a price established by a Bureau of Indian Affairs appraisal, even in cases in which the appraisal exceeds the fair market value of the land and is impossible to obtain due to various agricultural and economic conditions. As a result, the best interests of Indian farmers, ranchers, and individual land owners are often served.

Efforts for improvement of agricultural use are hindered by several obstacles, including: 1) the Federal government's lack of long-term planning for resource development of Indian lands; 2) lack of personnel for technical assistance and advice; and 3) lack of adequate funding. In 1975, the General Accounting Office prepared a document for the Senate Interior and Insular Affairs Committee ("Indian Natural Resources: Opportunities for Improved Management and Increased Productivity") which noted the major weaknesses of the Federal land management system. Over a decade later, the only significant change noted in a Bureau of Indian Affairs report made to Congress ("1986 Report to Congress on Agricultural Range Programs") was that of worsening conditions.

It appears that during the past 20 years, the Bureau of Indian Affairs agricultural lands management process has repeatedly and consistently failed in its trust responsibility to effectively manage and protect Indian agricultural lands.

The Federal policy of Indian Self-Determination and Self-Governance warrants a change in the paternalistic approach to Indian management. The American Indian Agricultural Act of 1993 would allow for greater tribal consultation and involvement in the development of agricultural land management plans; greater recognition of tribal sovereignty by requiring the Secretary to comply with Tribal land use laws; and promote long term agricultural leases, new hearing methodologies, and the establishment of an Indian and nonIndian Task Force to study the needs for Indian agricultural resource development. The Act places an increased emphasis upon Tribal Sovereignty and tribal input and has much needed provisions for educational programs.

Section 101 of the Act is particularly significant. Section 101 allows for greater input by the tribes in land management planning. This will allow the land management plans to reflect tribal government concerns, rather than merely the concerns of the Bureau of Indian Affairs. Section 104 of the Act is equally significant. This section allows for the leasing of Indian lands at rates lower than the BIA appraised value, if such a lease is in the best interest of the landowners. Indian lands which are currently lying idle, will have a better chance of being put to work for the Indian people.

On behalf of the National Congress of American Indians, I again thank-you for the opportunity to submit testimony in support of the American Indian Agricultural Act of 1993 (H.R. 1425).

**THE  
NAVAJO  
NATION**

P. O. DRAWER 308 • WINDOW ROCK, ARIZONA 86515 • (602) 871-6352-55

**PETERSON ZAH  
PRESIDENT**

**MARSHALL PLUMMER  
VICE PRESIDENT**

**TESTIMONY OF THE NAVAJO NATION  
BEFORE THE  
SUBCOMMITTEE ON NATIVE AMERICAN AFFAIRS  
OF THE  
HOUSE NATURAL RESOURCES COMMITTEE  
REGARDING  
H.R. 1425, "AMERICAN INDIAN AGRICULTURAL ACT OF 1993"**

**JULY 2, 1993**

### Introduction

The Navajo Nation appreciates this opportunity to comment on H.R.1425, the American Indian Agricultural Act of 1993. The Navajo Nation commends the past initiatives and successes of the Intertribal Agriculture Council (IAC), and their work on H.R.1425 and S.410, the companion legislation. We would like to, thank Congressmen Richardson, Johnson and Williams for sponsoring this legislation.

The Navajo Nation provided testimony last year on similar legislation at a joint hearing before the House Interior and Insular Affairs Committee and the Senate Select Committee on Indian Affairs. Many of the recommendations which the Navajo Nation made at that time have been incorporated into the Senate's current version of this bill, S.410. However, these recommendations and concerns have not been addressed in H.R.1425. We urge this Subcommittee to consider our recommendations to enhance the intent of H.R.1425.

### The Navajo Nation Department of Agriculture

The Navajo Nation is the largest and most populous Indian tribe in the United States, spanning portions of twelve counties in three states. The Navajo Nation's Division of Natural Resources combines several functions of the federal Departments of Agriculture and Interior, with responsibility for protection and management of extensive and diverse Navajo agricultural and range lands. More than one half of the Navajo people continue their traditional pastoral livelihoods, grazing sheep, goats, cattle and horses in relatively small family operations. One third of Navajo families engage in subsistence farming of traditional crops, including corn, melons, squash, beans, chile and a variety of fruits.

