Indigenous Policy (IPJ) publishes articles, commentary, reviews, news, and announcements concerning Native American and international Indigenous affairs, issues, events, nations, groups and media. We invite commentary and dialogue in and between issues.

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As IPJ is now a refereed journal, articles are being posted on a different schedule from the rest of the journal. We will send out an e-mail announcement when the next set of articles are posted, and can be downloaded as a pdf file. **Current articles are available with list on line at: [http://www.indigenouspolicy.org/ipjblog/](http://www.indigenouspolicy.org/ipjblog/).**

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Co-Editors:
Phil Bellfy, American Indian Studies Program, Michigan State University, 262 Bessey Hall, East Lansing MI 48824, (517)432-2193, bellfy@msu.edu.
Thaddieus (Tad) Conner, Boise State University: tadconner@boisestate.edu.
Adam Dunstan, SUNY-Buffalo, department of anthropology, adamduns@buffalo.edu. leatherbox82@gmail.com.
Paula Mohan, Political Science Department, 305 Salisbury Hall, University of Wisconsin, Whitewater, Whitewater, WI 53190 (262)472-5772 (o), (608)233-2812(h), mohanp@mail.uww.edu.
Michael Posluns, Daytime & Cell: (416)995-8613, mposluns@accglobal.net. Annalise Romoser (410)230-8600 ext. 2845, arromoser@lwr.org.
Steve Sachs, 1916 San Pedro, NE, Albuquerque, NM 87110 (505)265-9388, ssachs@earthlink.net.
William (Bill) Taggart, New Mexico State University, Department of Government, Box 30001, MSC 3BN Las Cruces, NM 88003, (575)646-4935, wittaggar@nmsu.edu.
ISN Cochairs:
Sheryl Lightfoot, University of Minnesota, slightft@umn.edu.
Laura Evans, evansle@u.washington.edu.

Advisory Council:
Our thanks to all the members of the advisory council who review article submissions:

DEADLINE FOR SUBMISSIONS FOR THE NEXT ISSUE IS JUNE 8

INDIGENOUS POLICY PLANS FOR 2013-14 - WE INVITE YOUR HELP AND INPUT

We wish you a fine New Year, and hope that you are having a beautiful Winter. Indigenous Policy journal is available on the web with e-mail notification of new issues at no charge. Indigenous Policy puts out two regular issues a year (Summer and Winter), and since summer 2006, what will now be a fall issue serving as the Proceedings of the Western Social Science Association Meeting American Indian Studies Section. The next issue of IPJ will be a Special Issue on water governance, spring 2013, organized and edited by Ryan Plummer and Julia Baird. We are seeking additional editors, columnists and commentators for regular issues, and editors or editorial groups for special issues, and short articles for each issue. As IPJ is now a refereed journal, articles are being posted on a different schedule from the rest of the journal. New articles are added to already posted issues, and will remain up when issues change, until replaced by new articles. Notices go out to our list serve when new issues are posted, and when new articles are posted. To be added to the list to receive e-mail notice of new postings of issues, and new postings of articles, send an e-mail to Steve Sachs: ssachs@earthlink.net.

Jeff Corntassel and colleagues put together a special winter 2002 issue with a focus on “federal recognition and Indian Sovereignty at the turn of the century.” We had a special issue on international Indigenous affairs summer 2004, on Anthropology, Archeology and Litigation – Alaska Style spring 2012, and are about to have additional special issues. We invite short articles, reports, announcements and reviews of meetings, media and media, programs and events, and short reports of news, commentary and exchange of views, as well as willingness to put together special issues.
Send us your thoughts and queries about issues and interests and replies can be printed in the next issue and/or made by e-mail. In addition, we will carry Indigenous Studies Network (ISN) news and business so that these pages can be a source of ISN communication and dialoguing in addition to circular letters and annual meetings at APSA. In addition to being the newsletter/journal of the Indigenous Studies Network, we collaborate with the Native American Studies Section of the Western Social Science Association (WSSA) and provide a dialoguing vehicle for all our readers. This is your publication. Please let us know if you would like to see more, additional, different, or less coverage of certain topics, or a different approach or format.

*IPJ is a refereed journal. Submissions of articles should go to Tad Conner*, tadconner@boisestate.edu, who will send them out for review. Our process is for *non-article submissions to go to Steve Sachs*, who drafts each regular issue. Unsigned items are by Steve. Paula Mohan, Phil Bellfy, Ignacio Ochoa and Michael (Mickey) Posluns then make editing suggestions to Steve. Thomas Brasdefer puts this Journal on the web.

**GUIDE TO SUBMITTING WRITINGS TO *IPJ***

We most welcome submissions of articles, commentary, news, media notes and announcements in some way relating to American Indian or international Indigenous policy issues, broadly defined. Please send *article submissions electronically attached to e-mail to Tad Conner*, tadconner@boisestate.edu, who will send them out for review. All non-article submissions (including Research Notes, which usually are non refereed articles) go via e-mail to *Steve Sachs: ssachs@earthlink.net*, or on disk, at: 1916 San Pedro, NE, Albuquerque, NM, 87110. If you send writings in Word format, we know we can work with them. We can translate some, but not all other formats into word. If you have notes in your submission, please put them in manually, as end notes as part of the text. Do not use an automated foot/end note system that numbers the notes as you go and put them in a footer. (such automated notes are often lost, and if not, may appear elsewhere in the journal, and not in your article, as several writings are posted together in the same file. The one exception is the Proceedings of the AIS section at the WSSA meeting, in fall issues, where each article is kept in its own file, and it is O.K. to use an automated note system. *If you use any tables in a submission, please send a separate file(s) for them*, as it is impossible to work with them to put on the web when they are an integral part of a Word text. Some other format/style things are helpful to us, and appreciated, but not an absolute requirement. As we publish in 12 point Times font, with single spacing, and a space between paragraphs, it saves us work if we receive writings that way. Many thanks. We look forward to seeing what you send us.

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**INDIGENOUS WEB PAGE ON RACE ETHNICITY & POLITICS SECTION LINK**

Paula Mohan has constructed the *American Indian and International Indigenous webpage on the Race and Ethnic Politics link to the APSA website* at http://facstaff.uww.edu/mohanp/nasa.html. She is actively soliciting material for ISN's webpage in the areas of syllabi, directory of scholars, graduate and undergraduate programs, new publications, resources and related areas. Contact her at mohanp@mail.uww.edu.

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**UPCOMING EVENTS**

**ISN PROGRAM AT APSA 2013 IN CHICAGO**

The Indigenous Studies Network plans to put on at least one panels and hold a business meeting/networking session at the 2013 American Political Science Association (APSA) Meeting August 29-September 1, 2013 in Chicago, IL, at the Hyatt/Sheraton. For more information contact *ISN Program Coordinators: Laura Evans, evansle@u.washington.edu* (University of Washington) and *Sheryl Lightfoot* (University of British Columbia): sheryl.lightfoot@ubc.ca. More information about the APSA meeting can be found at: http://www.apsanet.org/.
The American Indian Studies Section of the Western Social Science Association, at its 55th meeting, expects to again have a full program of panels at the association's meeting at the 2013 conference in Denver, CO, April 10-13, 2013, at the Grand Hyatt, 1750 Welton Street, Denver. Paper/panel proposals for the American Indian Studies Section can either be submitted on line by going to: http://wssa.asu.edu/, or by sending them (preferably by E-mail) to AIS section coordinator Leo Killsback: lkillsba@asu.edu. Deadline for proposals, including abstracts, is December 1, 2012. Information, which will eventually include the preliminary program, can be accessed on line at: http://wssa.asu.edu.

A list of Indigenous Language Conferences is kept at the Teaching Indigenous Languages web site at Northern Arizona University: http://www2.nau.edu/jar/Conf.html.

The D'Arcy McNickle Center for American Indian and Indigenous Studies at the Newberry Library, in Chicago, has an ongoing Newberry Library Seminar in American Indian Studies on many Thursdays, 5:30-6:30 pm, as well as other occasional events. All papers are pre-circulated electronically to those who plan to attend the seminar. E-mail mcnickle@newberry.org or call (312)255-3564 to receive a copy of the paper. Currently planned Winter into early Spring 2013 are: January 23, 2013, Listening to Mohawk Women: Oral Tradition and Historiography, Melissa Adams-Campbell, Northern Illinois University; February 13, 2013, Visions and Visages: Constructing Indigeneity in Indians at Work, 1933-1945, Mindy J. Morgan, Michigan State University; February 20, 2013, Roots, Patterns and Priorities of Place-making in New Mexico, Karen L. Rogers, Auburn University; March 6, 2013, The Extermination of Kennewick Man's Authenticity through Discourse, Cynthia-Lou Coleman, Portland State University, March 27, 2013, The Indian Prince in London: Abolitionists and the Second Seminole War, Natalie Joy, Reed College; April 17, 2013, Good Fences Make Good Citizens: Citizen-Indians and Home Rule in Southern, Damon Akins, Guilford College, Greensboro.

For more on this and other events at the Newberry Library go to: http://www.newberry.org/mcnickle/AISSeminar.html.

Society for the Study of the Indigenous Languages of the Americas (SSILA) 2012-13 annual winter meeting is in Boston, MA January 3-6, 2013. For information go to: http://linguistlist.org/ssila/AnnualMeeting/AnnualMeeting.cfm.

The Ninth International Conference on Environmental, Cultural, Economic and Social Sustainability will be held in Hiroshima, Japan, January 23-25, 2013. The Conference will work in a multidisciplinary way across the various fields and perspectives through which we can address the fundamental and related questions of sustainability. For details go to: http://www.SustainabilityConference.com.

42nd National Association for Bilingual Education (NABE) Conference is in Orlando, FL, USA, February 7-9, 2013. For information visit: http://www.nabe.org/conference.html.

Native/Indigenous Studies Area of the 2013 Southwest/Texas Popular Culture/American Culture Association's 30th annual meeting will be February 13-16, 2013 at the Hyatt Regency Hotel & Conference Center in Albuquerque, New Mexico. Deadline is December 15 for proposals of up to 250 words for Panels and Individual Papers, to the appropriate area chair: Richard Allen, American Indians Today, Cherokee Nation, PO Box 948, Tahlequah OK 74465, Richard-Allen@cherokee.org; M. Elise Marubbio, American Indian/Indigenous Film, Augsburg College, American Indian Studies, CB 115, 2211 Riverside Avenue, Minneapolis MN 55454, marubbio@augsburg; Citlalin Xochime, Co-Chair, Native American/Indigenous Studies, New Mexico State University, Dept. of English, PO Box 30001, MSC 3E, Las Cruces NM 88003, citlalin@att.net, or L. Rain Cranford-Gomez, Co-Chair, Native American/Indigenous Studies, Cornelia Connelly School,
The 2013 Conference of the National Association of Native American Studies will be held February 11-16, 2013 in Baton Rouge, LA. For information contact: Dr. Lemuel Berry, Jr., Executive Director, NANAS, P.O. Box 325, Biddeford, ME 04005-0325 (207)839-8004, Fax: 207/839-3776, nnaasconference@earthlink.net, www.NAAAS.org.

The Forth International Conference on Heritage/Community Languages may be at the University of California, Los Angeles (UCLA), in February 2013. For details go to: http://www.international.ucla.edu/languages/nhlrc/conference/.

The 16th Annual National Indian Education Association (NIEA) Legislative Summit is likely in February 2013, in Washington, D.C. For information go to: http://www.niea.org/Membership/Legislative-Summit.aspx.

National Association for Bilingual Education 42nd Annual Conference, is in Orlando, FL February 7-9, 2013. For information go to: http://www.nabe.org/conference.html.

The United Nations 2013 Indian Tribal Youth Midyear UNITY Meeting is at the Hilton Arlington in Arlington, Virginia will be the host hotel for the 2013 annual which will be held February 13-17, 2013. For details go to: http://www.unityinc.org/.

3rd International Conference on Language Documentation and Conservation (ICLDC) is a biannual event, so the next conference will be at the University of Hawaii at Manoa, Honolulu, HI, in February 28-March 3, 2013. For details go to: http://nflrc.hawaii.edu/ICLDC/2011/.

The 36th Annual California Conference on American Indian Education may be in March 2013 at Humboldt State University, Arcata, CA. For more information contact: Achel McBride: (530)895-4212 x 110, Irma Amaro: (707)464-3512, or Judy Delgado at 916-319-0506, judelgado@cde.ca.gov, or go to: http://www.aisc.ucla.edu/admin/gcal.shtml.

National Indian Gaming Association (NIGA) Indian Gaming 2013, is March 24-27 2013 at the Phoenix Convention Center, Phoenix, AZ. For details go to: http://www.indiangaming.org/events/tradeshow/index.shtml.

The Western Political Science Association (WPSA) 2013 Annual Meeting is March 28 – 30, 2013, Renaissance Hotel, Hollywood, California. Section 21: Race, Ethnicity and Politics Section is open to again having panels or papers on Indigenous politics. Send proposals to the Chair: Stella Manrique Rouse University of Maryland, srouse@gvpt.umd.edu. For details go to: http://wpsa.research.pdx.edu/.

The University of Idaho College of Law Seventh annual conference to look at issues involving Indian country may be in March 2013. For information contact Angelique EagleWoman: eaglewoman@uidaho.edu, or visit: http://www.uidaho.edu/law/newsandevents/nativeamericanlawconference.

The 9th Annual Conference on Endangered Languages and Cultures of the Americas may be at the University of Utah, Salt Lake City, UT, in March 2013, put on by the Center for American Indian Languages, at the University of Utah, which also runs a series of workshops. For details go to: http://www.cail.utah.edu, or contact Jennifer Mitchell: cail.utah@gmail.com.

The NCAI Executive Council Winter Session is at L’Enfant Plaza Hotel, March 4 - 7, 2013, in Washington, DC. For details go to: http://www.ncai.org/Conferences-Events.7.0.html.


The Ninth Annual Southeast Indian Studies Conference is April 11-12, 2013, at the University Center Annex, The University of North Carolina at Pembroke. For information contact Alesia Cummings at American Indian Studies PO Box 1510 Pembroke, NC 28372-1510. alesia.cummings@uncp.edu, or Dr. Mary Ann Jacobs (910)521-6266, mary.jacobs@uncp.edu, http://www.uncp.edu/ais/news/scisc/index.htm.

The National Association for Ethnic Studies 41st Annual Conference may be in 2013. For details contact National Association for Ethnic Studies (NAES), Department of Ethnic Studies, Colorado State University, 1790 Campus Delivery, Fort Collins, CO 80523-179, www.ethnicstudies.org.

15th Annual Workshop on American Indigenous Languages may be in April 2013. For details visit: http://orgs.sa.ucsb.edu/nailsg/.

FIBEA 2013 may be in April 2013. For information visit: http://fibeamanaus.mgt.unm.edu/defaultENG.asp.

The 9th Giving the Gift of Language : A Teacher Training Workshop for Native Language Instruction and Acquisition is in Missoula, MT, USA, April 18-20, 2013. For information visit: http://www.nsile.org/index.htm.

20th Annual Stabilizing Indigenous Languages Symposium may be in at Thompson Rivers University, Kamloops, British Columbia, Canada, in May 2013. Information is available at: http://www.tru.ca/sils.html.

Native American Student Advocacy Institute may be putting on the Sixth, Strengthening Connections for Access and Equity in Education, May be in May 2013. The meeting is concerned about developing an effective program for supporting American Indian, Alaska Native, and Native Hawaiian Students. For more information go to: http://www.collegeboard.com/nasai/index.html, or email: nasai@collegeboard.org.


The Society of American Indian Government Employees (SAIGE) is a national non-profit organization that advocates for American Indian and Alaska Native federal employees. SAIGE will host its 10th annual national joint training conference with the American Indian Alaska Native Employees Association (AIANEA), likely in June 2013. Information will become available from the Society of American Indian Government Employees, P.O. Box 7715, Washington, D.C. 20044, www.saige.org.

The 2013 International Conference of Indigenous Archives, Libraries, and Museums in Albuquerque, New Mexico, June 10-13, 2013 outside of Albuquerque, New Mexico at the Santa Ana Pueblo-owned Hyatt Regency
Tamaya Resort & Spa. For information, to view past conference programs and/or submit a proposal before the November 15 deadline, visit: http://www.atalm.org. Please direct questions to atalinfo@gmail.com.

Seventh Heritage Language Research Institute: From Overhearers to High Proficiency Speakers: Advancing Heritage Learners' Skills may be in June 2013, at the University of California, Los Angeles. For details go to: http://nhlrc.ucla.edu/.

Conferences of the International Society for Language Studies are being held on a two-year cycle (every other year) with publication of the annual volume series Readings in Language Studies to be of primary focus during the intervening year. The 2013 biennial conference may well be in June, 2013. For information contact International Society for Language Studies, c/o OSBORN, Graduate School of Education, Fordham University, 113 W. 60th Street, Room 1102, New York, NY 10023, conf2009@isls-inc.org, http://www.isls-inc.org/conference/conference.html.

The NCAI 2013 Mid Year Conference is June, 2013, in Reno, NV, For details go to: http://www.ncai.org/Conferences-Events.7.0.html.

Newberry Library symposium, “Pictures from an Expedition: Aesthetics of 19th-century Cartographic Exploration in the Americas” is at the Newberry Library in Chicago, IL, June 20-21, 2013. For more information go to: www.newberry.org/mcnickle.

The Fifth International Conference on Climate Change is at the Labourdonnais Waterfront Hotel, Port Louis, Mauritius, July 18-19, 2013. The Climate Change Conference is for any person with an interest in, and concern for, scientific, policy and strategic perspectives in climate change. It will address a range of critically important themes relating to the vexing question of climate change. Plenary speakers will include some of the world’s leading thinkers in the fields of climatology and environmental science, as well as numerous paper, workshop and colloquium presentations by researchers and practitioners. For details go to: http://on-climate.com/the-conference.


Language Endangerment: Language Policy and Planning is July 26, 2013 at CRASSH, Alison Richard Building, 7 West Road, Cambridge CB3 9DT For details of the programmed for visit: http://www.crassh.cam.ac.uk/events/2163/, or contact the conference organizers, Mari Jones:mailto:mcj11@cam.ac.uk, and Christopher Connolly:mailto:cpc37@cam.ac.uk.

The 2013 Dene (Athabaskan) Languages Conference is tentatively scheduled to be held June 12-14, 2013 in Calgary, Alberta.. Details are, at: http://www.uaf.edu/anlc/alc/.


4th American Indian Teacher Education Conference may be at Northern Arizona University, Flagstaff, AZ, in July 2013. For Information visit: http://jan.uccnau.edu/~jar/AIE/conf.html.
Northwest Indian Language Summer Institutes and teaching practicum are at the University of Oregon, Eugene, OR, July 9-20 and 21-27, 2013. For information go to: http://pages.uoregon.edu/nwili/summer-institute.

UCLA/STARTALK Heritage Language Teacher Workshop may be in July 2013. For details visit: http://nhlrc.ucla.edu/.

The 48th International Conference on Salish & Neighboring Languages probably may be held at Cranbrook, BC, Canada, hosted by the Ktunaxa Nation, in July or August 2013. Information may become available at: http://sites.google.com/site/icsnl45/icsnl46. For more information contact Henry Davis, henryd@interchange.ubc.ca.

The 19th commemoration of the International Day of the World's Indigenous Peoples will be held on August 9, 2013 at the UN Headquarters in New York, organized by the Secretariat of the Permanent Forum on Indigenous Issues DSPD/DESA, the United Nations Department of Public Information, and the NGO Committee on the Decade of the World’s Indigenous Peoples. For details go to: www.un.org/indigenous.


The Western Regional Conference of the National Association of Native American Studies may be in October 2013. For information contact: Dr. Lemuel Berry, Jr., Executive Director, NANAS, P.O. Box 325, Biddeford, ME 04005-0325 (207)839-8004, Fax: 207/839-3776, naaasconference@earthlink.net, www.NAAAS.org

The NCAI 70th Annual Convention is October 13 - 18, 2013, in Tulsa, OK. For details go to: http://www.ncai.org/Conferences-Events.7.0.html.

The National Indian Education association 44rd Annual Conference may be in October 2013. For details visit: http://www.niea.org/Membership/Convention.aspx.


The Indigenous Leadership Development Institute, Inc. (ILDI) is holding the 2013 World Indigenous Business Forum in Windhoek, Namibia, October 14-18, 2013. For details visit: http://wibf.ca/.

The Indigenous Leadership Development Institute, Inc. (ILDI) is holding the 2013 World Indigenous Business Forum in Windhoek, Namibia, October 14-18, 2013. For details visit: http://wibf.ca/.

Tenth Native American Symposium and Film Festival is likely in November 2013, possibly at Southeastern Oklahoma State University in Durant, Oklahoma. For details visit www.se.edu/nas/, or contact Dr. Mark B. Spencer, Department of English, Humanities, and Languages, Box 4121, Southeastern Oklahoma State University, Durant, OK 74701-0609, mspencer@se.edu.

The Third Conference on Ethnicity, Race, and Indigenous Peoples in Latin America and the Caribbean might possibly be in November, 2013, or in a later year. For information go to: http://cilas.ucsd.edu/erip/index.html, or contact: eripconference2011@ucsd.edu, or cearley@ucsd.edu.

The 18th La Cosecha Annual Dual Language Conference is at the Convention Center in Albuquerque, NM, November 6-9, 2013. For information visit: http://dlenm.org/lacosecha/.

The 2013 Lakota, Dakota, Nakota Language Summit is in Rapid City, SD, November 14-16, 2013. For details go to: http://www.tuswecatiospaye.org/.
Global Day Of Action: International Demonstrations on Climate Change may be December 1, 2013. For upcoming Plans go to: http://www.globalclimatecampaign.org/, or contact: info@globalclimatecampaign.org.

The NCAI 2014 Executive Council Winter Session is at L’Enfant Plaza Hotel, Washington, DC, March 3-6, 2014. For details go to: http://www.ncai.org/Conferences-Events.7.0.html.

The NCAI 2014 Mid Year Conference is June 8-11, 2014 in Anchorage, AK. For details go to: http://www.ncai.org/Conferences-Events.7.0.html.

The NCAI 2014 Mid Year Conference is June 8-11, 2014 in Anchorage, AK. For details go to: http://www.ncai.org/Conferences-Events.7.0.html.

The Indigenous Leadership Development Institute, Inc. (ILDI) is holding the 2014 World Indigenous Business Forum in Guatemala City, Guatemala, Possibly in October 2014. For details visit: http://wibf.ca/.

The NCAI 2015 Executive Council Winter Session is in March, 2015 at the L’Enfant Plaza Hotel, Washington, DC. For details go to: http://www.ncai.org/Conferences-Events.7.0.html.

The NCAI 2015 Mid Year Conference is in June, 2015. For details go to: http://www.ncai.org/Conferences-Events.7.0.html.

The 2015 Lakota, Dakota, Nakota Language Summit is in Rapid City, SD, November 13-15, 2014. For details go to: http://www.tuswecatiospaye.org/.

The 2015 Lakota, Dakota, Nakota Language Summit is in Rapid City, SD, November 19-21, 2015. For details go to: http://www.tuswecatiospaye.org/.

ONGOING ACTIVITIES:
Environmental Activities
U.S. Activities
International Activities

Steve Sachs

Environmental Activities

350.org (at: http://350.org) working to build a global movement to solve the climate crisis, has been supporting opposition to the various pieces of the Keystone XL tar sands pipeline under construction within various U.S. states (under state regulation, only the international connection to Canada is under federal regulation, and being considered by the U.S. Department of State), and reported, October 11, 2012, After more than two weeks in the trees of Texas, their dramatic action is drawing more and more attention, as they reveal the recklessness and heartlessness of a company like TransCanada -- the kind that will call the cops to get a great grandmother and arrest her for 'trespassing' on her own land when she protests the pipeline crossing it. The larger part of the Keystone pipeline project -- the northern leg to Canada -- has been on the political back-burner since last year's massive protests. Since that northern leg would have been a fuse to the biggest carbon bomb on the planet, we counted that as a temporary victory. The State Department is supposedly figuring out how to calculate the climate risk from the tar sands, something they failed to do last time round -- but so far there's no sign
they have a real plan. Neither candidate for President has expressed any opposition to building the pipeline,” so the issue may become one of public debate soon. Meanwhile, “Our friends in Canada have done a remarkable job of organizing opposition to the so-called Northern Gateway pipeline that would carry tarsands gunk to the Pacific.” As of the first week in October, “that plan is effectively dead, dashed against the rock-solid opposition of Indigenous groups, and Canadian climate activists both. With it goes the favorite talking point of Keystone backers, that ‘they'll just send it to China anyway.’” Meanwhile, in Texas, local environmentalists and land owners who do not want the pipeline crossing their property are fighting to block the local portion of the Keystone Pipeline, sometimes by sitting in tree houses in trees to attempt to prevent their removal for the pipeline building (Dan Frosch, “Last-Ditch Bid in Texas to Try to Stop Oil Pipeline,” The New York Times, October 12, 2012, http://www.nytimes.com/2012/10/13/us/protesters-gather-at-keystone-xl-site-in-texas.html?ref=todayspaper).


“Bristol Bay Tribes' Fight to Fend off Pebble Mine Highlighted in National Geographic,” ICTMN, November 19, 2012, discusses the National Geographic’s feature, the week of November 19, 2012, scrutinizing Bristol Bay and the proposals by a joint venture of Northern Dynasty Minerals of British Columbia and Anglo American, a London-based conglomerate, calling itself the Pebble Partnership to dig a two-mile-wide open-pit metal mine and a mill with accompanying tailing ponds in some of the most fertile salmon spawning grounds in the world, which the nine Tribes in the area, other neighboring people, and environmentalists have been fighting to stop. National Geographic reports that for the first time the U.S. Environmental Protection Agency (EPA) has stepped in to an Alaska mining project without first hearing from the relevant agencies of the State of Alaska. EPA issued a draft report, in May 2012, assessing the effects of such development on the Bristol Bay watershed area. At minimum, National Geographic reported, the project would cause the destruction of 55 to 87 miles of, to date, untouched streams and 2,500 acres of wetlands, without considering the impact of any leaks of the projects acidic water and heavy metals into salmon spawning grounds. An EPA report issued on November 9, 2012 “has brought scrutiny of the mining proposal before the public eye once again. The report corroborated the earlier findings, and its release may mark a watershed moment in the way Alaska balances natural resource exploitation with environmental preservation.” The National Geographic stated, “The battle may have reached the final stage, or at least a turning point in how Alaskans resolve disagreements over the exploitation of natural resources, long the backbone of the state economy.”

Friends of Lana‘i gives voice to many on the Hawaiian Island of Lana‘i who oppose the destruction of culturally and environmentally sensitive lands to build a large wind power generation station, advocating instead the development of a variety of decentralized renewable energy sources. For more information go to: http://frinds.oflanai.org.

Cultural Survival was engaged, in November 2012, in a campaign to stop palm oil production in a land grab that will displace Indigenous people in the southwest region of Cameroon by Herakles Farms, a New York-based agri-corporation, and a US non-profit organization All for Africa. “They are involved in a land deal that is about to destroy over 70,000 hectares (300 square miles) of rainforest and the livelihoods of thousands of rural Cameroonians. If the project goes forward, farmland and forest will be replaced by a giant palm oil plantation. The concession concerns the homelands of the Oroko, Bakossi, and Upper Bayang peoples in the Ndian, Kupé-Manengouba, and Manyu divisions of Cameroon. This plantation will have major impacts on up to 45,000 Indigenous Peoples in 88 villages who are dependent on the forest for their livelihoods. The giant plantation will also fragment and isolate the region’s protected areas, including Korup
National Park, Bakossi National Park, Banyang Mbo Wildlife Sanctuary, Nta Ali Forest Reserve, and Rumpi Hills Forest Reserve. Herakles has moved forward despite widespread opposition to the project. Protests against Herakles Farms have erupted in several areas. Petitions and letters from local villagers and local leadership, representing thousands of individuals, have decried the activities of Herakles Farms. Locals cite an alarming lack of transparency, their lack of consent, the illegal demarcation and clearing of land and the biological, economic, and cultural importance of the area as reasons for opposing the project. “A recent film and report from the Oakland Institute provide additional evidence of this widespread opposition. Despite this evidence, Herakles Farms maintains their stance that the project enjoys an ‘outpouring of support from communities.’ here are known and affordable alternatives to this industrial project if one wants to really promote sustainable agriculture and human development in the area. In the three Herakles Farms’ nurseries, thousands of seedlings are ready to be planted. If the company truly wants to promote sustainable agriculture, it must hand over these seedlings to the local farmers and allow them to grow palm in a sustainable way, which should rely on diversified and environment friendly agricultural production” (“Cameroon: Stop Oil Palm Plantations from Destroying Africa’s Ancient Rainforests and Local Livelihood,” Cultural Survival, November 6, 2012, http://r20.rs6.net/txn.jsp?e=001OLzo8rebtnGsfQht8ATvYFgnrVM-izml38jcfNvCQ7G_vqV2u0POUAWhDHXibl5qppyp2-N1HXW70DNd7X3Oe0fXnLHB8FLRtVaxYMUHbKR-tXbg2aqgHNzvu7jpkfVrmXaAbGp9OunuZBH9_5bKodFrp8qecTs4giiHY52W8b_SWQ9wogvMthM5vpm-MQEx6-v-n266ExX3fyPL8c78ZwOpl4t11).

Environmental activism has been increasing in natural resource rich Malaysia, with concern over the construction of a rare earth refinery the catalyst (Liz Gooch, “Rare Earth Refinery Becomes Rallying Point for Green Movements Across Malaysia,” The New York Times, June 19, 2012).

U.S. Activities

The National Congress of American Indians (NCAI), www.ncai.org, in partnership with tribes, regional and national organizations, federal agencies, and others, launched a national campaign, Protect Native Money, to address the short and long term needs for financial education and consumer protection in Indian Country. NCAI finds there is an urgent short term need to provide financial and consumer protection information to tribes and Native peoples. By mid-2013, $3 billion in individual and tribal trust fund settlements will come to Indian Country. The Keepseagle and Cobell class action legal settlements with the federal government have both been settled and will start lump sum payouts to individual recipients before the end of 2012. These more immediate payouts in Keepseagle and Cobell amount to more than $2 billion to individual recipients. In addition, more than 50 tribal trust settlements, totaling more than $1.0 billion, have been settled and payouts have either already been made or are due shortly, with another estimated 60 tribal settlements in the pipeline to be resolved. An update with more information on the settlements and Protect Native Money is available at: http://www.ncai.org/protectnativemoney/ProtectNativeMoney_Flier_Update_11_16_12.pdf.

NCAI, became concerned about the politicization of American Indian identity in the Massachusetts Senate election contest between incumbent Massachusetts Senator Scott Brown and his opponent, Elizabeth Warren, who has stated she descends from Cherokee and Delaware Indian ancestry. NCAI Executive Director Jacqueline Pata stated, “In the last week, the Massachusetts Senate race reached an extremely disturbing place. The National Congress of American Indians is calling for the candidates to return civility to the public discourse and to immediately stop the politicization of Native identity. On Tuesday, video footage was released showing Senator Brown’s staff leading crowds in ‘war whooping’ and ‘tomahawk chopping’ during a clash with Warren supporters. Additionally, last Thursday Senator Brown made inflammatory remarks about Warren’s skin color as an indicator that she is not of Native descent. The video footage of Senator Brown’s staff engaged in ‘war whooping’ and ‘tomahawk chopping’ is not only offensive and demeaning to Native Americans it is also demoralizing to citizens across the country. It’s concerning that experienced staff members of a United States Senator would act this way; Senator Brown should take corrective action immediately. These actions belittle the democratic process and are emblematic of an irresponsible public discourse on race and Native identity by misinformed individuals and the media. Elizabeth Warren also bears responsibility for allowing the public discourse about Native identity to become misrepresented. She has every right to be proud of her family, however
her campaign failed to educate a non-Native media and the public unfamiliar with federal tribal enrollment rules or about historic federal policies that make proving Native ancestry very difficult for some people. Finally, Warren’s campaign did not respond to requests for interviews from Native media organizations. All of these actions could have gone a long way to reducing tension and increasing awareness. The video released of Brown’s staffers comes just days after Senator Brown responded to a question during the opening of a September 20, 2012 televised debate between the two candidates in which he referred to Warren’s white skin color as proof that she is not of Native American descent in response to an opening question about character. “Skin color or physical appearance has no bearing on one’s Native American heritage or status as an enrolled member of a federally recognized tribe. As a result, numerous national television programs and websites have irresponsibly echoed Senator Brown’s statements by referring to someone’s skin color as an indicator for Native American identity. These claims are false and Senator Brown should correct the record and retract his statement immediately.

NCAI is concerned by the negative and racially charged statements and actions that are the result of the politicization of the issue of Native ancestry. This issue has no bearing on the qualifications to be the Senator of Massachusetts. Native American peoples have long endured discrimination and we will not tolerate, nor should the American people tolerate, a return to hostile environments or ignorant discourse about America’s first peoples. Nor should we tolerate a hostile environment about a common characteristic many people share, a connection to Native American ancestry. Today, Native people are proud of our ancestors, our place in the American family of governments, and we will not stand for irresponsible behavior or public discourse.” On August 6, 2012, NCAI Executive Director Jacqueline Pata released a statement concerning Matt Lauer’s use of the phrase “Indian Giver” on NBC’s TODAY, saying “Matt Lauer of NBC’s TODAY, an international media personality, made irresponsible comments on the global stage of the 2012 Olympic Games when he used the phrase “Indian Giver” during NBC’s morning coverage of the London Olympics. These comments were not in the spirit of the Olympic Games, nor civil discourse. Mr. Lauer’s misinformed choice of words reinforces archaic and hurtful racial stereotypes that date back to colonial America. Early commerce between tribal nations and colonial settlers required the value of goods exchanged to be of equal or greater value, or the trade was not deemed acceptable. Some colonial traders who did not uphold this ethic used this phrase to discredit tribal nations and Native traders. Now, the pejorative phrase has become associated with a person who takes back a gift. This misrepresents the original and modern cultural values of Native Americans, based on fair trade, sharing, and empowering those around them.” For more information go to: http://www.ncai.org/news/uploads.

Kupa’a no Lana’i is a recently formed group working for the preservation of ancient and historical sites on the Hawaiian Island of Lana’i. For details visit: https://www.facebook.com/kupa’a-no-lana’i.

International Activities

Canada’s longest running blockade held a 10 Years rally for the Grassy Narrows Asubpeeschoseewagong Blockade with A Sacred Fire at Queen's Park, December 2, 2012. In the decade since the blockade began, the community has maintained a moratorium on clear cutting in their traditional territories, despite the ongoing threat of logging by some of the world's largest paper corporations. The community has also taken the Ontario government to task for inaction on the ongoing effects of mercury poisoning on their families and ecosystems. For more information contact Joanna Adamiak: mailto:jadamiak@YORKU.CA, or earthjusticeaction@gmail.com.


“Ads target Machu Picchu tourists in row over uncontacted tribes,” Survival International, July 17, 2012, http://www.survivalinternational.org/news/8481, reports that Visitors to Perú’s Machu Picchu, who number up to 1 million each year, were being targeted by a new online ad campaign, in a row over a nearby Peruvian gas project endangering several uncontacted tribes only 100 kilometers away. Perú’s Nahua-Nanti Reserve for uncontacted Indians lies in the same ‘Sacred Valley’ as the ancient site, but despite its protected status, it is being opened up for gas drilling by a consortium of foreign gas companies including Pluspetrol, Hunt Oil and Repsol, the project has now been granted permission to expand further into the area, despite the risk to tribal communities. Crucially, the Nahua-Nanti Reserve acts as a buffer zone to another hugely important tourist attraction, the Manú National Park.

“Campaigners target Rio 2016 exhibition over ‘Earth’s most threatened tribe’” Survival International, September 6, 2012, http://www.survivalinternational.org/news/8641, reports tribal rights campaigners picketed a London exhibition at Somerset House, ‘Casa Brasil’, September 5, 2012, celebrating Brazil’s cultural heritage ahead of the Rio 2016 Olympics, to highlight the plight of ‘Earth’s most threatened tribe.’ The urgency of the situation was compounded earlier that week by news of a government investigation that discovered illegal loggers working less than six kilometers away from an Awá community. The Somerset House picketing was part of Survival’s campaign to ‘Save Earth’s most threatened tribe’, begun over 100 days earlier, with the help of Oscar-winning film star Colin Firth. By the first week in September, more than 32,000 people have written to Brazil’s Justice Minister urging him to do more to protect the Awá’s land, which suffers the fastest rate of deforestation of any indigenous territory in the Amazon. The Awá say the situation is urgent: “We don’t want to see the illegal loggers destroying our forest. Send them away; we want our land to be completely ours, for our own use. Help us as fast as you can.” Earlier, “Alarmed UK MPs urge Brazil to save Earth’s most threatened tribe,” Survival International, July 3, 2012, http://www.survivalinternational.org/news/8453, reported, dozens of British members of Parliament filed a parliamentary motion, to ‘urge [Brazil] to bring a halt to illegal logging and stop invasions of the Awá’s land.’

“In pictures: 2012 March of Resistance in Guatemala City,” Cultural Survival, October 24, 2012, http://www.culturalsurvival.org/news/pictures-2012-march-resistance-guatemala-city, reports, “On October 12th the government of Guatemala commemorates the Dia de la Hispanidad, the day Columbus arrived to the Americas. For the nation’s Indigenous Peoples, however, it’s a day of remembrance of the genocide carried out against past generations and a call to action reinstating resistance to the oppression, exclusion, and violence Indigenous Peoples have faced over a half century since Columbus’s arrival. Each year leaders of grassroots Indigenous organizations convoke a march through Guatemala City to the, past the supreme court, the congress of the republic, to the central plaza and the presidential palace, to highlight
the most pressing issues for Indigenous Peoples nation-wide, including the legalization of community radio.”


Fifteen members of Brazil’s Awá nation, Earth’s most threatened tribe, in early November 2012, made an unprecedented three day bus journey from the relative isolation of their forest homes in Maranhão state, to Brazil’s capital of Brasilia to urge the government to evict illegal invaders and protect their land. Indians also protested against plans to enact a piece of draft legislation called Directive 303, which prohibits the expansion of indigenous territories. The Awá, supported by other Indigenous people, made the long journey to confront government officials after direct appeals for help, including an international campaign by Survival International that had at that time generated more than 41,000 protest emails, that were repeatedly ignored. On November 6, the Indians protested outside Brazil’s Ministry of Justice, the body ultimately responsible for putting a stop to the alarming destruction of their land. They had been due to meet the Minister, but the talks were cancelled. Throughout the rest of the week, the Awá, along with other indigenous peoples, held meetings with Brazil’s Public Prosecutors’ Office, its Indigenous Affairs Department, and the Solicitor General’s Office. Their trip was supported by CIMI, an indigenous rights organization in Brazil. Illegal logging has left the Awá, a tribe of 460 people, surrounded and unable to continue living as one of the world’s last hunter-gatherer tribes. Hemmed in by illegal settlers, and prevented from supporting their self-sufficient lifestyles through hunting, the tribe has become increasingly desperate. According to a recent report by research institute Imazon, one Awá territory lost the most forest of any indigenous reserve between 2009 and 2011: 3.5% of its total area, where illegal logging has already destroyed 30% of rainforest in this particular territory, since 1985. Satellite data from space research agency INPE also shows that the Arariboia reserve (home to about 60 uncontacted Awá), was one of the three indigenous reserves which suffered the worst burning by loggers in August and September 2012 (“Earth’s most threatened tribe make unprecedented visit to Brazil’s capital,” Survival International, November 7, 2012, http://www.survivalinternational.org/news/8793).

“London visit by Indonesian President fuels human rights protests,” Survival International, October 30, 2012, http://www.survivalinternational.org/news/8773, reports that Survival International joined dozens of protesters, October 31, 2012, demonstrating against Indonesia’s brutal repression of West Papua’s tribal people, coinciding with the country’s first state visit to London in 33 years of Indonesian President Susilo Bambang Yudhoyono (known as SBY). Human rights campaigners used his visit to “highlight UK links to an Indonesian ‘death squad’, which has been implicated in the murder of independence leaders. Special Detachment 88 was formed to combat terrorism after the 2002 Bali bombings, and receives funding for training from the UK, Australia and the US. The UK’s Counter Terrorism Program spends hundreds of thousands of pounds training the force through the Jakarta Centre for Law Enforcement Co-operation. But serious concerns surround this elite Indonesian police unit, which has been allegedly deployed to suppress violently West Papuans who are peacefully seeking independence. Research reports and witness statements hold Detachment 88 responsible for the murder of respected West Papuan leader Mako Tabuni in June 2012, and the 2009 killing of Kelly Kwalik, a resistance fighter who had denounced violence. West Papua has been ruled by Indonesia since 1963, and attacks against tribal and indigenous people by security forces are commonplace.”

INDIAN AND INDIGENOUS DEVELOPMENTS:

Environmental Developments
While climate change continues to affect local peoples, threatening to overtake islands and affecting traditional ways of life, there is also hope for change in how we relate to the environment as a society. Whether on the level of indigenous groups gaining back sacred lands (see “Black Hills auction halted” and “Sacred land returns to Iroquois”) or new national fuel efficiency standards (“Obama administration releases new vehicle emissions standards”) battles to preserve the quality of the environment in the last several months have occasionally met with success. These stories highlight some of the positive and negative environmental developments over the past several months, on the international stage, nationally in the U.S. and with indigenous groups of North America.

Indigenous Developments

Snowmaking to begin on San Francisco Peaks

Arizona Snowbowl plans to begin artificial snowmaking as early as mid-December, according to the Arizona Daily Sun. Snowbowl is located on the San Francisco Peaks, a mountain sacred to several tribes in the Southwest. The Daily Sun calls this “The true beginning” of a project to make snow out of reclaimed water which has been the subject of legal debate since 2005. It is estimated that snowmaking could allow the ski area to be open about twice as long as during the past decade.


Contestation over Navajo Nation’s Grand Canyon resort project

Navajo Nation Presidency Ben Shelley signed a Memorandum of Understanding in spring of this year which started feasibility studies for a resort just east of Grand Canyon National Park. The “Grand Canyon Escalade”, which would be developed by Confluence Partners, LLC, would be located at the confluence of the Little Colorado and Colorado Rivers. The 420-acre project would include a tram gondola to the bottom of the Grand Canyon, a resort, a restaurant inside the Grand Canyon, a vendor village, and a new trail.

Confluence Partners, LLC asserts the project would create 2,000 jobs, mostly for Navajo tribal members. The project is expected to generate $50-95 million for the Navajo Nation. However, there is opposition by some both within and outside of the Navajo Nation. Some of the opposition is from citizens nearest to the proposed development, the “Save the Confluence” group, and groups such as Grand Canyon River Guides. Opposition to the project is also coming from the Hopi Tribe. Hopi leaders unanimously approved a resolution formally stating their strong opposition to the project.
Hopi Vice Chairman Herman G. Honanie said that the development will “significantly and adversely impact Hopi sacred places.”


B.I.A. holds listening session on sacred sites

“Sacred sites long have been battlegrounds between federal and tribal governments when it comes to policies,” writes Jenny Kane of the Daily Times. In an attempt to move beyond this challenging history, a series of listening sessions on sacred sites was held by the U.S. Department of the Interior (D.O.I.) in August. The first meeting, held in Albuquerque on August 13, included four dozen tribal leaders from New Mexico, Arizona. Meetings were also organized in Montana, Minnesota, Oregon and Connecticut. The intention of the sessions is to assist in developing policies leading to comprehensive, effective, and long-lasting federal protection of, and tribal access to, sacred sites. Such a policy could potentially take the form of a consultation policy specific to sacred sites or greater legal protections for sacred sites.

One of the questions to be discussed is whether the D.O.I. should attempt to define the term “sacred site”. Other issues on the table include facilitating tribal access to sacred sites, management of tribally-provided information about sacred sites, who should be consulted on sites, and views on existing department practice. Susan Montoya Bryan of the Associated Press notes: “Tribal leaders said they’re frustrated. Some feel consultation between the federal government and tribes has become just a formality despite promises by the [Obama] administration to improve discussions.”

Dion Killsback, counselor to the assistant secretary of Indian Affairs noted the importance of including tribal leaders at the outset of projects. Donald E. “Del” Laverdure, assistant secretary of Indian Affairs, said in a press release “Our nation-to-nation relationship is one that is based upon mutual respect and that includes an ongoing dialogue about places central to Indian identity and cultural ways of life.” (Susan Montoya Bryan, Associated Press, ABQ Journal, “Hearing Held on Native Sacred Sites”, 08/14/2012, http://www.abqjournal.com/main/2012/08/14/abqnewsseeker/feds-hold-hearing-on-native-sacred-sites.html; Jenny Kane, The Daily Times, “Native Americans speak out to preserve sites”, 08/13/2012, http://www.daily-times.com/farmington-news/ci_21306283/native-americans-speak-out-preserve-sites)

President Obama signs HEARTH Act

On July 30th, President Obama signed the Helping Expedite and Advance Responsible Tribal Homeownership (HEARTH) Act of 2011. This law was also passed unanimously by the U.S. Senate. This amends the Long-Term Leasing Act of 1955. The land law allows tribes to manage their own long-term land leasing, and to enter into certain leases of surface land without federal government approval. Gila River Indian Community Governor Gregory Mendoza, present at the signing, said "This action by the President is a long awaited victory for tribes, tribal housing programs and tribal economic development across Indian country.” (Ashley Loose, ABC-15, President Obama signs HEARTH Act giving Indian tribes more land independence", 07/30/2012, http://www.abc15.com/dpp/news/national/president-obama-signs-hearth-law-giving-indian-tribes-more-land-independence)

Bison Herd Restored to Fort Peck

The Assiniboine & Sioux Tribes at Fort Peck in Montana received 82 bison from Yellowstone National Park earlier this year and released them in July onto a 2,100 acre range. Tragically, on September 11th and
12th a forest fire swept through most of the range, claiming 10 of the herd. Still, Fort Peck plans to open 5,000 additional acres in preparation for the bison herd to grow into the hundreds. About half of the current bison herd will be transferred to Fort Belknap Reservation once fencing is completed there. (Talli Nauman, Native Sun News, "Montana wildfire hinders tribes’ buffalo recovery efforts", 10/02/2012, http://www.indianz.com/News/2012/007268.asp)

Navajo/Hopi water rights settlement voted down

A water rights settlement involving the U.S. federal government, the Hopi Tribe, and the Navajo Nation has been halted due to opposition by the governments of both groups. Senate Bill 2109, also called the Navajo-Hopi Little Colorado River Water Rights Settlement Act of 2012, was sponsored by Senators John McCain and Jon Kyl of Arizona. SB 2109 would have allocated $350 million to three drinking-water projects for reservation communities, but it also would have required the tribes to cede future water-rights claims to the Little Colorado River, by quantifying the amount of water the tribes have right to and preventing them from making further additional claims. The Hopi Tribe voted against the settlement in June, and the Navajo Nation did the same in July. Clara Lee Pratte, executive director for the Navajo Nation Washington Office noted that there were tribal members with strong feelings on both sides of the water settlement issue. Hopi Chairman Vernon Masayesva said that he felt a water deal needed to be done, but not this one, and that the parties wanted to restart the process with a clean slate. Opponents to the proposal claim the bills was “pushed on them with little opportunity to digest the complex plan,” although supporters of the bill deny this. The settlement was met with several protests within the Navajo Nation. (Ryan Clark, Cronkite News, “Tribal water-rights bill all but dead for this congress, officials say” 08/21/2012, http://cronkitenewsonline.com/2012/08/tribal-water-rights-bill-all-but-dead-for-this-congress-officials-say/; Anne Minard, Indian Country Today, “Little Colorado River Water Rights Bill Met With Protests From Navajo and Hopi Communities”, 04/14/2012, http://indiancountrytodaymedianetwork.com/article/little-colorado-water-rights-bill-met-with-protests-from-navajo-and-hopi-communities-108320)

Ice-free Arctic impacts Inuit

Sea ice in the arctic hit a record low this year. Rapid change in the arctic is harming not only wildlife, but the indigenous peoples who depend on them. Ed Struzik, in Yale Environment 360, reports on an expedition to the Arctic, and of the effect of sea ice loss on the Inuit. One community on Baffin Island, which usually harvest 60 whales in their spring hunt, were only able to harvest three – a result of ice too thin to hunt on and orcas in the now ice-free waters. There are other effects as well. As the ice declines, outsiders are entering the area more frequently. Steel company ArcelorMittal will extract 21 million tons of iron ore from Baffin Island over the next two decades, requiring the construction of a 70-mile railroad that Inuit fear will affect hunting. Meanwhile conservation groups, concerned over rapidly declining populations of ice-dependent wildlife, are increasingly calling for a ban on fishing in the Arctic, new protections for polar bears, and other conservation measures that could impact the Inuit’s way of life. Frank Tester, from the University of British Columbia, an Inuit expert, warns that anyone planning a future for the Arctic must undertake meaningful consultation with the Inuit, one of the groups most affected by dramatic changes in the arctic. (Ed Struzik, “As Arctic Melts, Inuit Face Tensions with Outside World”, 10/01/2012, http://e360.yale.edu/content/feature.msp?id=2577)

Tribes oppose Northwest coal terminals

In the Pacific Northwest, a deluge of coal export terminals are being proposed, but not without tribal and environmentalist opposition. Lummi tribal leaders have come out against the ports, and the Affiliated Tribes of Northwest Indians, which represents over 50 tribes, have demanded a collective environmental impact statement for the proposed ports. Kris Jonson of the New York Times notes “A tribal-environmental alliance goes far beyond good public relations. The cultural claims and treaty rights that tribes can wield – older and materially different, Indian law experts say, than the Sierra Club or its allies might muster about federal air quality rules or environmental review – add a complicated plank of discussion that courts and regulators have found hard to ignore”. Coal producers are seeking to export to Asian markets, particularly due to the decline U.S.

Belo Monte dam occupied

As of October 10th, the conflict over the Belo Monte hydroelectric dam in the Amazon rainforest in Brazil continues on. In early October, a group of 80-120 of indigenous demonstrators, along with fishermen and activists, occupied the construction site of the dam. The occupation, titled “Xingu Alive Forever”, targeted the dam, which is located on the Xingu River (a tributary of the Amazon). The dam, if completed, will be among the largest in the world, and locals fear that it could block and dry up rivers they use for traveling and fishing. The Xingu Alive website said that occupiers would not leave “until all demands are met” and accused the backing company, Norte Energia, of backing out of a deal signed with indigenous groups this summer after a several week occupation by said groups. Norte Energia has called the occupation an “invasion.” The protest was peaceful, according to Xingu Alive, while Norte Energia claims there was hostage-taking and an injury. Protesters reported to Amazon Watch “We are witnessing the devastation of this land. The island of Pimental was completely destroyers, with a sole tree left standing, and the water is putrid. It is very shocking.” Xingu Alive includes members of 6 different local indigenous groups.

