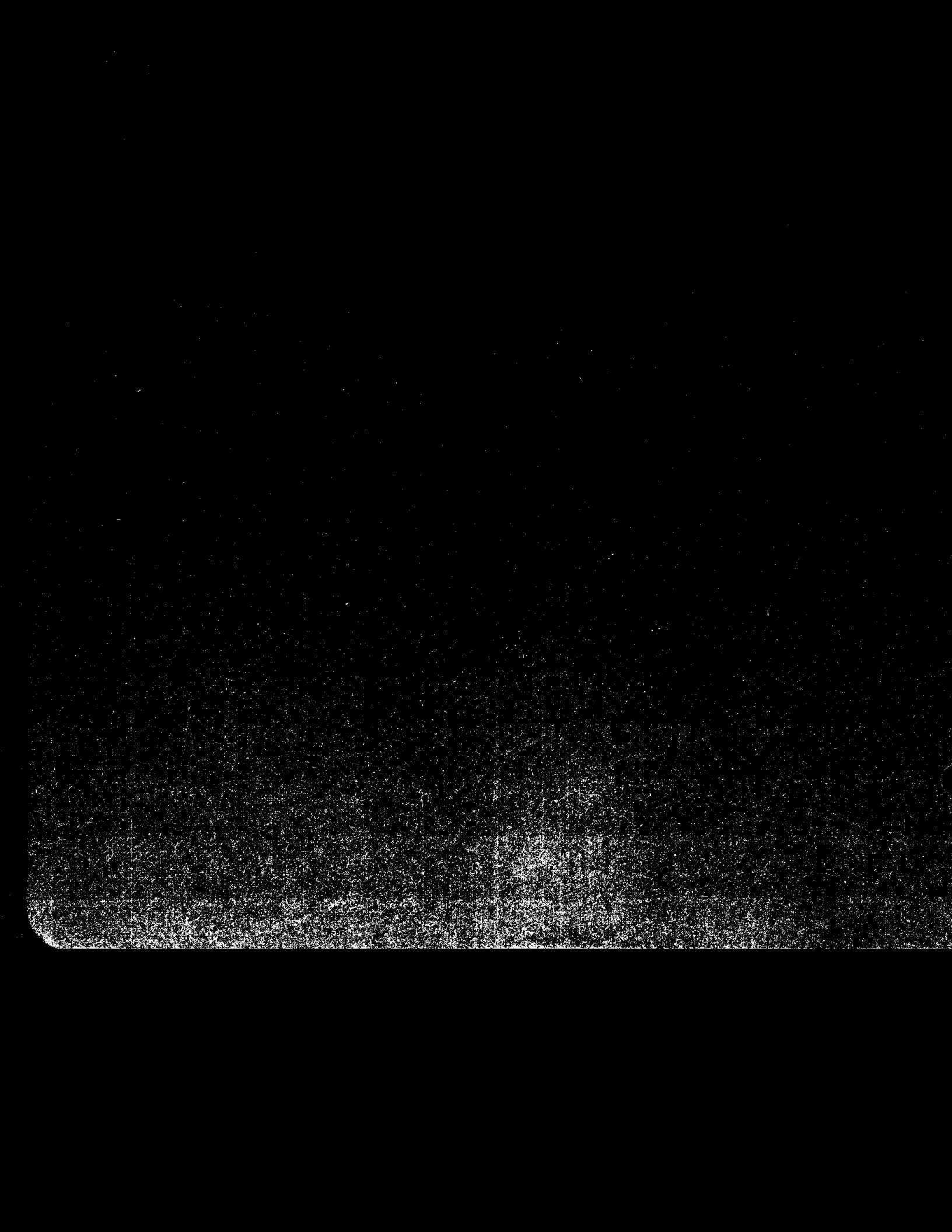
ENVIRONMENT POLICY



POINTS OF POLICY FOR THE LOWER GRASSE RIVER REMEDIATION PROCESS IN THE INTEREST OF THE ST. REGIS MOHAWK TRIBE

Native American Tribes depend on our unique legal relationship with the United States for a "government to government" relationship and trust obligations based on the Constitution, treaties, statues, Executive Orders, and court decisions. In the tedious process of determining a remedy selection for the Lower Grasse River, it is our concern that this relationship is not being implemented to its greatest capacity. The St. Regis Mohawk Tribe is not only downstream from the impacts of the contaminated Lower Grasse River and the harmful effects of PCB's, but it is a subsistence fishing community that has resource and treaty rights to the use of this river. Therefore, the contaminants and the future health of the Grasse River and its wildlife have a direct impact on the health and welfare of present and future generations of the St. Regis Mohawk Tribe.

In 1984, William D. Ruckelshaus under Federal Indian Policy of 1983 incorporated EPA Policy for the Administration of Environmental Programs on Indian Reservations. On July 11, 2001, Christine Todd Whitman reaffirmed the Agency's policy with tribal governments. This policy stresses the unique relationship that the Agency needs to incorporate when dealing with tribes. This unique relationship includes effective implementation of regulatory programs whereas "In many cases, it will require changes in applicable statutory authorities and regulations" (3rd paragraph of the Introduction of EPA Indian Policy). I stress this because we have been told that statues take precedence over Tribal relations with the Federal government. This policy also stresses the Agency's responsibility to protect human health and the environment on Indian reservations. "The keynote of this effort will be to give **special consideration** to

Tribal interests in making Agency policy, and to insure the **close involvement** of Tribal Governments in making decisions and managing environmental programs affecting reservation lands" (1st paragraph under Policy of EPA Indian Policy)[Also see Executive Order 13175 Sec. 3; a-c]. The St. Regis Mohawk Tribe does not feel like enough consideration has been placed on the Tribes interests in the Lower Grasse River, and although we have been involved in the decision making process, it has not been a "close" involvement. For example, we were informed a couple days a head of our meeting with EPA Project Manager on October 2, 2002 that the consideration of an interim remediation proposal vs. a full project proposal for the Grasse River was being discussed with EPA management. When the Alcoa Interim Approach Plan was circulated 2 weeks later it was discovered that this approach was in the making with Alcoa since August 28, 2002. Why were we never notified or involved with this decision making process back in August? Where in policy does it say that Alcoa receive "close involvement" with EPA decisions? Also in correspondence we are constantly referred to as "stakeholders" rather than a consulting government body. This leads us to believe that we are categorized by the Agency in the same view as public participation. (Refer to Guide on Consultation and Collaboration with Indian Tribal Governments). These are just some example of why the St. Regis Mohawk Tribe feels it is not being consulted with on a "government to government" basis.