The Navajo Nation Department of Agriculture consists of five Agency offices and two sub-offices that serve the wide expanse of Navajo lands (see Attachment A). The Department also has mobile veterinary units, a grazing management office and tribal ranch officials. The Department is charged with the responsibility to plan, develop and manage Navajo range, livestock and agricultural water resources for the optimum benefit of all Navajo people. The Department operates under the direction of the Executive Director of the Division of Natural Resources.

The Navajo natural resource base is deteriorating from years of inadequate and underfunded management, and increasing population stresses. Federal allocations to the Bureau of Indian Affairs for the management of Indian lands nationwide amount to 25 percent or less of federal allocations for management of U.S. Forest Service or Bureau of Land Management lands.

Runoff water from Navajo watersheds carries with it millions of tons of soil from range and farmlands, damaging irrigation and livestock water facilities, and filling lakes

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July 2, 1993

and reservoirs with sediment. Year by year, Navajo rangelands deteriorate further, their condition aggravated by the vicious cycle of erosion, downcutting of streambeds, loss of surface and shallow ground waters, and loss of soil and plant cover. Of some 50,000 acres developed for irrigated community and family farms in the Navajo Nation, more than two-thirds are idle today. Farmers remain frustrated by the cumulative effects of destructive floods, soil erosion, sediment damage, and the historic lack of technical, financial or infrastructure support.

The federal government has a trust responsibility for the management of all natural resources on Indian lands. The Navajo Nation, with adequate resources, can better serve to coordinate, integrate, manage and implement all programs designed to conserve, protect, regulate, develop and manage Navajo range, livestock and agricultural land resources for the optimum benefit of all Navajo people. H.R.1425, including recommended changes, could support and enhance the capability of tribal governments to address the critical need for assistance in managing agricultural lands, while promoting Indian self-determination.

**Recommendations of the Navajo Nation to Enhance H.R.1425**

**Recognition of Tribal Authority**

We applaud the intent of H.R. 1425 to strengthen the role of the Bureau of Indian Affairs (BIA) in natural resources planning and management on Indian lands. However, this goal should be balanced with the recognition of tribal sovereignty and self-determination of tribes to conduct their own natural resources planning and management activities. These essential principles have been incorporated clearly into S.410 at Sections 101(a)(7), 102(1) and (3), 201(c), and 202(a). The Navajo Nation urges the Subcommittee to adopt similar language into the corresponding sections of H.R.1425, particularly Section 102(a) of H.R.1425 which should correspond to Section 202(a) in S.410 as follows:

(a) TRIBAL RECOGNITION. -- The Secretary shall recognize tribal governments as the governmental entities with the authority to enact and enforce, for lands under their jurisdiction, land use planning, zoning, and other land use ordinances and shall conduct all land management activities in accordance with tribal goals and objectives as set forth in the land management plans and tribal laws and ordinances.

Similarly, we have concerns that the legislative record reflect the broadest interpretation of a trust obligation to Indian tribes. The language in the bill at Section 2(a)(2) states the United States has a trust responsibility to protect, conserve and

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enhance Indian rangelands and farmlands. Yet, the Navajo Nation believes it should go further and specify that this federal trust responsibility to Indian tribes is shared by the entire federal government, not only BIA, and it applies to all trust lands.

**Recognition of Trust Responsibility of all Federal Agencies**

The Navajo Nation recommends that the Committee acknowledge in report language the Agreement in Principle signed by the United States Department of the Interior (DOI) and the Department of Agriculture (USDA) in January, 1988, which emphasizes the government-to-government relationship of the United States with Indian tribes, and the common objective of the DOI and USDA to "promote the highest and best use of trust lands" and to "work in partnership to improve the delivery of programs and services to better meet the needs of American Indians."

Further, the Navajo Nation proposes that Section 302 be reworded and strengthened as follows (additions are underlined):

SECTION 302: Nothing in this Act shall be construed to supersede or limit the trust responsibility, government-to-government relationship with Indian tribes, and authority of other Federal agencies, state or local agencies otherwise authorized by law to provide services to Indian landowners and tribes.

The Navajo Nation believes very strongly that the bill should specify and make explicit that the federal trust responsibility, for natural resources management and education as for all other areas, is shared by the entire federal government. It should be the prerogative of each individual tribe to determine how it wants the federal trust responsibility expressed in its own particular circumstances.