The dam, according to the Epoch Times, would be completed in 2019, and flood an area of 300 square miles, leading to the displacement of 16,000 people, according to the Brazilian government, while Amazon Watch claims the number would be higher, with 40,000 people possibly being displaced by this. Brazil has planned to use $1.2 billion to aid displaced locals. (Alex Johnston, Epoch Times, “Amazon Tribes Occupy Huge Dam Construction Site”, 10/13/2012, http://www.theepochtimes.com/n2/world/amazon-tribes-occupy-huge-dam-construction-site-302126.html)

Sacred land returns to Iroquois

100 acres of sacred land will be returned to the Iroquois. The Brookfield Renewable Power Company announced on October 6th that it would transfer this land to the Iroquois. The land has been out of tribal hands since 1703. For the last twenty years, Iroquois people have risked rugged terrain, arrest and fines for entering the sacred site. Doug George-Kenentiio, an Akwesasne Mohawk with the Hiawatha Institute for Indigenous Knowledge (which helped oversee the land transfer) writes that the site is called Kahon:ios in Mohawk. He states that it is “the site where Skennenrahowi, the Peacemaker, convinced the Mohawks to accept the Great Law of Peace and thereby make possible the formation of the world’s oldest confederacy of nations.” George-Kenentiio notes: “For the first time in generations, the Iroquois people celebrated the return of a part of their ancestral lands without prolonged litigation or the animosity of local residents.” (Doug George-Kenentiio, “Sacred land returned to Iroquois tribes”, 10/09/12, http://www.indianz.com/News/2012/007350.asp)

Great Lakes wolf hunts start amid protest

Wisconsin and Minnesota began their first wolf hunting season in over a generation in October, and Great Lakes area tribes have expressed their disapproval. The hunt has been justified on the grounds that, after having been removed entirely, there are so many wolves now that people and their property are in danger. There is a population of several thousand wolves in Minnesota, Wisconsin, and Upper Michigan, and there have been incidents of attacks on pets and livestock attributed to wolves. The state of Wisconsin is using the hunt to reduce wolf numbers, allowing as many as 200 wolves to be killed, with the tribes receiving 85 of the permits, but the tribes are planning on refusing to take any. Eleven tribes sent a letter to the head to the Wisconsin Division of Natural Resources (DNR) opposing the hunt, citing treaty rights against taking these many wolves. Wisconsin DNR responded that treaty rights only apply to the harvesting of wildlife, not their protection.
Great Lakes Indian Fish and Wildlife Director Jim Zorn claims that the wolf population is not large enough for a hunting season and that “There’s still a level of hunt that’s taking place that’s unacceptable to the tribes. To that extent I’m not sure the tribes feel their views are fully respected or taken into account.” The state has agreed that the wolf hunt will not occur on reservation land in Wisconsin, but wolves can still be killed in surrounding “ceded territory.” Lac Courte Oreilles tribal council member Rusty Barber compared the eradication of wolves historically with government-sponsored genocide of indigenous peoples, saying “That happened to the Anishinaabe and that also happened to our brother the wolf.” “It’s almost like you’re hunting our bothers” says Kurt Perron, chair of the Bay Mills Community in Michigan, who also notes the cascading ecosystem effects that the removal of top predators would have. (Bob Allen, Interlochen Public Radio, “Tribes Oppose Wolf Hunt”, 09/06/2012, ipr.interlochen.org/ipr-news-features/episode/tribes-oppose-wolf-hunt/2012-09-06; Mike Simonson, Wisconsin Public Radio, “Wisconsin Wolf Hunt Underway Today”, 10/15/2012, http://news.wpr.org/post/wisconsin-wolf-hunt-underway-today)

National (U.S.) Developments

**Keystone rerouted around Sand Hills**

The route for the Keystone XL pipeline has been altered in light of concerns that the pipeline could endanger the water quality of the Oglala aquifer, which provides irrigation water for much of the agricultural land in the U.S. TransCanada Corp, the company behind Keystone XL, submitted a revised route to the Nebraska state government, which includes a 100-mile eastern detour around the Sand Hills. If the Nebraska state government grants approval, TransCanada will be able to submit another application to the U.S. State Department, which rejected a previous application in January. If approved, the $7.6 billion pipeline would transport over 800,000 barrels of oil a day from Canada to the Gulf Coast as early as 2015. President Barack Obama said he was open to reviewing the application, but that a decision would not be made before the November election. (Edward Welsch, The Wall Street Journal, “TransCanada Submits Keystone Pipeline Reroute Plan”, 04/18/2012, http://online.wsj.com/article/SB10001424052702303425504577352651777168314.html)

**Southern leg of Keystone XL receives final approval**

The southern part of the Keystone XL pipeline received its final approval on July 27th. The Army Corps of Engineers gave final permits to the 400 mile leg of the pipeline (dubbed the “Gulf Coast Project”) that will transport oil from Cushing, OK to Gulf Coast refineries. President Obama withheld approval for the time being, however, on the more controversial part of 1,700 mile pipeline – the northern stretch that will go through the northern Great Plans to the oil sands of Canada. President Obama insisted that the company reroute this portion to avoid sensitive lands and water before granting approval.

Environmentalists and landowners have objects to the southern leg on the grounds that it might devastate wetlands, wilderness areas, and other habitats, while some have raised questions about the exacerbation of climate change by drilling the oil sands. A New York Times editorial raises this question: “The climate question must be addressed, if only to give a full accounting of the range of consequences of developing the tar sands, an effort in which the United States will be complicit if it allows the pipeline. That includes the effect of destroying 740,000 acres of boreal forest (a vital sink for greenhouse gases); the carbon dioxide and other greenhouse gases emitted in extracting the oil from the tar sands (a highly energy-intensive process); and the gases emitted by burning the oil.” (The New York Times, “Canada’s Oil, the World’s Carbon”, 07/29/2012, http://www.nytimes.com/2012/07/30/opinion/canadas-oil-the-worlds-carbon.html?ref=keystonepipeline&r=0; John M. Broder, New York Times, “Keystone Pipeline Advances”, 07/27/2012, http://green.blogs.nytimes.com/2012/07/27/keystone-pipeline-advances/)

Department of the Interior releases plan for National Petroleum Reserve
Secretary of the Interior Ken Salazar announced the 1st comprehensive plan to manage the National Petroleum Reserve in Alaska (NPR-A) on August 13th. The plan would open up half of the 23 million acre reserve to oil and gas drilling while keeping half of it off limits. Oil and gas exploration has been done in the area since the 1980’s, but only 3 million acres were leased before, and no oil and gas was being produced. The new plan will allow 11.8 more acres to be leased, while keeping almost half of the land undeveloped. Subsistence hunters and environmentalists have lobbied for protection of the habitat, which is home to 2 of the nation's largest caribou herds.

Environmental and wilderness preservation groups have praised the new plan. Sierra Club’s Athan Manuel said “We’re encouraged by the plan put forth today. The Reserve is the country’s largest, wildest landscape.” Manuel also pointed out that that the area is critical habitat for grizzly bears, wolverines, and waterfowl, and supports Alaska Native communities. Cindy Shogan, director of the Alaska Wilderness league, said the plan provided “a needed balance between responsible development, and conservation of special areas within the reserve.”


European Union airline carbon emissions law fought in U.S. Congress

The European Union has included the airline industry in its attempts to slow climate change through carbon trading – but there is opposition in the U.S. Senate. Senator John Thune (R-S.D.) has introduced legislation to the Senate that would ban U.S. aviation companies from taking part in the European Union Emissions Trading System (EU ETS). The EU ETS incorporated airline flights into its carbon emissions trading system on the grounds that the aviation sector is one of the fastest-growing greenhouse gas emissions sources. The industry produces 3 percent of global carbon dioxide (CO$_2$) emissions. Air travel also produces Sulfur Oxides (SOX), Nitrous Oxides (NOX), and other greenhouse gases. As a result of the EU ETS, trans-Atlantic flights would be leveraged the equivalent of $2-3 per fare. Sen. Thune said “Practically speaking, this means U.S. airlines and passengers will be forced to pay a climate-change tax for flights originating in or destined for the E.U. The E.U. had no authority to impose a tax on Americans flying in American or other non-E.U. international airspace.” He also called it “Taxation without representation.”

Meanwhile, a coalition of environmental groups opposed the bill and lauded the E.U. system. They indicated that a study by the Blue Skies Project of the Center for American Progress and Climate Advisers found that “The European law would drive significant emissions reductions, lowering carbon dioxide emissions by 70 million tons per year – equivalent to taking 30 million cars off the road.” (Talli Nauman, Native Sun News, “Native Sun News: Sen. Thune bill thwarts air pollution controls”, 08/13/2012, http://64.38.12.138/News/2012/006745.asp)

Offshore drilling rules finalized

Government regulators released a set of final rules for offshore drilling on August 15th. Emergency offshore drilling measures have been in place since the 2010 Deepwater Horizon oil spill, which leaked 200 million gallons of oil into the Gulf of Mexico. Over 750 permits for offshore drilling activities have been approved during that time. The final rules will replace these interim emergency rules. Among the new requirements are a provision for third party testing of blowout preventers (like those that failed in the BP oil accident) and measures to ensure that oil flow can be stopped if it starts to happen. The Interior Department estimates the new rule will cost the industry $131 million (which is $53 million less than the interim rules). There has been mixed response to the rules. Reid Porter, of the American Petroleum Institute, said ”We are reviewing the rule and hope
that they carefully considered the language used in the document to allow certainty and clarity for the industry. Our No. 1 priority is safety." Meanwhile, Jacqueline Savity of Ocean (an international ocean-conservation group) had this to say: "They basically said to the oil industry, 'OK, I guess we're going to have to regulate you,' and the industry said, 'OK, here are some things that won't hurt too much." (Josh Lederman, Huffington Post, “U.S. offshore drilling rules finalized by government”, 08/15/2012, http://www.huffingtonpost.com/2012/08/15/us-offshore-drilling-rules_n_1785379.html?utm_hp_ref=green)

First U.S. offshore wind project one step closer

Cape Wind, a proposed 130 turbine wind farm that would be the United States' first offshore wind power project, passed it’s final regulatory test on August 16th, gaining approval (for the second time) from the Federal Aviation Administration (FAA). The FAA concluded that with proper safety protections, the turbines would present no danger to aircraft. Some are unsatisfied with the decision. U.S. Reps. Darrell Issa (R-CA) and John Mica (R-FL) assert that the approval was the result of political pressures, criticizing the agency on the grounds of emails and documents of the agency which "referred to the political nature of the project" according to a Cape Cod Times article. Audra Parker, President of the Alliance to Protect Nantucket Sound, a group opposed to the wind power project, said "We will challenge this. We won once. There's no reason to believe we won't win again.” (Sean Teehan, Cape Cod Times, “FAA rules Cape Wind is not a threat”, 08/16/2012, http://www.capecodonline.com/apps/pbcs.dll/article?AID=/20120816/NEWS/208160311/1/SPECIAL01)

Study says 74% of Americans believe climate change leads to extreme weather

A new poll found that 74% of Americans believe climate change has affected weather in the U.S. 73% agreed that climate change had contributed to record high temperatures over the summer. The poll of over 1,000 individuals was conducted by the Yale University Project on Climate Change Communication and the George Mason University Center for Climate Change. Anthony Leiserowitz of Yale University said “Americans have just experience two years of record-setting extreme weather events, and are increasingly connecting extreme weather in the United States to global warming.” (Jeremy Mance, Mongabay.com, “Over 70 percent of Americans: climate change worsening extreme weather”, 10/10/2012, http://news.mongabay.com/2012/1010-hance-poll-climate-change-us.html#7gyUJB31C1tjf1vm.99)

Shell Arctic offshore drilling plan delayed

Dutch Royal Shell announced that it would delay for another year its plan for off-shore oil drilling, following a series of protests and a long regulatory process. The project also suffered from other delays, such as damage to a containment dome meant to cap an oil spill. The $4 billion offshore drilling project would take place in the Chukchi and Beaufort Seas. Environmental and indigenous groups have argued that the Arctic is unsuitable for offshore oil drilling, because of uniquely challenging conditions for drilling, including its remoteness and weather conditions. Shell wrote that “important progress had made” and that they are still planning on doing preparatory drilling this year in expectation of drilling next year. Greenpeace, however, has labeled this Shell’s “Waterloo”, the de facto end of the project. (Jeremy Hance, Mongabay.com, “Another mishap kills Shell’s Arctic oil drilling for the year”, 09/18/2012, http://news.mongabay.com/2012/0918-hance-shell-arctic-done.html)

Cross-State Air Pollution Rule Struck Down

The U.S. Environmental Protection Agency’s Cross-State Air Pollution Rule was struck down on August 21st. The rule required upwind polluting states – states which meet air quality standards but whose emissions travels to downwind states and worsens their air quality – further reduce their amount of pollution to account for the downwind effects. The main pollutants in question are sulfur dioxides and nitrogen oxides. The rule was struck down by the U.S. Court of Appeals for the District of Columbia. They claimed that the Environmental Protection Agency (E.P.A.) had exceeded its authority in the way it had divided the cleanup cost. The majority opinion contended that the E.P.A. had imposed a federal law instead of allowing states to come up with their own plan, violating the Clean Air Act, and should have used a different system to allocate cleanup costs. Rather than directly
penalizing states for their contribution to downwind pollution, it instead divided up the cost so that states in which cleanup was the least costly would do the most clean up, as a cost saving mechanism.

The E.P.A.’s law was supported by several downwind states, such as North Carolina and various Middle Atlantic and New England States, while the regulations were challenged by several power companies supported by over a dozen Southern and Midwestern states.

Mary Anne Hitt of the Sierra Club estimates that the rule could have prevented 34,000 premature deaths and said that “The court’s ruling today further delays the Clean Air Act’s promise of safe, breathable air for our children.” However, Scott Segal of the Electric Reliability Coordinating Council said that the 2005 Clean Air Interstate Rule is still in place after the court’s decision which, along with the Clean Air Act, “ensures adequate protections remain in place to handle interstate air pollution.” Representative Fred Upton (R-Michigan) said “This is a win for American families, who because of this rule, faced the threat of higher power bills, less reliable electricity, and job losses.”  (Matthew L. Wald, New York Times, “Court Blocks E.P.A. Rule on Cross-State Pollution”, 08/21/2012, http://www.nytimes.com/2012/08/22/science/earth/appeals-court-strikes-down-epa-rule-on-cross-state-pollution.html?ref=greenhousegasemissions)

E.P.A. greenhouse gas regulations upheld in court

The E.P.A.’s ability to regulate greenhouse gases remains intact after a ruling by the U.S. Court of Appeals in July. Twenty-six states and industry groups who challenged the E.P.A. were rebuffed by the District Court.

The E.P.A.’s efforts to regulate climate change causing emissions have been challenged for several years. Under the Bush Administration, the E.P.A. concluded that it did not have the authority to regulate greenhouse gases and would not regulate vehicle emissions of them. However, Massachusetts led a coalition of 12 states, several cities, and non-governmental organizations in suing the E.P.A. over this decision. In 2007, the Supreme Court ruled in favor of this coalition and mandated that the E.P.A. determine if greenhouse gas emissions “endanger public health or welfare” (and thus would be regulated by the E.P.A.). In 2009 the E.P.A. released its “endangerment finding” concluding that greenhouse gases harmed humans and the environment as the main driver of climate change, and they thus became legally required to regulate them. To do so, the E.P.A. issued a “tailoring rule” (requiring that the largest industrial facilities obtain greenhouse gas emission permits), greenhouse gas emission standards for automobiles in April of 2010, and CO₂ rules for new fossil fuel power plants in March of this year.

The coalition of states and industry groups against the regulations argued that the E.P.A. had been “arbitrary and capricious” in these rules and improperly interpreted the Clean Air Act. All three of the E.P.A. greenhouse gas regulations were held up as legally tenable by the court. The court said that extensive scientific evidence had shown that greenhouse gas emissions contribute to climate change, which harms human beings through “extreme weather events, changes in air quality, increases in food- and water-borne pathogens, and increases in temperature,” and that the E.P.A. thus had authority to regulate them. (Shankuntala Makhijani, Worldwatch Institute, “EPA Authority to Regulate Greenhouse Gases Survives Another Challenge,” 07/19/2012, http://www.worldwatch.org/epa-authority-regulate-greenhouse-gases-survives-another-challenge)

Obama administration releases new vehicle emissions standards

In August the Obama administration finalized a new U.S. fuel efficiency standard. According to the new rule by 2025 American cars and light trucks will be required to reach on average at least 54.5 miles per gallon (mpg). That level is higher than any existing fuel-powered cars on the market. The only automobiles at this point reaching that level rely at least in part on plug-in electricity. Dan Becker and James Gerstenzang called the new standard “the biggest single step of any nation to do something about [global warming]” in the Huffington Post. They write that these rules would double the mileage of cars on American roads “cutting in half their global warming pollution.” They also claim that these rules are supported by the auto industry, will save drivers money, and will create 570,000 American jobs, according to the BlueGreen alliance. Becker and Gerstenzang also write that cars and light truck will release 570 million fewer tons of carbon dioxide into the atmosphere.
But some allege that the law does not go far enough. Vera Prade, senior attorney for the Center for Biological Diversity’s Climate Law Institute, says that the law is not quite as it seems. Although she agrees “More fuel-efficient cars and trucks are critical to warding off the worst effects of climate change” she notes that there are several caveats to the 54.5 mpg standard including a 5 mpg air conditioning credit, flexibilities, and unexpected incentives for producing poorly performing vehicles. She writes that “these standards are undemanding.” (Dan Becker and James Gerstenzang, Huffington Post, “How Obama Mileage Rules Will Save Gas and Dollars”, 08/31/2012, http://www.huffingtonpost.com/dan-becker-and-james-gerstenzang/new-obama-mileage-rules-w_b_1836536.html; Vera Pardee, Huffington Post, “Five Dirty Little Secrets Behind the U.S. New Vehicle Mileage Rules,” 08/30/2012, http://www.euractiv.com/specialreport-electric-vehicles/us-electric-car-industry-poised-news-514807; euractiv.com, “Electric car industry poised to overtake Europe”, 09/19/2012, http://www.euractiv.com/specialreport-electric-vehicles/us-electric-car-industry-poised-news-514807)

Summer drought plagues 2/3 of continental U.S.

Much of the interior of the U.S. was stricken by heavy drought conditions in August, with 2/3 of the contiguous United States experiencing some level of drought, according to data released by NASA. Worse yet, 39% of the country was experiencing levels of drought qualifying as “severe to extreme.” NASA’s Drought Monitor program, which can use satellite imagery to assess the health of plants relative to the average over the last decade, found very that vegetation was suffering from drought through much of the mid- and mountain- West. Much of Northern Mexico appeared to be in a drought as well. NASA reports that this is the worst drought since the Drought Monitor program was set up in 2000. Although conditions had somewhat improved in September, Molly Brown, a vegetation and food security researcher for NASA, noted that “I am struck by the extraordinary depth and spatial scale of this drought. There is very little fodder out there for animals to eat.” NASA reported that farmers and ranchers across the U.S. were expecting losses as a result, and that almost two dozen states were eligible for drought aid. (NASA, “Dried Out Vegetation Across America”, 10/03/2012, http://earthobservatory.nasa.gov/IOTD/view.php?id=79316)

Drought in U.S. reaches record levels, hurts agriculture

The drought that swept the U.S. over the summer drying up rivers, exacerbating wildfires and hurting crops seems to have been caused by months of record high temperatures in the continental U.S. The National Oceanic and Atmospheric Administration (NOAA), reports July of 2011 to June of 2012 were the warmest 12 month period since 1895, with every U.S. state (except Washington) undergoing higher than usual temperatures. The average temperature for the 48 contiguous United States was 3.3 degrees above the 20th century average temperature. CNN reported that this heat wave had caused a drought which “battered American farmers’ corn and soybean crops, driven farmers to sell or slaughter cattle they can’t feed and spurred the U.S. Department of Agriculture to designate more than half of all U.S. counties as disaster zones.” (CNN Wire Staff, “Brutal July heat a new U.S. record”, 08/10/2012, http://www.cnn.com/2012/08/08/us/temperature-record/index.html)

Drought: the new normal?

Referencing the most recent drought as well as the 2000-2004 drought Christopher R. Schwalm, Christopher A. Williams and Kevin Schaefer write in an editorial in the New York Times that “Until recently, many scientists spoke of climate change mainly as a ‘threat,’ sometime in the future. But it is increasingly clear that we already live in the era of human-induced climate change, with a growing frequency of weather and climate extremes like heat waves, droughts, floods and fires.” They note that precipitation trends in the upcoming Intergovernmental Panel on Climate Change (IPCC) report indicate that “droughts of this length and severity will be commonplace by the end of the century” if greenhouse gas emissions are not significantly scaled back. Drought conditions could become the “new normal”. Western North America is particularly at risk of a “prolonged, multidecade period of significantly below-average precipitation.” They note that although they do not claim that any single event, such as this summer’s drought, are attributable to global warming “the severity of both the turn-of-the-
century drought and the current one is consistent with simulations accounting for warming from increased greenhouse gases.” They warn that Western cities would have to fundamentally change their water use practices, such as taking fewer showers and regulating lawn watering – moves common during drought that could become permanent parts of life - and some regions might become unsuitable for farming. They write: “There is still time to prevent the worst...But there can be little doubt that what was once thought to be a future threat is suddenly, catastrophically upon us.”

Meanwhile, the Northern Hemisphere in July experienced its 327th consecutive month in which the temperature was higher than the average for the 20th century. (Christopher R. Schwalm, Christopher A. Williams and Kevin Schaefer, New York Times, “OPINION; Hundred-Year Forecast: Drought”, 08/12/2012, http://query.nytimes.com/gst/fullpage.html?res=9B02E3DE1F38F931A2575BC0A9649D8B63&ref=greenhousegasemissions)

Hydrofracking proposed, then delayed, in New York

In June, it was reported that New York Governor Andrew M. Cuomo’s administration was going to pursue a limited hydrofracking plan. Hydrofracking, or “fracking”, is a process of extracting natural gas. Cuomo’s plan would limit drilling to economically struggling communities in certain parts of New York (primarily the upstate and southwest portions) and would permit it only if communities expressed support for it. After the announcement, an activist effort has regularly protested at the state Capitol and the Cuomo administration received tens of thousands of e-mails and letters, mostly against hydrofracking. The Cuomo administration then scaled down their plan to allow 75 hydrofracking permits the first year, now expecting to reduce it to 50.

On September 30th, the New York Times reported that Governor Cuomo’s administration was now reversing its plan on fracking and restarting the regulatory process, a move praised by environmental groups but causing anger among industry and landowners. On September 20th, after four years of review of hydrofracking, Governor Cuomo decided to have another study conducted, this one on the potential impact of hydrofracking on public health. This would require a number of formal steps, such as a public hearing, delaying fracking most likely at least until 2013. Environmentalists and celebrity activists opposed to hydrofracking may have influenced the decision. Robert F. Kennedy, Jr. environmental activists said “We’ve never seen anything like this in terms of grass-roots power. In 30 years, I have not seen anything come close to this, in terms of mobilization of the grassroots.”

Mr. Cuomo said publicly that the further study of, and public input on, fracking did not signal an end to the process, but a part of making sure “the decision will be made based on the science.” Katherine Nadeau at Environmental Advocates of New York said, “From what I can tell, it doesn’t seem to me that the administration is necessarily backing off, but they are listening to the enormous public concern and outcry and making sure to take this incredibly slowly.” (Danny Hakim, New York Times, “Shift by Cuomo on Gas Drilling Prompts Both Anger and Praise”, 09/30/2012, http://www.nytimes.com/2012/10/01/nyregion/with-new-delays-a-growing-sense-that-gov-andrew-cuomo-will-not-approve-gas-drilling.html?pagewanted=2&ref=naturalgas; New York Times, “Natural Gas (Fracking)”, 06/13/2012, http://topics.nytimes.com/top/news/business/energy-environment/natural-gas/index.html?8a)

Climate change not mentioned in presidential debates

For the first time since 1988, climate change was not mentioned in any of the presidential debates. A recent Huffington Post article notes “To some, it is a sign that climate change has become a niche issue – and is now being treated like any other special interest. To others, the candidates are merely playing the political offs in an election in which Americans are highly focused on jobs and other more immediate concerns.” Environmental activists and climate scientists criticized the omission. Michael E. Mann, climatologist, physicist, and director of the Earth System Science Center at the University of Pennsylvania said it was unfortunate that the moderator did not bring it up in the final (foreign policy) debate “given that climate change may be the greatest challenge we face in the decades ahead.” (Tom Zeller Jr. and Joanna Zelman, Huffington Post, “Climate Change Not
California cap-and-trade market starting in January

On January 1st, California will begin what the New York Times has called “its grand experiment in reining in climate change” by becoming the first state to use a cap and trade system to charge industries for producing greenhouse gases. The law is known as A.B. 32 and its goal is to lower California’s greenhouse gas emissions to 1990 levels by 2020 (a 30% reduction). A maximum will be set on the emissions allowable for the state and individual polluters will be assigned their share of allowable emission amounts to keep the state under this pollution ceiling. Over time, the allowances would be reduced, causing a reduction in emissions. The law sets up a carbon market where companies can buy carbon allowance credits, either by purchasing them from emitters who produced less greenhouse gas than expected (and how have leftover allowances as a result) or by financing projects that remove CO$_2$ and greenhouse gases from the atmosphere, such as protecting carbon sequestering woodlands and tree planting projects.

The California plan is seen as a trial run, to show if the system works and can be replicated elsewhere in the U.S. Some are concerned about the effects on California’s economy. A national cap-and-trade system, proposed by President Obama in his first budget proposal and also by the House in an energy bill, was blocked in 2010 in the Senate. (Felicity Barringer, New York Times, “Grand Experiment to Rein In Climate Change”, 10/13/2012, http://www.nytimes.com/2012/10/14/science/earth/in-california-a-grand-experiment-to-rein-in-climate-change.html?ref=earth)

**International Developments**

**Freshwater Fish Extinction Rate 877 Times Faster than Average**

From 1900-2010, North American freshwater fish species went extinct at a rate 877 times faster than the rate found in the fossil record, according to new data from the U.S. Geological Survey published in the September issue of the journal BioScience. While in the fossil record, a North American freshwater fish species would go extinct about every 3 million years, 39 species have been lost and 18 subspecies between 1898 and 2006, a dramatic increase in how fast fish go extinct. Noel Burkhead, the author of the study, also says the rate of extinctions over the last 100 years is probably higher than that – “Estimates of freshwater fish extinctions during the twentieth century are conservative,” he said “because it can take 20-50 years to confirm extinction.” The study also finds that by 2050, the extinction rate could double. Researchers are estimating that 53-86 species of freshwater fish may go extinct by 2050. Currently, about four in ten North American freshwater fish are endangered. The dramatic increase in fish extinctions “suggests human causes”, according to Andy Soos of ENN. Overall, 39 freshwater fish species have been confirmed as extinct since 1898. (Andy Soos, ENN, “Freshwater Fish Extinction”, 08/12/2012, http://www.enn.com/wildlife/article/44794)

Lake Titicaca endangered by pollution

Lake Titicaca, anciently a sacred site for the Inca and a support of indigenous fishing and farming communities for millennia, is now in danger of being overwhelmed by pollution from dramatic population growth in Bolivia and Peru. Although much of the water is still clean, the rivers that feed into it are becoming progressively polluted, which poses a significant threat to the lake. The community of El Alto, which has grown to a million people, has a very small budget for the huge influx of laborers, and therefore does not treat much of its water – and that wastewater ends up in Titicaca. Sara Shahriari of Indian Country Today writes “The rest of the water goes directly into rivers, which now display a sickly rainbow of colors—red with blood from slaughterhouses, green with chemicals from tanneries, and a deep orange from mineral processing waste.” Thousands of children die daily due to the sanitation problems that this condition produces and the associated illness. Plastics and garbage are also ending up in the river and, eventually, Lake Titicaca. Smaller
communities have similarly insufficient infrastructure. Tourism, mercury-producing gold mining operations, and cattle grazing also present challenges for the watershed. Various small projects are underway to attempt to deal with these challenges. (Sara Shahriari, Indian Country Today, 05/14/2012, “Sacred Lake Titicaca is being Drowned by Pollution”, http://indiancountrytodaymedianetwork.com/2012/05/14/sacred-lake-titicaca-is-being-drowned-by-pollution-111423)

The green Olympics

The environmental practices of the London Summer Olympics drew international praise. A senior United Nations chief gave praise to the environmental sustainability measures taken by the United Kingdom. Achim Steine, executive director of the UNEP (the UN’s Environment Program) touted the sustainability measures as examples for those who will host the games in the future. She cited as examples London cleaning up an old industrial site, riparian restoration, “the greening of supply chains”, low energy measures, and the use of temporary structures. Other practices include the recycling of the water from the construction of the Olympic Park in London and the commitment by London to measure its carbon footprint for the project. UNEP has consulted with the International Olympic Committee (IOC) since the mid-1990s to encourage host cities on measures that protect the environment and use resources wisely. (ClickGreen Staff, “United Nations hails green credentials of London’s Olympic Games”, 07/26/12, http://www.clickgreen.org.uk/news/international-news/123654-united-nations-hails-green-credentials-of-london%5Cs-olympic-games.html)

Famine in Somalia

More than 200,000 people in Somaliland are experiencing food and water shortages after three years of drought conditions. Moderate rain in early August brought some relief to parts of the Sahil region, but also danger with it, producing flash floods. Heavy rains displaced hundreds of families in Hargeisa and near the border with Ethiopia. An article in Somaliland Press notes “Rain seasons have become unpredictable in recent times.” (Qalinle Hussein, Somaliland Press, “Somaliland: Rains bring relief in Berbera after three years but drought remains”, 08/01/2012, http://somalilandpress.com/somaliland-rains-bring-relief-berbera-years-drought-remains-32899)

Global warming and heat waves are linked, says disputed study

According to a recent study the percentage of the earth’s land experiencing extreme summer heat has climbed from less than 1% before 1980 to as high as 13% currently. The study, published by James E. Hansen and others in the Proceedings of the National Academy of Sciences claims that this finding can allow scientists to say with near certainty that extreme heat events such as the Texas heat wave of 2011, the Russian heat was of 2010 and the European heat wave of 2003 are the result of climate change due to greenhouse gas emissions. According to Justin Gillis of the New York Times “Those claims…go beyond the established scientific consensus.” The paper has produced a divide among climate experts. While some think the approach to understanding heat waves (as a result of human-caused climate change) is useful, others say the claim is statistically weak and contains little evidence for the bold claims. Martin P. Hoerling of the National Oceanic and Atmospheric Administration said “This isn’t a serious science paper. It’s mainly about perception, as indicated by the paper’s title [“Perceptions of Climate Change”].”

Tuvalu threatened by climate change

One of the smallest countries in the world, Tuvalu is a small cluster of nine coral atolls and islands situated in the South Pacific about halfway between Australia and Hawaii. It has a population of fewer than 12,000 people inhabiting 10 square miles (which is about a third of the size of Manhattan). The country’s existence is threatened by both climate change and pollution, according to a recent article in the New York Times. The lowest point in the island nation is just above sea level, where it almost appears you are looking up at the ocean. Data from the National Research Council in the United States predict a sea level rise of as much as 55 inches by 2100.

At the same time, rising acidity in seawater is damaging the coral foundations of Tuvalu, as well as coastal erosion due to development activity, harsh weather, and the rising sea level. Usable land dwindled in the aftermath of World War II, where much of the coral base was used for an airbase, and a population doubling since 1980 led many inhabitants to find habitation in houses on stilts over “borrow pits” – pits left from extraction of coral by the U.S. military. These pits are found on the coastline areas polluted by human and animal wastes and trash, which are a source of health concerns. The Army Corps of Engineers described this in a recent report as “a health hazard” that needs to be managed “for the safety of the people and longevity of the island.” (Matt Siegal, New York Times, “A Tiny Pacific Island Nation That Does Not Smell Like Paradise,” 08/16/2012, http://www.nytimes.com/2012/10/17/world/tuvalu-a-pacific-landscape-befouled.html?pagewanted=1&ref=globalwarming)

Kyoto Protocol emissions offset market challenges

As the first phase of the Kyoto Protocol’s emissions offset market end, news commentators and environmentalists have mixed feelings about the actual effects of this program, which is part of the broader Kyoto Protocol efforts at greenhouse gas reduction. Andrew Burger of Triple Pundit reports that the amount of offsets are “a thousand times greater than the anticipated demand of 11.5 million mega tons (Mt)”, with a surplus of 13 billion giga tons (Gt). The second phase of this program goes into place next year, and the surplus of emissions offsets could reach 17.2 Gt.

Burger notes “The combination of weak 2020 national emissions reduction pledges on the part of developed countries, leniency as to the use of offsets and the burgeoning surplus renders the Kyoto Protocol and national emissions markets ineffective and incapable of fulfilling their fundamental reason for being: achieving significant reductions in carbon and greenhouse gas (GHG) emissions worldwide.”

In fact, with the allowances provided by these surplus offsets, developed countries may be able to emit 3.6 billion more metric tons of CO2 annually, than they would have even under worst-case “business-as-usual” projects until 2020, according to a study by Thompson Reuters Point Carbon. The study also notes that while there is a compelling goal – a global shift to green economies - and data to suggest that market mechanisms like these could lead to a green energy transition, the “performance to date show otherwise.” (Andrew Burger, Triple Pundit, “Huge Oversupply Renders Kyoto Protocol Emissions Market Ineffective”, 09/17/2012, http://www.triplepundit.com/2012/09/huge-oversupply-low-targets-render-kyoto-protocol-emissions-market-ineffective/)

Kyoto offset perverse incentive

There are also other adverse effects, as noted by the New York Times. Under the UN climate change reduction system, manufacturers in developing nations are compensated for emissions reductions – the more the gas contributes to global warming, the more compensation. As a result, however, some manufacturers are now making heavier profits by destroying an obscure refrigerant gas that counts as 11,000 times as much as CO2, the most abundant greenhouse gas. This in turn has lead 19 plants in the developing countries to increase production of the coolant, and to keep it high, so that they can then be paid to reduced (and credits gained) – a problem because the gas can lead to climate change as well as ozone depletion. “That means, critics say, that United Nations subsidies intended to improve the environment are instead creating their own damage,” according to the
New York Times. Since the program began, 46% of the credits have gone to these 19 coolant factories. In 2012, that number will be 18% of the credits for that year.

The UN and EU are attempting to undo this perverse incentive through new rules and banning the coolant. The EU has now said it will no longer accept these “waste gas credits” in its own carbon trading market, the largest in the world, the EU Trading System (EUTS). And the UN has refused since 2007 to award carbon credits to new factories doing the practice of destruction of waste gas.

The UN began issuing carbon credits in 2005, as part of the Clean Development Mechanism. The system awards companies which reduce emissions in the developing world credits, which they can then sell on global trading markets. Carbon dioxide is used as the standard by which other gases are priced. Some of the purchasers of such credits are power plants in Europe whose own emissions are higher than European limits, nations attempting to keep their Kyoto Protocol commitments by buying these credit “offsets”, and environmentally conscious companies.

However, Jennifer Haverkamp from the Environmental Defense Fund replies “Nations with firm caps on emissions are on track to cut pollution significantly, with little reliance on the bogus credits…We should not thumb our noses at well-structured carbon markets because of one system’s failed element. Attention and efforts should be focused on the real issues: ensuring the integrity of the market and the effectiveness of the effort”. (Elisabeth Rosenthal, The New York Times, “Profits of Carbon Credits Drive Output of a Harmful Gas”, 08/08/2012, http://www.nytimes.com/2012/08/09/world/asia/incentive-to-slow-climate-change-drives-output-of-harmful-gases.html?pagewanted=1&adxnnlx=1354223728-y0pDv1WKNTyqJJaX1bkr2Q)

Amazon forest decline

Forest coverage in the Amazon declined by 6% from 2000 to 2010, according to an updated map from RAISG, a joint effort by organizations from 11 countries funded by the Ford Foundation and several other foundations. RAISG found that protected areas equaled 1.7 million square kilometers, while indigenous lands equaled 1.6 million square kilometers, or 45% of the Amazon. Another 475,168 square kilometers of native territories are proposed for protection. The article claims that there are 33.7 million people living in the Amazon basin, including 385 indigenous tribes and at least 71 isolated groups. The article notes however, that “The map relies on official government data, so areas that may be protected on paper, may not be protected on the ground”. (Mongabay.com, “New forest map shows 6% of Amazon deforested between 2000 and 2010”, 09/21/2012, http://news.mongabay.com/2012/0921 raisg amazon map.html)

Climate Change impacting the Maasai

Traditional Maasai cattle breeders in north-eastern Tanzania have been devastated by drought in the past three years as herds of livestock have been decimated. Available data show a loss of 120,000 head of cattle in Longido District – over half of a 200,000 herd. This has prompted a change in the Maasai’s herding activity, even as the region starts to experience rain again. Ngaiyok Legisho Kipainoi, a 35 year old Maasai, comments that “The days of keeping many heads of cattle for prestige is gone – thanks to the 2009 drought. It has taught us a lesson. A lesson to adapt to climate change.” Lucas Liganga of The Citizen notes that climate change could lead to more careful management of herds. Cross-breeding experiments are one such attempt at adaptation. Village elders have also adopted practices such as restrictions on grazing on communal lands for certain parts of the year. However, according to Liganga, “Miseries and anguish inflicted on pastoral communities of Longido district…by the 2009 drought that was attributed to climate change are still fresh in the minds of its surviving victims.” (Lucas Liganga, The Citizen, “SPECIAL REPORT: How climate change is transforming Maasai pastoralists’ life”/“Longido: Scares of 2009 drought still fresh”, 06/19/2012, http://thecitizen.co.tz/news/-/23314-special-reporthow-climate-change-is-transforming-maasai-pastoralists-life)

Wind power accelerating in Europe
European countries are building offshore wind energy at an increasingly rapid rate. According to a study released by the European Wind Energy Association, in the first half of 2012 132 new offshore wind turbines became operational in Europe. In June 2011, 3,294 megawatts of energy was being produced by offshore wind in Europe, enough to power 4 million households. That number now stands at 4,336 megawatts as of June, and will increase another 3,762 megawatts as 13 wind farms under construction go online. The main leader in this effort has been the United Kingdom. David A Gabel of the Environmental News Network notes “At a time when the United States is struggling to build just one offshore wind farm, Europe is plowing ahead at an accelerating rate….It demonstrates the strong European commitment to phasing out fossil fuels and expanding renewable energy.” (David A Gabel, Environmental News Network, European Offshore Wind Energy Continues to Grow by Leaps and Bounds, 07/24/2012, http://www.enn.com/business/article/44705)

Arctic sea ice at record low

In what the New York Times has called a “dramatic melting”, Arctic sea ice cover reached a record low in September. On September 16th, ice covered only 24% of the Arctic Ocean – by contrast, when satellite tracking began in the 1970s, sea ice typically only went down to about 50% during the summer. The dramatic loss of ice coverage has caused new warnings about the rapid pace of climate change in the Arctic, one of the regions most affected by climate change.

Walt Meier, research scientist at the National Snow and Ice Data Center (NSIDC), noted that effects of this loss of ice include effects on polar bears, native communities, and the loss of the Arctic as the “air-conditioner” for the planet. The New York Times notes “Scientists consider the rapid warming of the region to be a consequence of release of greenhouse gases, and they see the melting as an early warning of big changes to come in the rest of the world.” The loss of Arctic sea ice, some fear, may already be altering atmospheric patterns and contributing to extreme weather in the U.S. and elsewhere.

Sea ice is melting much faster than predicted by the 2007 IPCC (Intergovernmental Panel on Climate Change) report. The IPCC then estimated that ice would not entirely disappear from the Arctic until the middle of the century, but now some scientists predict it could be gone by as early as 2020. The loss of ice may also potentially cause a positive feedback loop, since ocean water (liquid) traps more heat than ice, so as ice disappears, the ocean becomes warmer, and more ice disappears. As a consequence, in part, of glacial melt, the sea is now rising at an estimated one foot per century, but some scientists feel the rise could increase, imperiling coastal communities. (Justin Gillis, The New York Times, “Ending Its Summer Melt, Arctic Sea Ice Sets a New Low That Leads to Warnings”, 09/19/2012, http://www.nytimes.com/2012/09/20/science/earth/arctic-sea-ice-stops-melting-but-new-record-low-is-set.html; John Taylor, Huffington Post Impact (UK), “Arctic Sea Ice – a Clear Warning”, 08/31/2012, http://www.huffingtonpost.co.uk/jon-taylor/arctic-sea-ice-warning_b_1842087.html)

Antarctic ice and climate change

At the same time as Arctic sea ice reached a dramatic low, satellite data showed that sea ice in the Antarctic has actually reached record high levels, with the September 2012 monthly average as a record. The increase is largely attributed to stronger circumpolar winds than usual (which blow sea ice outward) since temperatures over Antarctica were near average at the time and temperatures in the Antarctic do not tend to bring the sea ice above melting level.

Despite this increase, climate change could dramatically affect Antarctica in the future. A research study published in Proceedings of the National Academy of Sciences showed how warming waters in the Southern Ocean are connected with the movement of massive sheets of ice deep in Antarctica’s interior. It was found that warming
could cause interior parts of the ice-sheet to become thinner and move quicker. This is important because of the potential impact of Antarctic ice sheets on sea-level rise if they rapidly shift, a factor not incorporated fully into the last IPCC report when there was less data on the ice sheet. (ScienceDaily, “Arctic Sea Ice Shatter Previous Low Records; Antarctic Sea Ice Edges to Record High”, 10/03/2012, http://www.sciencedaily.com/releases/2012/10/121003103719.htm?utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A+sciedaily%2Fearth_climate%2Fclimate+%28ScienceDaily%3A+Earth+&+Climate+-+Climate%29&utm_content=Google+Reader; Chris Fogwill and Bob Beale, UNSW Australia, “Warming ocean could start big shift of Antarctic ice”, 09/19/2012, http://newsroom.unsw.edu.au/news/science/warming-ocean-could-start-big-shift-antarctic-ice)

Climate change and Europe

Climate change’s effects on European weather are the focus of recent work by scientists in the region. Dr. Edmond Hansen of the Norwegian Polar Institute said in regards to the melt “As a scientist, I know that this is unprecedented in at least as much as 1,500 years…It is a huge dramatic change in the system.” Dr. Kim Holmen of the Norwegian Polar Institute notes in regard to the sea ice melt “It is a greater change than we could even imagine 20 years ago, even 10 years ago.” Alan Thorpe of the European Centre for Medium-Range Weather Forecasting says that Arctic melt and European weather are linked in a complicated manner now being researched. Sea ice reduction coupled with warmer than average sea surface temperatures in the Atlantic could lead to storms in the United Kingdom in the summer. (David Shukman, BBC News, “Arctic ice melting at ‘amazing’ speed, scientists find,”, 09/07/2012, http://www.bbc.co.uk/news/world-europe-19508906)

Melting of the Himalayan glaciers

The largest mountain chain in the world, the Himalayan Mountains, also may be feeling the brunt of global warming. The Himalayan glaciers, particularly the Hindu Kush-Karakoram-Himalaya (HKKH) region, provides water for over 1.3 billion people in Afghanistan, Bangladesh, Bhutan, China, India, Myanmar, Nepal and Pakistan, and are the source of the Indus, Ganges, and Brahmaputra reverse.

The IPCC 2007 report described the region as a data ‘white spot’ as there are significant challenges with gathering data in the region due to the inhospitable terrain. However, satellite observations have since 2011 helped with the lack of data. The glaciers are retreating, though there are “pronounced regional variations”. The US National Research Council found that the eastern and central Himalayas appear to be retreating at accelerating rates while the western Himalayas glaciers appear to be more stable and could possibly be growing. With the exception of the Karakoram oddity (the western), there is a consensus that the glaciers of the Himalayas are declining.

Although glacier data may be clearer now, the effect on those living downstream is hazier. There is debate on what the glacier melt could mean for this water supply. Recent studies have shown that at low elevation, the effect on water availability will likely be insignificant (although groundwater depletion and human use, other factors, will have effects). Areas of higher elevation, though, will feel a greater impact, according to David A Gabel at ENN. Glacial melt could cause water flows to alter, and where there will likely be increased variability of rain and snow.

A study published in the National Academies of Sciences found that most of the glaciers in the region are retreating and that, over time, normal glacial melt will not be able to provide enough water for the region every year. They also found that melting glaciers would offset the lack of rainfall which climate change could cause, acting as a buffer for drought times. (Smriti Mallapaty, scidev.net, “Himalayan glaciers debate: melting or growing?”, 10/17/2012, http://www.scidev.net/en/climate-change-and-energy/climate-change-impacts/features/himalayan-glaciers-debate-melting-or-growing--1.html?utm_source=link&utm_medium=rss&utm_campaign=en_features; David A Gabel, Environmental News Network, “Status Report on the Hindu Kush-Himalayan Glaciers”, 09/20/2012, http://www.enn.com/ecosystems/article/44979)
Additional Environmental Developments
Steve Sachs

Justin Gillis, “Study Finds More of Earth Is Hotter and Says Global Warming Is at Work,” The New York Times, August 6, 2012, http://www.nytimes.com/2012/08/07/science/earth/extreme-heat-is-covering-more-of-the-earth-a-study-says.html?ref=todayspaper, reports that a paper by James E. Hansen, a prominent NASA climate scientist, and two co-authors “Perception of Climate Change,” published online, August 6, 2012, in the Proceedings of the National Academy of Sciences, “Perception of Climate Change,” found that the percentage of the earth’s land surface experiencing extreme heat in the summer has risen greatly in recent decades, from less than 1% in the years before 1980 to as much as 13% in recent years. The study finds that the change is so drastic that scientists can claim with near certainty that events like the Texas heat wave last year, the Russian heat wave of 2010 and the European heat wave of 2003 would not have happened without the planetary warming caused by the human release of greenhouse gases – findings that go beyond the established scientific consensus about the role of climate change in causing weather extremes. Dr. Hansen said, “The main thing is just to look at the statistics and see that the change is too large to be natural.” The findings are supported by some and criticized by other climate scientists. There has been strong scientific consensus that the warming — about 2.5 degrees Fahrenheit over land in the past century, with most of that occurring since 1980 — was caused largely by the human release of greenhouse gases from burning fossil fuels, increasing the likelihood of heat waves and some other types of weather extremes, such as heavy rains and snowstorms. But it has been considered difficult to impossible to determine if any particular heat wave or storm can be definitively linked to human-induced climate change. Hansen et al, compare the global climate of 1951 to 1980, before the bulk of global warming had occurred, with the climate of the years 1981 to 2011, computing how much of the earth’s land surface in each period was subjected in June, July and August to heat that would have been considered particularly extreme in the earlier period, when only 0.2 percent of the land surface was subjected to extreme summer heat, compared to t from 2006 to 2011, when they found extreme heat covered from 4% to 13% percent of the world. This led to the findings that the extensive heat waves and droughts of recent years were a direct consequence of climate change, with the prediction that the extreme heat and drought situation will get worse as heating of the earth continues. The authors presented a circumstantial case for their conclusions, rather than formal proof of the kind usually favored by many climate scientists. However, the results — whether ultimately proven correct or not — are consistent with other findings, including those reported in these pages.

John Broder, “Climate Change Report Outlines Perils for U.S. Military,” The New York Times, November 9, 2012, http://www.nytimes.com/2012/11/10/science/earth/climate-change-report-outlines-perils-for-us-military.html?ref=world, reports, “Climate change is accelerating, and it will place unparalleled strains on American military and intelligence agencies in coming years by causing ever more disruptive events around the globe, the nation’s top scientific research group said in a report,” released November 9, 2012 by the National Research Council, s in a study commissioned by the C.I.A. and other intelligence agencies. The report finds that “clusters of apparently unrelated events exacerbated by a warming climate will create more frequent but unpredictable crises in water supplies, food markets, energy supply chains and public health systems.” The report’s lead author, John D. Steinbruner, referring to Hurricane Sandy as an example of the proliferating massive climate change events stated “This is the sort of thing we were talking about. You can debate the specific contribution of global warming to that storm. But we’re saying climate extremes are going to be more frequent, and this was an example of what they could mean. We’re also saying it could get a whole lot worse than that.” He added that human beings are continuing emit carbon dioxide and other climate-altering gases into the atmosphere at record rates. He said “We know there will have to be major climatic adjustments — there’s no uncertainty about that — but we just don’t know the details. We do know they will be big.” The release of the study itself was delayed by ten days by Hurricane Sandy. The report found that “Climate-driven crises could lead to internal instability or international conflict and might force the United States to provide humanitarian assistance or, in some cases, military force to protect vital energy, economic or other interests.” The report goes on to say that although the U.S. Department of defense has undertaken major measures to plan for and adapt to climate change, including spending billions of dollars to make ships, aircraft and vehicles more fuel-efficient, the United States is ill prepared to assess and prepare for the catastrophes that will result from a heated planet, warning, “It is prudent to expect that over the course of a decade some climate events —
including single events, conjunctions of events occurring simultaneously or in sequence in particular locations, and events affecting globally integrated systems that provide for human well-being — will produce consequences that exceed the capacity of the affected societies or global system to manage and that have global security implications serious enough to compel international response.” Drastic climate change events may bring states will fail, subject large populations to famine, flood or disease causing massive death, suffering and migrations across international borders that national and international agencies will not have the resources to cope with. The report notes some serious, but compared to what is impending, relatively mild such events have begun to occur, including the simultaneous heat wave in Russia and floods in Pakistan in the summer of 2010, that created severe difficulties for those nations. One place where climate change might bring conflict are the Nile River watershed where climate-related conflict over water and farmland could arise as the combined populations of Egypt, Sudan and Ethiopia approach 300 million. South Korea and Saudi Arabia have purchased fertile land in the Nile watershed to produce crops to feed their people, but local forces could decide to seize the crops for their own use, potentially leading to international conflict. The report calls on all government agencies improve their ability to monitor the global climate and assess the risks to populations and critical resources around the world. Steinbruner pointed out that just as the need for more and better analysis is growing, government resources devoted to them are shrinking, as Republicans in Congress have objected to the C.I.A.’s creation of a climate change center, attempting to deny money for it, while the U.S. weather satellite program is losing capability to predict and monitor major storms because of years of under financing and mismanagement.”