There is still a misunderstanding by some regulators as to what "rights" the St. Regis Mohawk Tribe has to the Lower Grasse River. Besides the obvious of the location of the reservation to the Lower Grasse River, there are long-standing federal treaties to parts of the Lower Grasse River for the Tribe, frunctuary rights, fiduciary obligations by

the Federal Government, and Case Law from related court decisions. In 1794, through the Six Nations of the Iroquois Confederacy at Canandaigua, New York, the Mohawks secured to the people of the United States "a free passage through their lands, and within their respective tracts of land, for the passing and securing of vessels and boats, and liberty to land their cargoes, here necessary, for their safety" (Federal Treaty with the Six Nations, 1794, Article V). This represents a clear land and water resource usage right. And The Seven Nations Treaty of 1796 reaffirmed the six square mile reservation for the St. Regis Mohawk tribe and gave rights to one mile square at the mill along the Grasse River, "a tract of one mile square, at each of the said mills, and the meadows on both sides of the said Grass River, from the said mills thereon, to its confluence with the river St. Lawrence" (1796 Treaty, Appendix B). This 1796 Treaty reveals an unmitigated free right on the parts of the Mohawks to travel upon, fish, hunt and gather within the Grasse River.

Besides the rights granted by treaties, court decisions play a major role in interaction with Native American Tribes. The Guide on Consultation and Collaboration with Indian Tribal Governments prepared by the National Environmental Justice Advisory Council provides many policies and court case references on how to work with Tribes. The Federal Trust Responsibility is the backbone of our "government to government" relationship with the Federal Government. This responsibility includes "fiduciary obligations on the part of federal agencies which must be 'exercised according to the **strictest fiduciary standards'** [Nance v. Environmental Protection Agency, (1942)]. "The trust doctrine includes duties to **manage natural resources for the benefit of tribes and individual Indian landowners,** and the federal government has in some

cases been held liable for damage caused by mismanagement" [United States v. Mitchell (1983)]. (Guide on Consultation....etc.).

Treaty rights are supported by Federal Government and enforced by the Supreme Court. "The Supreme Court has described a treaty as a grant of rights from the Indians with a reservation of those rights not granted [United States v. Winans, (1905)], thus a treaty does not have to reserve expressly hunting and fishing rights within an Indian reservation for such rights to exist: rather, such on-reservation rights exist unless expressly given up [Menominee Tribe of Indians v. United States (1968)]. In many treaties, tribes expressly reserved certain kinds of rights in lands and waters outside their reservations, such as the right to fish at usual and accustomed places" (Guide on Consultation....etc.) Or in the case of the St. Regis Mohawk Tribe, the usage rights of the land and waters and the specific reserved right of the 1 mile square Grasse River meadows and thereon to its confluence with the St. Lawrence River.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL 11 2001

THE ADMINISTRATOR

MEMORANDUM

SUBJECT: EPA Indian Policy

TO: All EPA Employees

In 1984, EPA became the first Federal agency to adopt a formal Indian Policy, when William D. Ruckelshaus pledged that the Agency would support the primary role of Tribal governments in matters affecting American Indian country.

The United States has a unique legal relationship with Tribal Governments based on the Constitution, treaties, statues, Executive Orders, and court decisions. This relationship includes a recognition of the right of tribes as sovereign governments to self-determination, and an acknowledgment of the Federal government's trust responsibility to the Tribes.

I hereby reaffirm the Agency's commitment to this long-established policy and the principles therein that guide the Agency in building a stronger partnership with Tribal Governments to protect the human health and environment of Indian communities.

Christine Todd Whitman

Attachment

11/8/84

EPA POLICY FOR THE ADMINISTRATION OF ENVIRONMENTAL PROGRAMS ON INDIAN RESERVATIONS

INTRODUCTION

The President published a Federal Indian Policy on January 24, 1983, supporting the primary role of Tribal Governments in matters affecting American Indian reservations. That policy stressed two related themes: (1) that the Federal Government will pursue the principle of Indian "self-government" and (2) that it will work directly with Tribal Governments on a "government-to-government" basis.

The Environmental Protection Agency (EPA) has previously issued general statements of policy which recognize the importance of Tribal Governments in regulatory activities that impact reservation environments. It is the purpose of this statement to consolidate and expand on existing EPA Indian Policy statements in a manner consistent with the overall Federal position in support of Tribal "self-government" and "government-to-government" relations between Federal and Tribal Governments. This statement sets forth the principles that will guide the Agency in dealing with Tribal Governments and in responding to the problems of environmental management on American Indian reservations in order to protect human health and the environment. The Policy is intended to provide guidance for EPA program managers in the conduct of the Agency's congressionally mandated responsibilities. As such, it applies to EPA only and does not articulate policy for other Agencies in the conduct of their respective responsibilities.

It is important to emphasize that the implementation of regulatory programs which will realize these principles on Indian Reservations cannot be accomplished immediately. Effective implementation will take careful and conscientious work by EPA, the Tribes and many others. In many cases, it will require changes in applicable statutory authorities and regulations. It will be necessary to proceed in a carefully phased way, to learn from successes and failures, and to gain experience. Nonetheless, by beginning work on the priority problems that exist now and continuing in the direction established under these principles, over time we can significantly enhance environmental quality on reservation lands.