**Need for Comprehensive Definition of "Indian Land"**

Another major concern is the need for a comprehensive definition of "Indian Land." The Navajo Nation requests that the definition of "Indian Land" in H.R.1425 at Section 4(7) be replaced with the standard definition found at 18 U.S.C. Section 1151 that defines Indian country as:

"(a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including any rights-of-way running through the reservation, (b) all dependent Indian communities within the borders

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July 2, 1993

of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same."

This definition is accepted for criminal and civil jurisdiction.

#### **Natural Resource Education and the Land Grant Institute System**

As to Section 201 and 202 in H.R. 1425, the Navajo Nation supports the intent which seeks to increase the educational and training opportunities in the fields of agriculture, land management and natural resources for Indian people. But, we are concerned that the record of the BIA in the area of natural resources education may not justify the BIA as having the capacity and expertise to effectively manage such a program.

Navajo and other Indian rural communities are chronically and critically short of the skilled professional and technical personnel needed to plan and implement all aspects of rural development. The BIA education system is among the worst in the country. The Navajo Nation needs the means to redevelop and rebuild our own educational systems, grounded in our language and cultural values and targeting needs we define.

We respectfully request that Indian and Alaska Native needs for agriculture/natural resources education, research, and extension must be given the same level of federal commitment to institutional capacity-building as the state Land Grant Institutes and the 1890 Institutes. The Navajo Nation notes that Indian tribes, with 55 million acres of land in the lower 48 states, do not have their own agricultural and natural resources education, research, and extension systems. Yet Guam, Puerto Rico, the Virgin Islands, and Washington, D.C. each have their own Land Grant Institutes.

The Navajo Nation notes that it has brought this concern to the attention of this Subcommittee at the Field Hearing on Indian Rural Development (Scottsdale, Arizona, on April 8, 1993), and looks forward to working further with the Subcommittee to realize the opportunity to establish an Indian analogue of the Land Grant Institute System.

#### **Indian Irrigation**

We understand that the Subcommittee has purposely omitted any reference to

Statement of the Navajo Nation  
July 2, 1993

Indian irrigation and to USDA programs. These two items are a prerequisite to us if we are to discuss full enhancement of Indian lands. Irrigation is essential to the development and continuation of economic Indian agriculture in the western regions of the United States.

There are more than 45,000 acres of irrigated family farms in the Navajo Nation. Up to two-thirds of these farmlands are idle or below optimal productivity today due to damage and destruction to irrigation facilities by flooding and sedimentation. The rehabilitation of irrigation systems is perhaps the single most cost-effective investment for the revitalization of Navajo rural livelihoods and economy.

The Navajo Nation urges the House Subcommittee on Native American Affairs to work with the Senate Committee on Indian Affairs, the Senate and House Agriculture Committees, the Navajo Nation, the IAC, and other Indian tribes and tribal organizations, to develop legislation and direct funding that will address the severe inadequacies of Indian irrigation water development, storage, delivery, operations, maintenance, and management systems and technical capabilities.

#### USDA Programs

Regarding USDA programs, the Navajo Nation has within the last two years been working closely with USDA to access those programs. USDA holds enormous potential to helping Indian tribes develop their own natural resources planning and management, natural resources education, and rural development programs.

Indian tribes' and individuals' access to, participation in, and benefits from such USDA programs have been historically far less than the levels of participation and benefits enjoyed by the rest of rural America. This situation can be corrected by a careful examination of USDA programs, and developing appropriate legislative and appropriations measures that:

- Acknowledge the government-to-government relationship of tribes with the federal government;
- Remove obstacles to Indian participation in USDA programs;
- Clarify, specify, consolidate, streamline, strengthen, and otherwise facilitate Indian and Alaska Native eligibility for and participation in USDA programs for natural/resources agriculture planning, conservation, management and development; for agricultural production credit; for rural development planning, program integration and implementation; for rural economic development