Jim Yong Kim, the first Scientist to head the World Bank, announced on October 11, 2012, that since becoming the organization’s president he has looked into the data on climate change, and was “surprised that even in the last six months to a year, the data has become even more frightening. As a scientist, I feel a moral responsibility to be very clear in communicating the dangers of climate change.” He stated that developing new technologies and approaches to combating global warming can lead to economic growth, and that the World Bank will make climate change one of its priorities (“Climate Change a Priority for World Bank,” Science, October 19, 2012).

The internet (including e-mail) is using huge amounts of electricity, sometimes produced inefficiently with high pollution, as servers seek to prevent even fraction of a second power outages that can put them off line, and operate inefficiently at full capacity, when only a small portion of their capacity is being used, to be able to remain operating if, and when, there is a sudden spike in usage. Part of the high electrical use of the numerous large servers around the globe is for the considerable cooling that is needing to keep the high power heat producing systems from melting down (James Glanz, “Data Barns in a Farm Town, Gobbling Power and Flexing Muscle,” The New York Times, September 23, 2012, http://www.nytimes.com/2012/09/24/technology/data-centers-in-rural-washington-state-gobble-power.html?ref=todayspaper).

Although new cooling equipment in the industrialized world for some years has not used the ozone layer of the atmosphere destroying gas, HCFC-22 – which also contributes to global warming - under international treaty, large quantities of the gas are being smuggled into the U.S. from Mexico and China for older air conditioners and refrigerators, that are being fazed out more slowly with the illicit gas being available (Elisabeth Rosenthal and Andrew Lehren, “As a Coolant Is Phased Out, Smugglers Reap Big Profits,” The New York Times, September 8, 2012).

Efforts in the U.S. to phase out the ozone layer depleting gas HCFC-22 as a coolant have been slow. Though new air conditioners no longer use it, 140 million older central air conditioners in the country still do, and many leak. Unfortunately, finding and repairing the leak is often a long and difficult task, so repair people often do not stop the leaks, and simply put in more HCFC-22, which contribute to the thinning of the ozone layer and causing a whole in it (Elisabeth Rosenthal and Andrew W. Lehren, “Effort to Curb Dangerous Coolant Falters, Sometimes at Home,” The New York Times, November 21, 2012).

Arctic sea ice at the completion of its record summer melt, in mid-September, reached the lowest recorded level of sea covered by ice, raising concerns of the much faster than predicted rate of change in the Arctic region. According to the National Snow and Ice Data Center, sea ice September 16, 2012 covered about
1.32 million square miles, or 24% percent, of the surface of the Arctic Ocean. The previous low, set in 2007, was 29%. When satellite tracking began in the late 1970s, sea ice at its lowest point in the summer typically covered about half the Arctic Ocean, but it has been declining at varying rates since then. Walt Meier, a research scientist at the government sponsored snow and ice center, stated, “The Arctic is the earth’s air-conditioner. We’re losing that. It’s not just that polar bears might go extinct, or that native communities might have to adapt, which we’re already seeing — there are larger climate effects.” Some scientists believe the collapse of Arctic sea ice has started to alter atmospheric patterns in the Northern Hemisphere, contributing to greater extremes of weather in the United States and other countries, but that case is not considered proven. The decline in sea ice is occurring much faster than had been predicted in the last big United Nations report on the state of the climate, published in 2007, when sophisticated computer analyses suggested that the ice would not disappear before the middle of this century, if then. Now, some scientists think the Arctic Ocean could be largely free of summer ice as soon as 2020. But governments have not responded to the change with any greater urgency about limiting greenhouse emissions. To the contrary, their main response has been to plan for exploitation of newly accessible minerals in the Arctic, including drilling for more oil. A number of scientists stated that the Arctic has become a prime example of the built-in conservatism of their climate forecasts. As dire as their warnings about the long-term consequences of heat-trapping emissions have been, many of them fear they may still be underestimating the speed and severity of the impending changes. The loss of highly reflective ice means that the darker open ocean is absorbing more of the sun’s energy, further increasing the rate of the earth’s heating (Justin Gillis, “Ending Its Summer Melt, Arctic Sea Ice Sets a New Low That Leads to Warnings,” The New York Times, September 19, 2012, http://www.nytimes.com/2012/09/20/science/earth/arctic-sea-ice-stops-melting-but-new-record-low-is-set.html?ref=world).

A paper published in Nature Geoscience, December 23, 2012, reports that the average annual temperature at a station in the middle of West Antarctica has increased by 4.4 degrees Fahrenheit since 1958, much faster than previously anticipated, and three times the world rate of global warming indicating the possibility of the West Arctic Ice becoming unstable (Justin Gillis, “Antarctic Warming Is Speeding Up, Study Finds,” The New York Times, December 24, 2012).

Biological researchers, who have been working for more than 40 years on Tatoosh Island, off the Washington state coast, with the support of the Makah tribe, who maintains treaty rights to the land, have found a wide range of wild life in decline, as they have found the increase in acidity of sea waters from increased carbon dioxide in the atmosphere 10 times higher than standard computer modeling has predicted. In the last ten years, historically hardy populations of seagulls and murres have dropped to half their former level, and only a few chicks hatched this spring. Mussel shells are notably thinner, and recently the mussels have detaching from rocks more easily and with greater frequency, from wave action and weather, while goose barnacles, oysters and the hard, splotchy, wine-colored coralline algae along rocky shorelines are also declining (Stacey Solie, “Scientists Adopt Tiny Island as a Warming Bellwether,” The New York Times, nge-bellwether.html?ref=todayspaper).


Following the extremely dry winter and Spring of 2012, putting 61% of the lower 48 states in drought conditions, making the U.S. the driest it has been in five years, following the terrible drought in the Southwest and south of 2011, that brought record wildfires and $10 billion in agricultural losses (Doyle Rice, “Drought condition spreads over USA,” USA Today, April 13-15, 2012), by mid July, the drought had become serious in 26 states, and was the most serious in more than half a century, threatening what had been expected to be a record harvest, especially in corn, but also many other crops (Peter Baker, “Drought Puts Food at Risk, U.S. Warns,” The New York Times, July 18, 2012, http://www.nytimes.com/2012/07/19/us/drought-puts-food-at-risk-us-warns.html?ref=todayspaper). An unusually wide (by previous standards) tropical storm, Isaac, which caused wide spread flooding and long term power outages along the Gulf Coast— especially across Mississippi, gave temporary relief with very
heavy rains across several Midwest states, at the end of August, but the heat and drought quickly returned, and, as of September 7, was predicted by the National Weather Service to continue for several months over the Plains and Rocky Mountain States (“Plains ,, Rockies expecting brutal drought to linger,” San Francisco Chronicle, September 7, 2012). While Isaac refilled some watering holes used by migrating birds, food remained scarce in the drought area along their fly paths and were predicted, in early September, to cause difficulties for them as they fly south later in the autumn (Chuck Raasch, “Drought limits rest stops for migrating waterfowl,” San Francisco Chronicle, September 6, 2012). The ongoing drought has also lowered the Mississippi River, several times stopping, and generally slowing barge traffic on the river, while the Army Corps of Engineers has intensified dredging to try to keep channels open (“Struggles continue for Miss. River Traffic,” USA Today, August 23, 2012). John Schwartz, “After Drought, Reducing Water Flow Could Hurt Mississippi River Transport,” The New York Times, November 26, 2012, http://www.nytimes.com/2012/11/27/us/hit-by-drought-mississippi-river-may-face-more-challenges.html?ref=todayspaper, reports, “The drought of 2012 has already caused restrictions on barge traffic up and down the Mississippi River. But things are about to get a lot worse. As part of an annual process, the Army Corps of Engineers has begun reducing the amount of water flowing from the upper Missouri River into the Mississippi, all but ensuring that the economically vital river traffic will be squeezed even further. If water levels fall low enough, the transport of $7 billion in agricultural products, chemicals, coal and petroleum products in December and January alone could be stalled altogether.” As of late November, traffic on the Mississippi was continuing to be slowed by low water as a result of the drought (John Schwartz, “After Drought, Reducing Water Flow Could Hurt Mississippi River Transport,” The New York Times, November 27, 2012). The drought was continuing at a moderate to extreme level across 62% of the U.S., as of mid-December (compared to 29% of the U.S. in drought in December 2011) and was projected to continue over the following three months into Spring (John Eligon, “Season Has Changed, but the Drought Endures,” The New York Times, December 6, 2012, http://www.nytimes.com/2012/12/07/us/season-has-changed-but-the-drought-endures.html?ref=us&r=0). On the Navajo Reservation, in July, the drought was found to be the worst in a half century, with ponds and lakes, including Red Lake drying up (Bill Donovan, “Red Lake dries up in drought conditions,” Navajo Times, July 5, 2012). The Chinele Chapter used three quarters of its emergency fund to buy hay for livestock as the drought had destroyed or prevented from growing the usual grass that the animals graze on in the area (Cindy Yurth, “Chapter attacks drought by handing out hay,” Navajo Times, August 16, 2012).

The long and destructive U.S. wildfire season was continuing in September, with large fires in a number of western states, including the Sixteen Complex County Fire in Colusa County, CA, that in six days had consumed 26 square miles, threatening a number of homes, and a blaze in Mendocino County, CA that since August 18, 2012 had burned more than 61 square miles, destroying 26 buildings and damaging four others (“Crews added to battle huge blaze,” San Francisco Chronicle, September 9, 2012). The Cheyenne River Reservation (and its surroundings) in Montana were hit by wildfire several times this past fire season, destroying 19 homes, and extensive areas of rangeland, while causing evacuation and respiratory problems from smoke for many. Overall, a half million acres burned in the region of the Reservation (Mathew Brown, “Wildfires ravage remote Northern Cheyenne reservation,” News From Indian Country, September 2012). Wildfires continued to be a problem in Europe, including one burning in Spain at the end of August near the Mediterranean resort city of Marbella that forced 4000 to evacuate (Wildfire in Spain Forces 4m000 to Evacuate, National Post, September 1, 2012). As the result of loss of trees and other vegetation from fire in 2011, Santa Ana Pueblo in New Mexico, suffered flooding when the annual monsoon rains came in 2012, causing the Pueblo to declare a flood emergency in the summer of 2012 (“State of Emergency Declared at Santa Clara Pueblo Over Flood Damage,” News From Indian Country, August 2012).

Previously unusual, very wide spread strong storms continue to be frequent in the U.S., as exemplified by a line of storms from Maine to Northern Virginia, September 9, 2012, including at least two tornadoes, roared across the East Coast with winds up to 70 MPH flooding streets and disrupting electric power (Natalie DiBlasio, “East Coast cleaning up after storms,” USA Today, September 9, 2012).
Hurricane Sandy, that previously would have been an extremely large storm, but now widely seen as increasingly normal, after causing damage in still not recovered Haiti, pounded New York, New Jersey, and Connecticut, in October, 2012, bringing flooding in New Jersey and New York City well beyond anything previously experienced (including flooding subways and train and automotive tunnels), displacing many thousands of people, and knocking out power over wide areas – in some places for several weeks, disrupting gasoline production and area supplies, damaging sewage plants and causing other environmental damage. Over 100 people were killed by the huge storm, and economic loss was anticipated to approach, if not exceed $50 billion. Sandy could be the largest storm ever to hit the U.S. mainland. While not as powerful as Hurricane Katrina, the storm stretched a record 520 miles from its eye, at landfall. (For example, from The New York Times see: Elisabeth Malkin, “Yet Another Blow to Haiti From a Natural Disaster,” and James Barron, “Storm Picks Up Speed and Disrupts Millions of Lives,” October 30, 2012; “After the Devastation, A Daunting Recovery,” John Schwartz, “A Far-Reaching System Leaves 8 Million Without Power,” Sam Dolnick and Corey Kilgannon, “Wind-Driven Flames Reduce Scores of Homes to Embers in Queens Enclave,” and “Reckoning With Realities Never Envisioned by City’s Founders,” October 31, 2012; David M. Halbfinger, “New Jersey Reels from Storm’s Thrashing” and Matt Flegenheimer and John Leland, “Long Lines, Clogged Roads, And Slim Hope for a Better Day,” November 1, 2012; Mary Williams Walch and Nelson D. Schwartz, “Estimate of Economic Loss of Up to $50 billion, November 2, 2012; “Fractured Recovery Divides a Frustrated Region (N.R. Kleinfield, “After Getting Back to Normal, Big Job Is Facing New Reality,” and “Manhattan Improving, but Broad Areas Lack Gas and Necessities”) and Alan Feuer, “Protecting New York City, Before the Next Time,” November 4, 2012; “Housing Nightmare Looms in Wake of Storm” (Sarah Maslin Nir, “In Sight of Manhattan skyline Living Forlorn in he Dark,” and Michael Schwirtz, “Tens of Thousands in New York Displaced as Cold Presses Threat,” and Stephen Clifford and Nelson D. Schwartz, “Crippled Supply Chain Puts Holiday Shopping at Risk,” November 5, 2012; Michael Cooper, “Disruption from Storm May Be Felt at Polls,” November 5, 2012; N.R. Kleinfield, “Future in Limbo for Damaged Buildings Close to Water’s Edge” and Cornelia Dean, “Costs of Shoring Up costal Communities,” November 6, 2012; Kirk Semple and Joseph Goldstein, “How a Beach Community Became a Deathtrap,” November 11, 2012; Michael Schwartz, “Waste flows After Storm Expose Costly Defects in Sewage System,” November 20, 2012). The Shinnecock Indian Nation on Long Island, was greatly impacted by Hurricane Sandy, as a tidal surge of four to six feet came into the reservation, and electricity was down for some time. The storm surge ate away the bluffs at the West Woods tribal reservation. Basements flooded, the tribal cemetery grounds were largely underwater. With temperatures falling, and power out for a considerable time, many elders did not have ways to heat their homes. A number of Indian nations quickly provided assistance. United South and Eastern Tribes (USET) set up a donation center, and the Seminole Tribe of Florida sent a disaster-response team to the Shinnecock Indian Reservation in Southampton, New York, while the Shakopee Mdewakanton Sioux Community of Minnesota and the Seneca Nation of New York committed to helping in recovery. FEMA liaison Ashley Smith helped assess the needs, along with the FEMA Special Advisor for National Tribal Affairs at Headquarters in Washington D.C., Richard Flores. Both coordinated with the Bureau of Indian Affairs, Indian Health Service, U.S. Department of Agriculture and organizations such as the Red Cross (“USET Starts Fund for Shinnecock Hurricane Relief as Seminoles Help Assess Damage,” ICTMN, November 3, 2012, http://indiancountrytodaymedianetwork.com/article/uset-starts-fund-for-shinnecock-hurricane-relief-as-seminoles-help-assess-damage-143872). In Ontario, there was concern with Hurricane Sandy approaching, after a rare local storm dumped a record amount of rain in a 24-hour just south of Wawa, Ontario, caused the small town to issue an evacuation order and completely cut off tiny Michipicoten First Nation from everything but helicopter access, which was used to evacuate the 700 resident tribal members (David P. Ball, “Ontario Flood Evacuation Accelerates With Threat of Hurricane Sandy,” ICTMN, October 30, 2012, http://indiancountrytodaymedianetwork.com/article/ontario-flood-evacuation-accelerates-with-threat-of-hurricane-sandy-142883).

On Hurricane Sandy, as it was striking, Rabbi Michael Lerner wrote in Tikkun, October 30, 2012, http://salsa.democracyinaction.org/dia/track.jsp?v=2&c=vZx3kJTczCJkxN8oQ8wETR0mq30HdPMd, “Perhaps the most generous teaching of the God or Spiritual Reality of the Universe comes in the second paragraph of the Shma prayer (in Deuteronomy) where it tells us that if we do not create a world based on love, kindness, generosity, ethical and ecological sensitivity, social justice and peace then the world itself will not work, and there will be an environmental catastrophe and humans and all other animals are in danger
of perishing. This is not the words of an angry patriarch threatening to do this to us, but rather the kind warning that the universe is sending us that tells us that the ethical and the physical are intrinsically bound together in such a way that when we build a society based on greed, selfishness, materialism and endless consumption without regard to the consequences for the earth, disaster will follow. Growing up, I thought this an extravagant and foolish claim tied to an authoritarian patriarchal and judgment god in whom I could not believe; but as an adult I encountered environmental science and learned that it was all true. There are now a host of books that show the concrete steps that lead from ethical irresponsibility toward the earth and toward each other to the resulting environmental crisis (and we regularly review them in Tikkun magazine). Hurricane Sandy is only the latest manifestation of this truth, and compared with what is coming, a relatively mild reminder.”

Several storms, together coming close to the strength of Hurricane Sandy, hit areas of Alaska, between September 15-30, 2012, causing great havoc, with President Obama declaring disaster areas in the hard hit areas, where Native and other communities continued struggle to deal with the impact two months later. The damage came from straight-line winds, flooding, and landslides in areas including the Alaska Gateway Rural Educational Attendance Area (REAA), Chugach REAA, Denali Borough, Kenai Peninsula Borough, and the Matanuska Susitna Borough. Normally dry Seward was pelted by 8.17 inches of rain that brought record flooding. Rivers rose to record-setting heights of 10 or even 20 feet, in the case of Resurrection River (“President Obama Declares Disaster for Alaska Over September Storms,” ICTMN, November 28, 2012, http://indiancountrytodaymedianetwork.com/article/president-obama-declares-disaster-alaska-over-september-storms-145953).

In the face of increasing serious droughts in India, the U.S. and other places, Michael Jarraud, Secretary General of the United Nations World Meteorological Organization, stated in September 2012, “Climate Change is projected to increase the frequency, intensity and duration of droughts. We need to move away from a piecemeal crisis driven approach and develop integrated risk based national drought policies (“United Nations: National Drought Policies Urged,” The New York Times, August 21, 2012). In the western U.S., where continuing drought has already reduced the size of cattle herds, sheep ranchers have also been cutting the size of flocks and laying off employees (Jack Healy, “Drought and Economics Cast a Shadow on Sheep Farmers,” The New York Times, December 11, 2012). Not all the effects of a warming planet are negative for agriculture. In Georgia, the fall 2012 peanut crop has been a record, while pinion (pine nut) harvest on the Navajo Reservation has been especially good this fall (Kim Severson, “In the South A Good Year for Farmers of Peanuts,” The New York Times, November 7, 2012; and Cindy Yurth, “Pinion pickers harvesting a bumper crop,” Navajo Times, September 27, 2012).

Niger experienced the worst flooding in half a century, in October, killing more than 90 people and doing significant damage, including to rice fields (“Niger: 91 Dead in Recent Flooding,” The New York Times, October 12, 2012, http://www.nytimes.com/2012/10/13/world/africa/niger-91-dead-in-recent-flooding.html?ref=todayspaper). CARE, “Dire humanitarian crisis continues”, November 15, 2012, http://my.care.org/site/R?id=O-l9hRlertikmYq6nakUQ, reported, “More than 18 million people in the Sahel are still affected by the food crisis gripping the region. Women and children under the age of two are the most vulnerable. [following serious drought] The rainy season finally arrived, but in many places rain simply brought new misery. In Niger, heavy downpours caused an outbreak of water-borne diseases like cholera and triggered flash flooding that displaced thousands of families and devastated farms already hard-hit by the drought and food shortages.” To date, CARE has helped over 750,000 people in the Sahel region – distributing food and water, giving farmers seeds and tools to cultivate the land, giving nutritional support to women who are breastfeeding, and supporting long-term projects that reduce their vulnerability to crises in the future.

The Southern Philippines experienced an extremely strong typhoon out of season, in an area not usually hit by large storms, in early December 2012, with more than 450 known dead and more than 500 known to be missing in widespread devastation, and some communities cut off, as of December 7. About 393,000 people were said to be living temporarily in evacuation centers or receiving some other form of

Rising oceans and more frequent and more severe storms brought by global warming have already begun to cause flooding problems for New York City and are predicted to create increasing flooding problems for the city as climate change increases, making the busy and vital subway and highway systems and many thousands of homes and businesses increasingly vulnerable. As a result, New York Mayor Michael Bloomberg has commissioned an exhaustive study of the problem, while expanding wetlands to absorb surging tides, installing green roofs to absorb rainwater, and encouraging property owners to move boilers and other equipment out of flood prone basements. While environmentalists have applauded the city’s environmental awareness, critics have stated that the actions are taking place too slowly to counter the threat that flooding poses (Mireya Navarro, “New York Is Lagging as Seas and Risks Rise, Critics Warn,” The New York Times, September 11, 2012). Similarly, a coalition of five Gulf Coast states called upon Congress and the White House, in mid-September, to undertake a massive long term project to protect the storm battered Gulf Coast, with its fragile ecosystems, and threats from rising oceans, more frequent more ferocious storms, disappearing wetlands and offshore islands, to cities, rural areas, the oil industry and its very extensive infrastructure, as well as the seafood, shipping and tourist industries. A report by the America’s Wetlands Foundation calls for coastal reclamation from Texas to Florida, that would cost tens of billions of dollars (“Gulf Coast states push for protection,” San Francisco Chronicle, September 13, 2012).

One result of the spreading of the tropics and subtropics has been the moving of disease carrying insects into new areas, as evidenced in the U.S. by the increase in cases of West Nile virus in people to record levels, reaching 2118 cases, as of September 6, 2012 (Elizabeth Weise, “Record 2,118 cases of West Nile Virus reported,” San Francisco Chronicle, September 6, 2012). One impact of the warming Earth is uncertainty and disruption of skiing. The more extreme weather sometimes brings more snow before or after the regular season deep cold snaps, that may allow skiers – and ski areas – to partake in the winter sport when they would not ordinarily, but generally ski seasons are being shortened and more often interrupted by thaws (Katharine Q. Seelye, “Rising Temperatures Threaten Fundamental Change for Ski Slopes,” The New York Times, December 12, 2012, http://www.nytimes.com/2012/12/13/us/climate-change-threatens-ski-industry-s-livelihood.html?ref=us).

Scientists at the Australian Institute of Marine Science (AIMS) and the University of Wollongong researchers reported in the journal Proceedings of the National Academy of Sciences that in the past 27 years Australia’s Great Barrier Reef has lost half its coral, much of it resulting from factors influenced by human activity. Storm damage was found to have accounted for 48% of the loss, an invasion of crown of thorns starfish for 42% and bleaching for the other 10% (“Great Barrier Reef Half-Gone Since 1980s: Scientists,” ICTMN, October 3, 2012, http://indiancountrytodaymedianetwork.com/article/great-barrier-reef-half-gone-since-1980s%3A-scientists-137407).


The U.S. environmental protection agency is working to reorganize its program, initiated in 2009, to support minimal levels of production of diesel fuel from vegetable oils and animal fats, because of millions of dollars of fraud. Those who produce the green diesel fuel receive renewable energy credits for every gallon manufactured, and producers can then sell the credits to refiners, who can resell them. The problem is that millions of dollars worth of energy credit certificates have been counterfeited (Mathew L. Wald, “U.S. Struggles to Rescue Green Program Hit by Fraud,” The New York Times, October 11, 2012, http://www.nytimes.com/2012/10/12/business/energy-environment/us-struggles-to-rescue-green-program-hit-hard-by-counterfeiters.html?ref=todayspaper).
An experimental U.S. Air Force project in Florida processing urban garbage with plasma arc gasification has markedly reduced emissions over traditional incineration, destroying many toxic contaminants, and recycling metals, while producing sufficient energy to sustain the process. Some companies and cities, including New York, have expressed an interest in the process (Randy Leonard, “Plasma Gasification Raises Hopes of Clean Energy from Garbage, The New York Times, September 11, 2012)

For the first time two companies have gone beyond pilot projects, announcing in November 2012, that are very close to beginning large-scale, commercial production of so-called cellulosic biofuels from garbage, wastes of farms, paper mills or households, with a value that is low or even negative, meaning people will pay the fuel producers to dispose of them. The companies developing the new fuels say that their products produce far fewer carbon emissions than petroleum-based gasoline and diesel. KiOR says that its fuel will release one-sixth the amount of carbon dioxide as an equivalent amount of petroleum fuel, largely because every tree or woody plant fed into its process will eventually be replaced by a new tree or plant, which will suck carbon dioxide out of the atmosphere. And a byproduct of its factory is surplus electricity, which will be exported to the grid, displacing electricity that would otherwise be generated from natural gas or coal. In Columbus, MIKiOR has spent more than $200 million on a plant that is supposed to mix shredded wood waste with a patented catalyst, powdered to talcum like consistency. Its process does in a few seconds what takes nature millions of years: removes the oxygen from the biomass and converts the other main ingredients, hydrogen and carbon, into molecules that can then be processed into gasoline and diesel fuel. The plant expects to produce 13 million gallons of fuel a year and has already lined up three companies to buy its output, including FedEx and a joint venture of Weyerhauser and Chevron, with production to begin by December. Ineos, a European oil and chemical company, is readying a $130 million plant in Vero Beach, FL to cook wood and woody garbage until they brake down into molecules of hydrogen and carbon monoxide, that are to be pumped into a giant steel tank, where bacteria eat them and excrete ethanol, with planned production of eight million gallons a year, about 1% of Florida’s ethanol demand. The plant is next to a county landfill, and executives covet the incoming garbage. While both plants are smaller than typical oil refineries, their opening is a major step in renewable energy production, especially as they do not use agricultural products of land that could otherwise produce human or animal food. Plants of this kind can produce ethanol, gasoline or diesel fuel or their ingredients. Ineos says its production process actually reduces the overall amount of carbon in the atmosphere because electricity produced from its plant preempts emissions that would have come from other electricity sources turning out the same power. The price is still relatively high for these biofuels, which currently are viable with the high price of corn making ethanol very expensive, and the current high prices for oil, or with continued federal requirements for a percentage of biofuel in gasoline sold at service stations. The biofuel industry is researching ways of lowering production costs (Mathew L. Wald, “Fuel From Waste, Poised at a Milestone,” The New York Times, November 13, 2012, http://www.nytimes.com/2012/11/14/business/energy-environment/alternative-fuels-long-delayed-promise-might-be-near-fruiton.html?ref=todayspaper).

Amid the uncertainty as to whether or not Congress will renew the tax credit that makes wind power cheaper to produce than any other type of electrical generation, the U.S. wind turbine manufacturing industry has been almost completely shut down in recent months, even for the manufacturer of a new wind box that allows efficient generation of electricity from slower winds, allowing wind generation to be practical in additional areas. The U.S. wind power industry also is suffering from cheaper foreign, particularly Chinese, wind turbines, but the largest problem a of late September 2012, was uncertainty on renewal of the tax credit (Diane Caldwell, “Tax Credits in Doubt, Wind Power Industry Is Withering,” The New York Times, September 20, 2012, http://www.nytimes.com/2012/09/21/business/energy-environment/as-a-tax-credit-wanes-jobs-vanish-in-wind-power-industry.html?hp). In mid-October, The U.S. Commerce Department issued a final ruling, imposing tariffs ranging from about 24% to almost 36% percent on most solar panels imported into the U.S. from China, on the grounds that Chinese companies were benefitting from unfair government subsidies and were selling their products in the United States below production cost, a practice known as dumping. The low price of Chinese solar panels has severely damaged the U.S. solar panel industry (Diane Cardwell and Keith Bradshaw, “U.S. Will Place Tariffs on Chinese Solar Panels,” The New York Times, October 10, 2012, http://www.nytimes.com/2012/10/11/business/global/us-sets-tariffs-on-chinese-solar-

Rapidly increasing population in the cities of the Brazilian Amazon, which are experiencing industrial development, are making it the fastest growing region of the country, increasing deforestation and population in the region (Simon Romero, “Swallowing Rainforest, Cities Surge in Amazon,” The New York Times, November 25, 2012).


Keith Bradsher, “‘Social Risk’ Test Ordered by China for Big Projects,” The New York Times, November 12, 2012, http://www.nytimes.com/2012/11/13/world/asia/china-mandates-social-risk-reviews-for-big-projects.html?ref=todayspaper, reports, “The cabinet of China has ordered that all major industrial projects must pass a social risk assessment before they begin, a move aimed at curtailing the large and increasingly violent environmental protests of the last year, which forced the suspension or cancellation of chemical plants, coal-fired power plants and a giant copper smelter.”

The government of Japan, in mid-September, announced a plan to permanently shut down all nuclear power plants by 2040. However, the policy, subject to change over time – especially as it has been initiated by an unpopular government – actually extends the date some atomic electric facilities would remain open, some beyond 2040 (Hiroko Tabuchi, “Japan Sets Policy to Phase Out Nuclear Power Plants by 2040,” The New York Times, September 15, 2012). The first change occurred almost immediately, when – following pressure from Japanese businesses – the government stopped short of officially adopting the 2040 general deadline, “the cabinet of Prime Minister Yoshihiko Noda saying it would ‘take into consideration’ the 2040 goal, while it formally endorsed only a vague promise to “engage in debate with local governments and international society and to gain public understanding” in deciding Japan’s economic future in the wake of the 2011 nuclear disaster at Fukushima, with energy policy to be developed “with flexibility, based on tireless verification and re-examination” (Hiroko Tabuchi, “Japan, Under Pressure, Backs Off Goal to Phase Out Nuclear Power by 2040,” The New York Times, September 19, 2012, http://www.nytimes.com/2012/09/20/world/asia/japan-backs-off-of-goal-to-phase-out-nuclear-power-by-2040.html?_r=1).

With the implementation of wide spread fracking in oil and gas drilling, drilling has so expanded in the U.S. that with in five years the U.S. is expected to become the worlds largest oil producer. Combined with increasing energy efficiency and green energy production expansion, if this continues, the U.S. is projected to become energy self-sufficient in a score of years (Elisabeth Rosenthal, “U.S. to Be World’s Top Oil Producer in 5 Years, Report Says,” The New York Times, November 12, 2012, http://www.nytimes.com/2012/11/13/business/energy-environment/report-sees-us-as-top-oil-producer-in-5-years.html?ref=todayspaper).

The Southern Ute Tribe, in Colorado, began taking steps in Spring 2012 to limit and contain methane gas seepage into the atmosphere from coal bed formations that it has been extracting gas from. The Nation has begun converting monitor wells – used to measure gas output – into interceptor wells, to capture gas before it escapes (Ace Stryker, “Tribe seeks to mitigate environmental hazards of coalbed methane,” Southern Ute Drum, June 29, 2012). Recently, the Tribe’s oil and natural gas extraction has moved from being primarily on, to being largely off, reservation (Ace Stryker, “Shift continues toward oil, away from reservation,” Southern Ute Drum, June 14, 2012). Fracking for oil on the Blackfeet Reservation in Montana is producing tribal revenues, but creating a major division over its propriety among the tribal membership (Jack Healy, “Tapping Into the

International demand for coal is rising. Largely because of its relatively low cost, India, struggling to expand electricity power generation, already relying on coal for 55% of that generation is expected to greatly increase imports. China, while moving to develop green energy, has been expanding energy production much faster than it can increase green energy and is thus increasing coal use and imports. In Europe the combination of dropping prices for U.S. coal, and higher prices for natural gas on the continent are increasing demand for U.S. coal (Peter Galusszka, “With China and India Ravenous for Energy, Coal’s Future Seems Assured,” The New York Times, November 12, 2012, http://www.nytimes.com/2012/11/13/business/energy-environment/china-leads-the-way-as-demand-for-coal-surges-worldwide.html?ref=todayspaper).

Implementation of the Klamath Basin Restoration Agreement, of February 2010, to take down four dams on the river to restore salmon runs, has been blocked by Tea Party activists, and it is unclear if, and when, the dams will be removed. The agreement was reached after five years of confidential negotiation, among American Indian tribes, environmentalists, farmers, fishermen, governors and the federal government, enabling much of the Klamath River to flow freely, bringing a return of its once strong run of salmon, while assuring farmers of water for their crops and affordable power, while returning land to Indian nations. However, local Tea Party lobbying of their members in Congress has blocked congressional approval of the agreement and appropriation of more than $1 billion to carry it out. A month after the agreement was announced, seven people, four of them farmers afraid of losing water, gathered at Jack Charlton’s machine shop south of downtown Klamath Falls and formed the Klamath County Tea Party Patriots. The Tea Party Patriots became a local political force, eventually defeating many of the local officials who supported the agreement, including all three Klamath County commissioners, and sending a signal to Congress that the plan lacks sufficient grass-roots support. The strong supporters of removing the dams, particularly environmentalists plan more court fights over the issue if the deal is not confirmed by Congress (Jim Yardle, “Tea Party Blocks Pact to Restore a West Coast River,” The New York Times, July 18, 2012, http://www.nytimes.com/2012/07/19/us/two-years-after-pact-to-restore-river-no-changes.html?ref=todayspaper).

Campbell Robertson, “Louisiana: Oil Sheen Linked to 2010 BP Spill,” The New York Times, October 11, 2012, http://www.nytimes.com/2012/10/11/us/louisiana-oil-sheen-linked-to-2010-bp-spill.html?ref=todayspaper, reports, The United States Coast Guard reported, October 10, 2012, that samples from an oil sheen spotted in the Gulf of Mexico last month have been matched to the oil from the massive BP oil spill of 2010. The sheen has varied in size since it was first reported, September 16, the Coast Guard said that the sheen “does not pose a risk to the shoreline,” but that BP and Transocean “may be held accountable for any cost associated” with assessment and cleanup. The Coast Guard also suggested that the oil could have come from wreckage or debris on the sea floor.

“Uncharted waters: Canada rolling back navigation rights, again,” Waterkeeper.ca Weekly, October 19th, 2012, www.waterkeeper.ca, reports, “The Canadian government introduced (another) ‘sweeping omnibus budget bill’ on Thursday, changing as many as 60 different acts in a way that eliminates oversight from parliamentary committees (http://www.thestar.com/news/canada/politics/article/1273847--tim-ha%0Arper-the-omnibus-bill-becomes-business-as-usual-for-conservatives). One of those acts – the Navigable Waters Protection Act – is one of Canada’s most important and oldest pieces of environmental legislation. It preserved the age-old right of every individual to navigate Canadian waterways. If the omnibus bill changes, the new law – the Navigation Protection Act – will no longer protect Canadian waterways.”

misperception-the-problem/, comments, “Living on a First Nation and looking across the boundary line is a little like looking through the wrong end of a telescope—your field of view is wider, the picture is clearer, and Canada looks a lot further away than it really is. People who have lived on a reserve will know what I mean. For those who haven’t, well Toto, we’re not in Kansas anymore; although which side of the boundary is Oz depends a great deal on which side of the line you’re standing. It’s a perspective you can’t get anywhere else in the country, and it’s wonderfully useful for examining the workings of Canada and the US. Take the IJC for example. The International Joint Commission is charged by both US and Canadian governments with managing water diversions in and out of ten lake and river systems that dare to cross the border without a visa or VISA.” McLaren believes the IJC is taking the wrong approach to the precipitous drop in the water level of the upper Great Lakes, saying its O.K.ing projects such as the dredging the St Clair River to allow ocean going ships through it – which have spread invasive species which are a major threat to the Lakes – is wrong. He believes the ICJ is in error saying the project is all right because it is only responsible for a very small part of the drop in Lake levels. The project is too much like the Army Corps of Engineers building the Chicago Sanitary and Ship Canal to link Lake Michigan with the Mississippi River System, that caused the level of the Upper Great Lakes to dropped precipitously, and has allowed th spread of invasive species “that are rapidly changing the food cycle in the water column and wreaking havoc with the fisheries.” “The Report suffers from I call scientific hubris. If you remember your Greek, hubris is a word for pride. It’s something heroes needed to do their daring deeds of myth and legend. It is also the thing the gods punished by laying the hero low if his hubris got out of hand. Hubris is as close as the Greeks got to the notion of sin.” “Each Great Lake is its own complex ecosystem and that complexity is compounded by interaction with the other Lake ecosystems. Do something to one part and the effects ripple through all the other parts in ways (it should be obvious by now) we cannot foresee and don’t understand. People on the First Nation side of the reserve boundary might take a look at this complexity and say, more or less, let it be. However, that perspective is absent in the Report, along with any evidence of consultation with First Nations—which, by the way, is both contrary to Canadian law and bad science. Instead, the authors of the Report suggest tweaking the IJC’s Master Plan by incorporating ‘adaptive management.’ But this is just a scientific way of saying, ‘we really don’t know what we’re doing, but we’ll study the thing as we do it anyway and maybe we’ll figure it all out.’ Aboriginal scientists would say first, do no harm. The best Western scientists would say remove the harm and let the ecosystem heal itself. To paraphrase Pogo, himself a “knower”, we have met the harm and it is us.”

Karim Oswaldo Duarte Nafarrate, María Marcela Rascón González, Reyna Selina Valenzuela Renández, Flor Rebeca Amarillas Sánchez, Dania Noheli Meneses Velázquez, Marco Antonio Rodríguez Valerio, and Talli Nauman, “Yaqui Resistance: Against the Aqueduct, Agricultural Chemicals and Transgenic Crops on their Ancestral Lands,” Americas Program, October 23, 2012, [http://www.cipamericas.org/archives/8290](http://www.cipamericas.org/archives/8290), reports: “I. ‘Independence’ Aqueduct Threatens to Increase Yaqui Dependence: According to tribal leaders, the economic, ecological, and social stability of the Yaqui tribe is being threatened by the construction of the Sonora Sí (Sonora Yes!) project that is being imposed within its territory with the backing of the state government.” Acueducto Independencia the largest engineering project in state history, is a pipeline, under construction to take scarce water needed by the Yaqui from the Río Yaqui to Hermosillo, the capital of Sonora, much of it for export to the U.S. As of April 2012, 8% of the construction had been completed. Given that Yaqui tribal members have first rights to the water from the Yaqui River, the tribal authority has filed for legal protection. “II. Yaqui Leaders and Engineers Highlight Risks of Agricultural Chemicals and Transgenic Crops: Now more than ever there is concern among the Yaqui, a tribe never defeated by the Spanish during their conquest of Mexico, nor by anyone else since then, that their interests are being ignored. Today, Mario Luna, Yaqui Tribal Defense Secretary states, “We feel that they don’t take us into account and they treat us like we do not exist because of our different beliefs. That’s why we would like them to listen to us.” The Yaqui are concerned that unregulated use of agricultural chemicals in their area is threatening to cause – and likely already is causing – a variety of serious health problems, while contamination form genetically engineered crops is threatening the nation’s production of traditional crops. Meanwhile, in both Mexico and the U.S., “III. Yaqui Watershed Protection Becomes Binational Concern for Sonora, Arizona: Sonora Gov. Guillermo Padres Elías’ bid to divert drinking and irrigation water from the Yaqui River Basin to industry in the state’s capital city of Hermosillo is an affront, not only to indigenous and farming communities downstream from the Novillo Dam, but also to conservationists upstream across the U.S.-Mexico border in
Arizona. Unbeknownst to the Yaqui Tribe and the Yaqui River Valley farmers, who are desperately fighting to keep the Sonora state government from appropriating the flow from their watershed, the Cuenca Los Ojos (CLO) Foundation, high in the Chiricahua Mountains of southeast Arizona, has been working feverishly for 30 years to replenish the headwaters of the Yaqui River.” “The Yaqui Basin is the largest river system in Sonora. The river runs approximately 320 km (200 mi) through the state to the Gulf of California. Along much of the length of the binational river, no water can be seen in its sandy bed. What’s there is only enough to flow underground in the channel. Evidence of desertification is clear in the many dead trees standing and fallen along the river banks,” resulting from too much water already being taken from the river. The project is “trying to raise the level of stream beds so water will overflow again, spread out, and plants associated with the ciénaga will start coming back.” If it goes ahead, the state’s diversion of the water will undercut the revitalization of the river and increase the critical water shortage. To try to prevent the water diversion, 25 organizations have joined in “the Yaqui-Gila Watershed Alliance. Their objective is to protect migratory routes for animals and birds that travel between Costa Rica and Canada. Among groups involved in this crossborder initiative are the Animas Foundation, the Malpai Borderlands Group, The Nature Conservancy, Sky Islands Alliance, Wildlands, Naturalia, Pronatura, and the Northern Jaguar Project. On the part of the governments, Mexico’s National Protected Natural Areas Commission and its National Forestry Commission are involved, as well as a number of U.S. Interior Department agencies.”

NRDC BioGems News, October 2012, http://www.savebiogems.org/newsletter/, reports, “Shell's Tar Sands Mine Threatens Boreal Forest The Shell oil company has announced plans to expand its Jackpine tar sands strip mine in Alberta, Canada. The project would fuel more global warming pollution, hasten the destruction of the boreal forest and imperil wildlife, including caribou, songbirds, owls and lynx -- all to extract the world's dirtiest fuel and supply dangerous pipelines like the proposed Keystone XL,” and is running a campaign to, “Tell Shell to withdraw its application for the mine and to focus instead on cleaner sources of energy, http://www.nrdconline.org/site/R/?i=tnOBUWV5fxwfmFvphlSpHw.”

The November 16 edition of the National Public Radio (NPR) news program, All Things Considered, discussed that as a result of local ranchers asking EPA to allow waste water from oil extracting to flow across otherwise dry land, in the hope that it would support cattle grazing, has led to oil-laden wastewater flowing freely on the Wind River Reservation in Wyoming, home of the Shoshone and Northern Arapaho Tribes. The polluted water from about a dozen oil and gas fields is drunk by livestock, including cattle raised for meat. NPR reported that so much wastewater is dumped that “it creates streams that flow into natural creeks and rivers. And this water contains toxic chemicals [among them hydrogen sulfide], including known carcinogens and radioactive material.” Under EPA’s exception, the waste water flows into pits, where the oil will theoretically float to the surface and be vacuumed up, with any solids sinking to the bottom of the pit, so that the toxins are supposed to be flushed out naturally NPR stated that in practice the water does become fully cleaned up, and toxic Chemicals remain, from the earth, oil and fracking and other chemicals added by the companies to loosen up the flow of oil and gas (“NPR Exposes Loophole that Allows Dumping of Toxic Oil Residue on Wind River Reservation,” ICTMN, November 18, 2012, http://indiancountrytodaymedianetwork.com/article/npr-exposes-loophole-allows-dumping-toxic-oil-residue-wind-river-reservation-145738).

“Campaign Update–Mexico: Proposed Biosphere Could Protect Wirikuta,” Cultural Survival, November 8, 2012, http://www.culturalsurvival.org/news/campaign-update-mexico-proposed-biosphere-could-protect-wirikuta, reports, “The federal government of Mexico has proposed the creation of a Biosphere Reserve in the area of Wirikuta, sacred site to the Wixarika (Huichol) people and the battle ground for a silver mine first proposed by Canadian company First Majestic Silver, and others. The biosphere reserve would cover 191,000 hectares, according to Mexico’s National Commission on Natural Protected Areas. The Commission gave interested parties until November 14th to comment on the proposed project. On November 8th, the Consejo Regional Wixarica and the Frente en Defense de Wirikuta announced their decision. They demand: ‘The establishment of a biosphere reserve that respects the biocultural rights of the Wixarika people and the campesinos that live within Wirikuta, prohibiting any mining exploration or exploitation in any form, in any stage, within the nuclear zone or buffer zones of wirikuta. We also demand that the design and execution of a management plan be led by the Wixarika people and consultants of their free selection.’ Two years have passed since the
government first gave concessions to the Canadian mining company First Majestic Silver and to the Universal Project, violating the Wixarika (Huichol) people’s right to free, prior and informed consent and putting at risk the sacred land of their ancestral pilgrimage, known as Wirikuta."

A committee of experts, formed by the government of Bangladesh, and headed by former Petrobangla – the national oil company - chairman Mosharraf Hossain, submitted its report, November 8, 2012, on suitable coal mining method in Bangladesh to the energy and mineral resources ministry, suggesting open pit mining in Phulbari coal deposit as a practical approach, though it will have a devastating impact on the Indigenous people in the area, who have resisted the mining project. The Phulbari mining project has been suspended since August 2006 as the result public protest against the open pit mining proposal of Asia Energy. Because of resistance to the project, the committee said Asia Energy's Environmental Impact Assessment report needed to be verified by the government's own study. The committee recommended that the remaining coal discoveries in Jamalganj, Dighipara and Khalashpir were not suitable for open pit mining and they should tapped using underground mining, but did allow for a small open pit mine project in the untapped northern part of Bangladesh's lone coal mine in Barapukuria ("Experts okay open pit mining," The Daily Star, November 9, 2012, http://www.thedailystar.net/newDesign/news-details.php?nid=254799).

The U.S. Environmental Protection Agency (EPA) announced a tighter standard for soot pollution, December 14, 2012 that will require industry, utilities and local governments to find ways, by 2020, to reduce emissions of particles that are linked to thousands of cases of disease and death each year. The previous standard of 15 micrograms per cubic liter is reduced to 12, in the middle of the range of 11 to 13 micrograms per cubic meter that the E.P.A.’s science advisory panel recommended (John M. Broder, “E.P.A. Sets a Lower Limit for Soot Particles in the Air,” The New York Times, December 14, 2012, http://topics.nytimes.com/top/reference/timestopics/organizations/e/environmental_protection_agency/index.html).


U.S. Developments

Many of the reports in this issue of U.S. government legislation, agency action, and court decisions are informed by electronic flyers from Hobbs, Straus, Dean and Walker, LLP, 2120 L Street NW, Suite 700, Washington, DC 20037, http://www.hobbsstraus.com, provided by Americans for Indian Opportunity. Reports from Indian Country Today Media Network, from the web, are listed as from ICTMN.

U.S. Government Developments

Presidential Actions

The U.S. Department of the Interior announced, November 26, 2012, that the Obama administration approved a $3.4 billion settlement of the Cobell law suit to Native Americans for the federal government’s mismanagement of money intended for American Indian landowners. The lawsuit accused the federal government of failing to properly manage billions of dollars in royalties paid by mining, oil and timber companies for leases on Indian lands for over 100 years. As part of the settlement, several hundred thousand Native Americans who own, or who formerly owned, land that had been leased to such companies will collect at least $1,000 each. American Indians with larger tracts of leased land will receive significantly more, the department said. The remainder of the money will be used for a Native American college scholarship program and to buy small
parcels of land owned by individuals, but which will be returned to tribes (Timothy Williams, “Back-Pay Deal Approved for Indian Lands,” The New York Times, November 26, 2012; http://www.nytimes.com/2012/11/27/us/back-pay-deal-approved-for-indian-lands.html?ref=todayspaper). The payout from the federal government of the Cobbell settlement became possible when the last three Indian plaintiffs dropped their appeal to the Supreme Court, which dismissed their petition November 5, 2012. As of early November, the Department of Interior was expecting to send out checks before the end of 2012, assuming timely approval of the release of funds with the Attorney General certifying that the case is final and an Assistant Secretary of the Treasury certifying that it is proper to access the Judgment Fund to make that payment. Mary Aurelia Johns (Cheyenne River Sioux) said an agreement was made with the U.S. government for the dropping of the appeals, to change the $1.9 billion portion of the agreement designated for the U.S. Department of the Interior to establish a land consolidation program so that money would not be used as a loan to tribes. Under Congress’ authorizing language of the settlement, liens could have been placed on all income from sales of land acquired by the federal government under the land consolidation program until the tribes paid the liens back. The lawyers in the case are scheduled to receive approximately $100 million, while most class-action members will receive less than $2,000. “This has been a long struggle, and I still believe the Cobell agreement was not in the best interest for Indian country,” Johns said. “[But] if we did win, and then the ruling took away from anything to do with [Indian] trust [law], we would have ultimately lost for our people, and we just could not go there and take a chance. It was a very, very difficult decision” (Rob Capriccioso, “Indians Pull Appeal to Cobell Settlement; Government Says Payments By Year’s End,” ICTMN, November 8, 2012, http://indiancountrytodaymedianetwork.com/article/indians-pull-appeal-to-cobell-settlement-government-says-payments-by-years-end-144690).

The fourth White House Tribal Nations Conference of the Obama administration brought hundreds of tribal leaders to Washington, DC, December 5, 2012 to the U.S. Department of the Interior headquarters near the White House. The president highlighted some of his administration’s accomplishments on behalf of Native Americans, but said there is more work to be done, especially in terms of economic development. A number of tribal leaders asked if the administration would provide more Federal support for tribal job growth. This was of particular interest for many tribal attendees, noting that, to date, there have been few bold and encompassing plans to reduce reservation poverty and expand Indian economies under the Obama Administration. Some attendees came wondering whether the administration is supportive of a plan for a national Native lands lottery that would allow tribes to collaborate to build a lottery system similar to that of some states. Tribal gaming was not mentioned much at the conference, and it is not clear whether the administration supports expansion in this area. A special concern for tribal attendees was the impending so-called “fiscal cliff”, which some called the “fiscal buffalo jump” – and federal Indian budgets might be impacted. The National Congress of American Indians (NCAI) and other tribal leaders have put out position papers explaining why the federal tribal budget is not discretionary funding that should be tinkered with—rather, it is the manifestation of the United States’ trust responsibility toward tribes. All efforts should be made to protect it under any austerity or sequestration measures enacted by the federal government, tribal leaders told the administration. NCAI President Jefferson Keel stated in a pre-conference press release, “Tribal programs make up a miniscule part of the federal budget – for example the Indian Health Service is 0.12% of federal spending and Bureau of Indian Affairs is 0.07%. An 8.2% across the board cut would mean deep cuts to critical tribal programs and will disproportionately impact already vulnerable Native communities. Yvette Roubideaux, director of the Indian Health Service, said during the meeting that many tribal leaders raised the “fiscal cliff” as a looming worry. "Tribes expressed overwhelming concern about sequestration," Roubideaux said during a summary speech at the event, adding that tribal leaders believe federal Indian affairs funding should be protected from it. Many tribal leaders also at the conference expressed the need for a strong final push this session of Congress to secure a legislative fix to the 2009 U.S. Supreme Court Carcieri decision that calls into question the Department of the Interior’s ability to take lands into trust for all tribes, with some tribal officials requesting the Obama administration, which has long expressed support for a clean Carcieri fix, to press Democratic members of the Senate to vote favorably for the fix, noting that Indian votes and campaign donations made key differences in some of this fall’s national campaigns. The President repeated his support for a Carcieri fix during his speech at the conference. In the area of culture, tribal attendees express a general for more federal focus on cultural and language support for tribes. Administration officials tended to agree, but firm plans in this area have yet to be
announced. Brian Cladoosby, chairman of the Swinomish Nation, stated after the meeting, that trust reform, natural resource protection, and support for a clean Carcieri fix were the most important messages tribal leaders shared with the President and administration officials. Tribal inclusions in the Violence Against Women Act, taxation issues, and energy development were other significant issues raised by tribal leaders. Highlights of the meeting included: -- A sacred sites report is scheduled to be released, announced USDA Secretary Tom Vilsack, that will focus on better federal communication on sacred sites and protection. -- Vilsack also said there are Keepseagle settlement funds remaining for Indian farmers. -- Secretary of the Department of Health and Human Services, Kathleen Sebelius, announced that the Indian Health Service (IHS) will be reimbursed by Department of Veterans Affairs for veteran health services IHS provides, adding, “This agreement will make it easier for tribes to enter their own agreements with VA for the health services they provide.” -- Deputy Secretary of the Treasury Neal S. Wolin announced new proposed guidance that lays out broad exclusions from income to certain benefits that Indian tribal governments provide to tribal members. He also outlined new procedures for the reallocation of Tribal Economic Development Bonds. -- Acting Secretary of Commerce Rebecca Blank noted, "We've awarded $6.6 million for business centers serving Native entrepreneurs and businesses," adding that a Commerce tribal forum was held in the fall and one is planned for spring. --Secretary of Education Arne Duncan stated, "Native American graduation rates are unacceptably low. There are 9 states with graduation rates lower than 60% for Native students," adding that federal and state school systems must do better for Native children. --Interior Secretary Ken Salazar said Carcieri is an issue that needs to be fixed by Congress— saying hopefully we will accomplish it. This was reiterated by Acting Associate Attorney General Tony West. --Labor Secretary Solis noted that her department has finalized its tribal consultation policy. --Transportation Secretary Ray LaHood announced transportation grants: $15.5 million for 72 tribes to improve transit operations (Rob Capriccioso, “2012 Tribal Nations Conference Roundup: Economic Renewal, Carcieri, and the Looming ‘Fiscal Buffalo Jump’,” ICTMN, December 6, 2012, http://indiancountrytodaymedianetwork.com/article/2012-tribal-nations-conference-roundup-economic-renewal-carcieri-and-looming-’fiscal-buffalo’).