POLICY

In carrying out our responsibilities on Indian reservations, the fundamental objective of the Environmental Protection Agency is to protect human health and the environment. The keynote of this effort will be to give special consideration to Tribal interests in making Agency policy, and to insure the close involvement of Tribal Governments in making decisions and managing environmental programs affecting reservation lands. To meet this objective, the Agency will pursue the following principles:

1. THE AGENCY STANDS READY TO WORK DIRECTLY WITH INDIAN TRIBAL GOVERNMENTS ON A ONE-TO-ONE BASIS (THE "GOVERNMENT-TO-GOVERNMENT" RELATIONSHIP), RATHER THAN AS SUBDIVISIONS OF OTHER GOVERNMENTS.

EPA recognizes Tribal Governments as sovereign entities with primary authority and responsibility for the reservation populace. Accordingly, EPA will work directly with Tribal Governments as the independent authority for reservation affairs, and not as political subdivisions of States or other governmental units.

2. THE AGENCY WILL RECOGNIZE TRIBAL GOVERNMENTS AS THE PRIMARY PARTIES FOR SETTING STANDARDS, MAKING ENVIRONMENTAL POLICY DECISIONS AND MANAGING PROGRAMS FOR RESERVATIONS, CONSISTENT WITH AGENCY STANDARDS AND REGULATIONS.

In keeping with the principle of Indian self-government, the Agency will view Tribal Governments as the appropriate non-Federal parties for making decisions and carrying out program responsibilities affecting Indian reservations, their environments, and the health and welfare of the reservation populace. Just as EPA's deliberations and activities have traditionally involved the interests and/or participation of State Governments, EPA will look directly to Tribal Governments to play this lead role for matters affecting reservation environments.

3. THE AGENCY WILL TAKE AFFIRMATIVE STEPS TO ENCOURAGE AND ASSIST TRIBES IN ASSUMING REGULATORY AND PROGRAM MANAGEMENT RESPONSIBILITIES FOR RESERVATION LANDS.

The Agency will assist interested Tribal Governments in developing programs and in preparing to assume regulatory and program management responsibilities for reservation lands. Within the constraints of EPA's authority and resources, this aid will include providing grants and other assistance to Tribes similar to that we provide State Governments. The Agency will encourage Tribes to assume delegable responsibilities, (i.e. responsibilities which the Agency has traditionally delegated to State Governments for non-reservation lands) under terms similar to those governing delegations to States.

Until Tribal Governments are willing and able to assume full responsibility for delegable programs, the Agency will retain responsibility for managing programs for reservations (unless the State has an express grant of jurisdiction from Congress sufficient to support delegation to the State Government). Where EPA retains such responsibility, the Agency will encourage the Tribe to participate in policy-making and to assume appropriate lesser or partial roles in the management of reservation programs.

4. THE AGENCY WILL TAKE APPROPRIATE STEPS TO REMOVE EXISTING LEGAL AND PROCEDURAL IMPEDIMENTS TO WORKING DIRECTLY AND EFFECTIVELY WITH TRIBAL GOVERNMENTS ON RESERVATION PROGRAMS.

A number of serious constraints and uncertainties in the language of our statutes and regulations have limited our ability to work directly and effectively with Tribal Governments on reservation problems. As impediments in our procedures, regulations or statutes are identified which limit our ability to work effectively with Tribes consistent with this Policy, we will seek to remove those impediments.

5. THE AGENCY, IN KEEPING WITH THE FEDERAL TRUST RESPONSIBILITY, WILL ASSURE THAT TRIBAL CONCERNS AND INTERESTS ARE CONSIDERED WHENEVER EPA'S ACTIONS AND/OR DECISIONS MAY AFFECT RESERVATION ENVIRONMENTS.

EPA recognizes that a trust responsibility derives from the historical relationship between the Federal Government and Indian Tribes as expressed in certain treaties and Federal Indian Law. In keeping with that trust responsibility, the Agency will endeavor to protect the environmental interests of Indian Tribes when carrying out its responsibilities that may affect the reservations.

6. THE AGENCY WILL ENCOURAGE COOPERATION BETWEEN TRIBAL, STATE AND LOCAL GOVERNMENTS TO RESOLVE ENVIRONMENTAL PROBLEMS OF MUTUAL CONCERN.

Sound environmental planning and management require the cooperation and mutual consideration of neighboring governments, whether those governments be neighboring States, Tribes, or local units of government. Accordingly, EPA will encourage early communication and cooperation among Tribes, States and local governments. This is not intended to lend Federal support to any one party to the jeopardy of the interests of the other. Rather, it recognizes that in the field of environmental regulation, problems are often shared and the principle of comity between equals and neighbors often serves the best interests of both.

7. THE AGENCY WILL WORK WITH OTHER FEDERAL AGENCIES WHICH HAVE RELATED RESPONSIBILITIES ON INDIAN RESERVATIONS TO ENLIST THEIR INTEREST AND SUPPORT IN COOPERATIVE EFFORTS TO HELP TRIBES ASSUME ENVIRONMENTAL PROGRAM RESPONSIBILITIES FOR RESERVATIONS.

EPA will seek and promote cooperation between Federal agencies to protect human health and the environment on reservations. We will work with other agencies to clearly identify and delineate the roles, responsibilities and relationships of our respective organizations and to assist Tribes in developing and managing environmental programs for reservation lands.