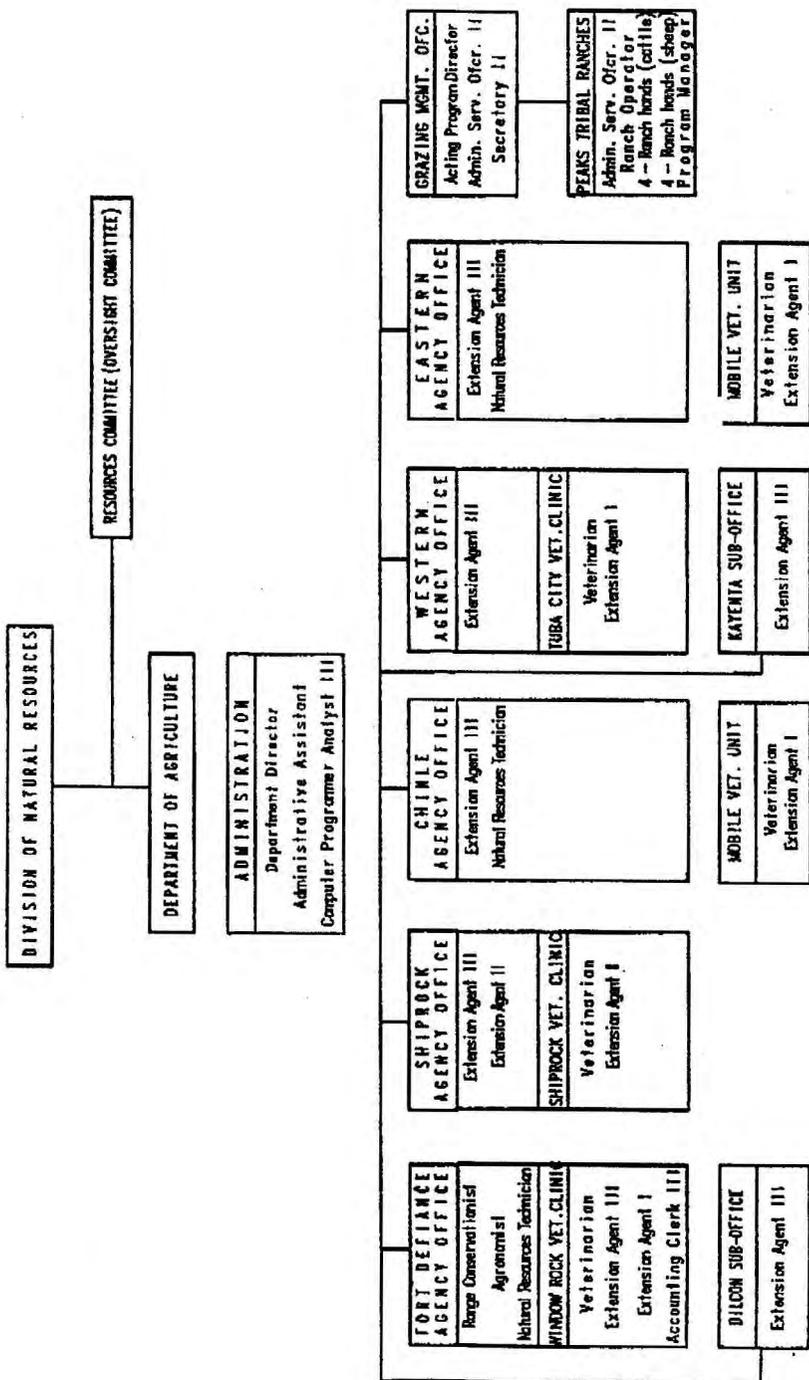
Statement of the Navajo Nation  
July 2, 1993

planning and program implementation; and for natural resources/agriculture education, research, and extension.

The Navajo Nation looks forward to working with the Senate Select Committee on Indian Affairs, the House Interior and Insular Affairs Committee, the Senate and House Agriculture Committees, the IAC, and other Indian organizations to strengthen and expand Indian participation in and benefits from USDA programs, such as resources conservation and management, watershed protection, rural development, natural resources/agricultural education, research, and extension, and others.

Conclusion

The Navajo Nation supports the concept of strengthening tribal sovereignty in natural resources management on Indian lands and broadening the trust responsibility in natural resources management to the entire federal government. The Navajo Nation also welcomes the opportunity to work with the House Subcommittee on Native American Affairs and the Senate Committee on Indian Affairs and others, in addressing new opportunities for Indian tribes to participate in USDA programs and in planning and developing their irrigation systems, and in extending the benefits of the Land Grant Institute system to Indian tribes. Thank you for the opportunity to comment on this important legislative effort.