President Obama nominated Kevin Washburn (Chickasaw) to be Assistant Secretary of the Interior for Indian Affairs, in early August 2012.

Legislative Actions

Following the House (May 15, 2012), the Senate unanimously passed, without amendment, HR 205, the "Helping Expedite and Advance Responsible Tribal Homeownership" Act (HEARTH Act), July 17, 2012, which the President promised to sign. The HEARTH Act authorizes any tribe, at its own option, to lease its tribal trust land without approval by the Secretary of the Interior. To take advantage of this option, a tribe would have to adopt regulations governing the leasing process, which would be subject to approval by the Secretary. This new option has the potential for the tribes to streamline the process of granting leases of their tribal trust lands by eliminating the requirement for approval of each and every lease by the Bureau of Indian Affairs (BIA). Leases for exploration, development, or extraction of any mineral resources are excluded from the authority provided in the Act. Leases of individually owned allotted Indian lands are also excluded. Such leases will still require Secretarial approval. The exclusion of leases for energy minerals from the Act would not prevent tribes from using this new authority to lease land for renewable energy purposes. The Act amends 25 U.S.C. § 415, the statute that serves as the primary authority for leasing Indian trust lands, and which provides that such leases are subject to approval by the Secretary. Most of the substantive law on tribal approval of leases is set out in a new subsection 415(h), including the standards and the process that the Secretary is directed to apply in deciding whether to approve a tribe's regulations (“Congress Passes the HEARTH Act: Will Authorize Tribes to Lease Trust Lands without Secretarial Approval,” Hobbs-Straus General Memorandum 12-089, July 20, 2012, downloadable at: GM_12-089_HEARTH_Actpassed_byCongress7-20-12.pdf).

President Obama signed PL 112-141, the Moving Ahead for Progress in the 21st Century Act (MAP-21) which authorizes surface transportation programs from fiscal year (FY) 2013 through FY 2014 and extends the current surface transportation law: the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU, PL 109-59) through the remainder of FY 2012. Under MAP-21, the funding level for the newly established Tribal Transportation Program (TTP) will be $450

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milllion, which is the same level that the Indian Reservation Roads (IRR) Program was funded at in SAFETEA-LU. These funds, however, will now be stretched to cover two additional programs: the IRR Bridge Program and a tribal safety program. Also, MAP-21 establishes a new tribal shares funding formula, which will be gradually implemented over several years and largely replace the regulatory formula used under SAFETEA-LU (which was developed through the negotiated rulemaking process). Although MAP-21 includes some improvements for tribal programs, many non-funding formula provisions supported by tribes were not adopted, including a provision which would have created a tribal Self-Governance program for the Department of Transportation (DOT). In addition, two non-transportation provisions included in MAP-21 impact Indian nations: the interest rate for federally subsidized student loans and a study on tribal government and tribal member participation in the National Flood Insurance Program. A signature aspect of MAP-21 is the consolidation of federal programs, including Indian programs. The IRR Program, the IRR Bridge Program, and a new tribal safety program are now consolidated under the new TTP. Under SAFETEA-LU, IRR was funded at $450 million for fiscal year 2011 and the IRR Bridge Program was funded separately at $14 million. Under MAP-21, the TTP program will be funded annually at $450 million; however, up to two percent of that funding will be set aside for the bridge program, and an additional up to two percent will be set aside for the new safety program – effectively resulting in an up to four percent cut in funding. In addition, the administrative "take down" remains capped at six percent. Congress did not reduce the administrative take down or adopt funding increases to the TTP, which were supported by tribes. On the other hand, MAP-21 includes a provision that exempts TTP funds from the obligation limitation, meaning that 100 percent of TTP funds will be available. The IRR program was subject to the obligation limitation under SAFETEA-LU, which resulted in millions of IRR dollars being diverted each year. Tribes advocated strongly for this exemption and it represents an important achievement. Also of importance, MAP-21 provides $30 million each fiscal year ($25 million via formula, $5 million via competitive grants) for Public Transportation on Indian Reservations. Prior to MAP-21, the tribal transportation program received only $15 million per fiscal year distributed entirely via competitive grants. MAP-21 makes a significant change to the Tribal High Priority Program (HPP). The tribal HPP was a regulatory set-aside under SAFETEA-LU. Essentially the same program is now established by statute in MAP-21, but it is authorized for $30 million per fiscal year from the General Treasury rather than funded through the Highway Trust Fund. Therefore, it will be subject to the yearly appropriations process and may not be fully funded. Unfortunately, FY 2013 funding for the Tribal HPP is in jeopardy because the House and Senate Appropriations Committees already approved their respective Transportation, Housing, Urban Development and Related Agencies FY 2013 appropriations bills, before the creation of this new Tribal HPP program. Thus, these FY 2013 appropriations bills do not currently include any funding for the Tribal HPP program. Tribes supporting this program are advised to immediately approach Senator Murray (Chair of Senate Transportation, Housing, Urban Development, and Related Agencies Appropriations Subcommittee) and Senator Inouye (Chair of the Senate Appropriations Committee) to seek an amendment to the Senate bill to provide the $30 million for this program. Under MAP-21 a portion of the tribal shares distributed under the TTP will be distributed via the new statutory funding formula, and the regulatory formula used under SAFETEA-LU will be gradually phased out. The formula in the Senate-passed version of MAP-21 was weighted very heavily on tribal population. However, it was modified in conference committee, and the formula in the enacted version of MAP-21 reduces the weight attributed to tribal populations. A portion of tribal shares will now be distributed on the basis of average funding levels received by tribes in FY 2005 – 2011 under the old relative needs distribution formula (RNDF) and population adjustment factor. As noted above, the new tribal shares formula will be phased in over time according to the following schedule (even though the law only provides funding through FY 2014): FY 2013 – 80 percent via RNDF, 20 percent via new formula FY 2014 – 60 percent via RNDF, 40 percent via new formula FY 2015 – 40 percent via RNDF, 60 percent via new formula FY 2016 – 20 percent via RNDF, 80 percent via new formula. The funds distributed under the new formula will be calculated using the following three factors: • 27 percent based on a tribe's total "eligible road mileage" as a percentage of the total "eligible road mileage" for all tribes; • 39 percent based on a tribe's total population as a percentage of the total population of all American Indians and Alaska Natives; • 34 percent divided equally among the BIA Regions and distributed within each Region on the basis of the average funding available to a tribe from FYs 2005-2011 (under the RNDF and population adjustment factor) compared to the average total funding available to all tribes in the Region for that period. Finally, Tribal Supplemental Funding (TSF) is available to provide additional money to tribes who receive less under the new formula than they received under the RNDF in FY 2011. Under MAP-21, if total TTP funding is less than or equal to $275 million, 30 percent
is set aside for TSF. However, if total TTP funding is greater than $275 million, $82.5 million plus 12.5 percent of funds over $275 million is set aside for TSF. Under the non-funding formula provisions, tribes and the NCAI-Intertribal Transportation Association Joint Task Force also advocated for a number of non-funding formula tribal consensus provisions, several of which were included in the version of the transportation bill reported by the House Transportation and Infrastructure Committee. Unfortunately, many of these did not make it into the enacted version of MAP-21. Most noticeably absent from MAP-21 is a provision that with bipartisan support was included in the House Committee's bill which would have would have created a tribal Self-Governance program for the Department of Transportation (DOT). Other provisions of note in MAP-21 include: • A revision to the emergency relief program which includes authority for the Secretary of Transportation to directly fund tribal governments independently or in cooperation with another federal or state agency; • Tribal safety funds allocated on tribal government applications for eligible projects on basis of highway safety issues and opportunities on tribal land, as determined by the Secretary of DOT; • Maintenance allowance will be available to tribes of up to 25 percent or $500,000 of TTP funds – whichever is greater; • Tribally owned and federally owned bridges must be included in a bridge and tunnel inventory and classification conducted by the Secretary of Transportation and will be subject to new inspection standards for bridges and tunnels and reporting requirements; • The establishment of Federal Lands Access Program which appears to include the current Public Lands Discretionary Program through which tribes received funding to construct, rehabilitate and maintain certain federal facilities on or adjacent to or which provide access to federal lands. (Tribes are eligible to contract with a federal agency under the new program; however all funding is allocated to states making tribal access unclear.); • Tribes become eligible to enter into a contract with a federal agency regarding activities funded through the Federal Lands Transportation Program, which funds activities of federal land management agencies; • The establishment of a Transportation Alternatives program which incorporates recreational trails, safety routes to schools, and other alternative programs. (Tribes are eligible to receive competitive grants under this program; however, all funding is distributed to the states.) Several sections of MAP-21 are intended to reduce the environmental review requirements for transportation projects. These include the requirement for new regulations to create new categorical exclusions from the requirements for environmental assessments and environmental impact statements including: • The repair or replacement of a highway or bridge damaged by an emergency if the activity is in the same location, capacity and design as the original project, and it commences within two years; • Projects that are located within an operational right-of-way; • Projects receiving less than $5 million in federal funds, or which have a total estimated cost of not more than $30 million (of which less than 15 percent is comprised of federal funds); Under the non-transportation provisions, student loan interest rate provision in MAP-21 extends, for one year, the 3.4% interest rate for new federally-subsidized, undergraduate loans. If this extension had not been granted, interest rates for new loans, pursuant to the 2007 College Cost Reduction Act (PL 110-84), would have increased to 6.8% t on July 1, 2012. MAP-21 also makes changes to loan eligibility and interest accrual requirements. Under the Act, a person will lose eligibility for subsidized undergraduate loans after one and one half times the published length of their education program, and interest will begin accruing regardless of a person’s enrollment status. Thus if a person was enrolled in a four year program, he would lose eligibility for these loans in six years at which time interest would begin to accrue. These provisions apply to persons who are new borrowers on or after July 1, 2013. Under the previous law interest does not accrue as long as a student is enrolled at least half time. In addition, MAP-21 reauthorizes the National Flood Insurance Program (NFIP), makes changes that attempt to make it actuarially sound, and provides for distribution of penalty funds resulting from the 2010 Deepwater Horizon oil spill. The NFIP, administered by the Federal Emergency Management Agency, offers flood insurance for persons and businesses in those communities that participate in the program. MAP-21 expands the use of Community Development Block Grant (CDBG) funds. It will allow governmental agencies (including tribes) that are in the NFIP and managing flood plain management activities to use CDBG funds to encourage and facilitate the purchase of flood insurance protection by owners and renters in such communities and to promote educational activities that increase awareness of flood risk reduction. The Act notes that only 45 Indian tribes participate in the NFIP and calls for a study to look into this matter. The Act requires the Comptroller General, in consultation with Indian tribes and tribal members, to undertake a study to examine the factors contributing to the current rate of low tribal participation in the program and methods that might encourage increased participation. The study is to be completed within six months of enactment. It is to contain recommendations on how to encourage participation by Indian tribes and tribal members in the NFIP program and to identify legislative changes that might help achieve this end ("Surface Transportation Authorization Enacted for
Seven co-sponsors in the U.S. House and Senate introduced reauthorizing legislation for the Esther Martinez Native American Language and its funding. The program’s funding authorization, which expires at the end of 2012, has distributed nearly $50 million in 39 competitive grants to tribal language programs since its passage. Members of the bi-partisan New Mexico Congressional delegation, Martin Heinrich (D), Ben Ray Luján (D), and Steve Pearce (R) introduced the legislation in the House, September 13, 2012. The Senate companion bill was introduced by Senators Tim Johnson (D-South Dakota), Daniel Kahikina Akaka (D-Hawaii), John Tester (D-Montana), and Tom Udall (D-New Mexico), and referred to the Committee on Indian Affairs ("Native American Languages Funding Bills Introduced in House and Senate,” Cultural Survival, September 26, 2012, http://www.culturalsurvival.org/news/native-american-languages-funding-bills-introduced-house-and-senate).

Kelsey Klug, “Native American Languages Act: Twenty Years Later, Has It Made a Difference?,” Cultural Survival, July 19, 2012, http://www.culturalsurvival.org/news/native-american-languages-act-twenty-years-later-has-it-made-difference, reports, “Native Americans lost control of the education of their children when the United States government forcibly enrolled them in residential schools designed for assimilation into an “American” mold. This policy began in the 1870s and continued on a large scale through the 1970s; a few schools are still operating today. In these institutions, children were severely punished, both physically and psychologically, for using their own languages instead of English. These experiences convinced entire generations of Native people that their children would be better off learning to speak only English. Hoping to spare their children the pain they once went through, parents stopped passing their languages on to their children, and thereby stopped creating fluent speakers of those languages. As a result, numerous languages indigenous to America are now severely in danger of losing their last native speakers.” With many Indian communities attempting to revitalize their languages, Congress passed the Native American Languages Act (NALA) in 1990, recognizing that “the status of the cultures and languages of Native Americans is unique and the United States has the responsibility to act together with Native Americans to ensure [their] survival,” stating that it was now the policy of the United States to “preserve, protect, and promote” Native Americans’ rights to use their Indigenous languages anywhere, including “as a medium of instruction” in schools. Congress updated the Native American Language Act (NALA) in 1992, adding a grant program to “assist Native Americans in assuring the survival and continuing vitality of their languages,” for the first time providing some funding to carry out the act ‘s purposes. However, the amount allotted was not nearly sufficient to finance programming for all interested tribes. Substantial resources are required in order to establish immersion schools, especially when the target language is not thriving and the curriculum must be developed from scratch; inadequate governmental support forces schools to devote much of their energy towards private fundraising. Additional financing became available through the Esther Martinez Native American Languages Preservation Act of 2006 (with an additional $12 million in 2009), providing added funding for language nests and survival schools, master-apprentice programs, immersion camps, curricular development and teacher training, and language classes for the parents of students enrolled in such programs, with flexibility to allow communities to develop the language-learning arrangements that will best suit their specific resources and goals. These types of programs aim to create fluent speakers; teaching an indigenous language for just one class period per day cannot accomplish that, nor can dictionaries and audio recordings. Only immersion can effectively create fluent speakers; fluent speakers are the only way to foster a living language. “But as beneficial and valuable as these programs are, they face myriad setbacks. In addition to the lack of funding, numerous restrictions are imposed by the No Child Left Behind Act of 2001 (NCLB), a reauthorization of the Elementary and Secondary Education Act. Although NCLB claims to respect the right of Native communities to incorporate their own language and culture into their children’s education, many of its mandates actually contradict those laid out in NALA and impede the success of immersion schools. One major problem is the definition of “highly qualified” teachers: NCLB requires teachers to have a bachelor’s degree, full state licensure, and provable knowledge of their subject matter. This hampers immersion programs, because often the only available speakers are the community’s elders—most of them don’t possess teaching credentials or university degrees in their native languages, but they are the last fluent speakers, and therefore the most qualified teachers. Both NALA and the Esther Martinez Act state that teachers of Native American languages may be exempt from certain requirements in order to not “hinder
the employment of qualified teachers who teach in Native American languages,” but schools have trouble getting state authorities to accept that. The Bureau of Indian Education (BIE) is now applying for a waiver from the Department of Education through the Obama administration’s new NCLB exemption process. These programs have few alternatives, since endangered languages are defined by the fact that they have a limited number of fluent speakers. **In addition to restrictive teacher qualifications, NCLB requires assessment testing—which is tied to federal funding—to be entirely in English. This is difficult for immersion schools, which often operate on a model of beginning education completely in the target language, and gradually introducing English to the children only later.** By the end of their schooling—and by virtue of living in an English-based society—kids are fluent in both their Native language and English (this is called additive bilingualism), though elementary students may initially lag a bit behind in English. However, NCLB doesn’t recognize these distinctions. **President Obama’s Blueprint for Reform of the Elementary and Secondary Education Act pledges that tribal authorities will have “greater flexibility to use funds to carry out programs that meet the needs of Indian students.” Whether or not that Blueprint will have enough power to uphold its promises remains to be seen.** In addition, Native American students are not doing well in traditional public school settings, where they are dropping out at a rate roughly twice the national average. Estimates vary widely, but suggest that only half of Native students complete high school, and only a fifth progress into any post-secondary education. Although academic assessment scores have been slowly rising for all measured groups, the achievement gap (which likely stems from an opportunity gap) between Native and White students. In many instances, continues to increase. The 2011 National Indian Education Study survey of school administrators found that 25% of students in public schools with low Native enrollment receive Native language instruction, while 50% of students in high Native enrollment public schools do. In BIE schools, about 90% of students received at least some oral instruction in a Native language and 70% received some written instruction. However, this instruction tends to be infrequent: in 2009, 25% of BIE students reported that people in their schools talk to each other in Native American languages every day, and the numbers for public school students are insignificant. In comparison, immersion schools do much better for students in all areas, with many Native students thriving, achieving higher test scores and graduating at significantly higher rates, with stronger connections to their culture. “**Virtually all students in Native Hawaiian schools now graduate from high school, and their language programs have expanded so much that students can go through university completely in Native Hawaiian. Diné (Navajo) immersion students are scoring with or above their non-immersion peers on standardized tests, even in English.** At Waadookodaading, an Ojibwe language school in Wisconsin, one hour of English instruction per day is enough for students to reach “proficient and above proficiency” performance levels on NCLB assessments. The school says it “turned [the] model on its head” to successfully teach English as its students’ foreign language. Since these programs incorporate Native culture, they also help students to become more proud of their traditional culture. **Immersion programs clearly offer substantial evidence of positive outcomes for students, advancing both the academic success and cultural literacy of Native children and their communities.**” Teresa McCarty, an Arizona State University professor and co-director of their Center for Indian Education, commented, “The issue, then, is not whether schooling based on Native students’ tribal language and culture is beneficial, but rather which approaches are most effective and under what conditions.” Returning control over their children’s educations to Native American tribal authorities would let them to establish language programs and implement an environment shown to have a positive impact on the community. Jacob Manatowa-Bailey, director of the Sac and Fox Nation of Oklahoma’s Sauk Language Department, noted, “Simply stated, when tribal children are given the opportunity to learn their language, they are happier, healthier human beings. It doesn’t mean their lives are easier. It does mean that their identities are stronger and that they are better prepared to face the challenges of being an Indigenous person in the modern world.”

**Senator Daniel Kahikina Akaka and Loretta Tuell, his chief of staff and chief counsel on the Senate Committee on Indian Affairs, said, in mid-November, they would continue working through the lame duck session of the 112th Congress to pass a clean Carcieri fix and other important Indian legislation (Gale Courey Toensing, “Akaka to Push Passage of Carcieri and More in Lame Duck Session,” ICTNM, November 12, 2012, http://indiancountrytodaymedianetwork.com/article/akaka-to-push-passage-of-%3Ci%3Ecarcieri%3C/i%3E-and-more-in-lame-duck-session-145046).**
Federal Agencies

“The Tribal Law and Order Act Implementation and Opportunities,” Hobbs-Straus General Memorandum 12-125, November 9, 2012, downloadable at: GM_12-125_TribalLaw_andOrderActUpdate..pdf, reports on the status of implementation of the tribal sentencing authority in the Tribal Law and Order Act of 2010 (TLOA) and the opportunities for assistance for tribes who wish to exercise such authority. “The TLOA, among many other things, amended the Indian Civil Rights Act (25 U.S.C. § 1302) to expand the limits of tribal sentencing authority from one year imprisonment and a $5,000 fine to up to three years imprisonment and a $15,000 fine, with consecutive sentences authorized for multiple offenses. However, in order to exercise this expanded sentencing authority, the Act requires tribes to provide additional due process protections to defendants in tribal courts. These protections include: the right to court-appointed counsel and the right to effective assistance of counsel; licensed, law-trained judges; published and publicly available criminal laws; and records of criminal proceedings. See 25 U.S.C. § 1302 (Supp. 2012). On May 30, 2012, the Government Accountability Office (GAO) released a report, based on a survey of 171 tribes that had received federal funding for their tribal courts, finding that none of the surveyed tribes were yet exercising the expanded sentencing authority under the TLOA. According to the report, the most commonly identified challenge to implementing the expanded sentencing authority was limited funding, both to implement the TLOA’s due process requirements and to fund activities associated with longer sentences, such as detention and probation. Given the findings of this GAO report, we believe that some tribes may not be aware that the Department of Justice (DOJ) and the Department of the Interior (DOI) have been engaged in efforts, which involve several agencies, to expand access to available funding and to offer other assistance to tribes seeking to implement the TLOA expanded sentencing authority. The agencies are working together to implement their "Long Term Plan to Build and Enhance Tribal Justice Systems," a plan that was developed with input from tribal leaders and submitted to Congress in August 2011. The Plan includes short-, mid-, and long-term recommendations related to three topics: (1) alternatives to incarceration in Indian Country; (2) detention in Indian Country; and (3) reentry in tribal communities. In September 2012, DOJ and DOI hosted a webinar to update tribes on the progress the Departments have made in implementing several of the short-term steps included in the Plan, which provide new resources and opportunities for tribes wishing to take advantage of the TLOA sentencing provisions. These include expanded funding and technical assistance for electronic monitoring; training and pilot programs related to sentencing alternatives (including use of monitoring devices); new opportunities to use funding for multi-purpose justice centers and treatment facilities; and expanded tribal eligibility for reentry funding opportunities, among several others. The GAO report is available online at http://www.gao.gov/products/GAO-12-658R, and further information from the webinar is available at http://tloa.ncai.org/webinars.cfm. “

Reports from the U.S. Department of Justice indicate that though the Justice Department has deployed some 37 extra F.B.I. agents and United States attorneys to Indian country in recent years, between 2000 and 2012 the number of police personnel in Indian country dropped from 3,462 full-time police personnel in 2000, to about 3,000, in 2012, as funding levels fell, and fewer investigations of violent felony crime were initiated, while rates of murder and rape on reservations have increased to more than 20 times the national average. For example, while crime in much of the rest of the nation has declined, F.B.I. crime data reports that the number of reported rapes on the Navajo reservation in the Southwest in the last several years has eclipsed those in nine of America’s 20 largest cities, even though there are only 180,000 people on the reservation. The reservation’s 374 reported rapes in 2009, for example, outpaced even the total for Detroit, for decades among the nation’s most violent cities, which had 335 rapes that year. From 2000 to 2010, crime on some reservations rose by as much as 50%, while the number of suspects on Indian lands being investigated for violent crime by United States attorneys declined by 3%, while crime fell 13% nationally and federal prosecutions of violent crime outside Indian country increased by 29%. During the same period, homicides on Indian lands rose 41% percent to 133 in 2010, up from 94 in 2000; rapes increased by nearly 55% percent, to 852, up from 550; and arson and robbery rates doubled. The relative spending on law enforcement in the U.S. is much less on reservation than off. The Bureau of Indian Affairs, for instance, which along with the Justice Department is responsible for law enforcement for 1.6 million residents spread over 56 million acres of Indian country, distributed $322 million to tribal law enforcement programs in 2012, according to budget outlays, while both Philadelphia, which has a population of 1.5 million and a police budget of $552 million,
and Phoenix, with 1.4 million people and a $540 million police budget, spend far more on public safety despite having smaller populations and less area to patrol. (Phoenix employs 3,100 officers, while Philadelphia has about 6,400 officers.) Fort Apache Indian Reservation in Arizona, where the number of officers has declined as violence has intensified, had 36 officers in 2000, but now has just 30 to patrol an area larger than Delaware. At the Pine Ridge Indian Reservation in South Dakota (population 40,000), 58 tribal officers in 2000 patrolled 3,470 square miles — one officer per 50 square miles, but by 2012, despite growth in both population and crime, the number had dropped to 49. F.B.I. agents have told officers on Pine Ridge that the reservation needs at least 140 officers to handle an epidemic of violence that includes 3,000 child abuse cases and more than 20,000 arrests each year — nearly one arrest for every other resident. Tribal officials note that crime on reservations may actually be 10 times or more higher than official rates because people seldom report violence. While the federal government has authorized increased authority, in recent years, for Indian nations to prosecute crime, it has at the same time cut funding for tribal courts. The Gila River Indian Community’s courts, in Arizona, for example, received no Bureau of Indian Affairs funds from 2008 to 2010, while the tribe of 16,700 members was inundated with 24,000 new criminal cases. Tribal courts often do not have money to pay per diems for jury duty, and tribes say federal funding barely covers the salaries of court clerks, much less judges. In some places, including Isleta Pueblo in New Mexico, police officers double as prosecutors. Meanwhile, grants meant to boost public safety on reservations have shrunk, including the Justice Department’s Coordinated Tribal Assistance Solicitation program, which has dropped to $101 million and 200 grants in 2012, down from $127 million for 301 grants in 2010. At the same time, grants during the past four years from the Justice Department’s Office on Violence Against Women, which has distributed $1.8 billion, have in many cases gone outside Indian lands. Hingham, Mass., for example, which has a population of 22,157, has received about $1.5 million, and more than $1 million has gone to tiny East Central University in Ada, Okla. In contrast, the Emmonak Women’s Shelter, which serves Native Alaskans in rural Alaska, has received only $350,000, and was forced to close temporarily in 2012 because it could no longer afford electricity, even after its workers had stopped accepting pay, until the shelter reopened using emergency federal financing and public donations (Timothy Williams, “Washington Steps Back From Policing Indian Lands, Even as Crime Rises,” The New York Times, November 12, 2012, http://www.nytimes.com/2012/11/13/us/as-crime-rises-on-indian-lands-policing-is-cut-back.html?ref=todayspaper).

The Department of Justice announced a policy, October 12, 2012, addressing the ability of members of federally recognized Indian tribes to possess or use eagle feathers, after extensive department consultation with tribal leaders and tribal groups. The policy covers all federally protected birds, bird feathers and bird parts. The policy provides that, consistent with the Department of Justice’s traditional exercise of its discretion, a member of a federally recognized tribe engaged only in the following types of conduct will not be subject to prosecution: · Possessing, using, wearing or carrying federally protected birds, bird feathers or other bird parts (federally protected bird parts); · Traveling domestically with federally protected bird parts or, if tribal members obtain and comply with necessary permits, traveling internationally with such items; · Picking up naturally molted or fallen feathers found in the wild, without molesting or disturbing federally protected birds or their nests; · Giving or loaning federally protected bird parts to other members of federally recognized tribes, without compensation of any kind; · Exchanging federally protected bird parts for federally protected bird parts with other members of federally recognized tribes, without compensation of any kind; · Providing the feathers or other parts of federally protected birds to craftpersons who are members of federally recognized tribes to be fashioned into objects for eventual use in tribal religious or cultural activities. The Department of Justice will continue to prosecute tribal members and non-members alike for violating federal laws that prohibit the killing of eagles and other migratory birds or the buying or selling of the feathers or other parts of such birds. The policy expands upon longstanding Department of Justice practice and Department of the Interior policy. It was developed in close coordination with the Department of the Interior. The Department of Justice’s Environment and Natural Resources Division (ENRD) and United States Attorneys’ Offices work closely with the Department of the Interior’s U.S. Fish and Wildlife Service and Bureau of Indian Affairs on enforcement of federal laws protecting birds. To view the policy and a fact sheet on the policy, visit: www.justice.gov/tribal (“Justice Department Announces Policy on Tribal Member Use of Eagle Feathers,” Department of Justice, October 12, 2012, http://www.justice.gov/opa/pr/2012/October/12-ag-1234.html).
The Environmental Protection Agency (EPA) announced in a July 12, 2012, Dear Tribal Leader Letter that it is seeking review and comment on a draft EPA Agency-Wide Plan to Provide Solid Waste Management Capacity Assistance to Tribes (the Plan). A second EPA letter to tribal leaders dated September 24, 2012, extended the deadline for submission of written comments to November 8, 2012. The Plan is available at: www.epa.gov/epawaste/wyl/tribal/capacityassist.htm. EPA's stated purpose for the Plan is to implement recommendations made in the March 21, 2011, EPA Office of Inspector General (OIG) Evaluation Report EPA Needs an Agency-Wide Plan to Provide Tribal Solid Waste Management Capacity Assistance. The Report and recommendations generally focused on internal EPA program management issues and can be found at: http://www.epa.gov/oig/reports/2011/20110321-11-P-0171.pdf. The Resource Conservation and Recovery Act of 1976 (RCRA), 42 U.S.C. § 6901-6992k, which amended the Solid Waste Act, established programs governing the disposal of solid and hazardous waste. RCRA Subtitle D (Solid Waste) requires states to establish State Solid Waste Plans, for approval by EPA. RCRA requires EPA to establish guidelines for state solid waste plans and criteria for the operation of solid waste landfills but does not specifically establish a federal solid waste permit program in the absence of a state program. RCRA does not authorize EPA to treat tribes in the same manner as states. EPA's position is that it is not authorized under RCRA to implement solid waste programs for states or tribes. The result is that there is no federal solid waste regulatory program in Indian Country, except EPA's criteria for solid waste landfills. Currently, tribes must rely entirely on their inherent jurisdiction to regulate solid waste disposal within Indian Country. As noted in the OIG report, tribes often find it difficult to regulate waste management activities on lands owned by nonmembers. Given the lack of a federal regulatory program for solid waste in Indian Country and limited tribal authority, there has been a proliferation of open dumps. In 1994, after Congress found at least 600 open dumps on Indian lands, it enacted the Indian Lands Open Dump Cleanup Act of 1994, 25 U.S.C. § 3901-08, which directs the Indian Health Service (IHS) to work with tribes to inventory and close open dumps on Indian lands. The initial IHS inventory of open dumps in 1998 listed approximately 1200 sites; the OIG report states that as of 2010, nearly 4,000 open dumps are listed. The OIG report expressed concern with several aspects of EPA's solid waste program in Indian Country. EPA's draft Plan has very modest goals. EPA identifies the Plan's primary mission as assisting tribes to develop and implement an Integrated Waste Management Plan (IWMP), since IHS has the lead in closing open dumps. The Plan cites two goals from EPA's Strategic Plan: 1) to increase by 78 the number of tribes covered by an IWMP (134 tribes now have an IWMP, out of 566 federally recognized tribes); and 2) close, clean up or upgrade 281 open dumps on Indian lands (647 open dumps have been closed, cleaned up, or upgraded, with almost 4,000 open dumps still listed). The Plan proposes to modify these goals to focus on developing IWMPs. The Plan emphasizes providing training and resources to help tribes develop an IWMP. However EPA notes that its Solid Waste Program budget is severely limited. The Plan describes how funding from the Indian General Assistance Program (GAP) can be used by tribes to develop and implement solid waste programs, and to clean up open dumps. Since, tribes rely on GAP funds for a variety of environmental activities, OIG reports that many tribes will not have sufficient funds to perform all of the work they plan and also develop an Integrated Waste Management Plan. Neither the Plan nor the OIG report mentions steps that EPA could take to establish an enforceable federal solid waste program in Indian Country. One option would be to seek legislation amending RCRA to specifically provide for a federal program when no state program applies and to authorize EPA to treat tribes in the same manner as states for implementing solid waste programs, with federal enforcement as a backup. Another option would be for EPA, as the agency charged with administering RCRA, to interpret the Act as authorizing EPA to establish a federal program in Indian Country. With a federal program, EPA could authorize tribes to administer EPA's regulatory program through Direct Implementation Cooperative Agreements or delegation agreements. Since the draft Plan is described as a dynamic document that will be refined as priorities and resources change, tribal comments on the draft Plan could suggest alternatives for improving how solid waste is regulated in Indian Country and request that EPA devote more resources to this effort. (“EPA Consultation on Plan to Provide Solid Waste Management Capacity Assistance to Tribes.” Hobbs Straus General Memorandum 12-124, October 24, 2012, downloadable at: GM_12-124_EPA_ConsultTribes_onSolidWastePlan.pdf).

The Indian Health Service (IHS) issued a correction to its Calendar Year (CY) 2012 reimbursement rates applicable to Medicare and Medicaid services provided by IHS-funded health programs (operated by IHS and tribes/tribal organizations) in the Federal Register, June 19, 2012. These rates are set annually by IHS, with the concurrence of the Office of Management and Budget, and are based on cost reports compiled by IHS. Medicare
Part A (inpatient services) rates are not included in the notice as they are paid based on the prospective payment system. A comparison of the 2011 and 2012 rates follows. Inpatient Hospital Per Diem Rate (Excludes Physician Services) for MEDICAID CY 2011 CY 2012: Lower 48 $2,034 $2,165 Alaska $2,269 $2,347; Outpatient Per Visit Rate (Excluding Medicare) for MEDICAID CY 2011 CY 2012: Lower 48 $294 $316 Alaska $490 $515; Outpatient Per Visit Rate for MEDICARE CY 2011 CY 2012: Lower 48 $256 $273 Alaska $447 $468; MEDICARE Part B Inpatient Ancillary Per Diem Rate CY 2011 CY 2012: Lower 48 $256 $273 Alaska $447 $468.


A joint national agreement between the Department of Veterans Affairs (VA) and the Indian Health Service (IHS), following tribal consultations, announced in early December 2012, will provide American Indian and Alaska Native (AI/AN) veterans with access to health care services closer to home. Under the arrangement Native vets can receive care from HIS who will then be reimbursed by the VA. While the agreement applies strictly to VA and IHS, it will guide agreements negotiated between the VA and tribal health programs. Under the agreement, copayments will not be covered by the VA for direct care services provided by the IHS to eligible AI/AN veterans. There are currently 154,305 AI/AN veterans, among them, 27 have received an American Indian Congressional Medal of Honor. About 18.9% of AI/AN veterans suffer from a service-connected disability, compared to 15.6% of non-AI/AN veterans. More AI/AN veterans live in California than any other state: 18,398; followed by Oklahoma with 14,348. The national agreement can be viewed at: www.va.gov. To find out additional information about American Indian and Alaska Native Veteran programs, visit: www.va.gov/tribalgovernment and http://www.ihs.gov/ ("VA and Indian Health Service Announce National Reimbursement Agreement," ICTMN, December 6, 2012, http://indiancountrytodaymedianetwork.com/article/va-and-indian-health-service-announce-national-reimbursement-agreement-146157).

The Bureau of Indian Affairs (BIA) announced in the Federal Register, October 11, 2012, notice, a series of now concluded meetings with tribes regarding the preparation of a 2013 Indian Population and Labor Force Report (Report), which since the late 1970s have been providing tribal-specific data including size of BIA service population, size of available work force, and employment levels. Major changes are contemplated in how this data will be compiled and reported. Written comments were due November 12, 2012. The Indian Employment, Training, and Related Services Demonstration Act (PL 102-477) requires the BIA to publish, at least once every two years, an American Indian Population and Labor Force Report. The last such report was issued in 2005. The data reported is considered problematic due to its self-reported nature and lack of clear direction and standard methodologies for compiling the data. Virtually no funding or technical assistance is available to tribes to compile this data. The BIA conducted a web-based survey of tribes in order to collect population and labor force data for 2010, but then determined that the report would not be prepared because of "methodology inconsistencies." Instead, a new survey is to be designed that will meet the data quality standards set by the Office of Management and Budget. Under consideration is the use of the Census Bureau's American Community Survey (ACS) data as the source for the Indian Population and Labor Force Report. The ACS replaced the Census Bureau's decennial "long form" questionnaire in 2010. By contrast, the ACS is an ongoing monthly survey, allowing for more frequent reporting, but collects data from fewer households. For a small population like American Indians and Alaska Natives the smaller survey increases the likelihood that the data will not be representative of the entire Indian or Alaska Native population. In response to concerns about this, the Census Bureau is increasing its sample size somewhat and has agreed to do follow-up interviews in rural areas of Alaska of those households that do not respond to the mail questionnaire. These improvements won't take full effect for another five years. Even then, the data will be reliant on a smaller number of Native household responses than under the previous "long form" questionnaire used in past decennial censuses. Of particular concern is that the ACS uses the Labor Department's definition of a person being "in the labor force" as one who is in the armed forces or is age 16 or older and who is employed or unemployed but if unemployed is actively seeking work and has taken steps to find a job within the last four weeks. The BIA report, on the other hand, counts anyone who is not
employed but who is available for employment as being "in the labor force" and without a job. The BIA Report actually provides a "jobless" rate as opposed to what the Labor Department terms an "unemployment rate." The BIA’s approach takes into account the labor market of many reservation areas where Indian people don't "actively seek work" because they know there simply are no jobs for which to apply. Tribes may well find that the jobless rate as presented in past BIA Reports was several times higher than the unemployment rate reported in the ACS. For instance, one tribe would have the following contrasts using the BIA versus the Labor Department definitions. The BIA Jobless Rate in the 2005 Report was 67.7%, compared to the American Community Survey (5-year estimate) Unemployment Rate of 21.2%. Hobbs-Straus says “neither the current BIA nor the ACS system will yield perfect results. However, if tribes find themselves suddenly having to utilize a totally different set of labor force figures, this will impact their planning and advocacy efforts. In addition, several federal programs take into account employment and poverty data in the distribution of funds, notably the Indian programs under the Workforce Investment Act. Also affected is the Indian Housing Block Grant program under the Native American Housing and Self-Determination Assistance Act which, in turn, affects the BIA Tribal Transportation Program.” The BIA, in the list of questions posed to tribes, notes that regardless of a long-term solution to developing a reliable source of Indian population and labor force data, that they are considering using the ACS for its 2013 report due to time constraints. This seemed likely to be a key topic at the then upcoming consultation sessions along with what adjustments might be made to the ACS data if that becomes the source for future Indian Population and Labor Force Reports (“BIA Consultations on Indian Population and Labor Force Report,” Hobbs-Straus General Memorandum 12-122, October 19, 2012, downloadable at: GM_12-122_BIA_LaborForceData.pdf).

The Department of the Interior revised its procedures, August 24, 2012, for implementing the National Environmental Policy Act (NEPA) by adopting a new categorical exclusion for actions by the Bureau of Indian Affairs (BIA) associated with leasing and/or constructing single-family homes on Indian land under 77 Fed. Reg. 47864. The adoption of this categorical exclusion is intended to expedite compliance with NEPA for covered BIA actions by eliminating the need to prepare an environmental assessment, unless an extraordinary circumstance applies. For a discussion of the NEPA process and how categorical exclusions expedite compliance, Hobbs General Memorandum 12-045 (March 23, 2012), which reported on the proposal to adopt this categorical exclusion, and which is reported in the Summer 2012 issue of IPJ. As adopted, the wording of the categorical exclusion was revised somewhat, in response to comments filed by one of our tribal clients. The final wording is as follows: "Approvals of leases, easements, or funds for single-family homesites and associated improvements, including, but not limited to, construction of homes, outbuildings, access roads, and utility lines, which encompass five acres or less of contiguous lands, provided that such sites and associated improvements do not adversely affect any tribal cultural resources or historic properties and are in compliance with applicable Federal and tribal laws. Home construction may include up to four dwelling units, whether in a single building or up to four separate buildings." Hobbs-Straus states, “there may well be other categories of BIA actions that should be added to the list of categorical exclusions. Any such suggestions should be brought to the attention of BIA.” ("BIA Adopts Categorical Exclusion for Homesites,” Hobbs-Straus General Memorandum 12-104, August 24, 2012, downloadable at: GM_12-104_BIAAdoptsCEforHomesites.pdf).

The Interior Department has informed Indian nations that, under the Cobell settlement, they do not have to reimburse the government for buying up divided fractions of trust land, and has been assisting tribes wit the process (Suzanne Gamboa, “Tribes prepare for purchasing fractionated lands under Cobell,” News From Indian Country, August 2012).

The Department of Interior announced, October 12, 2012, that it has rejected the casino compact between the Mashpee Wampanoag Tribe and the Commonwealth of Massachusetts, on the grounds that it unfairly gives the state too much money and unwarranted authority over tribal matters, threatening the tribe’s sovereignty (Gail Courey Toensing, “Department of Interior Rejects Mashpee-State Gaming Compact,” ICTMN, October 16, 2012, http://indiancountrytodaymedianetwork.com/article/department-of-interior-rejects-mashpee-state-gaming-compact-140000).

The Interior Department transferred more than 1900 acres within the boundaries of the Southern

Following the rejection by the Navajo and Hopi nations of the proposed Little Colorado Water Settlement, the Interior Department has been working with the nations to develop a new agreement (Felicia Fonseca, “Interior working with Navajo an Hopi on Arizona Water Deal,” News From Indian Country, December 2012).

The Department of Housing and Urban Development (HUD) published the final rule resulting from the negotiated rulemaking over the NAHASDA (Native American Housing and Self Determination Act) regulations that began in 2010, December 3, 2012. This rule represents a significant modification to the regulations at 24 CFR part 1000, and addresses every part of those regulations except for Subpart D, dealing with the Indian Housing Block Grant (IHBG) allocation formula (which will be the subject of an upcoming negotiated rulemaking). The areas amended by the new rule include the following subparts of part 1000: Subpart A – addressing non-discrimination requirements, environmental reviews, program income, investment of IHBG funds, labor standards, administrative requirements, Indian preference, and procurement requirements. Subpart B – addressing affordable housing activities, eligibility issues, useful life of units, and criminal records access and use. Subpart C – addressing the annual Indian Housing Plans that must be prepared as a prerequisite to receiving the annual IHBG allocation, as well as use of IHBG funds for administrative and planning expenses, reserve accounts, local cooperation agreements, and exemption from taxation. Subpart E – addressing the Title VI loan guarantee provisions of NAHASDA. Subpart F – addressing oversight, monitoring, and enforcement of tribal housing programs by HUD. The amendments were negotiated in a series of seven negotiated rulemaking sessions, six of which took place in 2010, and a final one in May 2012 that considered public comments received in response to the proposed rule, which had been published in November 2011. The final rule published on December 3, 2012, represents only minor revisions to the proposed rule published a year ago. The new regulations go into effect on January 2, 2013. A copy of the final rule may be found here: http://www.gpo.gov/fdsys/pkg/FR-2012-12-03/pdf/2012-29133.pdf (“HUD Publishes Final Rule Amending NAHASDA Regulations,” Hobbs-Straus General Memorandum 12-127, December 7, 2012, downloadable at: GM_12-127_NAHASDA_FinalRegs.pdf).

The Community Development Financial Institutions (CDFI) Fund announced in the Federal Register, November 30, 2012, that it was seeking comments from Indian Country on the design of a new study on Native Americans' access to capital and credit, with comments due by February 28, 2013. The report which will be produced from this study is intended to provide Indian Country, the Treasury Department, and Members of Congress with actionable recommendations for improving access to capital and credit in Native communities. Webcasts were scheduled for January 15 and 17, 2013, to discuss the design of the study. The CDFI Fund was established by Congress in 1994 in order to promote economic revitalization and community development through the provision of low cost capital to underserved and distressed communities. The CDFI Fund produced the first Native American Lending Study (NALS) in 2001 and believes that the study should be updated. The original NALS was designed to: provide a baseline of information on access to capital and credit in Native communities, identify barriers to private financing, analyze the impact on access to capital and credit for Native people, and provide options to address these barriers. The CDFI Fund is particularly interested in comments relating to the how the new NALS should be designed to best capture "emerging trends, innovative concepts, and promising solutions that could significantly improve capital access and the availability and quality of credit in Native communities" as well as identifying data elements from the original NALS that were particularly useful to tribes and tribal financial organizations (“Community Development Financial Institutions Fund Seeks Comments on Design of New Native American Lending Study,” Hobbs-Straus General Memorandum 12-128, December 7, 2012, downloadable at: GM_12-128_CDFI_FundRequest_forComments_onNativeAmericanLendingStudy.pdf).

The National Park Service (NPS) published a notice in the Federal Register, August 10, 2012, soliciting written comments regarding its initiative to revise its National Register of Historic Places guidance for "identifying, evaluating, and documenting properties that are historically significant as Traditional Cultural Properties (TCPs) and/or Native American landscapes" (77 Fed. Reg. 47875). NPS was seeking comments from its "tribal, national, state, and local historic preservation partners," regional NPS offices and National Parks, other federal agencies, and the general public. As Hobbs-Straus reported in its General
Memorandum 12-044 (March 23, 2012), NPS has also begun to engage in consultation with Indian tribes regarding this initiative. The deadline for submitting comments in response to the Federal Register notice was October 31, 2012. Any property that is eligible for the National Register is subject to the review process under section 106 of the National Historic Preservation Act, whenever such a property would be affected by a proposed federal or federally-assisted undertaking. If an Indian tribe attaches religious and cultural importance to a historic property that would be affected by such an undertaking, the tribe has a right to be a consulting party in the section 106 process. As stated in the notice, NPS is seeking input on how to update its published guidance documents. One of the key guidance documents is National Register Bulletin 38: Guidelines for Evaluating and Documenting Traditional Cultural Properties Specific issues on which NPS seeks input include: • What constitutes a "traditional" community? • "Continuity of use" by a traditional community • Evolving uses of resources by a traditional community • Multiple lines of documentary evidence • Broad ethnographic landscapes • Property boundaries • Resource integrity. Hobbs-Straus notes that the Advisory Council on Historic Preservation has also engaged in an initiative on Native American cultural landscapes. The Advisory Council's action plan and related documents are available on the Council's website (“National Park Service Request for Comments on Traditional Cultural Properties and Native American Landscapes,” Hobbs-Straus General Memorandum 12-105, August 24, 2012, downloadable at: GM_12-105_NPSSeeksPublicComment_onTCPs_andLandscapes.pdf).

The Indian Health Service (IHS) announced in the Federal Register, July 26, 2012, that it was soliciting comments, on its draft policy for conferring with Urban Indian Organizations, with comments due September 10, 2012. Section 514 of the Indian Health Care Improvement Act (IHCIA), as amended by the Patient Protection and Affordable Care Act (PL 111-148), requires the IHS to confer with Urban Indian Organizations (UIOs) in carrying out the IHCIA. The draft policy would require that conferring activities take place at the Headquarters, Area and Service Unit levels. The Director of the Office of Urban Indian Health programs would be responsible for monitoring compliance with the policy. It defines a number of terms including "critical events or issues" which would trigger a conferral process. Under the policy an annual report would be provided to the Secretary regarding critical events and issues arising in the implementation of the IHCIA. The policy envisions conferring with UIOs on issues in which the IHS may also be in consultation with tribal governments. The draft policy states that the Federal Advisory Committee Act may apply to conferring activities with UIOs, noting that UIOs "do not meet the requirements of the 'tribal leader exemption.'" Among the changes in the 2010 amendments to the ICHIA affecting the UIOs are expanded program authorities including utilization of Community Health Representatives and access to federal facilities and the Federal Supply Schedule (“IHS Solicits Comments on Draft Urban Indian Organization Conferral Policy,” Hobbs-Straus General Memorandum 12-094, July 7, 2012, downloadable at: GM_12-094_IHS_DraftUrbanIndianOrganizationConferralPolicy.pdf).

The Indian Health Service (IHS) announced in the Federal Register, July 17, 2012, that it was soliciting applications for cooperative agreements to establish community case models that utilize the Public Health Nursing Program as a case manager. The IHS describes a case management model as involving the client, family, and other members of the health care team. The model is described as utilizing "all prevention components of primary, secondary and tertiary intervention in the home with patient and family. The community based case management model addresses the Public Health Nursing scope of practice of working with individuals and families in population-based practice to provide primary nursing care services." The projects will consist of four phases: assessment; planning; implementation; and evaluation of patient satisfaction. The attached notice lists the responsibilities of IHS and the grantee under a cooperative agreement. The projects are for a five-year period which is dependent upon the annual availability of funds. There is $1.2 million available in FY 2012 for this project, with awards ranging from $130,000 to $150,000. The IHS expects to make approximately eight awards. Eligible applicants are tribes, tribal organizations, and urban Indian organizations. Applications were due by August 14, 2012. The application package and detailed instructions can be found at http://www.ihs.gov/NonMedicalPrograms/gogp/index.cfm?module=gogp_funding (“IHS Cooperative Agreements for Community Based Model of Public Health Nursing Case Management Services,” Hobbs-Straus General Memorandum 12-088, July 20, 2012, downloadable at: GM_12-088_IHS_PublicHealthNursingCaseMgt.pdf).