8. THE AGENCY WILL STRIVE TO ASSURE COMPLIANCE WITH ENVIRONMENTAL STATUTES AND REGULATIONS ON INDIAN RESERVATIONS.

In those cases where facilities owned or managed by Tribal Governments are not in compliance with Federal environmental statutes, EPA will work cooperatively with Tribal leadership to develop means to achieve compliance, providing technical support and consultation as necessary to enable Tribal facilities to comply. Because of the distinct status of Indian Tribes and the complex legal issues involved, direct EPA action through the judicial or administrative process will be considered where the Agency determines, in its judgment, that: (1) a significant threat to human health or the environment exists, (2) such action would reasonably be expected to achieve effective results in a timely manner, and (3) the Federal Government cannot utilize other alternatives to correct the problem in a timely fashion.

In those cases where reservation facilities are clearly owned or managed by private parties and there is no substantial Tribal interest or control involved, the Agency will endeavor to act in cooperation with the affected Tribal Government, but will otherwise respond to noncompliance by private parties on Indian reservations as the Agency would to noncompliance by the private sector elsewhere in the country. Where the Tribe has a substantial proprietary interest in, or control over, the privately owned or managed facility, EPA will respond as described in the first paragraph above.

9. THE AGENCY WILL INCORPORATE THESE INDIAN POLICY GOALS INTO ITS PLANNING AND MANAGEMENT ACTIVITIES, INCLUDING ITS BUDGET, OPERATING GUIDANCE, LEGISLATIVE INITIATIVES, MANAGEMENT ACCOUNTABILITY SYSTEM AND ONGOING POLICY AND REGULATION DEVELOPMENT PROCESSES.

It is a central purpose of this effort to ensure that the principles of this Policy are effectively institutionalized by incorporating them into the Agency's ongoing and long-term planning and management processes. Agency managers will include specific programmatic actions designed to resolve problems on Indian reservations in the Agency's existing fiscal year and long-term planning and management processes.

William D. Ruckelshaus

Federal Register
Vol. 65, No. 218
Thursday, November 9, 2000

Presidential Documents

Title 3—

The President

Executive Order 13175 of November 6, 2000

Consultation and Coordination With Indian Tribal Governments

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to establish regular and meaningful consultation and collaboration with tribal officials in the development of Federal policies that have tribal implications, to strengthen the United States government-to-government relationships with Indian tribes, and to reduce the imposition of unfunded mandates upon Indian tribes; it is hereby ordered as follows:

Section 1. *Definitions.* For purposes of this order:

(a) "Policies that have tribal implications" refers to regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

(b) "Indian tribe" means an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a.

(c) "Agency" means any authority of the United States that is an "agency" under 44 U.S.C. 3502(1), other than those considered to be independent regulatory agencies, as defined in 44 U.S.C. 3502(5).

(d) "Tribal officials" means elected or duly appointed officials of Indian tribal governments or authorized intertribal organizations.

Sec. 2. *Fundamental Principles.* In formulating or implementing policies that have tribal implications, agencies shall be guided by the following fundamental principles:

(a) The United States has a unique legal relationship with Indian tribal governments as set forth in the Constitution of the United States, treaties, statutes, Executive Orders, and court decisions. Since the formation of the Union, the United States has recognized Indian tribes as domestic dependent nations under its protection. The Federal Government has enacted numerous statutes and promulgated numerous regulations that establish and define a trust relationship with Indian tribes.

(b) Our Nation, under the law of the United States, in accordance with treaties, statutes, Executive Orders, and judicial decisions, has recognized the right of Indian tribes to self-government. As domestic dependent nations, Indian tribes exercise inherent sovereign powers over their members and territory. The United States continues to work with Indian tribes on a government-to-government basis to address issues concerning Indian tribal self-government, tribal trust resources, and Indian tribal treaty and other rights.

(c) The United States recognizes the right of Indian tribes to self-government and supports tribal sovereignty and self-determination.

Sec. 3. *Policymaking Criteria.* In addition to adhering to the fundamental principles set forth in section 2, agencies shall adhere, to the extent permitted by law, to the following criteria when formulating and implementing policies that have tribal implications:

(a) Agencies shall respect Indian tribal self-government and sovereignty, honor tribal treaty and other rights, and strive to meet the responsibilities that arise from the unique legal relationship between the Federal Government and Indian tribal governments.

(b) With respect to Federal statutes and regulations administered by Indian tribal governments, the Federal Government shall grant Indian tribal governments the maximum administrative discretion possible.

(c) When undertaking to formulate and implement policies that have tribal implications, agencies shall:

(1) encourage Indian tribes to develop their own policies to achieve program objectives;

(2) where possible, defer to Indian tribes to establish standards; and

(3) in determining whether to establish Federal standards, consult with tribal officials as to the need for Federal standards and any alternatives that would limit the scope of Federal standards or otherwise preserve the prerogatives and authority of Indian tribes.

Sec. 4. *Special Requirements for Legislative Proposals.* Agencies shall not submit to the Congress legislation that would be inconsistent with the policymaking criteria in Section 3.

Sec. 5. *Consultation.* (a) Each agency shall have an accountable process to ensure meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications. Within 30 days after the effective date of this order, the head of each agency shall designate an official with principal responsibility for the agency's implementation of this order. Within 60 days of the effective date of this order, the designated official shall submit to the Office of Management and Budget (OMB) a description of the agency's consultation process.

(b) To the extent practicable and permitted by law, no agency shall promulgate any regulation that has tribal implications, that imposes substantial direct compliance costs on Indian tribal governments, and that is not required by statute, unless:

(1) funds necessary to pay the direct costs incurred by the Indian tribal government or the tribe in complying with the regulation are provided by the Federal Government; or

(2) the agency, prior to the formal promulgation of the regulation,

(A) consulted with tribal officials early in the process of developing the proposed regulation;

(B) in a separately identified portion of the preamble to the regulation as it is to be issued in the **Federal Register**, provides to the Director of OMB a tribal summary impact statement, which consists of a description of the extent of the agency's prior consultation with tribal officials, a summary of the nature of their concerns and the agency's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of tribal officials have been met; and

(C) makes available to the Director of OMB any written communications submitted to the agency by tribal officials.