## TANANA CHIEFS CONFERENCE, INC.

122 FIRST AVENUE  
 FAIRBANKS, ALASKA 99701-4897  
 PHONE (907) 452-8251 FAX (907) 451-8938

May 19, 1993

Congressman Bill Richardson  
 U.S. House of Representatives  
 428 Cannon House Office Building  
 Washington, D.C. 20515-4101

Dear Representative Richardson:

I wish to express my strong support for H.R. 1425, the American Indian Agricultural Act of 1993. Although Alaska does not have extensive cultivated land, the provisions of this act which strengthen tribal control of traditional lands would be especially welcome in Alaska, where the state continues to avoid direct dealing with tribes as legitimate cultural, legal, and social entities.

As the primary planner of Alaska's first tribal college, I am also pleased to note the provision that establishes "natural resource education programs in tribally controlled community colleges." Such a far-seeing provision will do much to strengthen and legitimate indigenous higher education as it emerges from the two hundred year nightmare of imposed, irrelevant educational systems. It will also serve the ameliorative purpose of beginning to return stewardship of the land to those peoples who have shown the ability and inclination to manage it without widespread destructive practices. Of course all cultures are mixed now and some Indian groups exploit their land as much as any Europeans have, but the tendency in indigenous cultures is still to treat the land with some measure of balance and respect, a tendency which H.R. 1425 could support by putting more managerial power in the hands of Indians.

Good luck with this bill and thank you for your time and attention.

Sincerely,

David Comberg, Ph.D.  
 Education Department  
 Tanana Chiefs Conference, Inc.  
 122 First Avenue  
 Fairbanks, AK 99701

June 18, 1993

Honorable Bill Richardson  
Chairman, House of Native American  
Affairs Subcommittee  
U.S. House of Representatives  
Washington, DC 20515-6201

Dear Representative Richardson:

I am writing in regard to H.R. 1425. The Wichita and Affiliated Tribes fully supports the intent of the legislation to improve the management, productivity and use of Indian agricultural lands and resources, but there needs to be clarification in certain sections that will assure that individual property rights will not be affected.

For your consideration, the Tribe submits the following comments and recommendations:

1. Under SEC. 3. PURPOSES paragraph (3) language should be added to ensure that the development and management of Indian agricultural lands will not be lessened in the event that the level of development and management afforded to federally owned or controlled lands be less than that afforded to Indian agricultural lands. A better and clearer statement would be that the amount of funding devoted to the development and management of Indian agricultural lands be brought up to a level commensurate with the amount of funding devoted to the development and management of federally owned or controlled lands.
2. Under TITLE I SEC. 101. Subsection (c) (2) (A) language should be added to ensure that each individual Indian land owner should be contacted for input into the determination and documentation of specific tribal agricultural resource goals and objectives.
3. Under TITLE SEC. 102 (A) Tribal Recognition - the language should be re-drafted to resemble the language in S. 410, so that the recognition of tribal laws and ordinances shall extend to Indian lands as defined in Sec. 4. Definitions (7) "Indian Land". We also encourage you to insist that tribal recognition will not constitute a violation of the Secretary's trust responsibility to Indian lands and we say this in light of the fact that this provision has been deleted from the comparable Section 202 (A) of S. 410.

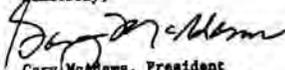
4. Under TITLE I SEC. 104 we recommend that (2) be deleted. In (3) we recommend that agricultural lands be leased at rates less than the federal appraisal only with the individual Indian Land owner's consent. Also, we recommend that (b) and (c) of SEC. 204 of S. 410 be incorporated into SEC. 104 of HR 1425, except that the waiver of the surety or performance bond in (b) Authority of the Tribe (2) shall occur only with land owner consent and that (b) (3) be deleted and that the term "fair market value" in (c) Rights of Individual Land Owners (2) be replaced with the term "Federal appraisal" for the sake of consistency.

5. We recommend that the disclaimer in S. 410 Sec. 504 (b) which states that "Nothing in this Act shall be construed as vesting the governing body of an Indian Tribe with any authority which is not authorized by the constitution and by-laws or other organizational document of such Tribe" be added to HR 1425.