The Internal Revenue Service (IRS) and the Treasury Department announced through Notice 2012-48, July 18, 2012, that they will reallocate $1.8 billion in bond volume cap through Tribal Economic
Development Bonds (TEDB). The original TEDB program, created in the American Recovery and Reinvestment Act of 2009, fell flat in Indian Country as programmatic restrictions and adverse credit markets left most of the bonds for tribal economic development projects unused. A copy of Notice 2012-48 may be found at: http://www.irs.gov/pub/irs-drop/n-12-48.pdf. Based in part on recommendations submitted by tribes and tribal organizations during last year’s comment process, the IRS has revamped the TEDB program to increase the likelihood that tribes will be able to successfully issue bonds to fund economic development projects. Major new aspects of the TEDB program include: 1. Increased bond amount. The new rules dramatically increase the bond volume cap a tribe may use to fund projects. While the original TEDB program limited volume cap to $30 million, the new rules allow a tribe to apply for the greater of: i) $100 million; or ii) 20 percent of the available volume cap on the date of application, which could translate to approximately $360.5 million. Should the remaining total volume cap fall below $500 million, all applications will then be limited to $100 million in authority. 2. First-come, first-served. The new rules allow tribes to apply for, and receive authority, on a first-come, first-served methodology. The rules require that a tribe must first demonstrate that it is ready to issue bonds. The tribe will have 180 days to obtain financing and receive approvals or else forfeit their allocation to the IRS. Tribes that forfeit their allocation cannot apply for an extension but may reapply for a new allocation later. 3. Rigorous documentation. A tribe that applies for bond authority must provide the IRS with documentation from an independent third party that the proposed bonds are reasonably expected to be marketable within 180 days of allocation. A tribe may use a) a bond purchase commitment letter from an investor; b) a credit quality assessment; c) a credit enhancement commitment letter from a financial institution that will enable the TEDB to be investment grade credit quality; or d) a letter from an underwriter or financial advisor to the effect that the sale of the proposed bonds is likely to be successful in a timely manner. 4. Bond counsel. A tribe must also certify that it has engaged bond counsel to render an opinion to the effect that the proposed bonds will meet issuance requirements. 5. Assignments. Only federally-recognized tribes may apply for bond authority but they may assign their TEDB allocation to certain qualified issuers. A qualified issuer may be: a tribal Section 17 Corporation; a tribal subdivision that satisfies the requirements of Section 7871(d) for being treated as a political subdivision; or a “pool bond issuer” that is a tribe, tribal Section 17 Corporation, or a tribal subdivision. 6. New reporting requirements. The new rules require a tribe receiving bond authority to submit a Notice of Issuance to the IRS within 15 days of issuing TEDBs. This requirement enables the IRS to monitor available TEDB volume cap authority. The new rules also require a tribe to notify the IRS when the details of its TEDB financing differ from that proposed in its application. The IRS will not cancel a tribe’s allocation for "insubstantial" deviations that are disclosed to the IRS (“New Federal Rules Reallocate Tribal Economic Development Bonds,” Hobbs-Straus General Memorandum 12-096, July 7, 2012, downloadable at: GM_12-096_IRS_TEDB_Reallocation.pdf).

Deputy Secretary of the Treasury Neal Wolin announced at the December White House Tribal Summit that the department would soon issue a proposed guidance on federal taxing of income from tribal businesses and benefits such as housing, school clothes and benefits that some nations provide. Tribes have been insisting that these benefits should be tax exempt (Suzanne Gamboa, “Budget Cuts Shadow Obama Meeting,” News From Indian Country, December 2012).

The U.S. Department of Energy announced two new initiatives, at the White House Tribal Nations Conference, on December 5, 2012, aimed at driving increased energy production and sustainable economic development in Indian country. Under the first initiative, a policy statement and guidance gives preference to tribes when its facilities contract to purchase renewable energy products or by products, including electricity, fuel sources and renewable energy certificates. The purchase preference applies to tribes that hold a majority ownership position in a renewable energy project and the cost is not more than the prevailing market rate, based on authorities under the Energy Policy Act of 2005. The policy is intended to spur the development of untapped renewable energy resources on Indian lands near Energy Department facilities and help tribes capture the economic benefits of their own resources. A recently updated analysis by the Department’s Office of Indian Energy Policy and National Renewable Energy Laboratory found Indian lands comprise just 2% of U.S. land, but contain 5% of the total U.S. renewable energy resource potential, including solar, wind and hydropower, among other renewable resources. In the second initiative, the Energy Department announced new training and education resources to help tribes advance local renewable energy project financing and development. Based on information gleaned from conversations through the Energy Department’s Indian Country Energy &
Infrastructure Working Group over the past two years about solutions to the energy challenges faced by tribal nations, the Department has created a new renewable energy education and training program. It ensures tribal leaders and staff have all the resources they need to obtain financing for the development of community-scale and commercial projects. These free courses will be available through regional workshops and the Department’s National Training & Education Resource at www.nterlearning.org. Additional information on the Department’s efforts to support energy efficiency projects and energy development on Tribal lands is available at energy.gov/indianenergy/office-indian-energy-policy-and-programs (“Energy Department Issues Guidelines and New Resources to Help Tribes Advance Renewable Energy Projects,” ICTMN, December 6, 2012, http://indiancountrytodaymedianetwork.com/article/energy-department-issues-guidelines-and-new-resources-help-tribes-advance-renewable-energy).

The Department of Labor (DOL) published its Tribal Consultation Policy (Policy), December 4, 2012, that had been released in draft form, April 18, 2012. The introduction lists various Executive Orders, Memoranda and federal statutes as the foundation for the Policy, including the use of a definition of Indian tribes which includes Alaska Native Corporations as receiving the same treatment under the Policy as "other federally recognized tribes." Under the Policy, the Director of the Office of Public Engagement, working in conjunction with other DOL offices (Intergovernmental Affairs, Office of the Secretary) will coordinate the Tribal Consultation Policy. Each DOL operating agency will designate a senior official with primary responsibility for tribal matters. The Policy addresses a number of activities including ways the DOL will undertake proactive and ongoing consultation. Among other things it describes the activities that would trigger consultation, the handling of tribal requests for waivers or administrative discretion, the reporting on outcomes to tribes, and the use of tribal committees. Regional DOL policies will be reviewed and revised if necessary to be consistent with the Policy. The Policy clarifies that a federally recognized tribe may delegate a third party to represent it in tribal consultations with DOL. The Department of Labor administers a number of programs affecting tribes, notably those in the Employment and Training Administration. Other entities within the DOL which have interactions with tribes include the Women's Bureau, the Office of Federal Contract Compliance, the Occupational Safety and Health Administration and the Mine Safety and Health Administration “Department of Labor Publishes Tribal Consultation Policy,” Hobbs-Straus General Memorandum 12-131, December 14, 2012, Downloadable at: GM_12-131_DOL_TribalConsultationPolicy.pdf).

The Department of Agriculture published in the Federal Register, August 23, 2012, the final rule on the administrative funding allocations for the Food Distribution Program on Indian Reservations and the Food Distribution Program for Indian Households in Oklahoma (both referred to as FDPIR). The Farm Bill (PL 110-246) allows the Secretary of Agriculture to authorize tribes to administer the commodities program if the determination is reached that a tribal organization "is capable of effectively and efficiently administering a distribution ... ." Further, the Secretary is also authorized to pay the administrative expenses associated with a tribe or state administering the Food Distribution Program on Indian Reservations. Currently members of 276 tribes receive FDPIR benefits through 100 tribal organizations and five state agencies. Participation in the FDPIR, however, has been declining in recent years. Individuals may not participate in both the FDPIR and the Supplemental Nutrition Assistance Program (formerly called the Food Stamp program). The purpose of the administrative funding allocation methodology is to ensure equitable and fair distribution of resources. The regulations also clarify program requirements for distribution of administrative funds to tribal organizations and state agencies, and allowable costs for use of the administrative funds. The formula, which is based on a FDPIR Funding Methodology Workgroup proposal and has been piloted since 2008, will allocate: • 65 percent of all administrative funds available nationally to the each Food and Nutrition Service Regional Office based on its proportional share of the total number of participants nationally, averaged over the three previous fiscal years; and • 35 percent of all administrative funds available nationally to each FNS Regional Office in proportion to its share of the total current number of state agencies administering the program nationally. The rule became effective September 24, 2012 (“Food Distribution Program on Indian Reservations Final Rule on Administrative Funding Allocations Published,” Hobbs-Straus General Memorandum 12-106, August 24, 2012, downloadable at: GM_12-106_FoodDistAdmAlloctnRule.pdf).
The Department of Agriculture held the first meeting of the Council for Native American Farming and Ranching (Council), 2012, established as a part of the settlement agreement in *Keepseagle v. Vilsack*, August 14-15, at the National Museum of the American Indian in Washington, D.C. Secretary Vilsack named members to the Council on May 24, 2012. The Council is advisory in nature and will report to the Secretary of Agriculture. Among the purposes of the Council are to advise the Secretary on matters relating to participation of Native Americans in farm loan programs and to make or transmit recommendations on eliminating barriers to participation in such programs. The Council is also charged with examining opportunities for expanding the number of Native American farmers and ranchers and seeking ways to mitigate the effects of land tenure and probate issues on the delivery of farm loan programs (“Council on Native American Farming and Ranching to Hold First Meeting August 14-15,” Hobbs-Straus General Memorandum 12-095, July 27, 2012, downloadable at: GM_12-095_Council_on_NativeAmericanFarmers_andRanchers.pdf).

Two federal developments relating to the protection of sacred places took place on December 5, 2012. One development is a Memorandum of Understanding (MOU) REGARDING INTERAGENCY COORDINATION AND COLLABORATION FOR THE PROTECTION OF INDIAN SACRED SITES among the Advisory Council on Historic Preservation (ACHP) and four federal agencies – the Departments of Defense, Interior, Agriculture and Energy, available on the ACHP website at: www.achp.gov/docs/SacredSites-MOU_121205.pdf. The second development is that the U.S. Department of Agriculture (USDA) released the final version of its Report to the Secretary of Agriculture, USDA POLICY AND PROCEDURES REVIEW AND RECOMMENDATIONS: INDIAN SACRED SITES, available at: www.fs.fed.us/spf/tribalrelations/documents/sacredsites/SacredSitesFinal.... The draft version of this Report was released in July 2011. The Sacred Sites MOU. The stated purpose of the MOU is "to improve the protection of and tribal access to Indian sacred sites through enhanced and improved interdepartmental coordination and collaboration." The MOU notes that sacred sites may be eligible for the National Register of Historic Places and that federal agencies are required to assess the effects of undertakings that they take, fund, or permit on historic properties of religious and cultural importance to tribes. While acknowledging that there are many differences in the ways in which federal agency decisions affect sacred sites, the MOU states that there are also similarities and that, because of the similarities, "consistency in policies and processes can be developed and applied." The MOU uses the definition of sacred site in Executive Order 13007, Indian Sacred Sites, which uses the phrase "specific, discrete, narrowly delineated location," wording that many tribal leaders and advocates have found objectionable. The MOU does recognize, however, that sacred sites "often occur within a larger landform or are connected through features or ceremonies to other sites or a larger sacred landscape." The MOU sets out a list of eleven action items that the agencies agree to work together to accomplish. The agencies also agree to consult with tribes "as appropriate in developing and implementing" the listed actions. The MOU does not explicitly address how consultation with tribes will be accomplished, though several of the listed action items will obviously require collaboration with tribes, such as establishing "mechanisms for the collaborative stewardship of sacred sites with Indian tribes, such as Federal-tribal partnerships in conducting landscape level cultural geography assessments." The eleventh action item on the list is the establishment of a staff level inter-agency working group, which is tasked with developing an action plan for implementing the MOU and to do this within 90 days. Tribal leaders and advocates who are particularly interested in any of the listed action items may not want to wait for the action plan before providing input to the working group. USDA Report to the Secretary of Agriculture. This Report was prepared in response to a directive from the Secretary of Agriculture to the USDA Office of Tribal Relations and the Forest Service to engage in consultation with American Indian and Alaska Native leaders about how USDA "can do a better job addressing sacred sites issues, while simultaneously balancing the pursuit of the Forest Service's mission to deliver forest goods and services for current and future generations." The final version of the Report has been rather extensively revised from the draft version that was circulated in July 2010. Some of the comments from tribes and inter-tribal organizations were quite critical of the draft. Many commenter’s criticized the decision by the Forest Service to allow the use of treated sewage for making artificial snow at San Francisco Peaks. Some commenters criticized the draft report for shortcomings in its discussion of existing legal tools that can be used to protect sacred sites, and also criticized the Forest Service for not consistently making use of existing legal tools. The Report acknowledges such comments, and some changes were made. The Report's recommendations (pp. 25-29) are presented under three main headings: (I) Relationships/Communications; (II) Direction/Policy; and (III) On-the-Ground Actions. We have not as yet analyzed these recommendations in detail.
The Report does not in of itself change any of the policies of USDA or the Forest Service, but rather it may lead to specific policy changes such as those set out under the second heading. Such formal policy changes would generally be subject to additional tribal consultation and public notice. Some of the recommendations under the headings of Relationships/Communications" and "On-the-Ground Actions" can be implemented at lower levels of the Forest Service hierarchy through collaboration between tribes and Forest Service personnel. In fact, the Report says that the process of developing the Report "is already changing" the ways that American Indian and Alaska Native people interact with the Forest Service regarding land management decisions GM_12-133_USDA_SacredPlacesReport_andMOU.pdf).

The Commerce Department announced in the Federal Register, July 3, 2012 that it was soliciting comments on its draft tribal consultation and coordination policy, with comments due by October 1, 2012. The final document will update the Department's existing policy, promulgated in 1995. The proposed revision is in response to Executive Order 13175 issued by President Clinton and President's Obama's White House Memorandum of November 2009 on tribal consultation. The Commerce Department has been engaged in meetings with tribal representatives since late 2009 on this revision. During that time they have reviewed and combined two tribal consultation policies previously issued by two of its agencies – the Census Bureau and the National Oceanic and Atmospheric Administration. The Commerce Department has a Senior Advisor on Native American Affairs, an office held by Dee Alexander. There are a number of agencies within the Commerce Department that affect tribes and tribal communities including the Minority Business Development Agency; National Oceanic and Atmospheric Administration (including the weather service and the National Marine Fisheries Service); Economic Development Administration; Economics and Statistics Administration (including the Census Bureau); and the National Telecommunications and Information Administration (“Commerce Department Solicits Comments on Draft Tribal Consultation and Coordination Policy,” Hobbs-Straus General Memorandum 12-085, July 13, 2012, downloadable at: GM_12-085_CommerceDraftTribalConsultationPolicy.pdf).

The National Indian Gaming Commission (NIGC) had announced on its web site: http://www.nigc.gov/, as of December 10, 2012, the following:
Federal Employee Viewpoint Survey 2012
25 CFR Parts 542 and 543 Final rule; delay of effective date; suspension
NIGC Announces Publication of Final Rule for Subchapter H Appeals
NIGC Announces Publication of Final Rule for Facility Licensing Regulation Part 559
NIGC Announces Publication of Final Rules for Class II Gaming Regulations Parts 543 and 547
NIGC Strategic Plan Proposed Version Fiscal Years 2014 – 2018 [PowerPoint Presentation]
NIGC Strategic Plan 2014-2018
Notice for Federal Register: Notice of Final Rule 25 CFR 537
Notice for Federal Register: Notice of Final Rule 25 CFR 571
Notice for Federal Register: Notice of Final Rule 25 CFR 573
2011 Indian Gaming Revenues Increased 3%
25 C.F.R. Part 547 Grandfather Provision
Federal Register: Notice of Preliminary Fee Rate
Draft Regulations
Tribal Comments
National Indian Gaming Commission Announces 2010 Industry Gross Gaming Revenue
Fee Rate: Federal Register Notice

Secretary of the Army John McHugh signed the “American Indian and Alaska Native Policy” for the Army, November 28, 2012, during Native American Month, for the first time establishing an Army wide policy to “build stable and enduring government-to-government relations with federally recognized tribes in a manner that sustains the Army mission and minimizes effects on protected tribal resources.” Under it, “The Army will communicate with federally recognized tribes on a government-to-government basis in recognition of
their sovereignty.” “The policy establishes Army-wide guidance for Soldiers at all levels, as well as Army civilians, on communicating with and understanding the concerns of tribes, including their rights, lands and resources,” said Katherine Hammack, assistant secretary of the Army for Installations, Energy & Environment. The policy is significant because many lands controlled by the Army contain sacred sites. Consultations by the Army with tribal leaders were to occur to establish specific policy guidelines, to be published by November 2013 (David Vergun, “Native American Heritage Month: Army Establishes Formal Nation-to-Nation Ties With Native American Tribes,” ICTMN, November 25, 2012, http://indiancountrytodaymedianetwork.com/2012/11/25/native-american-heritage-month-army-establishes-formal-nation-to-nation-ties-with-native-american-tribes-147425).

Federal Indian Budgets

“Senate Interior Appropriations Subcommittee Releases Draft FY 2013 Spending Bill Including Indian Health Service Funding,” Hobbs-Straus General Memorandum 12-118, September 28, 2012, downloadable at: http://www.hsdwlaw.com/sites/default/files/generalmemo/GM%12-118.pdf, reports, The Senate Interior Appropriations Subcommittee released a draft FY 2013 Interior, Environment and Related Agencies appropriations bill and budget chart which contains appropriations for both the Indian Health Service (IHS) and Indian Affairs, September 25, 2012. There is no Senate report accompanying the draft bill (which does not have an assigned number). The IHS and other federal agencies were operating under a Continuing Resolution (CR) at an annualized amount slightly above their FY 2012 levels. The CR runs through March 27, 2013, or until a regular appropriations bill is enacted, whichever is sooner. It was uncertain whether Congress would be able to enact full FY 2013 appropriations measures, a year-long CR, or a sequestration alternative when it returned after the November elections. Behind the scenes congressional negotiations were taking place even now regarding these matters. In an Appropriations Committee press release, Senators Reed (D-RI) and Murkowski (R-AK) (Chair and Ranking Member, respectively, of the Interior Subcommittee) stated that they hope the Senate Subcommittee bill "will serve as a roadmap as discussions continue to finalize a responsible, balanced fiscal year 2013 appropriations bill." The bills contain the same legislative language regarding a cap on Contract Support Costs; Contract Support limitation; Individuals with Disabilities Education Act data collection; prohibition on implementation of eligibility regulations; services for non-Indians; assessments of the IHS by the Department of Health and Human Services; and limitation on no-bid contracts. The FY 2012 appropriations act extended through October 1, 2013, the provision which provides that IHS funds for Alaska be made available only to regional Alaska Native health organizations (with some exceptions) and, thus, the FY 2013 bills do not address this matter.

FUNDING OVERVIEW

The House Committee recommended $187 million over the FY 2012 enacted level and $71 million over the Administration's request for the IHS. The Senate Subcommittee recommended $86 million over the FY 2012 enacted level and $30 million below the Administration's request.

There are two major differences between the bills. The House Committee recommends $34 million more for Contract Health Services and $70 million more for Contract Support Costs than does the Senate Subcommittee.

The Senate Subcommittee recommends $5 million more for Direct Operations than does the House Committee. The House Committee recommends $2.5 million over the Administration's and the Senate Subcommittee's recommendations for Urban Indian Health. There are no differences between the two bills in the Facilities account.

Staffing of New Facilities. The House Committee recommended $4 million over the Administration's request of $49.2 million for staffing and operation costs of new facilities. It is unclear whether the Senate Subcommittee recommendation includes this increase. The Administration, in its budget justification, would allocate the funds as follows: Norton Sound Regional Hospital ($10.6 million); Chickasaw Nation Health Clinic in Ardmore ($8.9 million); Cherokee Nation Health Center ($2.8 million); Chickasaw Nation Health Clinic in Tishomingo ($5.3 million); Southcentral Foundation Valley Primary Care Center ($13.5 million); and Tanana Chiefs Conference
Interior Health Center ($8.1 million).

Lack of Funding for Built-in Costs. The bills do not provide, nor did the Administration request, funding for population growth, civilian pay raises or inflation (other than Contract Health Services). There would be a 1.7 percent pay increase for Commissioned Officers and the President has proposed a 0.5 percent pay increases for federal employees.

FUNDING FOR INDIAN HEALTH SERVICES

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SPECIAL DIABETES PROGRAM FOR INDIANS

While the entitlement funding for the Special Diabetes Program for Indians (SDPI) is not part of the IHS appropriations process, those funds are administered through the IHS. The SDPI is currently funded through FY 2013 at $150 million annually (PL 111-309).

HOSPITALS AND CLINICS

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The bills, as requested by the Administration, would provide $57.5 million for the Indian Health Care Improvement Fund, which is the same as the FY 2012 enacted level and $12 million above the FY 2011 level. We do not have information on the Senate Subcommittee's $1 million increase over the House amount.

DENTAL SERVICES

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It appears that the Senate Subcommittee bill does not include the House Committee add-on of $300,000 above the Administration's request for staffing in support of the Early Childhood Caries initiative.

MENTAL HEALTH

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ALCOHOL AND SUBSTANCE ABUSE

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CONTRACT HEALTH SERVICES (CHS)

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The House Committee bill, consistent with the Administration's requests, would provide $34 million to cover the cost of inflation (calculated at 3.6 percent) and a $20 million program increase. It appears that the Senate Subcommittee did not include the $34 million for inflation.

Catastrophic Emergency Health Fund (CHEF). Both bills recommend that within the total is $51.5 million for
CHEF, the same as the FY 2012 enacted level and $6.5 million below the FY 2011 level.

PUBLIC HEALTH NURSING

FY 2012 Enacted $66,632,218 FY 2013 Admin. Request $69,868,000 FY 2013 House Committee $69,868,000 FY 2013 Senate Subcommittee $69,868,000

HEALTH EDUCATION

FY 2012 Enacted $17,056,666 FY 2013 Admin. Request $17,450,000 FY 2013 House Committee $17,450,000 FY 2013 Senate Subcommittee $17,450,000

COMMUNITY HEALTH REPRESENTATIVES (CHR)

FY 2012 Enacted $61,406,592 FY 2013 Admin. Request $61,531,000 FY 2013 House Committee $61,531,000 FY 2013 Senate Subcommittee $61,531,000

HEPATITIS B AND HAEMOPHILUS IMMUNIZATION (HIB) PROGRAMS IN ALASKA

FY 2012 Enacted $1,927,000 FY 2013 Admin. Request $1,927,000 FY 2013 House Committee $1,927,000 FY 2013 Senate Subcommittee $1,927,000

URBAN INDIAN HEALTH

FY 2012 Enacted $42,984,115 FY 2013 Admin. Request $42,988,000 FY 2013 House Committee $45,488,000 FY 2013 Senate Subcommittee $42,988,000

INDIAN HEALTH PROFESSIONS

FY 2012 Enacted $40,595,942 FY 2013 Admin. Request $40,598,000 FY 2013 House Committee $41,598,000 FY 2013 Senate Subcommittee $40,598,000

Programs funded under Indian Health Professions and their estimated FY 2013 amounts are: Health Professions Prepatory and Pre-Graduate Scholarships ($3.8 million); Health Professions Scholarships ($10.5 million); Extern Program ($1.18 million); Loan Repayment Program ($21.3 million); Quentin N. Burdick American Indians into Nursing Program ($1.76 million); Indians Into Medicine Program ($1.16 million); and American Indians into Psychology ($757,386).

TRIBAL MANAGEMENT

FY 2012 Enacted $2,577,000 FY 2013 Admin. Request $2,577,000 FY 2013 House Committee $2,577,000 FY 2013 Senate Subcommittee $2,577,000

DIRECT OPERATIONS

FY 2012 Enacted $71,653,171 FY 2013 Admin. Request $72,867,000 FY 2013 House Committee $67,567,000 FY 2013 Senate Subcommittee $72,867,000

The Administration requested a $1,115,000 increase in order to address an array of matters including oversight and accountability and responding to GAO and OIG and Congressional recommendations regarding management and oversight of programs. The House Committee, however, recommended a $4.1 million reduction below the FY 2012 level and $5.3 million below the Administration's request. The reduction would come from the Headquarters portion of funding.
SELF-GOVERNANCE

FY 2012 Enacted $6,044,314  FY 2013 Admin. Request $6,044,000  FY 2013 House Committee $6,044,000  
FY 2013 Senate Subcommittee $6,044,000

CONTRACT SUPPORT COSTS

FY 2012 Enacted $471,437,491  FY 2013 Admin. Request $476,446,000  FY 2013 House Committee $546,446,000  
FY 2013 Senate Subcommittee $476,446,000

Increase. The House Committee, but not the Senate Subcommittee, recommended a $70 million increase over the Administration's request or $75 million over the FY 2012 enacted level, for a total of $546 million. The Committee report states: With this increase, the Committee is attempting to fund the projected shortfall so the Federal government can meet its contractual obligations. The Committee directs the Service to work with Tribes and tribal organizations to explore options for improving the transparency of current year contact support cost information, and to report back to the Committee within 90 days of enactment of this Act. (H. Rpt. 112-589, p. 81)

Indian Self-Determination (ISD) Fund. Both bills, consistent with the Administration's proposal, would again authorize up to $10 million of the total CSC funds for an Indian Self-Determination Fund. The IHS may allocate funds to the ISD Fund to support new or expanded self-determination contracts, grants, self-governance compacts or annual funding agreements.

Cap on Contract Support Costs. Both bills, consistent with past appropriations acts, would continue language regarding a funding cap on contract support costs.

Contract Support Limitation. Both bills would, consistent with the Interior Appropriations Acts for FYs 1999-2012, attempt to limit the ability of the IHS and BIA to fund past-year shortfalls in contract support funding from remaining unobligated balances for those fiscal years.

FUNDING FOR INDIAN HEALTH FACILITIES

FY 2012 Enacted $440,346,317  FY 2013 Admin. Request $443,502,000  FY 2013 House Committee $443,864,000  
FY 2013 Senate Subcommittee $443,864,000

MAINTENANCE AND IMPROVEMENT

FY 2012 Enacted $53,720,909  FY 2013 Admin. Request $55,470,000  FY 2013 House Committee $55,470,000  
FY 2013 Senate Subcommittee $55,470,000

FACILITIES AND ENVIRONMENTAL HEALTH SUPPORT

FY 2012 Enacted $199,413,427  FY 2013 Admin. Request $204,379,000  FY 2013 House Committee $204,741,000  
FY 2013 Senate Subcommittee $204,741,000

MEDICAL EQUIPMENT

FY 2012 Enacted $22,582,000  FY 2013 Admin. Request $22,582,000  FY 2013 House Committee $22,582,000  
FY 2013 Senate Subcommittee $22,582,000

CONSTRUCTION

Construction of Sanitation Facilities

FY 2012 Enacted $79,582,464  FY 2013 Admin. Request $79,582,000  FY 2013 House Committee $79,582,000  
FY 2013 Senate Subcommittee $79,582,000
Construction of Health Care Facilities

FY 2012 Enacted $85,047,706   FY 2013 Admin. Request $81,489,000   FY 2013 House Committee $81,489,000   FY 2013 Senate Subcommittee $81,489,000

The bills, consistent with the Administration's request, would complete construction of the San Carlos Health Center ($41.5 million) and continue construction for the Kayenta replacement health center ($40 million).

OTHER

Transam Equipment, Ambulances, Demolition Fund. The bills, consistent with the Administration's proposal, would continue funding of up to $500,000 to purchase TRANSAM equipment from the Department of Defense and $500,000 to be deposited in a Demolition Fund to be used for the demolition of vacant and obsolete federal buildings. Up to $2.7 million is proposed for the purchase of ambulances.

The House Committee bill and funding chart are available at http://appropriations.house.gov/. The Senate Interior Subcommittee bill and funding chart is available at http://www.appropriations.senate.gov.

“Draft Senate Subcommittee Bill on FY 2013 Interior and Environmental Protection Agency Appropriations Released.” Hobbs-Straus General Memorandum 12-119, September 9, 2012, downloadable at: http://www.hsdwlaw.com/sites/default/files/generalmemo/GM%202012-119.pdf, reports, The Senate Interior Appropriations Subcommittee released a draft FY 2013 Interior appropriations bill and budget chart, September 25, 2012. The "Chairman's mark of the Fiscal Year 2013 Interior, Environment, and Related Agencies Appropriations Bill" contains appropriations for both Indian Affairs and the Environmental Protection Agency. There is no Senate report accompanying the bill (which does not have an assigned number). Here are the key proposed funding levels for Indian Affairs (Bureau of Indian Affairs (BIA)/Bureau of Indian Education (BIE)) and selected programs in the Environmental Protection Agency (EPA) and compare them to the Administration's and House Committee's requests. We also note legislative language and provisions of particular interest as contained in the draft Senate Subcommittee bill. We attach the Indian Affairs (IA) budget chart for the draft Senate Subcommittee bill. Detailed information on the distribution of increases or decreases by account level will not be available until the IA releases its detailed budget chart. At the time, federal agencies were operating under a Continuing Resolution (CR), which provides funding for the first six months of FY 2013 (October 1, 2012, through March 27, 2013) at an annualized amount slightly above their FY 2012 levels. It was uncertain whether Congress would be able to enact full FY 2013 appropriations measures, a year-long CR, or a sequestration alternative when it returns after the November elections.

INDIAN AFFAIRS

The draft Senate Subcommittee bill would provide nearly $2.51 billion for Indian Affairs, which is $18.2 million less than the FY 2012 level. This would also be $13.5 million below the budget request and $5.5 million below the House Committee level. Within the draft Senate Subcommittee-recommended total are $2.3 billion for the Operation of Indian Programs (OIP; $1.8 million below the FY 2012 level) and $105.9 million for Construction ($17.7 million decrease from FY 2012).

In general, the draft Senate Subcommittee bill provides funding along the Administration's request levels, except for: • Trust-Natural Resources Management – a $7.7 million decrease, comprised of reductions to Rights Protection Implementation (-$3.5 million); Tribal Management/Development Program (-$2 million); Cooperative Landscape Conservation (-$799,000); Agriculture and Range (-$500,000) and Forestry (-$1 million). • Public Safety and Justice – a $4.5 million decrease, comprised of reductions to Law Enforcement (-$3.5 million) and Tribal Courts (-$1 million).

The most significant differences compared to the House Committee recommendations are: • Bureau of Indian Education – The draft Senate Subcommittee bill does not include the additional $12.9 million increase for the Bureau of Indian Education Tribal Grant Support Costs, and the additional $9.2 million for Education Construction that were proposed in the House Committee bill. • Public Safety and Justice – a $12.5 million decrease due to
reductions under Law Enforcement and Tribal Courts.

OPERATION OF INDIAN PROGRAMS

FY 2012 Enacted $2,367,738,000   FY 2013 Admin. Request $2,379,431,000   FY 2013 House Committee $2,404,672,000   FY 2013 Senate Subcommittee $2,365,853,000

BUREAU OF INDIAN AFFAIRS   TRIBAL GOVERNMENT

FY 2012 Enacted $519,331,000   FY 2013 Admin. Request $529,158,000   FY 2013 House Committee $531,408,000   FY 2013 Senate Subcommittee $529,158,000

Contract Support Costs (CSC) FY 2012 Enacted $219,209,000   FY 2013 Admin. Request $228,000,000   FY 2013 House Committee $228,000,000   FY 2013 Senate Subcommittee $228,000,000

Roads Maintenance FY 2012 Enacted $25,390,000   FY 2013 Admin. Request $25,155,000   FY 2013 House Committee $27,405,000   FY 2013 Senate Subcommittee $25,155,000

HUMAN SERVICES

FY 2012 Enacted $136,360,000   FY 2013 Admin. Request $135,151,000   FY 2013 House Committee $135,151,000   FY 2013 Senate Subcommittee $135,151,000

TRUST–NATURAL RESOURCES MANAGEMENT

FY 2012 Enacted $157,245,000   FY 2013 Admin. Request $162,109,000   FY 2013 House Committee $162,109,000   FY 2013 Senate Subcommittee $154,310,000

TRUST–REAL ESTATE SERVICES

FY 2012 Enacted $126,759,000   FY 2013 Admin. Request $127,813,000   FY 2013 House Committee $127,813,000   FY 2013 Senate Subcommittee $127,813,000

PUBLIC SAFETY AND JUSTICE

FY 2012 Enacted $346,223,000   FY 2013 Admin. Request $353,882,000   FY 2013 House Committee $361,882,000   FY 2013 Senate Subcommittee $349,382,000

COMMUNITY AND ECONOMIC DEVELOPMENT

FY 2012 Enacted $34,810,000   FY 2013 Admin. Request $34,333,000   FY 2013 House Committee $35,333,000   FY 2013 Senate Subcommittee $34,333,000

EXECUTIVE DIRECTION AND ADMINISTRATIVE SERVICES

FY 2012 Enacted $251,530,000   FY 2013 Admin. Request $239,573,000   FY 2013 House Committee $239,573,000   FY 2013 Senate Subcommittee $239,573,000

• Contract Support Limitation. As requested, both bills would continue language that attempts to limit the ability of the BIA and IHS to fund past-year shortfalls in contract support funding from remaining unobligated balances for those fiscal years.

• Disaster Relief Language. As requested, both bills would continue previous bill language that authorizes expenditures in excess of the funded amounts in order to provide disaster assistance to Indian communities. Without the language, the Bureau would be prevented from using unobligated funds to provide additional welfare
assistance, such as occurred during the 2005 Hurricane Katrina disaster.

• Tribal Shares Language. As requested, both bills would continue bill language regarding tribal shares.

• TPA Redistribution. As requested, both bills would continue a provision from prior Interior appropriations acts (FYs 1999-2012), which authorizes redistribution of TPA and tribal base funds to alleviate funding inequities.

• Status of Appropriations Balances. The draft bill does not include the House Committee bill provision that would continue FY 2012 language that requires the DOI, IHS, EPA and Forest Service to provide Congress quarterly reports on the balances of appropriations.

• Indian Law and Order Commission. The draft Subcommittee bill does not include the House Committee proposed a one-year extension for the Commission to complete its congressionally mandated work.

• Carcieri Fix. Neither the House nor draft Senate Subcommittee version of the Interior Appropriations bill include the Administration-proposed language that would provide a "clean" Carcieri fix that would have reversed the U.S. Supreme Court's 2009 decision that the Interior Secretary did not have authority to take land into trust for tribes recognized after 1934.

BUREAU OF INDIAN EDUCATION

FY 2012 Enacted $795,480,000 FY 2013 Admin. Request $796,133,000 FY 2013 House Committee $810,124,000 FY 2013 Senate Subcommittee $796,133,000

Bill Language

• Multi-Program Contractors. As requested, both bills would continue the provision in Interior appropriations Acts since FY 2005 that is intended to preserve the ability of tribes who operate both school and non-school programs to receive appropriate funding for administrative costs and indirect costs incurred by these multi-program contractors. • Eligibility for School Operations Funding. With the reinstatement of the Jones Academy as eligible for school operations funding starting in SY12-13, the Administration proposed, and both bills include, changes to bill text on eligibility for these funds. The bill language states: No funds available to the Bureau shall be used to support expanded grades for any school or dormitory beyond the grade structure in place or approved by the Secretary of the Interior at each school in the Bureau school system as of October 1, 1995. Appropriations made available in this or any prior Act for schools funded by the Bureau shall be available, in accordance with the BIE funding formula, only to the schools in the Bureau school system as of September 1, 1996 and to any school or school program that was re-instated in FY 2012.

Post Secondary Programs (Forward Funded) FY 2012 Enacted $67,293,000 FY 2013 Admin. Request $69,793,000 FY 2013 House Committee $69,793,000 FY 2013 Senate Subcommittee $69,793,000

Post Secondary Programs (Non-Forward Funded) FY 2012 Enacted $61,435,000 FY 2013 Admin. Request $62,052,000 FY 2013 House Committee $62,052,000 FY 2013 Senate Subcommittee $62,052,000

CONSTRUCTION

FY 2012 Enacted $123,630,000 FY 2013 Admin. Request $105,910,000 FY 2013 House Committee $117,110,000 FY 2013 Senate Subcommittee $105,910,000

Education Construction FY 2012 Enacted $70,826,000 FY 2013 Admin. Request $52,866,000 FY 2013 House Committee $62,066,000 FY 2013 Senate Subcommittee $52,866,000

The draft bill does not include the House Committee-recommended $9.2 million increase to Education Construction for Replacement School Construction funding, and a $2 million increase for Construction Management.
Public Safety & Justice (PS&J) Construction

Resources Management Construction
FY 2012 Enacted $32,959,000 FY 2013 Admin. Request $32,733,000 FY 2013 House Committee $32,733,000 FY 2013 Senate Subcommittee $32,733,000

Bill Language

• School Construction. The Administration's proposal would continue the appropriations language enacted in FY 2009 that allows the Bureau to take over a construction project from a grantee that fails to complete planning and design of a project and begin construction within 18 months of funds being appropriated.

• OST Reimbursement for Space Expansion. The proposed budget would continue bill language that allows the Office of the Special Trustee to reimburse its appropriate share of construction costs related to the expansion of space at the agency level necessitated by trust reform implementation.

INDIAN ARTS AND CRAFTS BOARD
FY 2012 Enacted $1,279,000 FY 2013 Admin. Request $1,279,000 FY 2013 House Committee $1,279,000 FY 2013 Senate Subcommittee –0–

It appears the Senate Committee bill does not concur with the Administration's proposed transfer of the Indian Arts and Crafts Board (IACB) from the Office of the Secretary to the Operation of Indian Programs account, "to better align cultural programs that assist Indian communities under the Assistant Secretary-Indian Affairs." (IA-ACB-1)

NON-BIA PROGRAMS OFFICE OF SPECIAL TRUSTEE
FY 2012 Enacted $152,075,000 FY 2013 Admin. Request $146,000,000 FY 2013 House Committee $146,000,000 FY 2013 Senate Subcommittee $146,000,000

Bill Language

The bills, consistent with the Administration's proposal, would continue the following provisions— o The proposed budget would continue language to extend the statute of limitations on filing tribal and individual Indian mismanagement claims. o Authorize use of unobligated balances from prior appropriations acts for OST or BIA for trust management reform, other than activities related to historical accounting, which is limited to the appropriated amount. (Sec. 104) o Pay private attorneys for the costs of legal representation for employees and former employees incurred in connection with Cobell v. Salazar. (Sec. 106)

NATIONAL PARK SERVICE

Tribal historic preservation grants – Both bills, consistent with the Administration's proposal, would provide $8.9 million, level funding. These funds aid tribes in assuming the State Historic Preservation Office (SHPO) duties on tribal lands.

FISH AND WILDLIFE SERVICE

State and Tribal Wildlife Grants
FY 2012 Enacted $61,323,000 FY 2013 Admin. Request $61,323,000 FY 2013 House Committee $30,662,000 FY 2013 Senate Subcommittee $61,323,000

These funds are used for the development of wildlife conservation plans and on-the-ground conservation projects to stabilize, restore, enhance, and protect species and their habitats. The Senate Subcommittee bill would provide the Administration-proposed $4.2 million from the above total for the tribal competitive grants program, same as
in FY 2012. The House Committee bill would provide $2.1 million.

OFFICE OF NAVAJO AND HOPI RELOCATION

FY 2012 Enacted $7,738,000  FY 2013 Admin. Request $8,400,000  FY 2013 House Committee $7,600,000  
FY 2013 Senate Subcommittee $7,962,000

Funds are used for activities related to the settlement of a northern Arizona land dispute between the two tribes.

INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

FY 2012 Enacted $8,519,000  FY 2013 Admin. Request $9,369,000  FY 2013 House Committee $8,348,000  
FY 2013 Senate Subcommittee $8,808,000  Funds are used to support the operational costs of the Institute, a multi-tribal higher education center focused on the study, application, preservation and care of Indian arts and culture.

ENVIRONMENTAL PROTECTION AGENCY

FY 2012 Enacted $8,449,385,000  FY 2013 Admin. Request $8,344,480,000  FY 2013 House Committee $7,055,041,000  FY 2013 Senate Subcommittee $8,515,832,000

The Senate Subcommittee draft would provide $8.5 billion for the EPA, which is slightly more than the Administration's budget request and nearly $1.5 billion above the House Committee's level. There are a limited number of tribal-specific programs under the EPA but tribes are often eligible for the larger grant programs. We report below on several programs of interest to tribes.

STATE AND TRIBAL ASSISTANCE GRANTS

FY 2012 Enacted $3,612,937,000  FY 2013 Admin. Request $3,355,723,000  FY 2013 House Committee $2,602,043,000  FY 2013 Senate Subcommittee $3,626,951,000

There are two categories of assistance under the State and Tribal Assistance Grants (STAG), e.g., Infrastructure Assistance Grants ($2.5 billion), and Categorical Grants (nearly $1.1 billion). Of the $1.5 billion decrease in EPA's budget envisioned by the House Committee, $1 billion would come from the State and Tribal Assistance Grants. The Senate Subcommittee would restore this funding to a level slightly above the FY 2012 enacted level.

Infrastructure Assistance Grants

- Brownfields Projects

FY 2012 Enacted $94,848,000  FY 2013 Admin. Request $93,291,000  FY 2013 House Committee $60,000,000  FY 2013 Senate Subcommittee $94,848,000

- Safe Drinking Water Revolving Loan Fund

FY 2012 Enacted $917,892,000  FY 2013 Admin. Request $850,000,000  FY 2013 House Committee $829,000,000  FY 2013 Senate Subcommittee $917,892,000

- Clean Water State Revolving Loan Fund

FY 2012 Enacted $1,466,456,000  FY 2013 Admin. Request $1,175,000,000  FY 2013 House Committee $689,000,000  FY 2013 Senate Subcommittee $1,466,456,000

- Water Supply and Wastewater Infrastructure Grants for Alaska Rural and Native Villages

FY 2012 Enacted $ 9,984,000  FY 2013 Admin. Request $10,000,000  FY 2013 House Committee –0–  FY 2013 Senate Subcommittee $10,000,000
The Alaska Rural and Native Village Program, administered by the State of Alaska, provides infrastructure funding to Alaska Native Villages and rural Alaska communities that lack access to basic drinking water and sanitation infrastructure. Last year the House Appropriations Committee attempted to zero out this line item but the Senate Appropriations Committee restored the funding. This year, the House Appropriations Committee has made another effort to do so and the Senate Subcommittee has, once again, restored the funding.

Categorical Grants

- Tribal General Assistance Program (GAP)

  FY 2012 Enacted $67,631,000  FY 2013 Admin. Request $96,375,000  FY 2013 House Committee $67,631,000
  FY 2013 Senate Subcommittee $67,631,000

- Tribal Air Quality Management

  FY 2012 Enacted $13,252,000  FY 2013 Admin. Request $13,566,000  FY 2013 House Committee $13,252,000
  FY 2013 Senate Subcommittee $13,252,000

- Underground Storage Tanks (LUST/UST)

  FY 2012 Enacted $1,548,000  FY 2013 Admin. Request $1,490,000  FY 2013 House Committee $1,490,000
  FY 2013 Senate Subcommittee $1,490,000

- Brownfields Grants

  FY 2012 Enacted $49,317,000  FY 2013 Admin. Request $47,572,000  FY 2013 House Committee $47,572,000
  FY 2013 Senate Subcommittee $49,317,000

- Section 319 Non-Point Source Pollution Grants

  FY 2012 Enacted $164,493,000  FY 2013 Admin. Request $164,757,000  FY 2013 House Committee $150,505,000
  FY 2013 Senate Subcommittee $164,493,000

- Wetland Program Development Grants

  FY 2012 Enacted $15,143,000  FY 2013 Admin. Request $15,167,000  FY 2013 House Committee $15,167,000
  FY 2013 Senate Subcommittee $15,143,000

ENVIRONMENTAL PROGRAMS AND MANAGEMENT

- Brownfields

  FY 2012 Enacted $23,642,000  FY 2013 Admin. Request $25,685,000  FY 2013 House Committee $23,642,000
  FY 2013 Senate Subcommittee $24,424,000

- Underground Storage Tanks (LUST/UST)

  FY 2012 Enacted $12,846,000  FY 2013 Admin. Request $12,283,000  FY 2013 House Committee $12,283,000
  FY 2013 Senate Subcommittee $12,010,000

- Resource Conservation and Recovery Act (RCRA) Waste Management

  FY 2012 Enacted $112,469,000  FY 2013 Admin. Request $117,298,000  FY 2013 House Committee $112,469,000
  FY 2013 Senate Subcommittee $114,202,000
The draft Senate bill includes the following provision regarding potential federal recognition for Native Hawaiians:

SEC. 427. Now and hereafter, in exercise of the authority delegated under sections 441, 442, 463, and 465 of the Revised Statutes (43 U.S.C. 1457; 25 U.S.C. 29), the Secretary shall consider for recognition the self-governing community that may include individuals enrolled under Act 195 (26th Haw. Leg. Sess. (2011)); Provided, That such community shall not be entitled to programs and services available to entities listed pursuant to section 104 of Public Law 103–454 except to the extent a statute governing such a program or service expressly provides that it applies to such community or its members; that such community may not conduct gaming activities as a matter of claimed inherent authority or under the authority of any Federal law; and that section 2116 of the Revised Statutes (25 U.S.C. 177) shall have no present or past application in the State where such community is located.

“Status of FY 2013 Department of Justice Appropriations,” Hobbs-Straus General Memorandum 12-093, July 27, 2012, downloadable at: http://www.hsdwlaw.com/sites/default/files/generalmemo/GM_12-093_DOJfy13.pdf, reports on the status of the Department of Justice (DOJ) appropriations as contained in the FY 2013 Commerce, Justice, Science and Related Agencies appropriations bill (HR 5326, H.Rpt. 112-463 and S 2323, S.Rpt. 112-158). On April 19, 2012, the Senate Appropriations Committee approved and reported S 2323 for full Senate consideration. The House approved its version on May 10, by a vote of 247 to 163. Expectations at the time were that Congress would not enact FY 2013 funding bills prior to the beginning of the fiscal year (October 1) and that funding would be provided under a Continuing Resolution (CR) lasting past the November election and possibly into the next Congress. We report on pending FY 2013 appropriations bills as they may have an effect on a CR and/or on final appropriations bills. The House and Senate Committee bills rejected the Administration’s budget proposal to eliminate a number of funding categories and to consolidate a number of programs, including creating a seven percent set-aside for a new flexible tribal criminal justice assistance program, in lieu of the present method of tribal set-asides under various grant programs. Instead, the House and Senate Committee bills utilize the budget structure and categories (unless otherwise specified) as in previous years. Thus, tribal assistance would continue to be provided on a program-by-program basis.

The Administration requested $27.46 billion for the FY 2013 DOJ discretionary funding level, which compares to the House bill and FY 2012 level of $27.4 billion. The Senate Committee bill recommends a small increase to $27.86 billion. We report below on the recommended funding levels for various DOJ programs of interest to tribes.

### VIOLENCE AGAINST WOMEN PREVENTION AND PROSECUTION PROGRAMS

<table>
<thead>
<tr>
<th>Program</th>
<th>FY 2012 Enacted</th>
<th>FY 2013 Admin. Request</th>
<th>FY 2013 House</th>
<th>FY 2013 Senate Committee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grants to Encourage Arrest Policies</td>
<td>$50 million</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rural Domestic Violence Assistance Grants</td>
<td>Request: $37.5 million; House: $36.5 million Senate: $35 million;</td>
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</table>

*The Administration's request included a $144.5 million transfer from the Crime Victims Fund (CVF; mandatory funding) and $268 million in FY 2013 appropriations.*
Violence on College Campuses $9 million
Civil Legal Assistance Request/House/FY12: $41 million; Senate: $39 million
Sexual Assault Victims Services Program Request/House/FY12: $23 million Senate: $25 million
Elder Abuse Grant Program $4.25 million
Safe Havens Project $11.5 million
Education & Training–Disabled Female Victims Request/House: $23 million Senate: $25 million
Court Training and Improvements $4.5 million
Natl. Resource Center on Workplace Responses Request/House: $500,000 Senate/FY12: $1 million
Consolidated Youth-Oriented Program $10 million (see below)
Family Civil Justice Program Senate: $15 million

• Consolidated Youth-Oriented Program. This program would consolidate four previously funded programs (Services to Advocate for and Respond to Youth, Grants to Assist Children and Youth Exposed to Violence, Engaging Men and Youth in Preventing Domestic Violence, and Supporting Teens through Education) in order to "fund a comprehensive array of prevention and intervention services for children and youth victims of domestic violence, dating violence, sexual assault and stalking." • Clearinghouse on the Sexual Assault of American Indian and Alaska Native Women. The Administration requested, and both bills would provide, $500,000 to continue developing a national clearinghouse on the sexual assault of American Indian and Alaska Native women. The clearinghouse would evolve to enable tracking emerging trends in the field, and aid with the development of a global perspective on sexual assault in Indian Country. • Violence Against Native Women Research. The Administration requested, and both bills would provide, $1 million for Research on Violence Against Indian Women. • Transitional Housing Assistance. Both bills would provide $25 million, which is $3 million above the FY 2012 level and the budget request, for the Transitional Housing program. The purpose of this grant program is to provide safe and affordable transitional housing for homeless victims of domestic violence, sexual assault, dating violence, and stalking. Projects funded under this program provide a variety of support services, and help victims achieve economic independence.

OFFICE OF JUSTICE PROGRAMS

Research, Evaluation & Statistics (Administered by the Bureau of Justice Assistance)

FY 2012 Enacted $113 million
FY 2013 Admin. Request $136 million
FY 2013 House $112 million
FY 2013 Senate Committee $126 million
Within the above total, the Senate Committee bill, but not the House, would provide $500,000 for Indian Country Statistics, as requested.

State and Local Law Enforcement Assistance The State and Local Law Enforcement Assistance budget request is $781.5 million, not including an additional $220.5 million requested under Crime Victims Fund. This compares to an FY 2012 level of $1.16 billion. The House and Senate both rejected the proposal to include partial funding under the Crime Victims Fund. Instead, the House would provide $962.5 million, the Senate $1.06 billion. The Senate report states "... the Committee has rejected the administration's proposal to fund $220,500,000 in discretionary programs through the mandatory Crime Victims Fund." Specific amounts within the total include:

Tribal Law Enforcement Assistance

FY 2012 Enacted $38 million
FY 2013 Admin. Request *set-aside (see below)
FY 2013 House $38 million
FY 2013 Senate Committee $35 million

The Administration proposed, as it did in FY 2012, bill language that would provide a seven percent set-aside for tribal criminal justice assistance, in lieu of dedicated amounts under State and Local Law Enforcement Assistance and Juvenile Justice. The proposed bill language stated: 7 percent of funds made available for grant or reimbursement programs: (1) under the heading "State and Local Law Enforcement Assistance"; or (2) under the
headings "Research, Evaluation, and Statistics" and "Juvenile Justice Programs", to be transferred to and merged with funds made available under the heading "State and Local Law Enforcement Assistance", shall be available for tribal criminal justice assistance without regard to the authorizations for such grant or reimbursement programs.

Neither the House nor Senate Committees bills provide for the tribal set-aside, instead providing $38 million and $35 million, respectively, for the Tribal Assistance program.

The Committee reports state: The Committee expects OJP to consult closely with tribal stakeholders in determining how tribal assistance funds will be allocated among grant programs that help improve public safety in tribal communities, such as grants for detention facilities under section 20109 of subtitle A of title II of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322), civil and criminal legal assistance as authorized by title I of Public Law 106-559, tribal courts, and alcohol and substance abuse reduction assistance programs. The Committee directs OJP to submit, as part of the Department's spending plan for fiscal year 2013, a plan for the use of these funds that has been informed by such consultation. The Committee notes that the bill includes additional grant funding for tribal law enforcement programs through COPS and OVW.