(c) To the extent practicable and permitted by law, no agency shall promulgate any regulation that has tribal implications and that preempts tribal law unless the agency, prior to the formal promulgation of the regulation,

(1) consulted with tribal officials early in the process of developing the proposed regulation;

(2) in a separately identified portion of the preamble to the regulation as it is to be issued in the **Federal Register**, provides to the Director of OMB a tribal summary impact statement, which consists of a description of the extent of the agency's prior consultation with tribal officials, a summary of the nature of their concerns and the agency's position supporting the

need to issue the regulation, and a statement of the extent to which the concerns of tribal officials have been met; and

(3) makes available to the Director of OMB any written communications submitted to the agency by tribal officials.

(d) On issues relating to tribal self-government, tribal trust resources, or Indian tribal treaty and other rights, each agency should explore and, where appropriate, use consensual mechanisms for developing regulations, including negotiated rulemaking.

Sec. 6. *Increasing Flexibility for Indian Tribal Waivers.*

(a) Agencies shall review the processes under which Indian tribes apply for waivers of statutory and regulatory requirements and take appropriate steps to streamline those processes.

(b) Each agency shall, to the extent practicable and permitted by law, consider any application by an Indian tribe for a waiver of statutory or regulatory requirements in connection with any program administered by the agency with a general view toward increasing opportunities for utilizing flexible policy approaches at the Indian tribal level in cases in which the proposed waiver is consistent with the applicable Federal policy objectives and is otherwise appropriate.

(c) Each agency shall, to the extent practicable and permitted by law, render a decision upon a complete application for a waiver within 120 days of receipt of such application by the agency, or as otherwise provided by law or regulation. If the application for waiver is not granted, the agency shall provide the applicant with timely written notice of the decision and the reasons therefor.

(d) This section applies only to statutory or regulatory requirements that are discretionary and subject to waiver by the agency.

Sec. 7. *Accountability.*

(a) In transmitting any draft final regulation that has tribal implications to OMB pursuant to Executive Order 12866 of September 30, 1993, each agency shall include a certification from the official designated to ensure compliance with this order stating that the requirements of this order have been met in a meaningful and timely manner.

(b) In transmitting proposed legislation that has tribal implications to OMB, each agency shall include a certification from the official designated to ensure compliance with this order that all relevant requirements of this order have been met.

(c) Within 180 days after the effective date of this order the Director of OMB and the Assistant to the President for Intergovernmental Affairs shall confer with tribal officials to ensure that this order is being properly and effectively implemented.

Sec. 8. *Independent Agencies.* Independent regulatory agencies are encouraged to comply with the provisions of this order.

Sec. 9. *General Provisions.* (a) This order shall supplement but not supersede the requirements contained in Executive Order 12866 (Regulatory Planning and Review), Executive Order 12988 (Civil Justice Reform), OMB Circular A–19, and the Executive Memorandum of April 29, 1994, on Government-to-Government Relations with Native American Tribal Governments.

(b) This order shall complement the consultation and waiver provisions in sections 6 and 7 of Executive Order 13132 (Federalism).

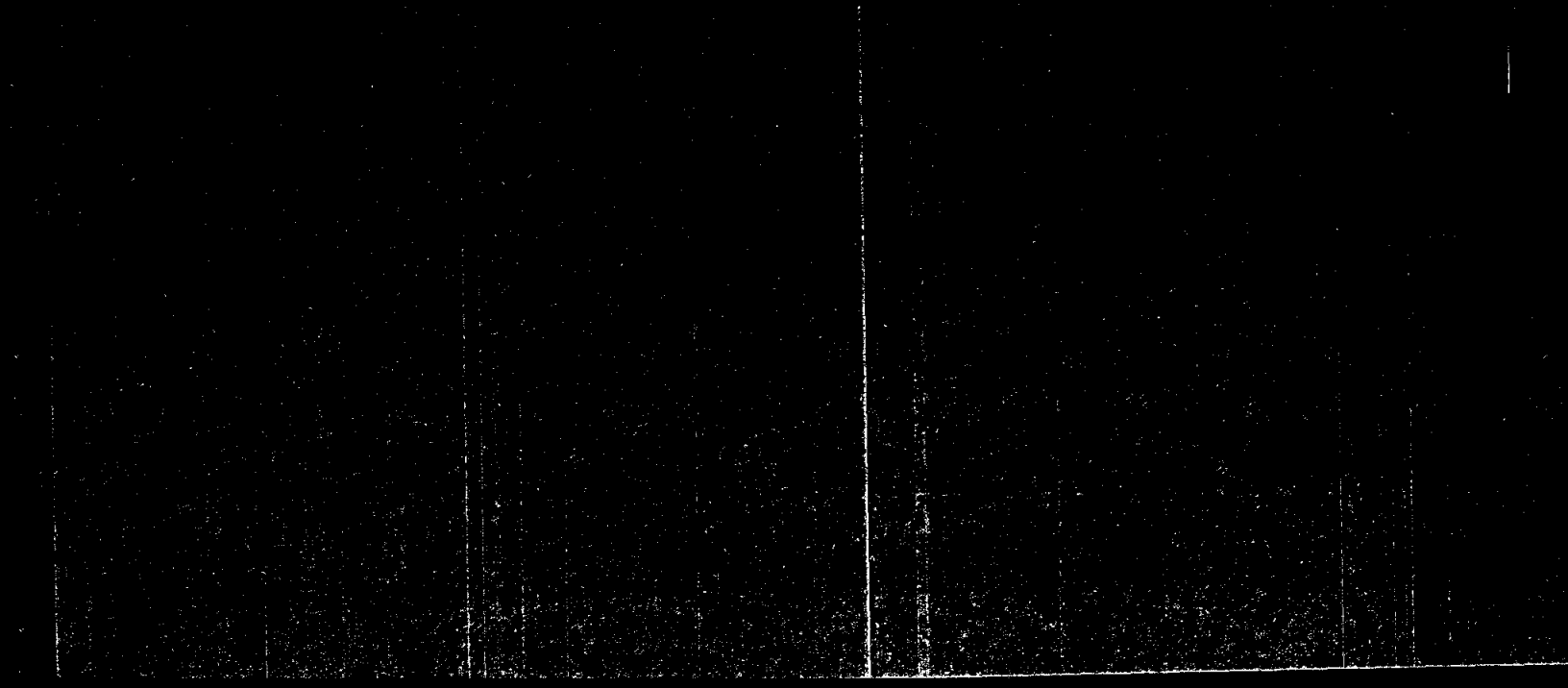
(c) Executive Order 13084 (Consultation and Coordination with Indian Tribal Governments) is revoked at the time this order takes effect.