6. We also recommend a disclaimer that nothing in this act shall affect the tax exempt status of trust income.

We thank you in advance for your consideration of our recommendations and for your efforts to improve the management and development of Indian agricultural lands.

Sincerely,



Gary Williams, President  
Wichita & Affiliated Tribes

**SANTA CLARA**

POST OFFICE BOX 580  
 (505) 753-7326  
 (505) 753-7330

May 6, 1993

**INDIAN PUEBLO**

ESPAÑOLA, NEW MEXICO  
 87532

OFFICE OF GOVERNOR

Honorable Bill Richardson  
 Chairman, House Native American Affairs Subcommittee  
 U.S. House of Representatives  
 Washington, D.C. 20515-6201

Re: Support S. 410 Indian Agricultural Resources Management Act of 1993

Dear Congressman Richardson:

Santa Clara Pueblo supports passage of S. 410. There needs to be new dedication to maximum utilization of and best management practices for tribal resources. Agriculture at Santa Clara Pueblo is culturally based. The potential for cultivation of crops offers individual and tribal opportunities for economic enhancement. Within the Bureau budget and priorities agriculture seems to be taking a secondary position even at a time when fields lie fallow. Key to this legislation is tribal participation in all aspects of decision-making. Santa Clara takes an adamant stand on tribal sovereignty. We are completing a self-governance planning phase leading to negotiation of a self-governance compact with the Secretary of Interior. What we lack, have always lacked, are resources and historically the right to make decisions on how we use our resources.

We request that you provide leadership in steering this important piece of legislation to successful passage and signing by the President.

Sincerely,

Walter Dasheno, Governor

cc. Senator Pete V. Domenici  
 Senator Jeff Bingaman  
 President William J. Clinton  
 Calvin E. Wain, Intertribal Agricultural Council



## MUSCOGEE (CREEK) NATION

OFFICE OF THE PRINCIPAL CHIEF  
P.O. BOX 580, OKMULGEE, OK 74447 (918) 756-8700

BILL S. FIFE  
PRINCIPAL CHIEF  
SHELLY STUBBS CROW  
SECOND CHIEF

May 13, 1993

Honorable Bill Richardson  
U.S. House of Representatives  
Committee on Natural Resources  
Subcommittee on Native American Affairs  
Room 2349 Rayburn House Office Building  
Washington, D.C. 20515

Dear Congressman Richardson:

The Muscogee (Creek) Nation supports S. 410, the Indian Agricultural Resources Management Act of 1993, as the legislation attempts to offer further tribal control over the management and planning of tribal and individual tribal members natural resources. S. 410 also reaffirms the Secretary's continuing trust responsibility to Native Americans regarding the best and wisest use of tribal lands.

Tribal governments have been attempting to regain control of their natural resources for many years. The underlying principle is that the tribal government is in the best position to determine the long range needs of the tribe and its' membership.

I urge you to support the legislative proposal as S. 410 further asserts a tribes right to self-determination and enhances tribal sovereignty while removing direct federal control over tribal natural resources.

Should there be questions or comments regarding this most important matter please contact my office at (918) 756-8700, anytime.

Okes Ca, (Sincerely)

Bill S. Fife  
Principal Chief  
Muscogee (Creek) Nation

BSF:EL:sw



## Iowa Tribe of Oklahoma

R.R. 1, Box 721  
Perkins, Oklahoma 74059  
(405) 547-2402

May 28, 1993

Honorable Bill Richardson  
Chairman, House Native American Affairs Subcommittee  
1522 Longworth Bldg.  
Washington, D.C. 20515-7393

Dear Mr. Richardson:

I write you today to advise you that the Iowa Tribe of Oklahoma opposes the enactment of the Indian Agricultural Resource Management Act of 1993. It is our feeling that this legislation would be detrimental to the Tribes in Oklahoma.

The Business Committee of the Tribe adopted Tribal Resolution I-93-29 formalizing our opposition to this act. It is our hope you would share this resolution with other congressional leaders to help prevent the passage of this Act.

Sincerely,

  
Lawrence Murray  
Chairman



## Iowa Tribe of Oklahoma

R.R. 1, Box 721  
Perkins, Oklahoma 74059  
(405) 547-2402

### RESOLUTION I-93-29

#### A RESOLUTION ADOPTED BY THE BUSINESS COMMITTEE OF THE IOWA TRIBE OF OKLAHOMA OPPOSING THE INDIAN AGRICULTURAL RESOURCE MANAGEMENT ACT OF 1993.