Edward Byrne Competitive Grants

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Enacted</th>
<th>Request</th>
</tr>
</thead>
<tbody>
<tr>
<td>FY 2012</td>
<td>$15 million</td>
<td></td>
</tr>
<tr>
<td>FY 2013 Admin. Request</td>
<td>$25 million</td>
<td></td>
</tr>
<tr>
<td>FY 2013 House</td>
<td>$20 million</td>
<td></td>
</tr>
<tr>
<td>FY 2013 Senate Committee</td>
<td>$18 million</td>
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</tbody>
</table>

Funds may be used for a variety of purposes including preventing crime, improving administration of justice, and providing services to crime victims. Tribal governments are among those eligible to apply for these funds.

Bulletproof Vests Partnerships

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>FY 2012 Enacted</td>
<td>$24 million</td>
</tr>
<tr>
<td>FY 2013 Admin. Request</td>
<td>$24 million</td>
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<tr>
<td>FY 2013 House</td>
<td>$20 million</td>
</tr>
<tr>
<td>FY 2013 Senate Committee</td>
<td>$24 million</td>
</tr>
</tbody>
</table>

This program reimburses law enforcement agencies (including tribal programs) for up to 50 percent of the cost of each vest purchased for eligible public safety officers. This program was formerly funded under the COPS Programs.

Implementation of the Adam Walsh Act

The House and Senate Committee bills would provide $20 million, the same as the budget request and the FY 2012 level. However, instead of funds coming from the Crime Victims Fund as proposed by the Administration, it would remain a discretionary grant program. Funds are used for start-up and ongoing maintenance costs associated with implementation of the Sex Offender Registration and Notification Act (SORNA).

Attorney General's Initiative on Children Exposed to Violence

The Senate Committee bill, but not the House, would provide $15 million of the Administration-requested $23 million for this joint initiative with the Department of Health and Human Services. The FY 2012 level was $10 million. Funds would remain a separate line item instead of being funded under the Crime Victims Fund as proposed by the Administration. The Senate report states: These funds will be used to build on investments made by Congress in recent years to advance effective practices at the State, local, and tribal levels that help children and adolescents who are victims of, or witnesses to, violence in their homes, schools, and neighborhoods, and may suffer devastating consequences beyond the physical harm. According to DOJ’s National Survey on Children Exposed to Violence, 61 percent of children experienced some type of violence, crime, or abuse in 2011 alone. Without the proper support and treatment, children who survive serious early-life trauma are more likely to abuse drugs and alcohol; suffer from depression, anxiety, and post-traumatic disorders; fail or have difficulty in school;
and become future victims or offenders. (S.Rpt.112-158, pp. 78-79)

Preventing Violence Against Law Enforcement and Ensuring Officer Resilience and Survivability Initiative (VALOR)

Both the House and Senate Committee bills would provide $5 million, the requested amount, within the overall Byrne Memorial Justice Assistance Grants (JAG) to fund the national officer safety training and technical assistance program. The FY 2012 level was $2 million. There is tribal eligibility for this program.

Problem Solving Justice Program

The Administration requested $52 million for a new Problem Solving Justice program. The purpose of the programs would be to "help state, local, and tribal governments develop multi-faceted strategies that together bring criminal justice (particularly the courts), social services, and public health agencies, as well as community organizations to develop system-wide responses to offender risks."

The proposal would have consolidated two programs – the Drug Courts ($35 million in FY 2012) and Mentally Ill Offender Act programs ($9 million in FY 2012) – and expand to include other problem solving strategies at the state, local, and tribal levels. Neither the House nor the Senate Committee bills provide consolidated funding. Instead, the House recommends Drug Courts funding at $41 million; Senate Committee recommends $35 million. Both bills recommend $9 million for the Mentally Ill Offender Program.

COMMUNITY ORIENTED POLICING SERVICE (COPS) GRANTS

<table>
<thead>
<tr>
<th></th>
<th>FY 2012 Enacted</th>
<th>FY 2013 Admin. Request</th>
<th>FY 2013 House</th>
<th>FY 2013 Senate Committee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Methamphetamine Clean-Up</td>
<td>$12.5 million</td>
<td>$12.5 million</td>
<td>$12.5 million</td>
<td>$12.5 million</td>
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</tbody>
</table>

The Administration proposed that funds for this activity be managed by the COPS Division rather than being transferred to the Drug Enforcement Administration (DEA), as in prior years. Both the House and Senate Committee bills retain the current process, thus DEA would provide the grants to state and local law enforcement for activities related to the removal and disposal of hazardous materials from meth labs. Tribal governments and territories are eligible for these grants.

COPS Hiring Program

<table>
<thead>
<tr>
<th></th>
<th>FY 2012 Enacted</th>
<th>FY 2013 Admin. Request</th>
<th>FY 2013 House</th>
<th>FY 2013 Senate Committee</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$166 million</td>
<td>$257 million</td>
<td>$40 million</td>
<td>$215 million</td>
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</table>

These funds are used to award hiring grants to state, local, and tribal law enforcement programs to assist in meeting the Administration's goal of increasing the number of community policing officers throughout the country.

COPS Tribal Hiring. The House and Senate Committee bills would provide $15 million, as requested, from within the above COPS Hiring Grants total to be transferred to the Tribal Resources Grant Program (TRGP), as explained below. The bills do not include the Administration-proposed bill language that would have restricted use of these funds, after transfer to the TRGP, to the hiring and rehiring of tribal law enforcement officers.
COPS Policing Development Initiative. Within the COPS Hiring total, the Administration requested $15 million for the Policing Development Initiative. The Senate Committee bill would provide $10 million, same as in FY 2012. Grant funds are provided to state, local, and tribal governments to implement community policing through training and technical assistance, and innovative community policing strategies, among other things.

Tribal Resources Grant Program (TRGP)

| FY 2012 Enacted | $20 million |
| FY 2013 Admin. Request | $20 million |
| FY 2013 House | $20 million |
| FY 2013 Senate Committee | $20 million |

The Senate Committee report provides the following explanation regarding the TRGP and the transferred amount from the COPS Tribal Hiring allocation: The Committee has provided a total $35,000,000 in programs targeted entirely to tribal communities through the Tribal Resources Grant Program [TRGP]. Within the TRGP, $20,000,000 is provided through direct appropriations and $15,000,000 is provided by transfer from the COPS Hiring program. All funds available to the TRGP can be used for equipment and hiring or training of tribal law enforcement. This will allow tribes maximum flexibility to respond the priorities they deem most urgent. (S.Rpt.112-158, p. 83)

JUVENILE JUSTICE PROGRAMS

| FY 2012 Enacted | $262.5 million |
| FY 2013 Admin. Request | $245.0 million |
| FY 2013 House | $209.5 million |
| FY 2013 Senate Committee | $278.0 million |

From the above total, the Senate Committee bill, but not the House, would provide $30 million for the Juvenile Delinquency Incentive Grants, which would include $10 million for tribal youth grants (same as in FY 2012). The Administration requested $20 million for the Incentive Grants. Funds may be used for delinquency prevention, alcohol and substance abuse prevention and other programs intended for at-risk youth. The Administration had proposed that, instead of a dedicated amount for tribal youth grants, it be replaced by the seven percent set-aside. Both the House and the Senate Committee rejected this proposal.

The Administration had also requested $20 million for a new Evidence-Based Competitive Demonstration Program, which neither bill provides. The program would "support and increase the use of evidence-based programs and innovative practices in the juvenile justice system, and improve juvenile justice outcomes." The proposal included tribal eligibility.

Victims of Child Abuse Programs. The Senate Committee bill would provide $19 million, compared to the House and FY 2012 amounts of $18 million. The Administration did not request any FY 2013 funds. These funds are allocated for several programs, including the Regional Child Advocacy Centers (RCACs) and the National Children's Alliance (NCA), which have established a number of joint initiatives, including the support and development of tribal CACs.

Youth Mentoring. The Senate Committee bill would provide $61 million, compared to the House-recommended $90 million and the FY 2012 level of $78 million. The Administration requested $58 million. Funds are used for competitive grants to support national, regional and local organizations in nurturing and mentoring at-risk children and youth.

requested funding levels for Indian Affairs (Bureau of Indian Affairs (BIA)/Bureau of Indian Education (BIE)) and selected programs in the Environmental Protection Agency (EPA) as well as legislative language or provisions of particular interest are reported here. Attach to the downloadable pdf is the Indian Affairs (IA) budget chart for the Committee bill which includes comparisons with amounts enacted in FY 2012 and proposed by the Administration for FY 2013. Detailed information on the distribution of increases or decreases by account level will not be available until the IA releases its detailed budget chart. While the House Committee-reported bill was not seen as likely to advance to the House floor, the Senate Appropriations Committee had tentative plans to unveil its version of an Interior spending bill in July. The two houses had differing discretionary spending caps for the Interior, Environment and Related Agencies bill – $28 billion for the House and $29.7 billion for the Senate. In addition to having differing spending caps, there were projected to be significant differences between the two houses, notably with regard to funding and policy provisions for the EPA (the House bill would reduce EPA funding by 17%). Expectations at the time were that Congress would not enact FY 2013 funding bills prior to the beginning of the fiscal year (October 1) and that funding would be provided under a Continuing Resolution (CR) lasting past the November election and into December. Under the Budget Control Act, there will be a significant across-the-board sequestration of funding for many federal programs if Congress does not find a way to enact $1.2 trillion toward deficit reduction. While the IHS would be held to a statutory two percent reduction under sequestration, there is no similar provision so for the BIA/BIE. Another option is that Congress could amend the Budget Control Act to eliminate or modify the current sequestration language. Despite the uncertainty, it is worth following whatever FY 2013 recommendations are made by the House and Senate Appropriations Committees – both with regard to funding and policy provisions – as they may affect the final FY 2013 funding bill(s).

**INDIAN AFFAIRS**

The House Committee bill would provide nearly $2.57 billion for Indian Affairs, which is $41.4 million above the budget request and $36.8 million more than the FY 2012 level. Within the recommended total are $2.4 billion for the Operation of Indian Programs (OIP; $36.9 million above the FY 2012 level) and $104.9 million for Construction ($6.5 million decrease from FY 2012).

**Operation of Indian Programs.** (Please see attachment for chart.)

Regarding the Contract Support funding, the House Committee report states: The Committee directs the Bureau to work with Tribes and tribal organizations to explore options for improving the transparency of current year contract support cost information, and to report back to the Committee within 90 days of enactment of this Act. (H. Rpt. 112-589, p. 35)

Education–School Operations. The Committee report states the following regarding the Tribal Grant Support Costs proposed increase: Within Education, the bill includes the following increases: $12,991,000 to make up half of the projected shortfall in administrative cost grants, which the Committee notes are also contract support costs; …

In addition to a proposed $1 million increase for Johnson–O'Malley (JOM), the Committee directs, as it did in FY 2012, that the Bureau of Indian Education (BIE) complete and report an updated JOM student count, and reinstate the JOM coordinator position. The report states: The Committee is disappointed that the Bureau failed to update its count of students eligible for JOM program funding and to report back to the Committee as directed in House Report 112–331. The Committee directs the Bureau, in coordination with the Department of Education, and in consultation with the Tribes, to update its count of students eligible for the Johnson-O’Malley Program funding and to report the results to this Committee within 180 days of enactment of this Act. In addition, the Committee directs the Bureau to reestablish the full-time permanent Johnson-O’Malley coordinator position that was terminated in 2005. (H. Rpt. 112-589, p. 35)

Education–Higher Education. The Committee's recommendation for funding for post secondary education is at the Administration's requested levels. For the forward-funded program, the Committee recommended $69.8 million, which is $2.5 million over the FY 2012 amount. For the non-forward funded higher education programs, the Committee recommended $62 million or $617,000 over the FY 2012 amount.

**Public Safety & Justice.** In addition to proposed increases for Law Enforcement and Tribal Courts, the Committee
clarifies that costs associated with the education and health services provided to incarcerated juveniles are considered allowable costs under detention/corrections program funding.

Community and Economic Development. In addition to proposing a $1 million increase for minerals and mining management, the Committee directs that the DOI develop, in consultation with tribes, a pilot program for energy and mineral development on tribal trust lands. The report states: The Committee directs the Department to work with Tribes to develop a pilot program to accelerate conventional energy and mineral development on lands held in trust for American Indians. The Committee notes that not all Federal lands are public lands; that conventional energy and mineral development on Tribal trust lands is lagging behind State and private lands; that energy and mineral development on Tribal trust lands can have tremendous economic benefits for people who, as a group, suffer from some of the worst economic conditions in the country; that the Department has an obligation to act in their best interests to the greatest extent allowable by law; and that it must be Tribes themselves who determine what is in their best interests, particularly on lands held in trust specifically for them. The Committee took testimony this year from several witnesses who highlighted a number of concerns with the current energy and mineral development approval process, including permit fees, the need for additional Federal and Tribal personnel and training, and fair distribution of personnel around the country. The Committee directs the Department to use the pilot program to make a good faith effort, using existing authorities, to address these concerns and others identified by Tribes. (H. Rpt. 112-589, p. 35-36)

Indian Employment, Training, and Related Services. The Committee expresses continuing concern regarding the consolidated program that tribes administer under the authority of the Indian Employment Training and Related Services Demonstration Act, Public Law 102-477 (477), and efforts to resolve issues faced by tribes. The report states:

The Committee remains concerned that efforts to implement new administrative policies for P.L. 102–477 funds have the potential to add additional costs to Tribes, thereby diverting funds from the important services that this program provides. The Committee notes that there has been no evidence of misuse of these funds since the program's inception 20 years ago. The Committee recognizes the significant progress made by the P.L. 102–477 Tribal Work Group and the Administration to resolve the issues surrounding these policies, as directed by House Report 112–331, and feels strongly that these joint efforts should continue in pursuit of a permanent resolution. In particular, the parties are urged to resolve the financial reporting issues in a way that meets the goals of administrative flexibility and fiscal accountability without impeding the end outcome goals of the "477" program. (H. Rpt. 112-589, p. 36)

Construction. The Committee bill would increase the overall Construction account by $11.2 million over the budget request level for total funding of $117.1 million. The total would be $6.5 million below the FY 2012 level.

The majority of the increase ($9.2 million) would be applied to Education Construction as Replacement School Construction funding, for which the Administration had not requested funds. The Committee states the amount "should complete the next project on the 2004 priority list." The Committee also urges that the BIE develop a new replacement school construction priority list and to request FY 2014 funds for projects on the priority list.

The Committee states the following regarding Education and Public Safety and Justice construction:

The Committee notes the conditions of the Bug O Nay Ge Shig School of the Leech Lake Band of Ojibwe as an example of the significant safety and health hazards that have not received due attention by this Administration. The Committee urges the Bureau to continue to work with the Leech Lake Band of Ojibwe and other Tribes to replace and repair their school facilities.

The Committee commends the Shoshone-Bannock Tribes of the Fort Hall Indian Reservation for their initiative in addressing their law enforcement needs by constructing a justice center to house their adult and juvenile detention and rehabilitation center, tribal courts, and police department. The Committee also commends the [BIA] in its efforts to assist the Shoshone-Bannock Tribes in ensuring that the Center continues to operate effectively. Knowing that work must be done in consultation with Tribes, the Committee continues to encourage the Bureau to
consider establishing regional detention centers at new or existing facilities, such as the Shoshone-Bannock Tribes' Justice Center, as it works to combat the crime problem in Indian Country. (H. Rpt. 112-589, p. 37)

Bill Language.

Contract Support Limitation. As requested, the Committee bill would continue language that attempts to limit the ability of the BIA and IHS to fund past-year shortfalls in contract support funding from remaining unobligated balances for those fiscal years. (Sec. 407)

Status of Appropriations Balances. The Committee bill would continue FY 2012 language that requires the DOI, IHS, EPA and Forest Service to provide Congress quarterly reports on the balances of appropriations. (Sec. 418)

Indian Law and Order Commission. The Committee proposes a one-year extension for the Commission to complete its congressionally mandated work (Sec. 116). The Committee notes the Commission's work was delayed a year due to lack of federal funds.

Carcieri Fix. The House version of the Interior Appropriations bill does not include the Administration-proposed language that would provide a "clean" Carcieri fix that would have reversed the U.S. Supreme Court's 2009 decision that the Interior Secretary did not have authority to take land into trust for tribes recognized after 1934.

ENVIRONMENTAL PROTECTION AGENCY

FY 2012 Enacted $8,449,385,000 FY 2013 Admin. Request $8,344,480,000 FY 2013 House Committee $7,055,041,000

The House Committee would provide $7 billion for the EPA, which is $1.2 billion below the budget request and $1.3 billion below the FY 2012 level. There are a limited number of tribal-specific programs under the EPA but tribes are often eligible for the larger grant programs. We report below on several programs of interest to tribes.

STATE AND TRIBAL ASSISTANCE GRANTS

FY 2012 Enacted $3,612,937,000 FY 2013 Admin. Request $3,355,723,000 FY 2013 House Committee $2,602,043,000

There are two categories of assistance under the State and Tribal Assistance Grants (STAG), e.g., Infrastructure Assistance Grants ($1.6 billion), and Categorical Grants ($994,043,000). Funds are issued to help communities fulfill the requirements of various environmental protection laws, as well as to rehabilitate land, water, and air resources that have been harmed.

Infrastructure Assistance Grants

• Brownfields Projects

FY 2012 Enacted $94,848,000 FY 2013 Admin. Request $93,291,000 FY 2013 House Committee $60,000,000

• Safe Drinking Water Revolving Loan Fund

FY 2012 Enacted $917,892,000 FY 2013 Admin. Request $850,000,000 FY 2013 House Committee $829,000,000 Grants under this program can go to tribes directly as well as to the Indian Health Service under cooperative agreements to fund tribal projects.

• Clean Water State Revolving Loan Fund

FY 2012 Enacted $1,466,456,000 FY 2013 Admin. Request $1,175,000,000 FY 2013 House Committee $689,000,000
These funds will be used for building or improving sanitation facilities in Indian Country.

Regarding the balances recommended for the two State Revolving Funds (SRF) (the Safe Drinking Water Revolving Loan Fund and Clean Water State Revolving Loan Fund), the House report states:

During calendar year 2009, the Committee provided over $11 billion for water and wastewater infrastructure assistance. Since then, the Committee provided an additional $4.87 billion for fiscal years 2011 and 2012. As a result, EPA has $2.4 billion in unobligated SRF balances yet to be transferred to States. In addition, the States have yet to spend nearly $5 billion that the Federal government has allocated for drinking water and wastewater projects. The Committee believes that EPA and the States must aggressively put this $7.4 billion on to projects in order to address the pressing infrastructure needs facing the nation. The bill provides funding at the fiscal year 2008 enacted levels for the Clean Water and Drinking Water State Revolving Funds: $689,000,000 and $829,000,000 respectively.

The Committee continues bill language to allow EPA and the States to provide additional forms of subsidy to those communities which cannot afford the below market rates provided by an SRF loan. These subsidies will apply to 20 to 30 percent of the funds appropriated for the SRFs. The Committee has carried forward this authority recognizing that many small, rural and/or disadvantaged communities do not have the resources to borrow from the SRFs with the responsibility to pay back the loan, even with the lower interest rate. The Committee directs the Agency to submit a report within 180 days of enactment of this Act detailing how EPA and the States have used this authority including information on the number and amounts of loans awarded with additional subsidization, recipient communities, and descriptions of projects funded.

The Committee has not included bill language mandating that States must use SRF grants for green infrastructure projects. While decentralized, alternative infrastructure projects may prove to be an important component in the efforts to improve and restore our waters, it should not be a mandatory function of the State Revolving Funds. (H. Rpt. 112-589, p. 64)

Regarding sanitation infrastructure specifically in Indian Country, the House report states:

Sanitation Infrastructure in Indian Country.— The Committee is concerned about the lack of sanitation infrastructure in Indian country and Alaska Native Villages. In collaboration with the Indian Health Service and the Bureau of Indian Affairs, the Environmental Protection Agency is directed to report to the Committee on a unified strategy across the relevant government agencies to correct these sanitation deficiencies over a 10-year period. EPA shall provide this report within six months of enactment of this Act. (H. Rpt. 112-589, p. 58)

- Water Supply and Wastewater Infrastructure Grants for Alaska Rural and Native Villages

FY 2012 Enacted $ 9,984,000  FY 2013 Admin. Request $10,000,000  FY 2013 House Committee –0– .

The Alaska Rural and Native Village Program, administered by the State of Alaska, provides infrastructure funding to Alaska Native Villages and rural Alaska communities that lack access to basic drinking water and sanitation infrastructure. Last year the House Appropriations Committee attempted to zero out this line item but the Senate restored the funding. This year, the House Appropriations Committee has made another effort to do so. The House report states:

Alaska Native Villages.—The Committee has not included funding for this unauthorized grant program in fiscal year 2013 recognizing that low income and disadvantaged communities may apply for water and wastewater infrastructure funding through the State Revolving Funds. Additional subsidies are available for those communities that may not be able to afford the traditional low-interest SRF loans. (H. Rpt. 112-589, p. 64)

Categorical Grants

- Tribal General Assistance Program (GAP)
The GAP provides general assistance grants to build capacity to administer environmental regulatory programs that may be authorized by EPA in Indian Country, and to provide technical assistance in the development of multimedia programs to address environmental issues on Indian lands. The GAP grants cover the costs of planning, developing, and establishing environmental protection programs consistent with other applicable provisions of law providing for enforcement of such laws by Indian tribes on Indian lands.

- Tribal Air Quality Management

FY 2012 Enacted $67,631,000  FY 2013 Admin. Request $96,375,000  FY 2013 House Committee $67,631,000

This program includes funding for tribal air pollution control agencies and tribal governments. Through Clean Air Act (CAA) section 105 Grants, tribes may develop and implement programs for the prevention and control of air pollution or implementation of national primary and secondary ambient air standards. Through CAA Section 103 grants, tribal air pollution control agencies or tribes, colleges, universities, or multi-tribe jurisdictional air pollution control agencies and/or non-profit organizations may conduct and promote research; investigations; experiments; demonstrations; surveys; studies and training related to air pollution.

- Underground Storage Tanks (LUST/UST)

FY 2012 Enacted $13,252,000  FY 2013 Admin. Request $13,566,000  FY 2013 House Committee $13,252,000

- Brownfields Grants

FY 2012 Enacted $49,317,000  FY 2013 Admin. Request $47,572,000  FY 2013 House Committee $47,572,000

- Section 319 Non-Point Source Pollution Grants

FY 2012 Enacted $164,493,000  FY 2013 Admin. Request $164,757,000  FY 2013 House Committee $150,505,000

Grants under Section 319 of the Clean Water Act are provided to states, territories, and tribes to help them implement their EPA-approved non-point source management programs by remediating non-point source pollution that has occurred in the past and by preventing or minimizing new non-point source pollution.

- Wetland Program Development Grants

FY 2012 Enacted $15,143,000  FY 2013 Admin. Request $15,167,000  FY 2013 House Committee $15,167,000

The Wetland Program Development Grants enable EPA to provide technical and financial support to assist states, tribes, and local governments toward the national goal of an overall increase in the nation's wetlands. Grants are used to develop new or refine existing state and tribal wetland protection, management, and restoration programs as well as to implement programs where environmental results can be demonstrated.

ENVIRONMENTAL PROGRAMS AND MANAGEMENT

- Brownfields

FY 2012 Enacted $23,642,000  FY 2013 Admin. Request $25,685,000  FY 2013 House Committee $23,642,000

This program, under the EPA's ENVIRONMENTAL AND PROGRAM MANAGEMENT, differs from the two Brownfields programs listed under STATE AND TRIBAL ASSISTANCE GRANTS. It is designed to help states, tribes, local communities and other stakeholders in economic redevelopment to work together to assess, safely clean up, and reuse Brownfields. The other programs provide funding for cleanup purposes alone. However, the programs work in conjunction with one another.
• Underground Storage Tanks (LUST/UST)

FY 2012 Enacted $12,846,000    FY 2013 Admin. Request $12,283,000    FY 2013 House Committee $12,283,000

This program is designed to prevent, detect, and repair leaks from underground storage tanks including those containing fuel or oil. The ENVIRONMENTAL AND PROGRAM MANAGEMENT funds primarily go to states to help with enforcement, though the EPA is working with tribes and tribal consortia to build and implement their own LUST programs. The STATE AND TRIBAL ASSISTANCE GRANTS for LUST are used primarily to assist tank owners in ensuring their tanks do not leak and to detect leaks.

• Resource Conservation and Recovery Act (RCRA) Waste Management

FY 2012 Enacted $112,469,000    FY 2013 Admin. Request $117,298,000    FY 2013 House Committee $112,469,000

The RCRA Waste Management program is designed to reduce the amount of waste generated and to improve the recovery and conservation of materials by focusing on a hierarchy of waste management options that advocate reduction, reuse, and recycling over treatment and disposal. The program has a tribal component, which is aimed at providing technical assistance to tribes.

“Status of FY 2013 Agriculture Appropriations,” Hobbs-Straus General Memorandum 12-092, July 27, 2012, downloadable at: http://www.hsdwlaw.com/sites/default/files/generalmemo/GM_12-092_AgricultureFY2013App.Comms_.pdf, reports on the status of FY 2013 appropriations of particular interest to tribal governments and tribal colleges in the Department of Agriculture. The House and Senate Appropriations Committees have marked up their respective Agriculture and Related Agencies Appropriations bill (HR 5073, H. Rpt. 112-542; S 2375, S. Rpt. 112-163). The Committee bills and reports are available at http://appropriations.house.gov/ and at http://appropriations.senate.gov. The House bill was then seen as possibly being scheduled for a floor vote prior to the August congressional recess, but at that point the Senate Committee-reported bill was not considered likely to come to the floor for a vote. The two houses had differing discretionary spending caps for the Agriculture bill – $19.4 billion for the House and $20.8 billion for the Senate bill. In addition to having differing spending caps, there were significant differences between the two houses over funding for the Commodity Futures Trading Commission (whose duties include implementation of the 2010 Dodd-Frank banking overhaul statute), the Food for Peace program, and Broadband loans. There were also disputes over policies that deem automatic eligibility for the Supplemental Nutrition Assistance Program. Expectations were that Congress will not enact FY 2013 funding bills prior to the beginning of the fiscal year (October 1) and that funding would be provided under a Continuing Resolution (CR) lasting past the November election and possibly into the next Congress.

FY 2012 Enacted $448,000    FY 2013 Admin. Request $498,000    FY 2013 House Committee $439,000    FY 2013 Senate Committee $498,000

Senate bill language states that the purpose of this new office, which is located in the Office of the Secretary, is "to support communications and consultation activities with Federally Recognized Tribes, as well as other requirements established by law."

The Senate Committee states with regard to the Office of Tribal Relations: The Office of Tribal Relations will interact with USDA program agencies to understand pending actions that may affect Indian tribes. This interaction and programmatic knowledge will improve USDA's ability to conduct consultation activities, thereby better addressing the needs of USDA tribal constituents and improving relationships. (S.Rpt. 112-163, pp. 7-8)

Federally Recognized Tribes Extension Program

FY 2012 Enacted $3,039,000    FY 2013 Admin. Request $3,039,000    FY 2013 House Committee $2,956,000    FY 2013 Senate Committee $3,039,000
Under the Federally Recognized Tribes Extension Program, state land grant universities provide education and resources for tribes in areas including range management, wildlife and fisheries enhancement and education for adults and youth.

Tribal Colleges Extension Services

FY 2012 Enacted $4,312,000  FY 2013 Admin. Request $4,312,000  FY 2013 House Committee $4,195,000
FY 2013 Senate Committee $4,312,000

Native American Institutions Endowment Fund (tribal colleges)

FY 2012 Enacted $11,880,000  FY 2013 Admin. Request $11,880,000  FY 2013 House Committee $11,642,000
FY 2013 Senate Committee $11,880,000

The Senate Committee explains: The Native American Institutions Endowment Fund authorized by Public Law 103-382, the Equity in Educational Land Grant Status Act, provides an endowment for the 1994 land-grant institutions (34 tribally controlled colleges). This program will enhance educational opportunity for Native Americans by building educational capacity at these institutions in the areas of student recruitment and retention, curricula development, faculty preparation, instruction delivery systems, and scientific instrumentation for teaching. Income funds are also available for facility renovation, repair, construction, and maintenance. On the termination of each fiscal year, the Secretary shall withdraw the income from the endowment fund for the fiscal year, and after making adjustments for the cost of administering the endowment fund, distribute the adjusted income as follows: 60 percent of the adjusted income from these funds shall be distributed among the 1994 land-grant institutions on a pro rata basis, the proportionate share being based on the Indian student count; and 40 percent of the adjusted income shall be distributed in equal shares to the 1994 land-grant institutions. (S.Rpt. 112-163, p. 25)

1994 Institutions Equity Grants (tribal colleges)

FY 2012 Enacted $3,335,000  FY 2013 Admin. Request $3,335,000  FY 2013 House Committee $3,268,000
FY 2013 Senate Committee $3,335,000

1994 Institution Research Initiative (tribal colleges)

FY 2012 Enacted $1,801,000  FY 2013 Admin. Request $1,801,000  FY 2013 House Committee $1,764,000
FY 2013 Senate Committee $1,801,000

Every two years the tribal colleges compete for these funds.

Community Facility Grants for Tribal Colleges and Universities

FY 2012 Enacted $3,369,000  FY 2013 Admin. Request $4,000,000  FY 2013 House Committee $3,302,000
FY 2013 Senate Committee $3,369,000

The tribal colleges' community facilities grants are part of the Rural Community Facilities Program for which the House Committee recommended $21.9 million and the Senate Committee $28.4 million for subsides and grants. There are, in addition, Community Facility direct loans for which the House Committee recommended $2.2 billion and the Senate Committee $2 billion.

Alaska Native/Native Hawaiian-Serving Higher Education Institutions

FY 2012 Enacted $3,194,000  FY 2013 Admin. Request $3,194,000  FY 2013 House Committee $3,130,000
FY 2013 Senate Committee $3,194,000

House and Senate bill language provides that the funds are to be divided equally between Hawaii and Alaska.
Rural Business Program Subsidy and Grants

FY 2012 Enacted $74,809,000  FY 2013 Admin. Request $86,159,000  FY 2013 House Committee $65,341,000  FY 2013 Senate Committee $85,904,000

Within the total, the House Committee would provide $3.9 million and the Senate Committee $4 million for business grants to federally recognized tribes. Within those amounts the House bill would provide $245,000 "for transportation technical assistance" while the Senate Committee would provide $250,000 to be used "to implement an American Indian and Alaska Native passenger transportation development and assistance initiative." (S Rpt. 112-163, p. 55)

Among the programs funded under this account are the Rural Business Enterprise Grants ($20 million in the House bill; $24.3 million in the Senate bill) and the Rural Business Opportunity Grants (no funding in the House bill; $2.25 million in the Senate bill). In FY 2011 there were 13 awards to tribes totaling $1.05 million under the Rural Business Opportunity program and 32 awards to tribes totaling $3.2 million under the Rural Business Enterprise program.

Rural Water and Waste Disposal Program Subsidy and Grants

FY 2012 Enacted $513,000,000  FY 2013 Admin. Request $495,700,000  FY 2013 House Committee $484,499,000  FY 2013 Senate Committee $522,481,000

Within the total, the House Committee would provide $59.5 million and the Senate $66.5 million for water and waste disposal systems grants for Native Americans, including Native Alaskans, the Colonias, and residents of Hawaiian Homelands. Also included would be $800,000 for technical assistance in the Senate bill and $784,000 in the House bill for rural water systems in tribal communities. The House Committee would provide $14.7 million and the Senate Committee $15 million for a circuit rider program to provide technical assistance for rural water systems.

Indian Tribal Land Acquisition Loans

FY 2012 Enacted $2,000,000  FY 2013 Admin. Request $2,000,000  FY 2013 House Committee $2,000,000  FY 2013 Senate Committee $2,000,000

Indian Highly Fractionated Land Loan Subsidy

FY 2012 Enacted $193,000  FY 2013 Admin. Request $173,000  FY 2013 House Committee $173,000  FY 2013 Senate Committee $173,000

A subsidy of $173,000 will support $10 million in loans to individual Indians to purchase highly fractionated parcels of land.

Rural Development Direct Loan Fund Subsidy

FY 2012 Enacted $6,000,000  FY 2013 Admin. Request $6,052,000  FY 2013 House Committee $5,674,000  FY 2014 Senate Committee $6,052,000

The House bill would reserve $857,000 and the Senate bill $900,000 of these funds for federally recognized tribes.

Supplemental Nutrition Assistance Program (SNAP) (funding total includes the Food Distribution Program on Indian Reservations)

FY 2012 Enacted $80.4 billion  FY 2013 Admin. Request $82.0 billion  FY 2013 House Committee $80.0 billion  FY 2013 Senate Committee $80.0 billion
It is estimated that 24 percent of the American Indian/Alaska Native (AI/AN) population nationally utilizes SNAP (formerly called the Food Stamp program). This compares to 13 percent of the U.S. population receiving SNAP benefits. The SNAP is much more heavily utilized among AI/ANs than is the Food Distribution Program on Indian Reservations (FDPIR) which provides commodities and is limited to households on or near Indian reservations. For example, in 2010, the number of AI/AN households who participated in SNAP was 197,932, whereas there were 84,577 AI/AN individuals participating in the FDPIR. The participation numbers in the FDPIR has been declining in recent years.

Only one tribe – Port Gamble S’Klallam – administers the SNAP (and that is under a DHHS waiver).

Food Distribution Program on Indian Reservations. Within the House Committee bill total is $100,156,000 for the Food Distribution Program on Indian Reservations. The Senate Committee does not break out an amount for FDPIR. The House and Senate bills would provide that $998,000 may be used "to provide nutrition education services to state agencies and Federally recognized tribes participating in the Food Distribution Program on Indian Reservations."

The Senate Committee states with regard to the purchase of bison for the FDPIR: The Committee encourages the Secretary to continue the purchase of bison from producer-owned and Native American owned cooperatives for the Food Distribution Program on Indian Reservations. Although funding is not provided specifically for bison purchase, historically these purchases have been important for the Native American population both economically and nutritionally. (S. Rpt. 112-163, p. 67) The Farm Bill (PL 110-246) allows the Secretary of Agriculture to authorize tribes to administer the commodities program if he determines that a tribal organization "is capable of effectively and efficiently administering a distribution … ." The Secretary is also authorized to pay the administrative expenses associated with a tribe or state administering the Food Distribution Program on Indian Reservations. Currently members of 276 tribes receive FDPIR benefits through 100 tribal organizations and five state agencies.

Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)

FY 2012 Enacted $6.6 billion FY 2013 Admin. Request $7.0 billion FY 2013 House Committee $6.9 billion
FY 2013 Senate Committee $7.0 billion

Currently 34 tribal organizations administer the WIC program. Nationally about 211,000 WIC recipients identify themselves as AI/AN alone or as AI/AN with an additional designation.

Distance Learning and Telemedicine – Grants

FY 2012 Enacted $21.0 million FY 2013 Admin. Request $24.9 million FY 2013 House Committee $15.0 million
FY 2013 Senate Committee $24.9 million

The Senate Committee would provide within the total $3 million for telemedicine and distance learning grants for health needs in the Mississippi River Delta area and $3 million for noncommercial educational broadcast stations that serve rural areas to convert from analog to digital operations. Broadband Telecommunications – Loan authorization

FY 2012 Enacted $212,014,000 FY 2013 Admin. Request $94,139,000 FY 2013 House Committee $21,119,000
FY 2013 Senate Committee $63,358,000

Broadband Telecommunications – Loan subsidies

FY 2012 Enacted $6,000,000 FY 2013 Admin. Request $8,915,000 FY 2013 House Committee $2,000,000
FY 2013 Senate Committee $6,000,000

The Senate Committee states that broadband funds are intended "to promote broadband availability in those areas
where there is not otherwise a business case for private investment in a broadband network. The Committee encourages RUS [Rural Utilities Service] to focus expenditures on projects that bring broadband service to currently un-served households." (S. Rpt. 112-163, p. 61)

Broadband Telecommunications – Grants

FY 2012 Enacted $10,372,000   FY 2013 Admin. Request $13,379,000   FY 2013 House Committee $10,165,000   FY 2013 Senate Committee $10,372,000

The Senate Committee notes that funds are for broadband transmission and local dial-up internet services for rural areas.

Health Action New Mexico ([info@healthactionnm.org](mailto:info@healthactionnm.org)) reported, June 14, 2012, “Johnny Depp plans to remake Tonto as an equal in the film The Lone Ranger. Equality is harder to find in the real world. Paul Ryan’s budget would drastically cut health services for American Indians - a population with some of the highest poverty, disease, and mortality rates in the world (following Dave Baldridge, Christian Science Monitor, June 14, 2012, [http://www.csmonitor.com/var/ezflow_site/storage/images/media/content/2012/0614-johnny-depp-astonto-in-lone-ranger/12847513-1-eng-US](http://www.csmonitor.com/var/ezflow_site/storage/images/media/content/2012/0614-johnny-depp-astonto-in-lone-ranger/12847513-1-eng-US)). The Ryan budget would eliminate all of the proposed 2013 increases and reduce funding for the Indian Health Service (IHS) by 5.4%, requiring the IHS to close hospitals and clinics, reduce medical care referrals, and lay off employees. HIS estimates that it currently receives an average of only about 56.5% of the funding it actually needs to deliver basic medical and public health services to the populations it serves, which is about half the per capita federal funding that Congress provides for federal prisoners. The Ryan budget, in the only reduction in HIS funding in the last 15 years, would eliminate needed health-care services by 14,000 inpatient visits and more than 5,500 outpatient visits for specialized care. Meanwhile, the Obama administration has proposed a moderate 2.7% increase of $116 million in the IHS budget for FY 2013 over FY 2012. That amount includes $81 million for continued construction of two outpatient facilities in Arizona. With current health care provision, American Indians and Alaska natives have an infant death rate 60% percent higher than U.S. whites, while suffering a far higher rate of diabetes.”

In the Courts

The U.S. Supreme Court

The United States Supreme Court held, June 18, 2012, in is Salazar v. Ramah Navajo Chapter, No. 11-551 that the federal government is required to pay full contract support costs to Indian tribes who contract for services under the Indian Self-Determination and Education Assistance Act (ISDEAA, or the Act). The case arose out of two seemingly contradictory provisions of the ISDEAA. The Act requires the Department of Interior (Interior) to enter into self-determination contracts with tribes, without regard to available funding, and to pay contract support costs. However, the Act also states that contracts will be paid "[s]ubject to the availability of appropriations." Additionally, Congressional appropriations during the years covered by the lawsuit have specified each year that the appropriation was "not to exceed" that year's specified amount for contract support costs. (For example, in Fiscal Year 1995, Congress made an allocation "not to exceed $95,823,000 . . . for payments to tribes and tribal organizations for contract support costs . . . ") As a result, Interior developed a policy of paying each tribe a percentage of its contract support costs, on a pro rata basis. As part of a long-running class action, the Ramah Navajo Chapter challenged this practice, alleging breach of contract and requesting compensation for underpaid contract support costs. The majority opinion, written by Justice Sotomayor (joined by Justices Scalia, Kennedy, Thomas, and Kagan) is grounded in what the Court referred to as "longstanding principles of Government contracting law": When a Government contractor is one of several persons to be paid out of a larger appropriation sufficient in itself to pay the contractor, it has long been the rule that the Government is responsible to the contractor for the full amount due under the contract, even if the agency exhausts the appropriation in service of other permissible ends. The reason for this rule is simple: contractors should be able to trust that the government will honor its contracts, and should not have to guess at how an agency will divvy up appropriated
The United States Supreme Court issued its decision in *Match-E-Be-Nash-She-Wish Band of Pottawatomi Indians [Gun Lake] v. Patchak*, June 18, 2012. In that case, David Patchak challenged the authority of the Secretary of the Interior to take land into trust for the Gun Lake Band (Band). Patchak resides near the property that the Secretary acquired in trust, and alleged that a casino there would harm him by causing "an irreversible change in the rural character of the area" and "other aesthetic, socioeconomic, and environmental problems." In challenging the Secretary's decision, Patchak argued that the Indian Reorganization Act, in 25 U.S.C. § 465, did not authorize the Secretary to acquire property for the Band because the Band was not a federally recognized tribe when the IRA was adopted in 1934. The claim raised two threshold questions: first, whether the United States had sovereign immunity from being sued by virtue of the Quiet Title Act (QTA); and second, whether Patchak had "prudential standing" (enough legal interest in the case) to be permitted to challenge the Secretary's acquisition. The D.C. Circuit held for Patchak on both questions, and the U.S. Supreme Court agreed to review the case. (See our General Memorandum 11-155 of December 21, 2011.) In an opinion delivered by Justice Kagan, the Court ruled against the Government and the Band on both questions. The decision was 8 to 1, with Justice Sotomayor filing the only dissenting opinion. **Concerning sovereign immunity and the quiet title act**, Patchak brought his claim under the Administrative Procedure Act (APA), seeking to void the Secretary's administrative decision to take the land into trust. The APA authorizes suits against the federal government for harm caused by agency action and waives the Government's sovereign immunity for suits seeking relief other than monetary damages. However, the APA's waiver expressly does not apply where another statute bars the suit. The QTA waives the Government's sovereign immunity for a suit by a plaintiff asserting a "right, title, or interest" in real property held by the United States, but excludes trust or restricted Indian lands from that waiver. Because the Government held the land in trust for the Band, the Government and the Band argued that the QTA's Indian lands exclusion to the QTA's waiver of sovereign immunity barred Patchak's APA challenge. The **Court, however, found that the QTA was not applicable at all to Patchak's claim and therefore did not preserve the Government's sovereign immunity from the suit**. The Court reasoned that the Quiet Title Act concerns only quiet title actions in which the plaintiff asserts a competing ownership interest in the property at issue. Patchak, in contrast, asserted only "aesthetic, socioeconomic, and environmental" harms and did not claim any ownership interest in the Band's trust land. Therefore, the APA's waiver of sovereign immunity governed, and Patchak's claim was not barred by the QTA's Indian land exclusion. Justice Sotomayor dissented; she believed the Quiet Title Act should be construed to implicitly prohibit a plaintiff like Patchak from challenging the Government's title via the APA. On the issue of prudential standing, the court addressed whether or not Patchak had "prudential standing" to
Standing means a person has a genuine interest sufficient to justify a suit. To satisfy prudential standing, the interest asserted by the plaintiff must be within the "zone of interests" to be protected or regulated by the statute at issue – here, the IRA. The Government and the Band argued that Patchak's claim was outside the IRA's "zone of interest" because the IRA focuses on land acquisition, whereas Patchak's interests related to the land's use for a casino. The Court took a liberal view of the "zone of interest" requirement, stating that the test "is not meant to be especially demanding" and that the test "forecloses suit only when a plaintiff's 'interests are so marginally related to or inconsistent with the purposes implicit in the statute that it cannot reasonably be assumed that Congress intended to permit the suit.'" Because part of the goal of the IRA is to foster Indian economic development, and because the acquisition of Indian land provides the foundation for that economic development, the Court found that Patchak had prudential standing to proceed with his claim. In conclusion, because the Patchak decision makes it easier to object to the Secretary's taking land into trust for Indians and allows much more time to file suit (6 years instead of 30 days), there may well be many more lawsuits filed seeking to void land-in-trust decisions. Patchak's case was remanded to the district court to hear the merits of Patchak's claim that the Band was not under federal jurisdiction in 1934 and thus is ineligible to have land taken into trust under the IRA. The outcome of which could have implications for tribes across the United States. Legislative and administrative efforts to limit the impact of the Patchak decision on Indian had begun, as of June 2012 ("U.S. Supreme Court Releases Opinion in Match-E-Be-Nash-She-Wish Band of Pottawatomi Indians v. Patchak," Hobbs-Straus General Memorandum 12-079, June 23, 2012, downloadable at: GM_12-079_PatchakOpinion.pdf).

Lower Federal Courts

A three-judge panel of the Tenth U.S. Circuit Court of Appeals in Somerlott v. Cherokee Nation Distributors, Inc., No. 10-6157 (10th Cir. July 27, 2012) affirmed the dismissal of an action brought against CND, LLC (CND), a limited liability company licensed under the state laws of Oklahoma, on the grounds of the sovereign immunity of its owner, Cherokee Nation Businesses, Inc. However, the opinion also stated that CND is not entitled to sovereign immunity because it was organized under state law (rather than tribal law), noting that the applicable statute provides that "[e]ach limited liability company may . . . [s]ue, be sued, complain and defend in all courts . . . ." The Court nonetheless upheld the dismissal on sovereign immunity grounds because the plaintiff had not preserved this argument for appeal. The Cherokee Nation (Nation) created Cherokee Nation Distributors, Inc. (CDNI) as an Oklahoma-licensed corporation, and in 2004 converted CNDI from a corporation to an LLC, renaming it CND. In 2008, CND became a wholly-owned subsidiary of Cherokee Nation Businesses, Inc., a tribally-chartered corporation wholly-owned and regulated by the Nation; however, CND remained organized under state law. The suit arose from the termination of a CND employee, Tina Marie Somerlott, who sued CND in 2008, alleging violations of Title VII of the Civil Rights Act (Title VII) and the Age Discrimination in Employment Act (ADEA). CND moved to dismiss, arguing both that it was exempt from Title VII and the ADEA, and that it was shielded by the Nation's sovereign immunity. The trial court concluded that CND was a "subordinate economic entity" of the Nation and, applying the six factor test for such entities set out in a prior Tenth Circuit opinion, determined that CND was entitled to sovereign immunity and dismissed the suit. The Tenth Circuit, however, wrote that the trial court erred that the subordinate economic entity test does not apply when a tribally-owned entity is organized under state law which allows the entity to be sued, noting that the statute under which CND was organized specifically states that ",each limited liability company may . . . . [s]ue, be sued, complain and defend in all courts . . . ." The appellate court went on to state that "CND, a separate legal entity organized under the laws of another sovereign, Oklahoma, cannot share in the Nation's immunity from suit . . . ."

Judge Neil Gorsuch wrote separately to elaborate on his view that sovereign immunity never encompasses a business owned by one sovereign whether foreign, federal, state, or tribal but incorporated under the laws of a second sovereign if that second sovereign's laws "expressly allow the business to be sued." "A corporation," Gorsuch wrote, "isn't a natural person endowed with inalienable rights, but an 'artificial being' that may exercise only those privileges the law 'confers upon it, either expressly, or as incidental to its very existence.'" However, all three judges ultimately agreed to uphold dismissal on the grounds that Somerlott had failed to properly raise the issue in the trial court and, therefore, was not entitled to a ruling on that issue. Thus, the Court's language on sovereign immunity of state-chartered tribal business entities does not have the force of law or precedent, but it provides a strong indication of how the Tenth Circuit would rule if faced with such a case. Two state high courts
have split on this question, with the New York Court of Appeals holding that a tribe's sovereign immunity extended to its state-chartered entity, and the Arizona Supreme Court holding that a tribal entity chartered under state law fell outside the tribe's sovereign immunity. The Tenth Circuit is the highest federal court to address this question ("Tenth Circuit States that Tribal Business Incorporated under State Law May Not Be Entitled to Tribal Sovereign Immunity," Hobbs-Straus, General Memorandum 12-101, August 9, 2012, downloadable at: GM_12-101_Somerlott v. Cherokee.pdf).