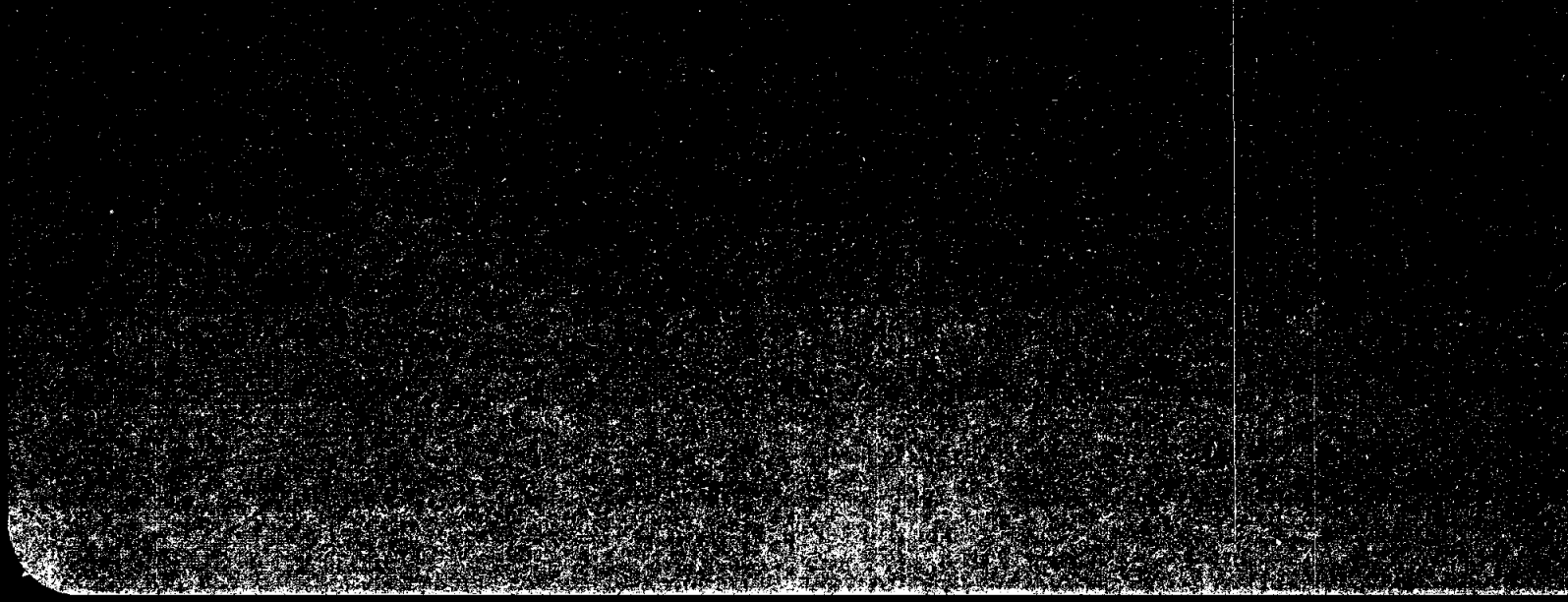
(d) This order shall be effective 60 days after the date of this order.

Sec. 10. *Judicial Review.* This order is intended only to improve the internal management of the executive branch, and is not intended to create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law by a party against the United States, its agencies, or any person.

THE WHITE HOUSE,
November 6, 2000.

[FR Doc. 00–29003
Filed 11–8–00; 8:45 am]
Billing code 3195–01–P





APPENDIX B

The 1796 Treaty
(also called The Seven Nations Treaty)
May 31, 1796

The deputies having declared their acceptance of the compensation, as proposed to them by the agents; three acts of the same tenor and date, one to remain with the United States, another to remain with the said Seven nations or tribes, and another to remain with the state, were thereupon this day executed, by the commissioners for the United States, the deputies for the Indians, the agents for the state and Daniel McCormick and William Constable, for themselves and their associates, purchase under Alexander Macomb, containing a cession; release, and quit-claim from the state, and a covenant for the state for the payment of the said compensation, and also certain reservations of land, to be applied to the use of the Indians of the village of St. Regis, as by the said acts, reference being had to either of them, more fully may appear. (From: History of St. Lawrence and Franklin Counties, NY, by F.B. Hough, 1853 at p. 144).

Signed Abraham Ogden.