- WHEREAS**, the Iowa Tribe of Oklahoma is a federally recognized Tribe of American Indians with the constitutional authority under the Thomas-Rogers Oklahoma Indian Welfare Act of 1936; and
- WHEREAS**, the Iowa Tribe of Oklahoma, has, through a continuation of Iowa history and organized self government since time immemorial, sovereign powers inherent in tribal tradition and recognized by treaties with the United States and in the United States Constitution; and
- WHEREAS**, the Iowa Tribe of Oklahoma Constitution and Bylaws provide that the Business Committee of the Tribe shall be granted the power to act on behalf of the Tribe in all matters except those relating to claims or treaties with the United States; and
- WHEREAS**, the Business Committee of the Iowa Tribe of Oklahoma recognizes the intent of The Indian Agricultural Resources Management Act of 1993, referred to in the United States Senate as S. 410 and in the House of Representatives as H.R. 1425, may be advantageous to Indian reservations with large tribal land ownership; and
- WHEREAS**, the Business Committee of the Iowa Tribe of Oklahoma opposes The Indian Agricultural Resource Management Act of 1993; and
- WHEREAS**, the former Iowa Indian reservation has diminished in size with small checkerboard tracts remaining; and
- WHEREAS**, property rights of individual Indian landowners and the individual Indians who are not members of the Iowa Tribe but own land under the Iowa jurisdiction may be detrimentally affected and circumvented under Tribal government regulation and not in their best interest; and

**RESOLUTION I-93-29**  
**May 18, 1993**  
**Page 2**

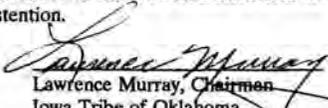
**WHEREAS,** the law presently provides that the Secretary of the Interior is charged with the Trust Responsibilities to Native Americans and is committed to carrying out Federal Trust Responsibilities as stated in certain treaties and agreements entered into with Native Americans.

**NOW, THEREFORE, BE IT RESOLVED** that the Business Committee of the Iowa Tribe of Oklahoma hereby opposes The Indian Agricultural Resources Management Act of 1993.

**CERTIFICATION**

We, Lawrence Murray, Chairman of the Iowa Tribe of Oklahoma, and Mae Sine, Secretary; do hereby certify that the above Resolution I-93-29, to be a true and exact copy as approved at a duly called meeting of the Business Committee of the Iowa Tribe of Oklahoma held on May 18, 1993, by a vote of 3 yeas, 0 nays, and 1 abstention.

  
\_\_\_\_\_  
Mae Sine, Secretary  
Iowa Tribe of Oklahoma

  
\_\_\_\_\_  
Lawrence Murray, Chairman  
Iowa Tribe of Oklahoma

April, 13, 1993

Honorable Bill Richardson  
Chairman, House Native American  
Affairs Subcommittee  
US House of Representatives  
Washington, DC 20515-6201

Dear Mr. Richardson:

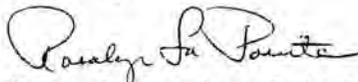
As an individual landowner I am strongly opposed to the passage of S.410 and HR 1425 (The Indian Agricultural Bill). The proposed legislation would place individual allotted lands under the management control of the tribe.

You need to explore the possibility of a 5th Amendment Taking Issue prior to passage of this bill. The tribe will be able to tell us what we can and cannot do with our lands and we will be subject to the political whims of the tribal government. If we don't have relatives in the right places in the tribal government, we will be subject to political decisions which may not be in our best interest. We would also be required to award leases to Indian operators over non-Indians even if it means a loss of income. Our elderly Indian people own the largest amounts of individually owned land on the reservation and depend on that lease income for subsistence. A \$50/month decrease of income doesn't make much difference in Washington, DC; however, in North and South Dakota that decrease of income makes a difference in the standard of living. American Indians already live in some of the worst poverty situations in the US; why should they subsidize the Indian operator? Maybe Congress could explore ways to subsidize the Indian operator (like is done with farming) so the Indian individual will not be required to make this sacrifice. Also, after passage of this bill, the bonding requirements will be lessened so again the Indian landowner will lose out if the Indian operator breaks the lease. What about the United States' trust responsibility to the individual Indian?