An Eighth U.S. Circuit Court of Appeals Bankruptcy Appellate Panel (Panel) affirmed both tribal sovereign immunity from bankruptcy proceedings, and the immunity of a business enterprise of the tribe, July 19, 2012, in Bucher v. Dakota Finance Corp (Dakota Finance), that resolves the combined appeal of four bankruptcy cases brought by bankruptcy trustees against the Lower Sioux Indian Community (Tribe) and a business enterprise of the Tribe, Dakota Finance Corp. (Enterprise). Dakota Finance began when four members of the Tribe filed for bankruptcy under Chapter 7. In a Chapter 7 bankruptcy, a bankruptcy trustee first gathers and sells those assets of the debtor that are not exempt from such proceedings, then uses the proceeds to pay creditors. In three of the cases, the bankruptcy trustees asked the Bankruptcy Court to order the Tribe and the tribal member to turn over the debtor's per capita payments, which are drawn from the Tribe's gaming revenue. In the fourth case, the Enterprise had a lien on the debtor's per capita payment, and the bankruptcy trustee sought to avoid that lien. The Bankruptcy Court held that tribal sovereign immunity protected both the Tribe and the Enterprise, and dismissed the suits against them. The Panel affirmed both holdings. The Panel first concluded that the Bankruptcy Act (Act) does not abrogate tribal sovereign immunity. This creates a split with the Ninth Circuit, which held that the Act does abrogate tribal sovereign immunity. The Act expressly abrogates the sovereign immunity of "governmental units," which are defined as "United States; State; Commonwealth; District; Territory; municipality; foreign state; . . . or other foreign or domestic government." The Ninth Circuit, citing U.S. Supreme Court cases that refer to Indian tribes as "domestic dependant nations" and "domestic sovereigns," reasoned that tribes fall within the category of domestic governments; and even if tribes are not domestic governments, the Ninth Circuit reasoned, the phrase "other foreign or domestic government" must include tribes. The Panel disagreed. The Panel first noted the rule, repeatedly expressed by the Supreme Court, that "[a]brogation by Congress of sovereign immunity 'cannot be implied,' but must be 'unequivocally expressed' in 'explicit legislation.'" It then held that the Act contains no such unequivocal expression. Congress never named Indian tribes in the Act, despite the fact that it enacted the Act shortly after the Supreme Court reaffirmed tribal sovereign immunity, and amended the Act to clearly express the abrogation of federal and state sovereign immunity. Furthermore, the Panel rejected both the idea that tribes are domestic governments, and the idea that the phrase "other foreign and domestic government" must include tribes. Indeed, while the Supreme Court has referred to Indian tribes as "sovereigns," "nations," and even, "distinct, independent political communities, retaining their original natural rights," the trustees cite no case in which the Supreme Court has referred to an Indian tribe as a "government" of any sort domestic, foreign, or otherwise. The apparent care taken by the Supreme Court not to refer to Indian tribes as "governments" reinforces Justice Marshall's pronouncement in Cherokee Nation v. Georgia that Indian tribes are exceptionally unique, unlike any other form of sovereign, which is why he coined the phrase "domestic dependent nation." If the Supreme Court considered an Indian tribe to be a "government," it would not go to such great lengths to avoid saying so. Therefore, the Panel concluded, because abrogation of tribal sovereign immunity requires an explicit act of Congress, and because Congress did not name Indian tribes in the Act, the Act does not abrogate the Tribe's sovereign immunity. The Panel's holding concerning the Enterprise was narrower. In asking whether the Enterprise is sufficiently close to the Tribe to assert the Tribe's sovereign immunity, the Panel employed the Tenth Circuit's "subordinate economic entity" test, considering: 1) how the Enterprise was created; 2) the purpose of the Enterprise; 3) the structure, ownership, and management of the Enterprise, including the amount of control the Tribe has over the Enterprise; 4) the Tribe's intent with respect to extending sovereign immunity to the Enterprise; 5) the financial relationship between the Enterprise and the Tribe; and 6) whether the policies underlying tribal sovereign immunity are served by extending that immunity to the Enterprise. The Panel held that the Tribe and the Enterprise had provided ample evidence to conclude that the Tribe's sovereign immunity should extend to the Enterprise, including a statement by the Tribe in the Enterprise's Articles of Incorporation that the Tribe wished its immunity to extend to the Enterprise ("Eighth Circuit Bankruptcy Panel Affirms Tribal Sovereign Immunity in Bankruptcy Suit.” Hobbs-Straus General Memorandum 12-090, July 20, 2012, downloadable at: GM_12-
The U.S. Ninth Circuit Court of Appeals, in a divided en banc decision in *Gulf of Alaska Native Village of Eyak v. Blank*, No. 09-35881 (9th Cir. July 31, 2012), held that the Alaska Native Villages of Eyak, Tatitlek, Chenega, Nanwalek and Port Gamble (Villages) failed to prove their entitlement to non-exclusive aboriginal hunting and fishing rights on the Outer Continental Shelf (OCS). The majority stated that although the Villages demonstrated their continuous use and occupancy of the OCS area in question, they failed to prove exclusive use because the Villages were unable to demonstrate that they controlled the area to the exclusion of other tribes. In 1993 the Secretary of Commerce promulgated regulations limiting access to the halibut and sablefish fisheries on the OCS in the Gulf of Alaska. The Villages claimed that the regulations failed to account for their non-exclusive aboriginal hunting and fishing rights, without Congress's consent in violation of the federal common law and the Indian Non-Intercourse Act. The district court dismissed the Villages' complaint and the Villages appealed to the Ninth Circuit Court of Appeals. The Ninth Circuit took the case to determine whether the federal paramountcy doctrine (meaning the federal government has paramount interest in ocean waters and submerged lands below the low water mark) trumped the Villages' claim based on aboriginal title. However, before reaching this issue the Court remanded the case to the district court for the limited purpose of determining what aboriginal rights, if any, the Villages had. After trial, the district court held that the Villages had not established an aboriginal rights claim for non-exclusive hunting and fishing rights in the OCS. The Ninth Circuit affirmed the district court's determination, holding that, based on the district court's factual finding, the Villages failed to prove the required exclusive use because the Villages were unable to demonstrate that they controlled the area to the exclusion of other tribes. To establish aboriginal rights a tribe must demonstrate by a preponderance of the evidence actual, exclusive and continuous use and occupancy of the claimed area for a long period of time before contact with Europeans. The Court determined that the Villages' intermittent or seasonal use of the OCS for hunting and fishing was sufficient to support aboriginal title because it was consistent with the seasonal nature of the ancestors' way of life as marine hunters and fishermen. Importantly, however, the Court concluded that the Villages failed to prove their exclusive use over the areas of the OCS they claimed. Exclusive use, according to the majority, requires that the tribe must exercise full dominion and control over the area such that it possesses the right to expel intruders as well as the power to do so. The Court determined that the district court's factual findings indicated that other tribes fished and hunted on the periphery of the Villages' claimed territory and that the Villages' low population, which was estimated to have been between 400 and 1500, suggested that the Villages were incapable of controlling any part of the OCS. As such the Court concluded that the Villages did not satisfy their burden to show they exclusively controlled the claimed areas on the OCS. Because the Villages did not establish aboriginal rights on the OCS, the Court did not reach the question of whether there was a conflict with the federal paramountcy doctrine or whether the Secretary's actions violated the Indian Non-Intercourse Act. The dissent agreed with the majority that the Villages must prove their exclusive use and occupancy and that the Villages had in fact proven their use and occupancy of the OCS. However, the dissent strongly disagreed with the majority's conclusion that the Villages had not proven their exclusive use of the claimed areas. Based on the factual findings of the district court, the dissent concluded that use by other tribes on the periphery of the claimed area did not defeat the Villages' exclusivity within the claimed area itself. Moreover, as no findings showed use or occupancy of the claimed areas by other tribes, the dissent argued that existing case law only required that the Villages show their own use and occupancy, not that they "could have repelled hypothetical intruders from the area." As such the dissent would have held that the Villages established aboriginal hunting and fishing rights in at least part of the claimed area of the OCS, and that these rights are consistent with federal paramountcy, meaning the Villages' non-exclusive rights could exist at the same time as the federal government's rights. Finally, the dissent would remand the case to the district court with instructions to determine precisely where within the claimed area the Villages have aboriginal rights (“Ninth Circuit Holds Alaska Native Villages Failed to Prove Entitlement to Aboriginal Hunting and Fishing Rights,” Hobbs-Straus General Memorandum 12-102, August 9, 2012, downloadable at: GM_12-102_Native Village of Eyak v. Black.pdf).

The U.S. Ninth Circuit Court of Appeals upheld the Puyallup Tribe's sovereign immunity and taxing authority and the 2009 tribal cigarette compact with the State of Washington, in *Miller v. Wright*, No. 11-35850, November 13, 2012. The court also held that the Puyallup Tribe's sovereign immunity was sufficient to
The essence of the antitrust claim was that the Tribe was colluding with the State to fix the price of cigarettes sold at tribal smokeshops in violation of federal antitrust laws. Plaintiff Paul Matheson, a member of the Puyallup Tribe, owns a tribally-licensed smokeshop on the Tribe's reservation near Tacoma. Under the Tribe's cigarette tax compact with Washington, smokeshop vendors must buy cigarettes from wholesalers who agree to pay a tribal tax at the wholesale level equal to state wholesale and sales taxes which would be applicable off-reservation. In other words, the goal of the compact is to ensure that taxes are roughly the same on cigarettes sold on and off reservation to non-members. The plaintiffs also had to pay a $5 fee required by the 1998 Tobacco Master Settlement Agreement between the four largest tobacco companies and 46 states. The other plaintiffs, who are non-Indian cigarette purchasers, also challenged the validity of the 2009 cigarette tax compact as well as the tobacco settlement fund. The lead plaintiff had previously sued in tribal, state, and federal courts to invalidate the tribal-state compact, but had lost those suits. The Court of Appeals reaffirmed the Tribe's sovereign immunity and its authority to tax purchases of cigarettes by non-Indian customers from tribal and tribal member businesses on trust land. The court also held that the Tribe did not waive its sovereign immunity by entering into the tribal-state compact. The court declined to hold tribal officials who approved the tax liable under the doctrine of Ex Parte Young, which makes government officials liable when they act outside the scope of their lawful authority. The Court of Appeals further held that federal antitrust laws do not apply to the Tribe's regulation of sales. The court examined the Sherman Antitrust Act and the Clayton Act and found that neither applied to the Tribe. Although the plaintiffs argued that the Sherman Act is a statute of general applicability and should apply to the Tribe, the court decided that Congress did not intend for it to apply to Indian tribes and thus the case fit under the third exception in Donovan v. Coeur d'Alene Tribal Farm, which is that general federal laws do not apply to Indians on their reservation when there is proof by legislative history or some other means that Congress did not intend them to apply. The Court of Appeals held that the mediation provisions in the tribal-state compact do not trigger a waiver of sovereign immunity. The court distinguished the situation from that in C & L Enterprises v. Citizen Band Potawatomi Indian Tribe, in which the U.S. Supreme Court held that a mandatory arbitration provision waived the Tribe's sovereign immunity. The Court of Appeals pointed to the fact that the mediation provisions in the Washington compact were not binding on the tribe, because unlike arbitration, mediation is a process that leads to a voluntary agreement among the parties, not a ruling enforceable in court. Finally, the Court of Appeals held that the plaintiffs' claims were also barred by the doctrine of res judicata, which prevents a repeat of litigation of an issue of fact or law actually litigated and resolved in a valid court determination essential to the prior judgment ("U.S. Ninth Circuit Court of Appeals Upholds Tribal Immunity and Taxing Authority, and Rules that Federal Antitrust Laws Are Not Intended to Apply to Indian Tribes," Hobbs-Straus General Memorandum 12-132, December 14, 2012, downloadable at: GM_12-132_Puyallup9thCirDecision_onImmunity_andTaxingAuthority.pdf).

The 10th Circuit Court upheld the District Court decision in Cor Jean Jech, et al v. Salazar, et al, that eight Osage tribal members objecting to greater latitude in tribal elections than provided in the Osage Allotment Act of 1906, had failed to exhaust administrative remedies and thus brought suit prematurely, in asserting their claim that the broader election violated their headright interests (as share holders) to income from tribal mineral rights (Carol Berry, “Osage Tribe Voting Rights Upheld,” Indian Country Today, July 18, 2012).

A divided three judge panel of the 9th Circuit Court ruled that the Department of the Interior “reasonably applied” the law when taking into trust for the Tohono O’odam nation 54 acres of land in Maricopa County surrounded by the city of Glendale, AZ, that the tribe wishes to use for a casino (Cale Ottens, “Appeals court upholds decision on Glendale land eyed for tribal casino,” Navajo Times, November 20, 2012).

Chief South Dakota U.S. District Court judge Karen Schreier ruled, in September 19, 2012, in a lawsuit by two prisoners, that the South Dakota prison system’s ban on tobacco in religious ceremonies substantially burdens American Indian inmates’ religious rights, holding that even if state officials, who had stated that said ceremonial tobacco was becoming increasingly abused in prison, had asserted a compelling governmental interest, they did not prove that the ban was the least restrictive means available to further that governmental interest (“South Dakota: Ceremonial Tobacco Is Approved for Indian Inmates,” The New York Times, September 19, 2012, http://www.nytimes.com/2012/09/20/us/south-dakota-ceremonial-tobacco-is-
A federal district court dismissed the claims brought by the Peabody Western Coal Company (Peabody) against the Equal Employment Opportunity Commission (EEOC) and the Department of the Interior (DOI) in a long-running case over the validity of tribe-specific preference agreements, as the court upheld the validity of Peabody's tribe-specific preference agreement with the Navajo Nation. The district court decision follows the July 2010 Ninth Circuit Court decision refusing to block the suit (See Hobbs-Straus General Memorandum 10-097 of July 29, 2010, "Ninth Circuit Refuses to Block EEOC Suit against Tribal Preference"). The facts in the case are that Navajo Nation leases land to Peabody for coal mining, and the leases require Peabody to give hiring preference specifically to Navajo tribal members, as opposed to members of any tribe. These provisions were drafted and approved by the Department of the Interior in the 1960s. In 2001, the EEOC sued Peabody on the grounds that the leases violated Title VII of the Civil Rights Act. The EEOC argued that while Title VII allows employers to exercise Indian preference in hiring, it does not allow them to use preference for a specific tribe. At the time, the U.S. Court of Appeals for the Ninth Circuit decided that the lawsuit against Peabody could continue forward in a limited manner to determine whether the EEOC could seek injunctive relief requiring Peabody to adopt general Indian preference and cease its preference for Navajo Indians. The district court first stated that any further review related to the determination of the correct parties to be included in the case, and how they are to be included, "would needlessly prolong a decision on the primary issue – whether the tribe-specific preference in Peabody's mining leases falls within the scope of Title VII. … It is time to resolve it." The district court then stated that it should give DOI deference in construing the relationship between the United States and the Navajo Nation and construing the terms of the leases the DOI drafted that were based on the Indian Mineral Leasing Act of 1938 (IMLA), which predates Title VII of the Civil Rights Act. The district court agreed with DOI that the leases were permissible as political classifications rather than racial classifications under Morton v. Mancari and thus not discriminatory. The district court observed that the federal government "has a distinct relationship with each tribe and distinct trust obligations owed to each tribe." The district court held that the Navajo preference provision in the Peabody leases is a political classification and that, "Tribe-specific employment preferences in DOI-approved leases help discharge those trust obligations." The district court also found that the Navajo preference provision is rationally related to legitimate goals of Navajo tribal self-sufficiency, tribal economic development, and tribal self-governance. Finally, the district court narrowly rejected the EEOC's argument that Congress did not intend to exempt tribe-specific preference hiring practices against discrimination complaints when it created the Indian-preference exemption in section 703(i) of Title VII of the Civil Rights Act. The Court said that while Congress may have intended such a result in cases where there is no federal oversight or approval, in this case the federal government had drafted and approved the leases which were authorized by the IMLA. Finally, the district court observed that the DOI practice of including Navajo tribal preference in leases under the IMLA predates Title VII, and held that Congress did not implicitly repeal tribal preference when it enacted Title VII. Hobbs-Straus commented that, “The court's finding that tribe-specific preference practices are consistent with the policies of tribal economic development and self-governance is encouraging” (“Tribe-Specific Preference Upheld in EEOC Case,” Hobbs-Straus General Memorandum 12-126, November 9, 2011, downloadable at: GM_12-126_EEOC_TribalPreference.pdf).

Following the dismissal, at the beginning of October, 2012, by a federal court judge in Nebraska of the Oglala Sioux Tribe's $500 million lawsuit against beer dealers in the neighboring town of Whiteclay, NE, where four stores sell some 13,000 cans of beer and malt liquor each day, almost all of it to residents of Pine Ridge, as Whiteclay has a population of about 10 people, while Pine Ridge has 45,000, the nation was considering lifting an alcohol ban on the Pine Ridge Indian Reservation in South Dakota as a way to regulate the flow of beer and malt liquor onto the reservation, which has suffered extreme alcohol problems for many years. (Timothy Williams, “Tribe Considers Lifting Alcohol Ban in South Dakota,” New York Times., October 4, 2012. http://www.nytimes.com/2012/10/05/us/the-oglala-sioux-tribe-considers-lifting-alcohol-ban-in-south-dakota.html?ref=todayspaper).

Tribal members on the Crow, Fort Belknap and Northern Cheyenne reservations in Montana brought suit against state and county officials in Federal District Court in Billings, MT, complaining that
election service was unconstitutionally unequal as they must drive between 27 and 113 miles round trip to reach their county offices, the only places they can undertake in person absentee voting and late registration (Matt KVolz, “Montana tribal members suit over unequal election services on reservation,” News From Indian Country, October, 2012).

The Penobscot Indian Nation brought suit against the State of Maine, November 6, 2012, over the Maine Attorney General’s August 6, 2012 opinion assertion that said that the nation has no authority to regulate fishing or hunting in the waters of the “main stem” of the Penobscot River and that the state has exclusive regulatory and enforcement authority over all activities on the river. The Tribe claims that under the Maine Indian Claims Settlement Act (MICSA), “The Nation’s jurisdiction over sustenance fishing by its members in the Penobscot River is an exercise of its inherent sovereign authority, as a matter of federal law, and it remains intact; it has never been surrendered by treaty or by an act of Congress.” The lawsuit asks for an injunction to keep Maine game wardens from policing the river and preventing tribal members from engaging in sustenance fishing (Gale Courey Toensing, “Penobscot Nation Sues State Over Settlement-Protected Hunting and Fishing Rights,” ICTMN, November 21, 2012, http://indiancountrytodaymedianetwork.com/2012/11/21/penobscot-nation-sues-state-over-settlement-protected-hunting-and-fishing-rights-146708).


State and Local Courts

The Colorado Supreme Court upheld two lower court decisions, September 10, 2012, in refusing to reinstate former University of Colorado Professor Ward Churchill, holding that the university’s Board of Regents had acted essentially as judges in firing him for academic misconduct, in June 2007, and therefore was legally immune to his efforts to regain his position (Dan Frosch, “Professor’s Dismissal Upheld By Colorado Supreme Court,” The New York Times, September 11, 2012).

The South Carolina Supreme Court ruled that a Cherokee girl adopted by a South Carolina family should be returned to the Cherokee Nation of Oklahoma, under the federal Indian Child Welfare Act (Meg Kinnard, “SC court agrees with return of Cherokee tot,” News From Indian Country, August 2012).

The Arizona Supreme Court refused, December 3, 2012, to review a superior court order allowing a non-native family to adopt a two-year old Navajo boy allowing the child to stay with his present family, in spite of the federal Indian Child Welfare Act granting jurisdiction to the tribal court (Bill Donovan, “Court rules in favor of non-Native family to raise Navajo boy,” Navajo Times, December 6, 2012).

Tribal Courts

The Navajo Nation Supreme Court ruled, in September 2013, that a juvenile has the right to an attorney, which must be provided whether the accused, parents or guardian request it, before a hearing is to be held. The case involved a juvenile charged, March 14, 2012, with reckless driving, unlawful flight from a pursuing law enforcement vehicle and no valid drivers license. In the family court detention hearing shortly after the youth’s arrest, where he had no council, the judge found that the accused could be detained as, “testimony of the officers shows probable cause that the child may pose danger to others” and “had a propensity to flee rather than appear in court to defend himself.” (“Bill Donovan, “Youth have right to legal council”, Navajo Times, September 13, 2012).

The Navajo Nation Supreme Court ruled, in October 2012, that the Navajo Housing Authority (NHA) cannot be sued for money damages because of sovereign immunity, but can be sued for relief other than money damages. The case came on the appeal of a 2000 Crown Point District Court decision, in which the court ordered NHA to pay Bluffview Resident Management Corporation and Daniel Johns $680,703 (Bill Donovan, “NHA cannot be sued for monetary damages, court rules, Navajo Times, October 11, 2012).
Tribal Governments and State and Local Governments

Stephanie Woodward, “South Dakota Tribes Charge State With ICWA Violations,” ICTMN, December 1, 2012, http://indiancountrytodaymedianetwork.com/article/south-dakota-tribes-charge-state-icwa-violations-146020, reports, “A consortium of tribal directors of Indian Child Welfare Act (ICWA) programs on Sioux reservations in South Dakota accuses the state of violating the provisions of ICWA, according to a new report they have prepared and will send to Congress. The directors ask that Congress ensure that the Bureau of Indian Affairs hold a summit immediately on problems with Native American foster care in the state. The report examines and finds plausible allegations in a 2011 National Public Radio story claiming that a goldmine in federal dollars flow into South Dakota, thanks to the high proportion of Lakota and Dakota children from the state’s nine Sioux reservations in the foster-care system. Sioux youngsters make up 13.8 percent of the child population of South Dakota, but 56.26 percent of youth in foster care, the ICWA directors wrote, adding that there is some evidence that South Dakota officials are ’taking high numbers of Native children into custody in part to stimulate the state’s economy.’ In contrast, ‘kinship care,’ which ICWA encourages and which allows Native relatives to care for their young kin under age-old traditions, costs nothing and therefore attracts no federal money. Meanwhile, the governor’s office has said the NPR report was based on ‘incorrect information’ and ‘half-truths.’”

The governor of Massachusetts signed a gaming compact with the Mashpee Wampanoag nation, July 30, 2012, for the tribe to build a casino in Taunton in southeastern Massachusetts, following, in June, a referendum by the town approving the casino, the National Indian Gaming Commission approving the Mashpee Wampanoag gaming ordinance, and the BIA announcing that it was reviewing the nation’s application to take land for the project into trust. The agreement recognizes the nation’s hunting and fishing rights in their traditional locations (which the nation is defining), requires an upfront payment of about $33 million to Taunton and minimum annual payment to the municipality of $13 million, and a sharing with the state of 21.5% of gross gaming revenue. This is the first compact between a state and a landless (for the moment) Indian nation (Gale Courey Toensing, “Commonwealth Compact,” Indian Country Today, August 22, 2012). – However Interior disapproved the compact. See Federal Agencies, above).

The Seattle, WA Police Department and the U.S. Justice department reached an agreement on the department’s use of force, on the basis of a federal investigation, finding that the Seattle police had engaged in excessive use of force and violated federal law. The enquiry was launched after the fatal shooting of a Native American woodcarver by a police officer in 2010. Under the agreement, police officers will receive training in avoiding bias, in conducting stops and in the proper use of force, and the department will develop improved policies on bias and use of force, as well as an improved reporting system (Kirk Johnson, “Washington: Federal Settlement Is Reached With Seattle Police,” The New York Times, July 28, 2012).

The Navajo Nation Human Rights Commission concluded a four year investigation, in August 2012, with 25 public hearings, of discrimination in border towns around the Navajo reservation, issuing a report finding, “It is confirmed that racism and discrimination is present in the border towns.” The report includes considerable testimony to that effect. For example, a Flagstaff, AZ, resident and executive director of the grassroots organization ECHOS stated, that contrary to what officials in Flagstaff have said, there is no dialogue between the city and Native people. The 108 page report, Assessing race relations between the Navajo and Non-Navajo, found that Navajos, like other Indigenous people in the United States, are “victims of intergenerational and intuitional racism” that continues to exist in the border communities. The report is available at: www.nnhrc.navajonsn.gov (Bill Donovan, “Report: civil rights violated,” Navajo Times, August 30, 2012).

Tribal Developments

For the 2012 election Cycle the Native Vote campaign was focused on Get-Out-The-Vote (GOTV) and registration efforts, Election and voter protection awareness and advocacy, voter and candidate education, and Tribal access to data. In 2012 Native people supported the President's reelection, candidates in close Senate races, and leading members of the House, such as Chickasaw citizen, Congressman Tom Cole. Native Vote found, “These candidates were all successful in part because of their strong engagement with tribal nations.” In North
Dakota, the Native Vote made a key difference in the Senate race. Senator-elect Heidi Heitkamp's victory was won by 2,994 votes, and net vote gain in the three counties with reservations and high Native population was 4,282. In Oklahoma, the House of Representatives, gained a second Native member of Congress, as Tom Cole (R) won re-election easily, while Markwayne Mullin (R), an enrolled member of the Cherokee Nation won the open seat to replace retiring Congressman Dan Boren (D). Markwayne Mullin won his race with 57% (143,253) of the votes in Oklahoma's 2nd Congressional District, which has one of the highest percentages of Native voters in the country. In Montana Incumbent Senator John Tester was re-elected by a narrow margin with help from the Native Vote. Senator Tester acknowledged before the election that his success would be built on turnout on Montana's Indian reservations and Native voters rewarded the Senator for his close engagement with tribal nations. On the issue of Voter Ids, the Native Vote campaign focused national attention on the issue of voter ID with the release of a report identifying six "states of concern." The constitutional amendment to require photo ID in Minnesota was one race where Native voters had a chance to make their voice heard successfully. The final results showed that high Native population precincts voted "no" by almost 10 points above the state average. One of the state's largest Native districts voted "no" at the stunning rate of 86%. Native registration, once at very low rates, has increased markedly in recent years. In Montana and New Mexico, Native Americans are registered to vote at a higher rate than that of any other racial/ethnic group: MT: Native American 64.1%; Caucasian 63.6%; Middle Eastern 58.3%; African American 55.5%; Hispanic 54.4%; Asian 54.1% NM: Native American 77%; African American 73%; Caucasian 70%; Hispanic 68%; Middle Eastern 63%; Asian 62%. Widespread and persistent registration efforts throughout Indian Country, influenced these registration rates. Native Vote Action Week provided an encouraging push to Native Voters to register and hit the polls on Election Day. Analysis of exit polls in the 2012 voting indicate that in the Lame Duck session and for the 113th Congress, with more than 6 in 10 voters focused on the economy, tribes have an opportunity to underscore that tribes are a good investment and that the Lame Duck presents an opportunity to protect the Indian Country budget and ensure certainty with respect to Indian lands by addressing the Carcieri and Patchak decisions. As there was significant turnout among women voters who gave the President winning margins in many states, with two Senate races decided by candidate statements on reproductive rights and violence against women, there is an opportunity to refocus the Congress' attention on passing the Violence Against Women Act Reauthorization with the tribal provisions intact. For more information, visit NativeVote.org. On the Navajo Nation, a larger than normal turnout of over 50% of registered voters boosted the votes for democrats (Cindy Yurth, “Huge turnout in heart of the rez boosts Democratic tally,” Navajo Times, November 9, 2012).

A report from the Bureau of Justice Statistics-funded Recovery Act: Tribal Crime Data Collection, Analysis, and Estimation Project, on tribal crime data collection activities, put out by the Bureau of Justice Statistics, found that the number of Indian country suspects investigated by U.S. attorneys for violence declined 3%, from 1,525 in 2000 to 1,479 in 2010, while the number of Indian country suspects investigated for property, drug, and other offenses increased 57% from 475 in 2000 to 746 in 2010. The study confirms that there is more violence per capita on tribal land than on non-tribal land in the United States. The report states that in 2010, 4.8 million people lived on reservations or in Alaska Native villages and only 1.1 million of those residents - 0.4 percent of the U.S. population – classified themselves as American Indian or Alaska Native. Yet “the 1,479 suspects investigated for violent offenses in Indian country represented 23% percent of all federal investigations for violent offenses in fiscal year 2010.” the report said. Of those, the majority were violent crimes. On the Wind River Indian Reservation in Central Wyoming, where in 2009 it was chosen as one of four reservations for President Barack Obama’s High.Priority Performance Goal (HPPG), in which resources were pumped into the four reservations to hire more law enforcement personnel (rising from 6 to 25) in an effort to reduce crime, reported crime rose 7%, mostly in misdemeanors (many of which may not have been reported previously – so it is uncertain if there was an actual increase in minor crime), while more serious crime was reduced. Moreover, while tribal prosecutors’ case loads increased, for the first time in many years they have been able to investigate – or seriously investigate - and prosecute property crimes, and fraud and embezzlement, since tribal police were not overloaded with violent crimes. The report is the culmination of an effort by the project to improve criminal data collection on the 334 federally and state-recognized American Indian reservations in 2010. In 2010, 144 tribal law enforcement agencies reported their data; up from 12 in 2008. During the same period, Bureau of Justice Assistance grants to tribes increased almost five-fold. However, these grants were significantly smaller than the HPPG funds which Jacobson says benefitted Wind River (Irina Zhorov, “New Report Says
Research into psychological trauma is finding that post traumatic stress can be reduced or eliminated after a traumatic event by actions like the Navajo Enemy Way Ceremony for those returning from war, and similar native healing ceremonies that counter the stressful impact of the experience (David Dobbs, “A New Focus on the ‘Post’ in Post-Traumatic Stress,” The New York Times, December 25, 2012).

Federal officials were moving, in September 2012, to take over the Spirit Lake Sioux tribe’s social service programs, following years of failure by government and tribal law enforcement officials to conduct proper investigations of dozens of cases of child sexual abuse, including rape. The Spirit Lake Sioux tribe of North Dakota has one of the highest proportions of sex offenders for a community in the country. While members of the tribe say that sexual violence against children on the reservation is common and barely concealed, the reasons for the abuse there are poorly understood, though poverty and alcohol are thought to be factors. The crimes are rarely prosecuted, few arrests are made, and people say that because of safety fears and law enforcement’s lack of interest, they no longer report even the most sadistic violence against children. The reservation has 38 registered sex offenders among its 6,200 residents, a rate of one offender for every 163 residents. By contrast, Grand Forks, ND, about 85 miles away, has 13 sex offenders out of a population of 53,000 — a rate of about one in 4,000. Neither the tribe nor the federal government provided current statistics on abuse, but in 2007 there were 26 confirmed cases of child sexual abuse and nearly 10 times as many allegations of abuse or neglect. Ms. McDonald said she presided over 20 to 30 cases of child sexual abuse each year. In 2011, fewer than a dozen cases of sex crimes against children were prosecuted by either the tribe or the federal government, which has jurisdiction, according to federal and tribal records. Members of the tribe assert that in some cases, there are generations of victims from the same family who have been preyed upon by generations of child rapists from other families, while others abuse their own children. Federal agencies, however, have sought to minimize the extent of the problem, including disciplining employees who have spoken publicly about sexual abuse and questioning the competence of others, according to federal and tribal officials. Thomas F. Sullivan, a director of the federal Administration for Children and Families, who has emerged as a crucial whistle-blower, is among those who have been prevented from speaking to reporters, he said. Still, his periodic reports to his superiors in Washington have been blistering (Timothy Williams, “A Tribe’s Epidemic of Child Sex Abuse, Minimized for Years,” The New York Times, September 19, 2012, http://www.nytimes.com/2012/09/20/us/us-steps-in-as-child-sex-abuse-pervades-sioux-tribe.html?hp).

“Rash of Racism Toward Native Americans in Schools,” ICTMN, November 24, 2012, http://indiancountrytodaymedianetwork.com/2012/11/24/rash-of-racism-toward-native-americans-in-schools-146748, reported that in the Fall of 2012 there was an increase of racial incidents against American Indians in schools across the U.S. “In October, Indian Country Today Media Network reported on the Syracuse, New York mom who was appalled by the game of “Cowboys and Native Americans” played in her son’s elementary school as well as the racial epithet against Native Americans written in the dormitory bathroom of Brown Hall at South Dakota State University.” That was followed by a teacher at Lakeland Union High School in Wisconsin, giving a Chief Short Cake math assignment, and offensive banners from the homecoming game at Lewiston-Porter High School in Youngstown, NY. ICTMN said, “all of these schools seemed to handle the incidents well and many led to teachable moments for those involved.” But asked what can be done to develop more cultural sensitivity, noting that there are still quite a number of mascot issues. One counter action is that taken by Montana Senator Sharon Stewart-Peregoy, Crow, with her “Not In Our Town’s Summit On Hate: Being Native In Billings.” program aimed at refuting negative stereotypes surrounding local American Indians, to say a prayer with her on November 17, 2012, that included a prayer, “I repent of all those things that I have harbored in our heart towards Native Americans, other people of color, and even my neighbors and I release it now and let go. And I ask that a right spirit, understanding, and compassion come in” (Adrian Jawort “Montana Natives Aim to Educate Against Hate,” ICTMN, November 23, 2012, http://indiancountrytodaymedianetwork.com/2012/11/23/montana-natives-aim-to-educate-against-hate-146888).
Home Mortgage Disclosure Act (HMDA) records show lenders funded $5.3 billion (54%) in Indians and Alaska Native Mortgage applications in 2011, while 46%, $4.5 billion, went unfunded as a result of lender denial, incomplete applications, borrower withdrawal of the application, and other factors. For Native Hawaiians in 2011, 57% of loans applied for ($4.6 billion) were funded, while White borrowers achieved a 64% approval rate, with the national average for all lenders at 59%. **Total Native home loan lending was $9.9 billion in 2011**, down from $11.8 billion in 2010, as in 2011 mortgages to Indians declined $700 million, from $6 billion to $5.3 billion, in line with a national decline in mortgages from $1.6 trillion in 2010 to $1.4 trillion in 2011. Native Hawaiian mortgage lending fell about 20% in 2011, from $5.8 billion in 2010. Alaska lenders had the highest approval rate for Indian and Alaska Native mortgages in 2011, at 67%. California led all states in dollar volume of lending to Indians, at $1.4 billion. Puerto Rico (a territory rather than a state) came in lowest at $4 million. For Native Hawaiians, Nebraska was the friendliest state, with 78% of Native Hawaiian applications approved. California granted the most loans in dollar volume, at more than $1.7 billion, while Hawaii followed with $725 million. In terms of individual lenders for 2011, Wells Fargo, Sioux Falls, South Dakota, was first, with $787 million. A Chickasaw-owned bank, Bank2 of Oklahoma City, was tenth with $65.6 million. Six mortgage lenders made more than $100 million in loans to Indians in 2011: Wells Fargo, Sioux Falls, SD; Bank of America, Charlotte, NC ($352 million); JPMorgan Chase, Columbus, OH ($347 million); USAA Federal Savings Bank, San Antonio, TX; Quicken Loans, Livonia, MI; and Ally Bank/Rescap of Midvale, UT. Nearly 2500 lenders in total reported making at least one home loan to Indians last year, with three lenders reported making more than $100 million in mortgages to Native Hawaiians. Some 1,800 institutions reported making at least one home loan to Native Hawaiians last year. (The group also includes Pacific Islanders from Guam and American Samoa). Bank of Hawaii, Honolulu, nearly made the top ten in loans to Native Hawaiians in 2011, coming in 11th at 59 million. Two more Hawaiian lenders made the top 20: Central Pacific and American Savings Bank. A credit union, Navy Federal of Vienna, Virginia, came in 17th in lending to Native Hawaiians and 18th in home loans to American Indians. Credit unions, though small, have been making inroads into the market shares of banks and mortgage banks (Mark Fougarty, “More Than Four of Ten Native Mortgage Applications Went Unfunded in 2011,” ICTMN, October 25, 2012, http://indiancountrytodaymedianetwork.com/article/more-than-four-of-ten-native-mortgage-applications-went-unfunded-in-2011-141674).

**Three tribes of the Great Sioux Nation completed the $9 million purchase at the end of November 2012, of a parcel of land in the Black Hills of western South Dakota**, the sacred mountains called Pe’ Sla, that was put up for sale in the summer of 2012, and a bid from the Sioux was accepted by the family that had controlled the land since 1876, the year that General George Armstrong Custer died not far to the west at Little Bighorn (Vincent Schilling, “Tribes Reach $9 Million Goal and Purchase Sacred Site of Pe’ Sla,” ICTMN, November 30, 2012, http://indiancountrytodaymedianetwork.com/article/tribes-reach-9-million-goal-and-purchase-sacred-site-pe-sla-146015; and Timothy Williams, “Sioux Racing to Find Millions to Buy Sacred Land in Black Hills,” The New York Times, October 3, 2012, http://www.nytimes.com/2012/10/04/us/sioux-race-to-find-millions-to-buy-sacred-land-in-black-hills.html?ref=us). Matthew Gilbert, “Leaving Home: The Problem of Outmigration Discussed in Arctic Village, Alaska,” September 19, 2012, http://www.culturalsurvival.org/news/leaving-home-problem-outmigration-discussed-arctic-village-alaska, comments, “Winds whistling through abandoned houses where Native families once lived. Village schools are closing down due to low student numbers. Over the last few years, a surge in energy costs in rural Alaska caused by Hurricane Katrina in 2005, has made it nearly impossible for many Native families to pay electrical and heating bills, and as a result, outmigration increased. Alaska Native leaders worry about the futures of their villages. The First Alaskans Institute interviewed thousands of Natives at the 2008 Alaska Federation of Natives Convention, and found lack of employment, dissatisfaction with village education, and the high electrical and heating costs as the three main factors driving the exodus to the cities. The Gwich’in Elders and youth of Arctic Village explored outmigration with me. Trimble Gilbert is the Second Traditional Chief of the Tanana Chiefs Conference and the Traditional Chief of Arctic Village. He started by saying his ancient Gwich’in culture has lasted for thousands of years, because it was a culture was of sharing and support and has continued to this day: a way of life that made all Gwich’in people healthy. ‘In the early times, the only way to make money was by selling moose and caribou skin. Not much money was made from the trading, but life was good.’ Trimble says. People only bought hunting materials and there was no waste or
hand-outs, because everyone worked for a living, he says. Nevertheless, all this changed in the 1980s with the building of the Trans-Alaska Pipeline System (TAPS) to transport crude oil from the North Slope to the barges in Valdez, then to the contiguous United States. The construction of the pipeline boosted Alaska’s economy and put dollars into the pockets of all who worked on it, Non-Native and Native. Alaskan cities turned into boomtowns full of liquor, commerce, and gambling, and many Natives were partaking too. Trimble claims this flood of money created changes in the values of Native people which has continued to this day. However, the positive side of the money influx was that child starvation declined in semi-traditional villages, since grocery stores were opened. Trimble recalls how many young Native people who moved to Fairbanks from Arctic Village died from alcoholism. ‘Addiction and gambling, they get addicted and don’t want to return home, and end up homeless. I was down at the graveyard this past Memorial Day and saw all the young men and women who died from alcohol. If they were living in Arctic Village, they would still be alive.’ “Gideon James, another tribal leader and Elder, spent most of his life in the politics and dealing with legal issues for the Gwich’in. Gideon relates outmigration to the lack of rights Alaska Natives suffer under the Alaska Native Claims Settlement Act (ANCSA). The act, passed in 1971, made Alaska Natives shareholders in corporations. Their traditional and customary lands were turned into state-governed corporation lands. “ANCSA really messed things up.” He says sitting on his couch after a day of cooking dog food. “Indian people survived by the land. If you don’t have land, you’re lost, you can’t do anything.” Trimble and Gideon both claim Natives do not move out of villages controlled by tribal governments as opposed to villages governed the ANCSA corporation system, which enacts a mixture of tribal, city governments, village and regional corporation land laws. Gideon once publically stated to Natives, ‘If you get rid of your city governments and have a good tribal government, you’ll have jobs and an economy.’ Gideon says giving the tribe more control over decision-making makes villages more attractive places to live. After discussing the issue with the Elders, I turned to the Gwich’in youth. Clifford David is a 17-year-old junior at the Arctic Village High School. He gives a grim, but sincere outlook on villages. ‘Honestly, I don’t think there would be very many prosperous villages. At least nothing better than now, there’s too much drinking and drug addiction. If a village ends up getting better, good for it, but I think there is a high percentage of them actually end up dwindling down in population and modernization. It’s a sort of good thing that villages are not as modernized as cities, but there are certain things that can be worked on such as running water and cheaper electricity.’” “Both the Elders and youth have mixed views and philosophies about the outmigration of Alaska Natives to the cities, the issue confounds the brightest of Natives, but they agree more needs to be done to make village more attractive places to live. Only then will those empty homes be filled once more, with happy Native families. (Matt Gilbert (Gwich’in) grew up in Arctic Village, Alaska and is a freelance journalist. He can be reached at mattrgak31@gmail.com).

As work toward government reforms continues at Navajo Nation, President Shelly vetoed two Title 2 reform measures. November 15, 2012. The first, would have limited the President’s power to vetoing council resolutions to only when s/he is on tribal land. The second, would have placed all Council proposals on the Council web site, except exhibits which would have had to be obtained from the Office of Legislative Services, that Shelly considered too much of a bar to easy accessibility (Alastair Lee Bitsoi, “Shelly vetoes Title 2 reform,” Navajo Times, December 13, 2012). The Navajo Nation Council passed, and President Shelly signed, legislation extending the term limits of school board members from two to four terms, in July (Noel Lyn Smith, “After much confusion, term limits for school board extended,” Navajo Times, July 12, 2012). Less than 30% of voters turned out in primary elections on the Navajo Nation for new chapter, school board, and grazing officials, in August, the lowest turnout in at least 20 years, and perhaps ever (“Bill Donovan, “Poor voting turnout on election day, Navajo Times, August 30, 2012). In the continuing difficulties with making decentralization of some authority from the Navajo nation government to the chapters function properly, in October, auditors found that at Crystal Chapter, “There is a lack of open communication among the staff and chapter officials. Rather than work together on resolving chapter issues, the staff and officials each became territorial and defensive.” They found the chapter officials and staff in “continuous disagreement over chapter processes and staff not providing information to the officials” (Bill Donovan, “Audit reveals breakdown of communication at Crystal Chapter,“ Navajo Times, October 18, 2012).

In the continuing discussion of government reform at Navajo Nation, the Navajo Nation People’s Convention, in late August, failed to support four proposed voter referendums to amend the Navajo Code.
These were: Reduce the fee to conduct an initiative election for a chapter from $500 to $200 and the fee for an initiative election for the nation from $2500 to $1000; Lower the required number of initiative signatures from 15% to 5% of registered voters; Amend Title 2 of the Navajo Nation Code to make the Navajo people the governing body of the government, rather than the Council; And eliminate the ability of three-fourths of the Council to amend or repeal an initiative approved by Navajo voters. The August 29-30 convention called to consider government reforms consisted of two representatives from each of the 110 chapters. One issue raised by delegates from eastern chapters, more isolated geographically from Window Rock, was that, with the Council reduced from 88 to 24 members, they are now seeing very little of their representatives – who now represent six chapters each making it difficult for them to regularly meet with widespread constituents. Other issues discussed at the convention included: Shifting power from the central government to the chapters; Revising authoritative power from the Council to chapters; Decentralizing and regionalizing tribal services; Cross training tribal personnel to provide better services to the people and amending hiring policies; Exploring establishing youth councils to allow young people to participate in chapter government; and Utilizing natural resources, including using them as a negotiating tool (Noel Lynn Smith, “Voter referendums considered,” Navajo Times, September 6, 2012).

Faced with continuing budget problems, in August, President Shirley announced he was able to reduce Navajo government lay offs from the anticipated 121-150, to 27 by directing division directors to leave 47 vacant positions empty while cutting funds for travel, operations and contractual services (Marley Shabala, “Layoffs on Navajo Nation reduced from about 150 to 27,” Navajo Times, August 30, 2012). However, the Council moved, in August, so that there would be no layoffs in 2013 (Marley Shaala, “No layoffs for 2013,” Navajo Times, September 6, 2012). The Navajo Nation raised its sales tax, that goes to the chapters for self-governance, by $.01, beginning January 1, 2013 (Alastair Lee Bitsoi, “Tax on Navajoland may increase by 1 percent,” Navajo Times, October 25, 2012). Since 2008, the annual returns of unspent grant money by the Navajo Nation to the federal government and the states has totaled at least $97 million, that the Council and the President’s office are trying to reduce in the future (Marley Shebala, “Since 2008, tribe returns $97 million to federal government,” Navajo Times, October 25, 2012). The Navajo Nation, long with insufficient and poor condition jail space, is expecting new jails to open in Tuba City, with 132 beds, and Crownpoint, a smaller facility, by March 2013 (Bill Donovan, “Jails opening soon in Tuba City, Crown Pont,” Navajo Times, December 13, 2012). The primary resource for helping people who are drunk on the streets of Gallup, NM, Na’Nizhoozhi Center Inc. (NCI) was facing financial problems in August that might force it to close by February 2013 (Bill Donovan, “NCI facing possible closure,” Navajo Times, August 23, 2012). The number of newly reported HIV cases on the Navajo Nation in 2011 was 39, up from 35 in 2010. The first reported case on the reservation was in 1987 (“Report shows rise in HIV,” Navajo Times, September 13, 2012). A number of non-profit organizations are working to rebuild the Bennett Freeze area, the Navajo-Hopi joint use area where until 2009 no building or major repairs were allowed, and where at the time of the lifting of the freeze, neither the Hopi or Navajo nations had rebuilding plans (Alistair Mountz, “Non-profits work together to rebuild Bennett Freeze,” Navajo Times, November 15, 2012).

The Mashantucket nation, late spring 2012, was moving to give its tribal police increased authority by having it police inside Foxwoods Resorts and Casino and MGM Grand in Mashantucket, CT. However, former tribal police department officers say that to be effective the police force needs reorganization, including independence. They complain that the department has been more a limited private security service than a police force, barely able to police the tiny reservation, and directly responsible to the tribal council that prevents it from investigating or arresting tribal members (Michael Mellia, “Troubled tribal police seek bigger Foxwoods role,” News From Indian Country, June 2012).

The 2,000-year-old Sarpy Creek Bison Kill site, a bison honoring site, 50 miles from Crow Agency, Montana on the Crow Indian Reservation, was desecrated by a backhoe in a stripminning operation, in October 2012. The site was potentially one of the most important archaeological finds in the past 50 years that might have indicted a great deal about how North America’s original inhabitants lived and worshipped (Adrian Jawart, “Sacred Bison Honoring Site Destroyed for Coal Underneath,” ICTMN, October 29, 2012, http://indiancountrytodaymedianetwork.com/article/sacred-bison-honoring-site-destroyed-for-coal-underneath-142867).
Economic Developments

The National Indian Gaming Commission (NIGC), http://www.nigc.gov/LinkClick.aspx?fileticket=cXMGE3FkCog%3d&tabid=36&mid=345, reported, July 12, 2012, that 2011 gross Indian Gaming Revenues Increased 3%, over all, to of $27.2 billion, over 2010 with $26.5 billion. The 2011 Gross Gaming Revenue (GGR) was calculated on the 421 independently audited financial statements submitted by 237 gaming tribes. Overall Indian gaming revenues stabilized over the past two years and the GGR growth in 2011 marked the first increase for the industry since 2008. In 2011, 56% of Indian gaming operations reported gaming revenue less than $25 million. 138 of these operations generated gaming revenue less than $10 million. The overall GGR growth in 2011 is attributable to 65% of the operations which reported an increase in gaming revenues. Of these operations, approximately 65% showed moderate growth of less than 10%. More detailed information by region and local, for 2011 and earlier years is available at the NIGC website at: http://www.nigc.gov/LinkClick.aspx?fileticket=cXMGE3FkCog%3d&tabid=36&mid=345.

Timothy Williams. “$1 Million Each Year for All, as Long as Tribe’s Luck Holds,” The New York Times, August 9, 2012, http://www.nytimes.com/2012/08/09/us/more-casinos-and-internet-gambling-threaten-shakopee-tribe.html?r=2&ref=todayspaper, comments, “A generation ago, the Shakopee Mdewakanton tribe lived in a motley collection of beat-up trailer homes, melting snow for bath water when wells froze over because they lacked indoor plumbing. Three-quarters of tribal members received government food supplements. Today, the Shakopee Mdewakanton are believed to be the richest tribe in American history as measured by individual personal wealth: Each adult, according to court records and confirmed by one tribal member, receives a monthly payment of around $84,000, or $1.08 million a year. The financial success of the 480 members of the Shakopee Tribe — whose ancestors 150 years ago were hunted down, slaughtered and eventually exiled from Minnesota — derives from their flourishing casino and resort operation, which on weekends swells the population of their tiny reservation to the size of a city.” Though unemployment, which is entirely voluntary, 99.2%. Meanwhile, tribal gaming, which has grown into a major economic development vehicle for numerous tribes, “has in recent months come increasingly under threat, stirring worries that the long lucky streak is over. The primary anxiety is competing casinos being hurriedly opened by states in pursuit of new revenue. But more menacing, tribes say, is a sophisticated and growing movement to legalize Internet gambling under state laws that would give those states the potential power to regulate and tax online gambling even on reservations.” This is occurring just as formerly expanding tribal gaming has leveled off. States that have recently approved non-tribal casino gambling include Massachusetts, while, as of August, New York was moving toward doing so, and Oregon voters were preparing to decide, in November, whether to open their first casinos, while Michigan voters would determine whether to expand non-tribal gambling. Meanwhile, tribal governments are concerned at attempts by some states to tax all online gambling revenue, which they consider an unacceptable violation of their sovereign status. Following a favorable finding by the U.S. Department of Justice, in December 2011, Delaware, in June 2012, became the first state to legalize casino-like gambling on the Internet. Experts on gambling project that “the coming wave of casualties will most likely be Indian casinos in remote areas that make little money but employ dozens of tribal members and use gambling proceeds to pay for social services.” For the Shakopee and their neighbors, a gaming downturn would be a serious blow, as the nation, Scott County’s largest employer, has donated $243.5 million, including $120 million to poorer tribes, and lent $478.5 million, since 1996, while contributing tens of millions of dollars for roads and to schools and hospitals. The tribe’s $28.5 million in charitable cash contributions in 2010 was more than those of a number of Minneapolis-area Fortune 500 companies, including the 3M Corporation, which had 2010 revenue of $23 billion, and U.S. Bancorp, which had $19.5 billion in revenue that year. Tribal members would see cuts in the estimated $84,000 a month figure that each adult in the tribe receives from gaming.

The Oneida Indian Nation of New York, November 8, 2012, announced a $25 million expansion project to its Turning Stone Resort Casino in Verona, NY, at New York State Thruway I-90 exit 33. The facility with a rock ‘n’ roll club, a country music dance hall, an ultra lounge and a retro piano bar are expected to open by summer 2013 (“Oneida Indian Nation Breaks Ground on $25 Million 'Exit 33' at Turning Stone Resort

The Minority Business Development Agency (MBDA) of the U.S. Department of Commerce has awarded five grants for new business centers to support the development of Indian businesses in urban centers with sizable Native American populations. The centers are to be in Santa Fe, NM (with an Albuquerque, NM satellite office), Anchorage, AK, Fresno, CA, Bismarck, ND, and Tulsa, OK. The new centers will provide assistance in general business, marketing and financial consulting categories, including identifying funding sources, providing assistance in accounting and taxes, personnel and identifying contract and procurement opportunities with state and federal agencies, local governments, tribal and other organizations (Kelly Koepke, “Minority Business Development Agencies to Spring Up in Cities With Large American Indian Populations—Starting With Santa Fe,” ICTMN, October 3, 2012, http://indiancountrytodaymedianetwork.com/article/minority-business-development-agencies-to-spring-up-in-cities-with-large-american-indian-populations—starting-with-santa-fe-136464).

The Shakopee Mdewaton Indian Reservation in Minnesota has been doing very well financially with large payouts to tribal members, resulting in 99.2% voluntary unemployment. Depending on how much meaningful volunteer work tribal members are undertaking, and how much education, particularly younger members are pursuing, though clearly formerly low income people are now better off, this raises serious questions about the large individual payments to tribal members (Timothy Williams, “$1 Million Each Year for All, as Long as Tribe's Luck Holds” The New York Times, August 9, 2012). This may have implications for such tribes as the Mescalero Apache, who having received a $33 million federal settlement in early 2012, have been pressured by members to distribute the money among tribal members (Rene Romo, “Tribe Pressured To Share $33 million,” Albuquerque Journal, October 27, 2012).

Secretary of the Interior Ken Salazar announced, October 10, 2012, that the agency has taken 469 acres of land into trust for the Mandan, Hidatsa and Arikara (MHA) Nation, also known as the Three Affiliated Tribes, of North Dakota to build a tribal-owned and operated clean fuels refinery. The ground breaking for the first oil refinery permitted in the lower 48 states in more than 30 years is anticipated on the Fort Berthold Indian Reservation in spring 2013 (“Interior Approves Land-Into-Trust Application for Three Affiliated Tribes’ Proposed Clean Fuels Refinery,” ICTMN, October 10, 2012, http://indiancountrytodaymedianetwork.com/article/interior-approves-land-into-trust-application-for-three-affiliated-tribes’-proposed-clean-fuels-refinery-139016).

The Rosebud Sioux Reservation of South Dakota arranged with Albuquerque, NM based Sacred Power Company to install up to 20 wind turbines to supply electricity to some of the reservation’s poorest families (Kristi Eaton, “Rosebud Reservation to get new wind turbines,” News From Indian Country, August 2012).