The following is a copy of this treaty:
(7, Stat., 55 Proclamation Jan. 31, 1797)

The People of the State of New York, by the grace of God, free and independent. To all to whom these presents shall come, greeting. Know ye that we having inspected the records remaining in our Secretary's office, do find there filed a certain instrument in the words following to wit:

At a treaty held in the city of New York, with the Nations or Tribes of Indians, denominating themselves the Seven Nations of Canada; Abraham Ogden, Commissioner appointed under the authority of the United States to hold the treaty; Ohnaweio, alias Good Stream, Teharagwanegen, alias Thos, {Thomas} Williams, two chiefs of the Caughnawagas; Atiatoharongwan, alias Colonel Louis Cook, a chief of

the St. Regis Indians, and William Gray, Deputies, authorized to represent these Seven Nations or Tribes of Indians at the Treaty, and Mr. Gray serving also as Interpreter, Egbert Bensen, Richard Varick, and James Watson, agents for the State of New York; Wm. Constable and Daniel McCormick, purchasers under Alex. Macomb: The agents for the state, having, in the presence and with the approbation of the commissioners, proposed to the deputies for the Indians, the compensation hereinafter mentioned, for the extinguishment of their claim to all lands within the states, and the said deputies being willing to accept the same, it is thereupon granted, agreed and concluded between the said deputies and the said agents, as follows: The said deputies do, for and in the name of the said Seven Nations or tribes of Indians, cede, release and quit-claim to the people of the state of New York, forever, all the claim, right, or title of them, the said Seven Nations or tribes of Indians, to lands within the said state: Provided nevertheless, that the Tract equal to six miles square, reserved in the sale made by the commissioners of the land-office of the said state, to Alexander Macomb, to be applied to the use of the Indians of the village of St. Regis, shall still remain so reserved. The said agents, do, for and in the name of the people of the state of New York, grant to the said Seven Nations or tribes of Indians, that the people of the State of New York shall pay to them, at the mouth of the river Chazy, on Lake Champlain, on the third Monday in August next, the sum of one thousand two hundred and thirty pounds six shillings and eight pence and the further sum of two hundred and thirteen pounds six shillings and eight pence lawful money of the said state; and on the third Monday in August, yearly, forever thereafter, the like sum of two hundred and thirteen pounds six shillings and eight pence. Provided nevertheless, that the people of the state of New York shall not be held to pay the said sums, unless in respect to the two sum as to be paid on the third Monday in August next, at least twenty, and in respect to the said yearly sum to be paid thereafter, at least five of the principal men of the said Seven Nations or tribes of Indians, shall attend as deputies to receive and to give receipts for the same. The said deputies having suggested, that the Indians of St. Regis have built a mill on Salmon River, and another on Grass River, and that the meadows on Grass River are necessary to them for hay; in order, therefore, to secure to the Indians of the said village, the use of the said mills and meadows, in case they should hereafter appear not to be included within the above tract, so to remain reserved; it is, therefore also agreed and concluded between the said deputies, the said agents and the said William Constable and Daniel McCormick, for themselves and their associates, purchasers under the said Alexander Macomb, of the adjacent lands, that there shall be reserved, to be applied to the use of the Indians of the

Said village of St. Regis, in like manner as the said tract is to remain reserved, a tract of one mile square, at each of the said mills, and the meadows on both sides of the said Grass River, form the said mills thereon, to its confluence with the river St. Lawrence.

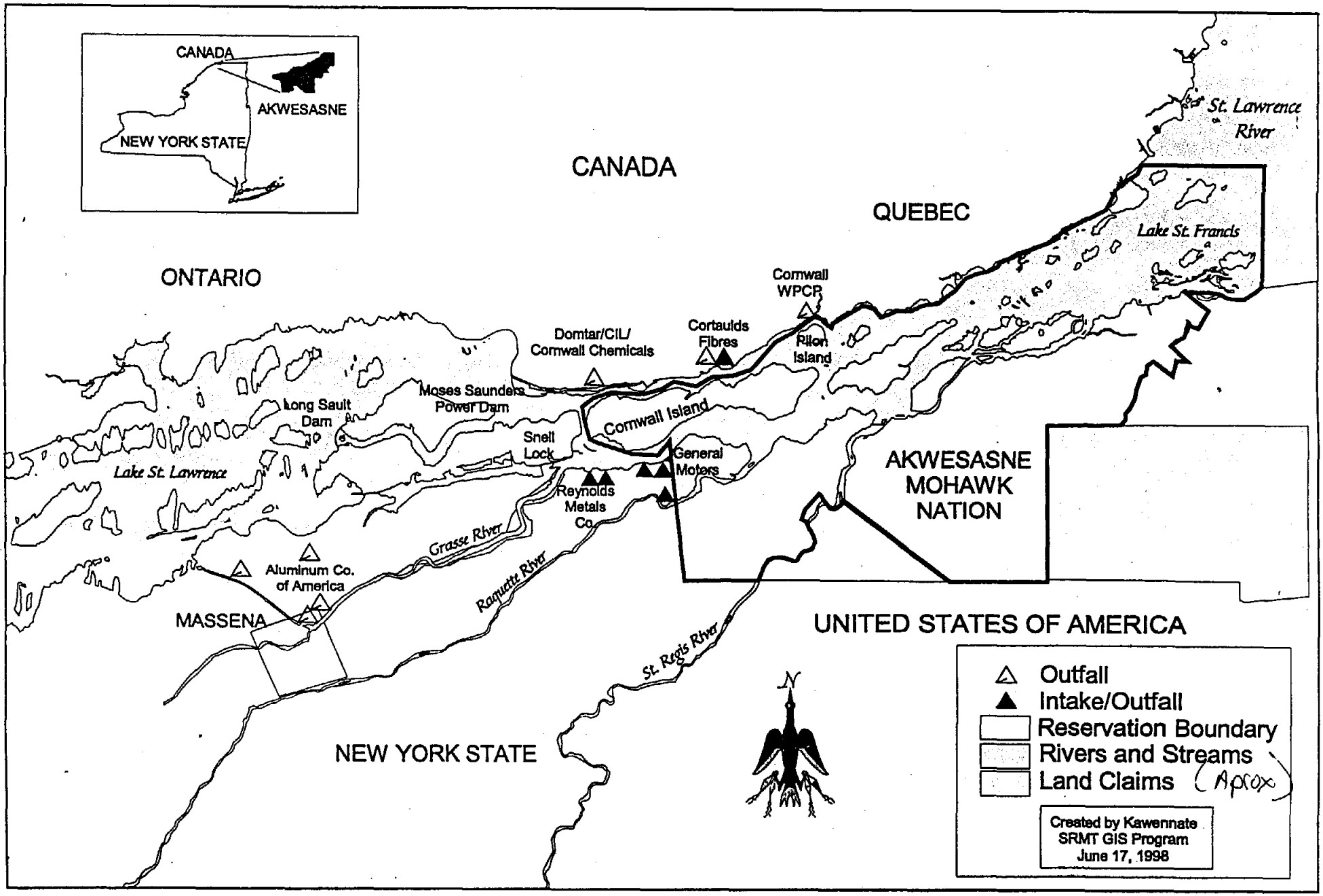
In testimony whereof, the said commissioners, the said deputies, the said agents, and the said William Constable and Daniel McCormick, have hereunto, and to two other acts of the same tenor and date, one to remain with the United States, another to remain with the State of New York, and another to remain with the Seven Nations or tribes of Indians, set their hands and seals, in the city of New York, the thirty-first day of May, in the twentieth year of the independence of the United States, one thousand seven hundred and ninety-six.