I am not opposed to tribal zoning ordinances, as long as the non-Indian is equally required to submit to the jurisdiction of the tribe. Why is this bill only focused on the Individual landowner?

Thank you for allowing me to speak my mind.

Sincerely,



An enrolled member of the Rosebud  
Sioux Tribe

KIOWA TON-KON-KO



Black Legging Warrior Society

**Kiowa Veterans Association and Auxiliary**

OVER 200 YEARS OLD  
(REVIVED, NOVEMBER 23, 1888)

June 15, <sup>th</sup> 1993

Honorable Bill Richardson  
Chairman House Native American  
Affairs Subcommittee U.S. House of  
Representatives Washington, DC

I am against the Bill H.R. 146  
"Indian Acquisition, Disasters Management  
act of 1993."

I do not want no one to  
leave or sabotage my land.  
We need the government to  
keep it under their strict responsibility  
in the Dept.

Kiowa Tribal  
member  
Gus Palmer, Sr.  
P.O. Box 13  
Carnegie, OK  
(405) 654-2351 73015

GUS PALMER, SR. - COMMANDER  
LEONARD COHAD, SR. - FIRST VICE-COMMANDER  
ALLEN QUOTONE - SECOND VICE-COMMANDER  
DIXON PALMER - TREASURER

WALTER KORDON - CHAPLAIN  
LAWRENCE WARE - SECRETARY  
SCOTT TOREMAN - PUBLIC RELATIONS  
RUDY BANTISTA - PUBLIC INFORMATION

Committee on Natural Resources  
 US House of Representatives  
 Room 1324 Longworth House Office Building  
 Washington D. C. 20515-9998

Honorable Sirs:

IN OPPOSITION TO:

HR 1425 - Act of American Indian Agriculture Act of 1993

S 410 - Senate Bill - Indian Agriculture Resource Management Act  
 of 1993

As an Indian landowner, I never  
 received any information on this bill.

I am an owner of individual allotment  
 land. My preference is for this land to  
 remain under the Bureau of Indian Affairs  
 in Anadarko Ok.

This may be good for reservation tribes  
 but not tribes in Oklahoma.

Please Oklahoma Indians out of this  
 (Exclude)  
 legislation.

Thank you

Ermetine Kaushges  
 Kauley

P O Box 418

Haskell Ok 73651

4-14-93  
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P.3

June 13, 1993  
Lawton, Oklahoma

Bill Richardson  
U. S. House of Representatives  
Washington, D.C. 20515-6201

Dear Sir:

I am against S. 410, the proposed Indian  
Agricultural Resources Management Act of 1993, and  
H.R. 1425.

It is against my rights or concerns for any  
institution or government who desire to further control  
any of my hereditary lands.

Sincerely,  
Bernad Lou (Dabbi) Griffin  
P.O. Box 1082  
Lawton, Oklahoma 73502  
(405) 357-4790

JUN 16 1993 01:55PM BIA ANADARKO AGENCY 405 247-9232

P.3

Committee on Natural Resources  
US House of Representatives  
Room 1324 Longworth House Office Building  
Washington D. C. 20515-9998

Honorable Sirs:

IN OPPOSITION TO:

HR 1425 - Act of American Indian Agriculture Act of 1993

S 410 - Senate Bill - Indian Agriculture Resource Management Act  
of 1993

*I oppose this bill, and I want my people's land to  
remain under the BIA in Anadarko.*

*Yale Spotted Bird Jr.*

*P.O. Box 207*

*Hobart, OK 73651*

*6-16-93*

Committee on Natural Resources  
US House of Representatives  
Room 1324 Longworth House Office Building  
Washington D. C. 20515-9998

Honorable Sirs:

IN OPPOSITION TO:

HR 1425 - Act of American Indian Agriculture Act of 1993

S 410 - Senate Bill - Indian Agriculture Resource Management Act  
of 1993

My mother is an Indian landowner and I  
want her land to remain under the  
Bureau of Indian Affairs of Anadarko. Someday  
it is my wish and goal to build a home for  
my family on this land.

Lisa D. Karley Williams  
323 W. College - E 204  
Weatherford, OK 73096

6-15-93

○













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