Abraham Ogden (L.S.), Daniel McCormick (L.S.).
Ohnaweio, alias Good Stream (Mark L.S.),
Otiatoharongwan, alias Colonel Louis Cook (Mark L.S.),
William Gray (L.S.), William Constable (L.S.),
Teharagwaneken, alias Thomas Williams (Mark L.S.),
Egbert Bensen (L.S.), James Watson (L.S.),
Richard Varick (L.S.),

Signed, sealed, and delivered in the presence of Samuel Jones, Recorder of the city of New York; John Taylor, Recorder of the city of Albany; Jo's Ogden Hoffmann, Attorney-General of the State of New York.

May 30th, 1797, Acknowledged before John Sloss Hobart, Justice of Supreme Court of Judicature. Feb. 28, 1800, Exemplified, signed, and sealed by the Governor, John Jay.

Massena - Akwesasne Assessment Area



5A. The Treaty of Canandaigua

The American Revolutionary War meant the end of the Fort Stanwix boundary line, as the United States proceeded to treat the Haudenosaunee as a conquered people - including the Oneidas and Tuscaroras, who had been their allies, and the Onondagas, who had stayed neutral in the war. A series of dubious land deals with individual states was accompanied by the equally doubtful Treaty of Fort Stanwix of 1784, in which unauthorized young men gave up much of the territory of the whole Confederacy. In 1794, the United States made a new Treaty in which it recognized the lands of several of the Nations, promising never to take those lands again.

The Canandaigua Treaty is important as a treaty intended to firm up the peaceful relationship between the Haudenosaunee and the United States as a new Covenant Chain. The Treaty protects land rights, and it also contains a clear dispute resolution mechanism on a government-to-government, nation-to-nation level.

Preamble of the Canandaigua Treaty

A Treaty between the United States of America and the Trit of Indians Called the Si Nations

The President of the United States having determined to hold a conference with the Six Nations of Indians for the purpose of removing from their minds all causes of complaint, and establishing a firm and permanent friendship with them; and Timothy Pickering being appointed sole agent for that purpose; and the agent having met and conferred with the sachems, chiefs and warriors of the Six Nations in a general council: Now, in order to accomplish the good design of this conference, the parties have agreed on the following articles, which, when ratified by the President, with the advice and consent of the Senate of the United States, shall be binding on them and the Six Nations...

ARTICLE I. *Peace and friendship are hereby firmly established, and shall be perpetual, between the United States and the Six Nations.*

ARTICLE II. *The United States acknowledge the lands reserved to the Oneida, Onondaga, and Cayuga nations in their respective treaties with the States of New York, and called their reservations, to be their property; and the United States will never claim the same, nor their Indian friends, residing thereon, and united with them in the free use and enjoyment thereof; but the said reservations shall remain theirs, until they choose to sell the same to the people of the United States, who have the right to purchase.*

ARTICLE III. *The land of the Seneca nation is bounded as follows: beginning on Lake Ontario, at the north-west corner of the land they sold to Oliver Phelps; the line runs westerly along the lake, as far as Oyongwongyeh Creek, at Johnson's Landing Place, about four miles eastward, from the fort of Niagara; then southerly, up that creek to its main fork; then straight to the main fork of Stedman's Creek, which empties into the river Niagara, above Fort Schlosser; and then onward, from that fork, continuing the same straight course, to that river; (this line, from the mouth of Oyongwongyeh Creek, to the river Niagara, above Fort Schlosser, being the eastern boundary of a strip of land, extending from the same line to Niagara River, which the Seneca nation ceded to the King of Great Britain, at the treaty held about thirty years ago, with Sir William Johnson;) then the line runs along the Niagara River to Lake Erie, to the northwest corner of a triangular piece of land, which the United States conveyed to the State of Pennsylvania, as by the President's patent, dated the third day of March, 1792; then due east to the southwest corner of the land sold by the Seneca Nation to Oliver Phelps; and then north and northerly, along Phelps' line, to the place of beginning, on the Lake Ontario. Now, the United States acknowledge all the land within the aforementioned boundaries, to be the property of the Seneca Nation; and the United States will never claim the same, nor disturb the Seneca Nation, nor any of the Six Nations, or of their Indian friends residing thereon, and united with them, in the free use and enjoyment thereof: but it shall*

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ARTICLE IV. *The United States have thus described and acknowledged what lands belong to the Oneidas, Onondagas, Cayugas and Senecas, and engaged never to claim the same, nor disturb them, or any of the Six Nations, or their Indian friends residing thereon, and united with them, in the free use and enjoyment thereof; now, the Six Nations, and each of them, thereby engage that they never claim any other lands, within the boundaries of the United States, nor ever disturb the people of the United States in the free use and enjoyment thereof.*