The Crow Indian Nation of Montana, in summer of 2012, made a tentative agreement with Cloud Peak energy to mine an estimated 1.4 billion tons of coal on the reservation, for up to $10 million if the agreement is approved by the Crow Tribal Legislature and the U.S. Department of the Interior (Matthew Brown, “CloudPeak, Crow Tribe reach 1.4B ton coal deal,” News From Indian Country, August 2012).
Sioux-Preme Wood Products, in Manderson, South Dakota, joined several new enterprises on Pine Ridge, where unemployment tops 80%, on September 17, 2012, with a crew of 10 millworkers, three seamstresses, one tailor and other personnel, with their first product: affordable high-end burial caskets. The new start up is backed by the Wounded Knee Community Development Corporation, a three-year-old nonprofit, that is working to start a grocery store and is involved in a number of community improvement projects. Sioux-Preme collaborates with a network of Native-owned or -staffed companies, including Beneli’s and a Black Hills sawmill that will provide raw materials. The Winnebago Tribe of Nebraska’s economic development corporation, Ho-Chunk Inc., purchased stock in the Pine Ridge start-up, as did a non-Native firm, J. Scull Construction, a green-building contractor in Rapid City. More support came from the tribal Workforce Investment Act program, a USDA grant and a line of credit at the First National Bank of Gordon. The company can be reached at 605-867-1068; woundedkneecdc@gmail.com. The community development corporation’s website is: http://www.woundedkneecdc.org/Wounded_Knee_CDC/Welcome.html (Stephanie Woodard, “The Sioux-Premes: Pine Ridge Start-Up Business Shoots for the Stars,” ICTMN, October 16, 2012, http://indiancountrytodaymedianetwork.com/article/the-sioux-premes%3A-pine-ridge-start-up-business-shoots-for-the-stars-139684; and the Wounded Knee Community Development Corporation web site: http://www.woundedkneecdc.org/Wounded_Knee_CDC/Welcome.html).

The Pine Ridge Reservation opened its first credit union, Lakota Federal Credit Union, at Kyle, SD, in November 2012, to serve the reservation’s 40,000 people (“Pine Ridge Reservation to get first credit union,” News From Indian Country, September 2012).

The 19 New Mexico Pueblos are jointly developing the 47 acres in the North Valley of Albuquerque, that formerly was the Albuquerque Indian School (“19 Pueblos Announce Development Plan for Prime Real-estate: the Former Albuquerque Indian School,” Indian Country Today, August 1, 2012).

Despite objections from two nearby Navajo Nation Chapters, Confluence Partners, LLC, was moving ahead, in summer of 2013, with plans for a $120 million 420 acre resort and tramway at the confluence of the Colorado and Little Colorado Rivers, a Grand Canyon Area sacred site, that Navajo Nation President Ben Shelly signed off on in 2011, as it promises up to 2000 jobs and an estimated $50 million to $90 million annually for Navajo Nation. Other Navajos and the Hopi Nation have expressed opposition to the project because it is a sacred site (Cindy Yurth, “Group unveils sweeping plans for project at Grand Canyon sacred site,” Navajo Times, June 14, 2012; and Cindy Yurth, “Hopi oppose Escalade,” Navajo Times, October 11, 2012).

The Grand Canyon Trust, collaborating with several other non-profit organizations, is providing technical advice and assistance to small business owners, non-profit organizations, and community development corporations on the western portion of the Navajo reservation (Bill Donovan, “Program to advise on small business operations,” Navajo Times, November 29, 2012).

The U.S. Chamber of Commerce initiated a project to increase economic development for tribes and tribal businesses, with the inaugural meeting of the Native American Enterprise Initiative (NAEI), December 3, 2012 attended by numerous government officials, tribal leaders, business people and legislators. Chamber senior vice president Rolf Lundberg stated that a strong focus of the initiative will be to oppose “burdensome and onerous regulations.” A Leadership Council composed of “major tribes and tribal enterprises” was to serve as the NAEI governing body, developing policy priorities, a legislative agenda and advocacy strategies to deal with Congress and other government bodies. Tribal membership will be at varying levels of investment according to economic strength, but only tribes contributing at the higher levels will be involved in setting policy priorities (Gail Courey Toensing, “U.S. Chamber Launches Initiative to Boost Native American Business,” ICTNM, December 7, 2012, http://indiancountrytodaymedianetwork.com/article/us-chamber-launches-initiative-boost-native-american-business-146176).

Under an agreement signed in Winnipeg, Manitoba, Canada, July 17, 2012, U.S. Canadian and New Zealand Aboriginal people are cooperating in economic development, finance and trade, and have chartered a new, yet to be named, bank, under the aboriginal financial institution, Wi-Chi-Way-Win Capital Corporation (TWCC) (Ralph Richardson, “Indigenous Trade,” Indian Country Today, August 15, 2012).
Education and Culture

In 2012, the American Indian College Fund experienced a 92% increase in college scholarship applications (AICF letter, July 2012).

The Higher Learning Commission of the North Central Association of Colleges and Schools, June 18, approved Red Lake Nation College as an additional site of Leech Lake Tribal College (“Partnership with Red Lake Nation Tribal College Receives Approval,” Wuydauyaage: Leech Lake Tribal College, Summer 2012).

18 Navajo Students from Four Corners area community colleges have been doing biomedical research with the Bridges to American Indian Students at Community Colleges Program at New Mexico State University in Las Cruces, NM (“Navajo students dive into research,” Las Cruces Sun News, July 25, 2012).

Meg Holladay, “A Growing Flower: Choctaw Culture and Language Change a School and a Community,” Cultural Survival, August 17, 2012, http://www.culturalsurvival.org/news/growing-flower-choctaw-language-change-school-and-community, reports that since the Calcedeaver Elementary School, in Mount Vernon, AL, serving mainly Choctaw students from a neighboring reservation in a poor area, initiated a Choctaw language and culture program, in 2001, it has moved from being among the worst schools in the state to became one of Alabama’s best by 2006. “Many of the students had not known they were Choctaw, they gained pride, motivation and a strong sense of identity.” In 2012 despite some new hardships, particularly severe budget reductions, the school’s impact on the community is growing, and “in the last five years the students’ cultural pride has become a given, at school and at home. The school now supports Choctaw students through high school, reminding them of who they are and making sure they graduate.” “Most of the students at Calcedeaver belong to the MOWA (Mobile and Washington Counties) Band of Choctaw, who stayed on their land when most of the tribe was deported to Oklahoma in 1830. The MOWA Choctaw had been ignored for years by their non-Native neighbors, and some had hidden their heritage, so when LaGaylis Harbuck became principal in 2001, most of the Choctaw kids at Calcedeaver did not even know they were Choctaw. Harbuck is also MOWA Choctaw, and she was shocked. She hired Williams, who had grown up in the community with a strong sense of her identity, to teach classes in language and culture. The culture classes included dance, history, and traditional crafts. The daily half-hour language classes helped acquaint the children with their Native language, although they weren’t enough to make them fluent. Snow, the librarian, also a MOWA Choctaw, helped students use the library to learn about their history and culture.” The school works to maintain students’ sense of Choctaw identity as they proceed to middle and high schools with few Native students. In 2007, only an after-school social club existed to ease the difficult transition, but in 2012, Calcedeaver staffer Nicole Williams spends two days a week with Calcedeaver graduates at these schools, helping and pushing them to keep their grades up and graduate. She also reminds them “where they belong”: at Calcedeaver and in the MOWA Choctaw community. Williams says the high-schoolers still greet her in the Choctaw language. “Back at Calcedeaver, students feel that they can and must succeed. Every year, the high school seniors go back to their elementary school and tell the sixth-graders what they want to do with their lives. In the last three years, all but one of the former Calcedeaver students graduated on time. The one who did not is getting her GED. More students go on to college, and one year, both the valedictorian and the salutatorian at the high school were Choctaw. Calcedeaver’s language and culture program had relied on federal grants for funding, but in the last five years the Office of Indian Education has restricted its grants to purely “academic” programs. For several years in a row, the office requested changes to Calcedeaver’s applications, until the school changed them to focus less on cultural education. Meanwhile, state education cuts have shrunk the school’s budget by $21,000 since 2007 and forced it to let a dozen people go. But teachers say they have found creative ways to keep giving kids the language and culture education they need. When culture classes became less frequent, Williams moved the Choctaw dance lessons to P.E. The P.E. teacher, Scott Mason, who is of Choctaw descent from Mississippi, teaches stickball, a traditional form of lacrosse. An after-school traditional dance club includes half the student body, and every November the school has a culture festival and powwow for the community. And although Dickinson, the principal, is not Native, she supports the school culture program and is deeply involved in the community.” In 2011, the school won the prestigious Dispelling the Myth award, given to poor schools with excellent academics by the Education Trust, which works to improve education for low-income
students. The Calcedeaver staff was invited to give a presentation at the organization’s national conference in fall 2012. “The school is also receiving long-overdue improvements to its facilities. In a video and essay contest run by the Henkel Corporation, which makes cleaning products, it won the funds to build its first-ever baseball diamond and running track. Calcedeaver named the diamond HamAiya Iska Alhila, “Community Diamond” in Choctaw, and compared it to the diamond trim of traditional Choctaw dresses. And the local school board recently voted to replace the dilapidated Calcedeaver building, which floods whenever it rains. The school will move down the road, but its old grounds, with the diamond and an exhibit of traditional Native American houses, will remain for students and the community.”

The Natural Helpers Program, a volunteer program at schools in the Gallup area with high Navajo student populations, trains students to provide peer counseling to their fellow students (Shondiin Silversmith, “Students trained in how to become a ‘Natural Helper’,” Navajo Times, October 4, 2012).

The Winnebago Tribe of Nebraska has been building a $10 million Educare preschool with financial support from the Buffet Early Childhood Fund (Winnebago plans to build Educare preschool,“ News From Indian Country, June, 2012).

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On the Standing Rock reservation, where there are no longer any fluent speakers of Lakota, Sitting Bull College has begun the reservation’s first Lakota language-immersion classroom under a grant from the Department of Health and Human Services Administration for Native Americans (ANA), working with 12 preschool-age students as young as 3 years old, and everything, including all learning materials, presented in the Lakota language. “The goal is to develop first-language acquisition skills that allow children to become natural thinkers, singers and speakers of Lakota in a fluid and imaginative way” (Jason Coppola, “Lakota: The Revitalization of Language and the Persistence of Spirit,” Truthout, October 8, 2012, http://truthout.org/news/item/11971-lakota-the-revitalization-of-language-and-the-persistence-of-spirit).

With only five fluent speakers remaining, the Siletz dee-ni, or Coastal Athabaskan, tribal Language in Oregon is being moved toward stabilization with a number of initiatives including the creation of an on line talking dictionary, one of 13 such dictionaries developed with the support of the Living Tongues Institute in partnership with the National Geographic Society (Kirk Johnson, “Tribe Revives Language on Verge of Extinction,” The New York Times, August 4, 2012).

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on the Rights of Indigenous Peoples, but official behavior in accordance with the Declaration’s Articles remains a rare exception. Many of these problems are not unique to Indigenous Peoples in the Americas—they are carried out against disadvantaged communities across the globe. In Africa and Asia, as well as the Americas, “governments tried to control publicly available information.” Governments restricted coverage of certain events during the revolutions in the Middle East and Africa; Indigenous communities continue to struggle against the government shutting down their radio stations; China banned specific websites and search terms, and even in Puerto Rico, students couldn’t search for “advocate”; and publication of certain newspapers stopped in many regions. Despite the fact that both the 1996 Peace Accords ending the Guatemalan civil war and Article 16 of the UN Declaration on the Rights of Indigenous Peoples—which Guatemala supported—guarantees the right of Indigenous people to control their own media, the Guatemalan government still outlaws radio licenses for non-profit community radio, only permitting commercial and government radio programs. Community radio stations serving hundreds of thousands of Indigenous people in their numerous native languages are frequently raided by Guatemalan police forces who detain the broadcasters and confiscate their equipment. Article 14 of the Declaration states that Indigenous communities have the right to “establish and control their educational systems and institutions providing education in their own languages,” yet there is very little governmental support for the development of such institutions. For instance, the United States once passed legislation ostensibly supporting schools teaching Native American languages, but more recent and powerful legislation contradicts that stance and makes it very difficult for Native language programs to succeed. Denying Indigenous Peoples the right to use their own languages may not be physically abusive, but it is nonetheless a form of violence that harms these communities and their cultures, and one that can later be used to take away other human rights. Forced evacuations took place on every continent. "People are left homeless and destitute, if not in prison, after their homes and belongings are destroyed by government or security forces," with little to no opportunity for restitution; residents trying to resist these abuses were frequently met with excessive force and occasionally killed. Sometimes these evacuations took place at the hands of civilians looking to seize more farmlands for themselves, like when Bengali settlers attacked Indigenous people in Bangladesh without any intervention from on looking officials; sometimes they were carried out by governments to get rid of locally-unwanted groups, as was the case when officials discriminated against, displaced, and deported Roma communities across Europe and forced Aboriginal people to abandon their traditional homelands in Australia by limiting local access to water and basic sanitation; sometimes rural peoples were “voluntarily” forced to flee from their homes in the face of armed conflicts like those raging in Colombia; sometimes they were instigated by corporations looking to build dams or mining or development projects without the hassle of complying with Indigenous peoples’ rights—this was prevalent throughout the western hemisphere. A situation similar to the one facing Australian Aboriginal peoples may be developing in Canada, where a recent federal study concluded that 73 percent of drinking water systems and 65 percent of waste water systems in First Nation communities across the country pose at least a medium-level health risk. If such problems continue, the people in these communities will need to choose between remaining on their traditional territories in dangerous conditions or leaving their homelands in order to access basic utilities—this is clearly a choice they should not be forced to make. Many Indigenous, disadvantaged, rural, and poor people are leaving their communities in order to escape the internal armed conflicts in countries across Central and South America. This is widespread issue in Colombia, where the government has actually taken steps to return land to and provide compensation for the victims of this violent displacement through its Victims and Land Restitution Law. However, many people affected by the conflicts are not included in the scope of this law. Additionally, threats and violence (including deadly attacks) against human rights leaders who are helping victims to seek their restitution has escalated, “raising doubts about the government’s ability to make good on its promise to return land to the rightful owners.” The people accused of perpetrating these crimes against Indigenous people are sometimes convicted of lesser offenses like torture, kidnapping, and arson, but are frequently acquitted of murder charges. The Argentinean government put a temporary hold on all evacuations of Indigenous people. Unfortunately, this hold is only in effect until the results of a national survey of Indigenous territories is completed in 2013, and despite the ban, many Indigenous communities continue to be illegally threatened with forced evacuations. In light of these problems, the UN Special Rapporteur on Indigenous People expressed concern about the absence of a mechanism to consult with Indigenous communities and the lack of any real protection of Indigenous land rights. A law to combat racial discrimination was passed in Bolivia and welcomed by the UN, yet it was also the subject of some concern due to “the under-representation of Indigenous Peoples in decision-making
bodies” and worries about implementing the legislation and coordinating it with the rest of the justice system. In one case last year, Brazil made no real attempt to coordinate the interests of its Growth Acceleration Program with the mandates of the UN Declaration on the Rights of Indigenous Peoples or the Organization of American States (OAS), an international system charged with upholding democracy, human rights, security, and development in the Americas, whose charter has been ratified by all 35 countries in the region. This government program is facilitating large-scale development projects that have a heavy impact on Indigenous and rural people, but the corporations involved show little interest in complying with Indigenous Peoples’ rights to give or withhold their free, prior, and informed consent (FPIC) for projects that will affect their lands and resources. The OAS’s Inter-American Commission on Human Rights ruled that Brazil had to cease construction on the Belo Monte dam “until measures had been put in place to protect the lives of communities in voluntary isolation.” To do so, Brazil was to consult with potentially-affected Indigenous communities and provide social and environmental impact assessments to them before it could continue dam construction. Instead, Brazil just withdrew its ambassador to the OAS. Unbelievably, Brazil’s response was supported by the Secretary General of the OAS, who called on the Commission to “review” its decision. Eventually, the Commission—which pledged to be especially attentive to the rights of “those populations, communities, and groups that have historically been the targets of discrimination”—reduced its requirements for Brazil, allowing the devastating construction to resume. So although the Commission professes to follow the pro homine principle and interpret laws in "the manner most advantageous to the human being," the so-called rights of a corporation were placed above the human rights of numerous Indigenous peoples in this important case. FPIC violations are not just a problem in South America, however: in the spring of 2011, a leaking pipeline spilled massive amounts of crude oil onto the traditional territory of the Lubicon Cree in Canada. Yet only a few months later, without proper consultation with or agreement from the Lubicon people, the provincial government allowed the pipeline to resume its operation. This is a violation of the Lubicon communities’ right to free, prior, and informed consent (FPIC) as laid out in the UN Declaration on the Rights of Indigenous Peoples—in Articles 28, 29, and 32, the Declaration states that the consent of Indigenous peoples is a prerequisite for the approval of any project affecting their lands or resources, and they are entitled to restitution for any damage to those lands and resources. There was some progress made in Bolivia with regard to recognizing FPIC rights: the President decided to cancel a road that would have been constructed through the Isiboro-Sécure Indigenous Territory and National Park. Unfortunately, he only reached that decision after weeks of protests—which were rife with injuries from the tear gas and truncheons used by security forces—by Indigenous people and their supporters, who said that construction the road would violate both FPIC rights and other environmental laws. The government of Peru made more solid and hopefully long-term progress when it passed the Consultation with Indigenous Peoples Law. This landmark legislation is the first in Latin America to make it mandatory to consult with Indigenous peoples before allowing development projects to progress on their lands. If there are cases where the developers and Indigenous communities cannot reach an agreement, then the government is charged with taking “all necessary measures to ensure that the collective rights of Indigenous Peoples are guaranteed.” Peru has become a leader by beginning to enact laws upholding the promises it made by endorsing the UN Declaration on the Rights of Indigenous Peoples. However, there are still concerns that conflicts will arise over projects that were approved by the government before this legislation came into power. Injustice and discrimination have continued in 2012: the Rapa Nui people have been fighting to reclaim their traditional lands—which are now under commercial development—on Easter Island, but the Chilean Supreme Court rejected their case, saying instead that the Native peoples have actually been illegally squatting on Easter Island since it was annexed to Chile in 1888. Yet there have also been a few hopeful events mixed in with this disregard for Indigenous rights: non-Indigenous people in Paraguay have been allowed to illegally occupy Indigenous territory since the 1960s, but the Supreme Court has decided to end that arrangement and return full occupation rights to the Pataxó Hâ-Hâ-Hâe people. In El Salvador, Indigenous Peoples will finally be recognized in the Constitution in 2012—this change will acknowledge their right to use their own languages and engage in other expressions of their cultures. Human rights advocates must continue to get the Indigenous rights secured on paper—such as FPIC—implemented in real world systems; such solid gains and persistent demands will help to increase governmental recognition of and support for Indigenous Peoples’ rights.

Developments in Countries and Regions
The Canadian federal department of Aboriginal Affairs’ internal watchdog unit, the department’s audit and evaluation sector responsible for ensuring the department’s internal operations are meeting the rules, became the subject of an audit, in 2010, launched by the Public Service Commission of Canada into the way it handled the promotion, movement and hiring of staff between positions, according to a redacted copy of the audit obtained under the Access to Information Act by APTN National News. The audit, triggered by a complaint, found a number of problems with eight of 10 staffing moves, including missing documents and a failure to follow the department’s own rules on staff appointments. A Nov. 19, 2010 letter from Maria Barrados, president of the Public Service Commission of Canada (PSCC), to Michael Wernick, deputy minister for the department stated, “The audit has identified significant deficiencies as demonstrated by a high level of non-compliance in the controls over the appointment processes.” The department responded to APTN National News enquiry in an email statement that it has tightened things up, saying “AAND has established an action plan including corrective measures” (“Aboriginal Affairs’ internal watchdog target of investigation,” APTN National News, October 31, 2012, http://aptn.ca/pages/news/2012/10/31/aboriginal-affairs-internal-watchdog-target-of-investigation/).

Bill C-27: Colonial Control In The Name of Accountability and Transparency: The Witnesses Before the Standing Committee, A Four Arrows Summary prepared for www.treaty8.org, November 2, 2012, finds Canadian parliamentary Bill C-27, the Accountability Act, “a move back to the 1950s.” “The problem will be the clause stating that First Nations-owned businesses also must make their financial reports public. This is discriminatory and leaves these businesses vulnerable to snooping by competitors who aren’t bound by the same rule.”

The Harper Government moved to amend the Indian Act to make it easier to designate and surrender reserve lands was passed by the Canadian House Aboriginal Affairs Committee the week of November 19, 2012, with little chance of amendment, as the committee report came only a few hours before any amendments would have had to be reported to the House by the government proposed committee, and the proposed amendment to the Indian Act was buried within the massive Omnibus Budget Bill C-45 (“C-45 Budget Bill: An Amendment to the Indian Act!” (“Thanks to Bea Vongdouangchanh, bvongdou@hilltimes.com and The Hill Times, http://www.hilltimes.com”); and “Bill C-27 Steamrolled Through Committee, Bill C-45 Amending Indian Act, Ready for teamrolling Through House: ’Where’s the Accountability? ‘Where’s the Transparency?’ First Nations Ask,” A Four Arrows Summary prepared for www.treaty8.org).

More than 100 Canadian academics sent the Harper government’s aboriginal affairs minister John Duncan a scathing letter, in November 2012, denouncing “deep” funding cuts to programs they believe would have a staggering effect on living conditions, including access to clean drinking water, health, education and infrastructure in First Nations communities. “In September, Duncan announced the government was changing funding for aboriginal organizations and tribal councils “to create the conditions for healthier, more self-sufficient Aboriginal communities,” and balance funding in an equitable way among organizations across the country. The proposed action would reduce core funding for national aboriginal representative organizations would be reduced by 10%, based on current 2012-2013 funding levels The academics pointed out that the cuts would affect research partnerships that address what they described as some of the most pressing issues facing Canada. The letter stated, “Canada cannot afford to wait another generation for solid research on urgent issues. We urge you to rethink these ill-advised cuts to organizations that have been doing excellent work in their communities that benefits Canada as a whole” (Mike DeSouza, “Researchers denounce ‘deep’ federal cuts to First Nations communities,” Vancouver Sun, POSTMEDIA NEWS November 23, 2012, http://www.vancouversun.com/news/national/Researchers+denounce+deep+federal+cuts+First+Nations/7602715/story.html). The cuts will also reduce the ability of First Nation organizations to lobby and campaign.

Concordia University in Montreal, Quebec was moving, in the fall of 2012, to have its major in First Peoples studies, operating as a non-degree program since 2010, become a degree program, and the first First Nation bachelor’s degree program in Quebec. Approval by the Ministry of Education, Leisure and Sport, was anticipated to be accomplished by fall of 2013 (“Concordia Will Soon Become First University in Quebec to Offer Indigenous Studies Degree,” ICTMN, October 17, 2012, http://www.treaty8.org).
The August 2nd decree gave Gazprom and its contractors permission to conduct work on the Ukok plateau despite what Greenpeace Russia claims would be a violation of several local and federal laws. Greenpeace-Russia has called on the Altai Republic to cancel the decree, stating “The pipeline severely violates the UNESCO international convention on world heritage, and that the new law “was adopted without the compulsory governmental ecological expertise and... without approval from the Ministry of Natural resources.” The Altai Project reported that work on the Ukok plateau took place over the summer even prior to the decree came into effect on August 17th. Urmat Knyazev, a deputy in the Altai republic's legislative assembly, argued that construction in the Ukok plateau would consist of a “moral violence against the people.” He warned, 'After the construction, its sacredness will be out of the question.' Greenpeace-Russia and the Save Ukok Coalition are now in the process of filing legal and regulatory complaints with relevant federal and regional authorities in an attempt to pressure the Altai Republic and federal governments to meet their legal obligations. The Telengit people are calling out to the international community for help to re-route construction of this gas pipeline to avoid their sacred plateau, where they have buried their dead for over 8,000 years.” Earlier, “Good News- Russia: Sacred Sites are Protected by Local Executive Power,” Cultural Survival July 3, 2012, http://www.culturalsurvival.org/news/good-news-russia-sacred-sites-are-protected-local-executive-power, reported, “On June 20th, the regional government of the Altai Republic in Russia reviewed and passed a decree on the “Preservation and Development of Sacred Sites of the Altai Republic.” The decree imposes restrictions on various kinds of activities at sacred sites, including any activity resulting in resulting in damage to the top soil leading to geological exposure causing irreversible changes to the hydrological regime and any activities resulting in the destruction of the natural habitats of plant and animal species, among other activities. Essentially, through this decree, the governor of the Altai Republic is instructing local authorities to make laws to protect these sacred sites which are being threatened by the construction of a gas pipeline by the Russia’s natural gas company Gazprom.” However, it appears that the Russian government has ignored the decree.”
“Campaign Update – Mexico: Concessions Continue in Wirikuta, Despite Government Ruse,” Cultural Survival, August 14, 2012, http://www.culturalsurvival.org/news/campaign-update-mexico-concessions-continue-wirkuta-despite-government-ruse, reports that the government of Mexico created a National Mining Reserve for the benefit of the Wixárica (Huichol) people, beginning in May, 2012. The Wixárica have been conducting a massive campaign against plans for silver mining at the site of their ancient pilgrimage to where they believe the sun was born—within the Real de Catorce Mountains in San Luis Potosí, known as Wirikuta. The federal government “guarantees that no mining concessions will be authorized” within the mining reserve,” However, the Wixárika remain unconvinced, stating unequivocally, “The creation of the NMR [national mining reserve] does not represent in any way an adequate path and solution for the protection and recognition of the sacred territory of Wirikuta.” The area proposed only constitutes 60,543 hectares that lie within the protected natural area that defines the Wirikuta reserve, and no resolutions have been made to indicate the cancellation of mining concession. The area proposed for the National Mining Reserve adds up to 71,148 hectares, and of these only 60,543 hectares are within the Wirikuta Natural Protected Area. The remaining 10,605 hectares are outside its perimeter. The 79 mining concessions that existed before are still valid, occupying the same 98,000 hectares, which constitute 70% of the Protected Natural Area. On their site, the Wixárica commented, “The Federal Government’s actions are strategic media events to ensure the functioning of the destructive agribusiness and mining projects in the area so as to make it appear that the mining threats in Wirikuta have been taken care of, which is far from the reality. The federal government announcements do not constitute a serious and responsible action in fulfilling the obligations of the Mexican State to ensure the effective protection of natural and cultural heritage of the Wixárika People and of Humanity.”

“Guatemala: Protest Leaves 6 Dead,” The New York Times, October 5, 2012, http://www.nytimes.com/2012/10/06/world/americas/guatemala-protest-leaves-6-dead.html?_r=1&ref=todayspaper, reports. “Thousands of grieving Guatemalans demanded justice on Friday at the funerals for six people slain when shots were fired during a protest on Thursday over electrical power prices and educational policies in a rural area. The government said protesters were blockading a highway near the town of Totonicapán, about 90 miles west of Guatemala City, when soldiers arrived to help the police who had been ordered to evict the demonstrators. Gunfire erupted, killing 6 people and wounding 34, officials said. On Friday, President Otto Pérez Molina acknowledged that the security forces had opened fire.”

The struggle for community radio, mostly serving Indigenous communities in their own languages, in Guatemala continues, as promised proposed legislation to legalize community stations still has not passed the legislature, even though the right of Indigenous communities to have their own media is guaranteed in the constitution. “Community Radio Station Doble Via Raided by Guatemalan Police,” Cultural Survival, October 16, 2012, http://www.culturalsurvival.org/news/community-radio-station-doble-raided-guatemalan-police, reports, “On Thursday, October 11th, the community radio station Radio Doble Via, of San Mateo, Quetzaltenango, Guatemala was raided by police and equipment confiscated. At 10 am, four agents of the Public Prosecutors Office and six members of the National Police forced entry into the station. Due to an alarm system established by station founder Alberto Recinos, the community of San Mateo realized the station was in danger and arrived in numbers to defend the station, its personnel, and equipment. Fearing the anger of a crowd, the officials fled the scene, taking with them one computer, one radio console, two microphones, and an audio recorder, valued at a total of $1,400. "The console they took is invaluable for us," lamented Recinos. "We had used that same console since 1982, to broadcast Voz Popular, the radio program of the guerilla movement, from the top of the Tajamulco Volcano." “Foreshadowing the event, two years ago a manager of the central American radio chain MEGA was found by community members photographing the antenna of Doble Via. He was present again on the day of the October 11th raid, leading the community to the conclusion that this company was responsible for encouraging the raid.” Marcos Mateo Miguel one of the political prisoners from Barillas, was released from jail, September 21, after five months imprisoned without evidence (“Good News-Barillas: One Political Prisoner Released,” Cultural Survival, September 25, 2012, http://www.culturalsurvival.org/news/good-news-barillas-one-political-prisoner-released). While the Indigenous communities are struggling to have Community Radio, now in legal limbo, legitimized by Guatemala’s legislature, the right-wing the LIDER party proposed bill 4479, July 10, 2012, that would criminalize the use of the radio spectrum for any actors not authorized to do so. The bill aims to take community radio stations off the air.
“Guatemala: Cultural Survival Submits Petition to Inter-American Commission on Human Rights,” Cultural Survival, September 28, 2012, http://www.culturalsurvival.org/news/guatemala-cultural-survival-submits-petition-inter-american-commission-human-rights, reports, “On September 28, Cultural Survival and Sobrevivencia Cultural, (our sister organization in Guatemala), submitted a petition to the Inter-American Commission on Human Rights (IACHR), to appeal the decision of Guatemala's Constitutional Court which violates Indigenous Peoples’ rights through the country's telecommunications law that excludes Indigenous Peoples from operating community radio stations. In October 2011, Cultural Survival’s sister organization in Guatemala, Sobrevivencia Cultural submitted an action of unconstitutionality to the Constitutional Court, declaring economic and ethnic discrimination in the state’s mechanism for distribution of radio frequencies. The action argued that by auctioning off frequency licensees to the highest bidder, Indigenous communities, who historically and currently are among the most economically disadvantaged in the country, lack fair access to state-owned media. In March the Constitutional Court of Guatemala ruled against our action, upholding the telecommunications law as is. However, the court did recommend the congress legislate in favor of Indigenous People’s access to radio. The congress has not responded to the court’s recommendation. The Constitutional Court is the highest court Guatemala offers. The Inter-American Commission is therefore our next recourse of action. "It is regrettable that the Guatemala Congress has not been able to find a way to grant licenses to Indigenous community radio stations; all that is required is to amend the current telecommunications law with eight additional words. The right of Indigenous communities to their own media is firmly established in numerous agreement endorsed by Guatemala, but the current licensing law is lacking. Every day communities in Guatemala choose to exercise their rights at great personal risk. Our hope is that the petition will convince the government of Guatemala to finally honor their obligations," says Mark Camp, Cultural Survival's Deputy Executive Director. If the IACHR rules in favor of the petition, they may decide to refer the case to the Inter-American Court for ruling. Decisions of the Inter-American Court are binding, meaning that the state of Guatemala would be required to change the law if the court were to rule in favor of the petition. “The state of Guatemala would advance a great deal if it would promote reforms to the current Telecommunications Law that would recognize community radio as a fundamental tool for the development of Indigenous Peoples, their culture, and the protection of Mayan languages,” declared Anselmo Xunic, manager of Sobrevivencia Cultural in Guatemala. Xunic explained that the State assumed the responsibility at the signing of the Accord of Identity and Cultural Rights in 1995, which established among other things, that media monopolies should be eliminated through reforms to the Telecommunications law, and the adoption of a more egalitarian process for the delegation of radio frequencies. Later, the Peace Accords were signed in 1996, which called for the promotion of local radio stations that would allow for grassroots development if Indigenous communities. When the state eliminated monopolies in radio and television, the people would be given spaces for the promotion of their rights. Cultural Survival also calls on the members states of the United Nations to demand that Guatemala fulfills its obligations to its Indigenous Peoples while the country is under Universal Periodic Review (UPR) at the UN headquarters in Geneva this year on October 24th. The review is a mechanism for evaluating states and their effective application of human rights. The same recommendation was submitted by the country of Norway in the last UPR of Guatemala in 2008. Recommendations on the modification of this law have been submitted by two Special Rapporteurs on Freedom of Expression, to the Organization of American States and the UN during the last decade. The immediate adoption of these recommendations would help to improve the situation of freedom of expression and access to information, commented the Latin American and Caribbean Network for Exchange and the Defense of Freedom of Expression, (IFEX-ALC). A delegation of this organization, consisting in member organizations from Peru, Guatemala, and Argentina, will meet in Geneva this year to promote recommendations on the situation of freedom of expression in those three countries, reported CERIGUA.”

“Good News- Guatemala: Ten Arrest Warrants Revoked,” Cultural Survival, September 17, 2012, http://www.culturalsurvival.org/news/good-news-guatemala-ten-arrest-warrants-revoked, reports, that the Q'anjob'al Mayan people's fight to stop a dam on their sacred river in Guatemala has been ongoing. Following the murder of a community leader, Andres Fransisco Miguel, who had been outspoken against Hydro Santa Cruz’ plans to build a dam on the Q'am B'alam River, riots broke out in protest. A few days
later, arrest warrants were issued against ten community leaders for alleged crimes of destruction of property, kidnapping, and terrorism, among other charges against the Spanish hydroelectric subsidiary Hydro Santa Cruz. On September 11, 2012, a civil court judge of Santa Eulalia threw out the arrest warrants, finding they were issued in violation of proper procedures. Nine community of Barillas activists still remained detained in Guatemala City’s central prison, as of September 16.

On October 4, 2012, three passing vehicles of military and police personnel fired over 100 rounds into a peaceful protest of Indigenous K’iche led by 48 Cantones along the Cumbre de Alaska on the InterAmerican highway in Guatemala, resulting in the deaths of seven men and leaving thirty-four others injured. When the attack occurred, hundreds of K’iches from the department of Totonicapán were quietly protesting three issues: increases in the costs of electricity, changes to the education system, and constitutional reforms that would eliminate government recognition of Indigenous ancestral authorities. Initially, the government claimed the police were unarmed, but changed their story when photos emerged of military forces carrying assault rifles, claiming, the military were carrying weapons, but only shot them in the air to scare protestors who were throwing rocks and sticks. Eye whiteness accounts state that the police and military fired into the crowd without provocation. Finally, a full investigation of the incident was carried out, concluding that eight soldiers fired weapons directly at protestors, in violation of superior orders. The Attorney General of Guatemala has charged Colonel Juan Chiroy Sal, the commander of the detachment sent to the Cumbre de Alaska that morning, with extrajudicial murder, along with the eight soldiers who fired their weapons. Commissioner Dinah Shelton, of the Inter-American Commission on Human Rights responded: “The IACHR values the actions taken by the Office of the Attorney General. It is now essential that the judicial inquiry continues until all facts are cleared up, and criminal responsibilities are established. It is also of fundamental importance that the authorities of Guatemala adopt mechanisms to avoid excessive use of force by State agents in protests and demonstrations.”

Cultural Survival comments, “The use of violence and repression by the military has come to a peak in Otto Perez Molina’s administration. Perez Molina, an ex-military general during Guatemala’s violent armed conflict, campaigned on the promise that he would use a militarized state to combat drug trafficking and violent crime that plagues urban areas. Instead, during his first year in office, the country has seen increasing use of military repression against Indigenous activists, as was seen in the State of Siege imposed in May in the town of Barillas, Huehuetenango after protests arose over a controversial hydroelectric dam.”

“We believe there has been a real return to the use of violence as a response to social demands,” explained Domingo Hernandez, a member of the board of directors for the Mayan grassroots group Waqib’ Kej. He continued, “In Guatemala we urgently need to start a process of democratization. In this government it hasn’t been possible. A militarized system is vertical, authoritarian, patriarchal, and doesn’t allow for citizens– Indigenous Peoples, women, and youth– to express their opinions. This state, led by ex-military officials, is treating our country as if it were their headquarters” (“What happened in Toto?,” Cultural Survival, October 25, 2012, http://www.culturalsurvival.org/news/what-happened-toto).

“Campaign Update – Guatemala: Roundtable Negotiations Stalled,” Cultural survival, November 8, 2012, http://www.culturalsurvival.org/news/campaign-update-guatemala-roundtable-negotiations-stalled, reports, that a roundtable established by the government of Guatemala to dialogue towards an agreement that would allow for the installation of a hydroelectric dam on the Cambalam river in the town of Santa Cruz Barillas, Huehuetenango has stalled. “The company has offered an annual investment of Q1 million, roughly $128,000 US dollars, to finance development projects in the municipality. On October 19th the town council made a counteroffer to Hydro Santa Cruz, asking for an annual donation of Q10 million, along with three main demands: that the company provide continual maintenance of roads in the area, that they provide due compensation to the family of the deceased Andrés Francisco Miguel, who was shot and killed by the company’s security forces just before riots broke out the night of May 1st 2012, and that they revoke the charges pressed against the then community leaders who continue to be held in prison under a process that lawyers consider to be in violation of the right to due process. “The concept of innocent until proven guilty has been absolutely obliterated in this case” reported defense lawyer Carlos Bezares. The mayor of Barillas was optimistic about the offer, and rumors spread that an agreement was to be signed at the end of October. But the 20 day period stipulated by the town council for negotiation has expired, and the company, along with the mayor, have been silent. Some community members feel that the Q10 million is not enough, and are calling for half of the company’s profits, calculated to be Q83 million
As part of the long ongoing land dispute, Just Foreign Policy reported, April 18, 2012, “Thousands of farm workers have seized 30,000 acres of land around Honduras as part of a dispute with large landowners and the government, AP reports. Activists say the seized territory is arable public land that small farmers have the legal right to grow crops on under Honduran law. A land dispute between small farmers and landlords in the Aguan Valley has led to dozens of deaths among farm workers. Via Campesina said the farm workers were unarmed, used no force and wanted to avoid a confrontation, but didn’t rule out an official attempt to dislodge them from the fields. 72% of rural homes are below the poverty line.”

The United States suspended all radar intelligence sharing with Honduras, in order to gain better control of its militarized war on drugs in Central America, after the Honduran air force shot down two planes, in July, suspected of carrying drugs (Damen Cave, “U.S. Suspends Its Antidrug Radar-Sharing with Honduras.” The New York Times, September 8, 2012).

As the result of six months of negotiation establishing a framework agenda for peace talks, the government of Columbia and the rebel group FARC agreed to commence peace talks in Oslo Norway, in October, aimed at ending the civil war, which began in 1964 (“Oslo Peace Talks, San Francisco Chronicle, September 9, 2012). On November 19, 2012, FARC called a to month cease-fire as peace talks to end the half century old conflict began in Havana, Cuba. The government did not immediately respond to the FARC announcement, but President Juan Manuel Santos has stated several times that his government would not declare a truce during negotiations, in the hope of avoiding a mistake made during previous talks that ended in 2002, when the FARC used a lengthy truce to gain strength (William Neuman, “Rebel Group in Colombia Announces Cease-Fire,” The New York Times, November 19, 2012, http://www.nytimes.com/2012/11/20/world/americas/colombia-rebels-announce-cease-fire.html?ref=world&_r=0).

Raúl Zibechi, “Colombia: Dismantling a Half-Century of Conflict,” AmericasProgram, December 13, 2012, http://www.cipamerica.org/archives/8725, comments, “The negotiations between the government and the guerrilla forces are seen by a large part of the Colombian public as a good opportunity to seal a peace deal. Many believe that the hour has come and that the main actors in the conflict will not let this opportunity escape. The reality, however, is much more complicated.” While a large part of the population has faith that the negotiations will succeed, with a survey conducted by RCN Televisión finding that 77% of Colombians support negotiations and 54% are optimistic that they will lead to definitive agreements, not all are favorable to the process. “President Alvaro Uribe, a spokesman for landowners and according to many analysts, paramilitary groups, expressed from the first moment his dissatisfaction with the negotiations, calling for the annihilation of the guerrillas.” The business community sees the end of the war as an comedic opportunity, noting that with the FARC losing the military initiative, Columbia has already improved its economy, moving to an increasingly prominent role in the region, while the population at large has suffered more than enough from the conflict. “As it is, the path to negotiations is cleared. On the immediate horizon it appears there may be some difficulties: the duration of the negotiations, the issue of land as a strategic challenge to be confronted, and the question of establishing mutual trust—always complicated and most often nonexistent. President Santos anticipates that negotiations should not last too long. The presidential elections of May 2014 are on the horizon and Santos aims to be re-elected. This requires keeping the process on track and if possible, establishing the most important agreements prior to the election. As the analyst León Valencia stated, ‘peace talks amid an electoral process are not feasible.’ For that reason Santos insisted on several occasions that the talks not have an indefinite time frame, saying, ‘The talks will be measured in months, not years.’ By contrast, the FARC
are looking toward a long process, as indicated by Timoleón Jiménez, top commander of the organization. In agreement, the Patriotic March (led by the Communist Party) released a document in early November in which they propose a broad social mobilization to initiate a constitutional processes in the framework of a peace process, which would demand the necessity for a long process. Another issue for discussion is the concept of ‘de-arming’, mentioned in the general agreement. While the guerrillas intend to refer to the non-use of weapons, or an indefinite truce, others interpret it as the handing over of weapons. This point may block the negotiations.” A tough major issue is land, which was the initial cause of the rebellion. Carlos Gutiérrez, director of Le Monde Diplomatique, noted that “land is at the heart of the conflict, the situation has continued to worsen in recent decades. “This land economy is characterized by the hegemonic dominance over nine-tenths of the country’s vital surface lands maintained by a landed aristocracy, through natural plains”[15]. Over the years, the agricultural lands are increasingly underutilized and livestock land is overgrazed, although each hectare has only 0.6 head of cattle on average. “We have yet to free ourselves of the idea of primitive accumulation,” concluded Gutiérrez. The war, driven by landowners and now entangled with drug trafficking, has been the method to further land concentration. In 1984 landowners with more than 500 hectares controlled 32.6% of lands. In 2010, they controlled 60.8%. The countryside had a gini index, which measures inequality, of .89—among the highest equality gaps in the world. Agrarian reform is imperative to democratizing access to the land. But the presence of drug traffickers who have invested in lands and now join multinational mining and hydrocarbons interests and the presence of monoculture agribusiness have increased the concentration of land ownership. It will not be easy to go in the opposite direction of economic processes to satisfy peasant and indigenous demands.” While in the cities there is hope and optimism in moving to peace, “key social movements related to the current negotiations have not shaken their lethargy. The ‘Gathering for Dignity’ convened on October 12 by the Patriotic March, the Peoples Congress and the Coalition of Social Movements and Organizations of Colombia (Comosoc), fell far short of gathering the forces they’d hoped for. The protest denounced low salaries, the concentration of wealth, the disastrous healthcare system and unemployment. Young university students were the most vocal. It is true that in Colombia ‘there remains a clear divide between urban and rural centers, and the visions that inspire one are not the same for the other.’ Both groups have different problems and demands. But beneath this division lies the continuity of a vertical and patriarchal political culture, even within the left, which exists parallel to authoritarian landowners. Five decades of war consolidated political methods in which mobilization is decided from above and carried out below, where party leaders occupy a central position. The people of Cauca have attempted to promote something different, because they belong to other worldviews. That region of resources (water, oxygen, oil, mining and biodiversity) is also ‘a strategic corridor between the Pacific coast and eastern plains’. That’s why in Cauca all the armed groups converge: army, paramilitaries and guerrillas, ‘transforming the autonomous and ancestral territory into a theater of military operations.’ Manuel Rozental explains that the Nasa people put up the greatest resistance to war on the basis of their own consensus-based agenda and the restitution of the Indigenous guard in 2001. ‘With those two things combined we made the decision – the first in 2001, but in large part in 2004 – to come out with an agenda and to convene the first Indigenous and Popular Congress. The Minga came from Popayán and Cali, reaching the mountains to the Pan American Highway. That was in the peak year of Uribe’s popularity, it surprised him by saying, here he is not popular, and his model of free trade is not what we want’. In October 2010 the accumulation of successive mobilizations came together in the People’s Congress, a large confluence of organizations, people and movements, both rural and urban, indigenous and Afro-descendants, workers and students, in a huge demonstration of diversity. This new form of organizing, based on mandates born of consensus, is still far from having become a common approach and in a political culture that is accepted among those fighting hegemonic powers.” “The ‘Uribe decade’ of Álvaro Uribe between 2002 and 2010, produced profound changes in the war, but especially in Colombian society and the perception of the armed conflict. A portion of the population believes the guerrillas are the main, and sometimes only, culprits for the conflict. Removing this perception will take a lot of time, generosity and self-criticism.”

With increased prospects of peace, the Columbian government has made a priority of returning people to war torn areas from which they fled from paramilitary and guerilla groups, such as the farming community of Manpujan near the Caribbean coast, but the effort has been complicated by trying to determine who owns what property, and the continuing fear of those who fled the terror (William Neuman, “Displaced Residents Grapple With Hurdles of Going Home,” The New York Times, December 3, 2012).
Earlier, “Indian expulsion of armed forces in Colombia turns violent,” Survival International, July 19, 2012, http://www.survivalinternational.org/news/8513, reported that the Nasa Indians in southwest Colombia were at the centre of a violent standoff between the army and left-wing guerrilla army the FARC (Revolutionary Armed Forces of Colombia). “The Indians, formerly known as the Paez, have attempted to evict both the soldiers and guerrillas from their land, asking that they ‘take their conflict elsewhere’. Cauca, in the Colombian Andes, is a FARC stronghold, and violence has plagued its indigenous residents for years. Countless Indian leaders have been killed by both sides in the many decades that the conflict has continued. According to President Santos the army’s presence in the region ‘is not negotiable,’ but the Nasa say it only brings more conflict to their home.” In July, “hundreds of indigenous protestors marched to the FARC’s camp to demand they leave the area, and threatened to force them out if they refused. The Indians subsequently surrounded the army base to demand the soldiers step down from their post.” The protest turned violent when the army fired shots in the air, and protesters forcibly carried soldiers from the base. Police later fired tear gas, forcing protesters to flee. Several people were injured, and a protestor is reported dead. A letter posted on Cauca Indian Organization ACIN’s website states, “We do not want the guerrillas present, nor the army, because this has been our territory since time immemorial. We don’t need the guerrilla present because they do not bring us peace… the guerrilla do not protect us from the security forces’ abuse.” It is hoped that the peace negotiations have calmed the situation in Cauca, though the government has not honored the FARC declaration of a truce. Meanwhile, following the protests “Nasa spiritual leader shot dead at point blank range,” Survival International, August 17, 2012, http://www.survivalinternational.org/news/8587, reports, Lisandro Tenorio, a 74-year-old Nasa Indian leader and traditional healer was shot dead at home with his family, when two unidentified men arrived, shook his hand, and shot him three times in the head.

Peru’s Constitutional Tribunal ruled, September 13, and made public September 25, 2012, that an Amazonian indigenous community could limit outsiders’ access to its territory and upheld the principle of communal autonomy, in a case involving the Shipibo and Ese’eja community of Tres Islas, about 17 miles from the town of Puerto Maldonado in the southeastern Peruvian region of Madre de Dios. Besides upholding the community’s territorial rights, the tribunal ordered a lower court to nullify the convictions of four former community leaders who had led the fight against illegal loggers, miners and transportation workers who were entering Tres Islas without permission. In an effort to stop the illegal mining, which destroyed forest and polluted streams on between 25 and 35 acres of the community’s 76,000-acre territory, the community placed a gate across a dirt road leading onto its lands and set up a guard post staffed by a community member. Two companies that provided transportation to illegal miners took the community to court on the grounds that the gate violated their freedom of movement. An initial court ruling in favor of the companies was upheld on appeal, and was ultimately supported by the Superior Court of Madre de Dios, which in September 2010 sentenced four community leaders to six years in prison and fines of about $2,500 each. The case marks the first time that a Peruvian court has ruled that an indigenous community has a right not only to private property, like any citizen, but also to self-determination within its territory, as long as the aim is not secession from the country. The Constitutional Tribunal ruled that the community’s construction of the gate and guard post “was a legitimate decision made in virtue of its communal autonomy, recognized by Article 89 of the Constitution.” It noted that the same article allows “native communities to make decisions about the use and free disposition of their lands, which implies the ability to decide who enters their territories.” Although “freedom of movement is a fundamental right, it is subject to certain constraints, such as not invading other people’s land without the owners’ consent,” the decision stated. In a break from past rulings, the tribunal based its decision not just on International Labor Organization Convention 169 on the rights of tribal and Indigenous Peoples, a treaty that Peru ratified in 1994, but on jurisprudence of the Inter-American Court of Human Rights and the U.N. Declaration on the Rights of Indigenous Peoples. Many indigenous communities in the Peruvian Amazon and Andes are involved in conflicts with mining and petroleum companies over the use of resources on their lands. Under Peruvian law, land rights only apply to the surface, while subsoil resources belong to the government, which reserves the right to grant concessions. A new law – which reflects a key provision of Convention 169 – requires that the government consult indigenous communities about any development project that will affect their territories. The law has not yet been implemented, however. The first consultation is expected to be held in early 2013, and will involve an oil lease in Achuar territory in northern Peru (Barbar Fraser, “Peru’s Constitutional Tribunal Rules
Richard Price, “Saramaka People v Suriname: A Human Rights Victory and Its Messy Aftermath,” Cultural Survival, July 30, 2012, http://www.culturalsurvival.org/news/saramaka-people-v-suriname-human-rights-victory-and-its-messy-aftermath, reports, “Suriname, in northeastern South America, has the highest proportion of rainforest within its national territory, and the most forest per person, of any country in the world. In 2007, after a decade of legal struggle, the Saamaka People - some 55,000 descendants of self-liberated African slaves – won a signal victory before the Inter-American Court of Human Rights. Their rebel ancestors fought for nearly a century and finally signed a peace treaty with the Dutch colonizers that granted them their freedom and territory in 1762. By then they had already developed a vibrant and independent culture – their own language, religion, kinship and legal system, and much else. (Beginning in mid-2010, the people formerly known as “Saramaka” began calling themselves, in their official documents, “Saamaka,” to conform to their own pronunciation.) Then, during the 1990s, Saamakas suddenly found their territory invaded by Chinese and other multinational logging and mining companies which were extracting resources with the explicit permission of the State. The new constitution of Suriname (an independent republic since 1975) specifies that all non-titled land and resources belong to the State, rendering Maroon Peoples such as the Saamaka (and five similar groups) as well as Suriname’s numerous Indigenous Peoples, little more than guests on government lands. The constitution also denies the possibility that an Indigenous or Maroon People could have a juridical personality and therefore collective rights to property (or to anything else). After Chinese loggers began to devastate their territory, Saamakas managed to organize their more than sixty villages strung out along the Suriname River for the coming legal battle. “In 2000, they petitioned the Inter-American Commission for Human Rights, eventually leading to their 2007 victory before the Court. For their leadership in this struggle, Saamaka Headcaptain Wazen Eduards and Saamaka law student Hugo Jabini were awarded the Goldman Environmental Prize (often referred to as the environmental Nobel Prize), under the banner of “A New Precedent for Indigenous and Tribal Peoples.” The justices wrote that, like Indigenous Peoples, the Saamaka are therefore “subject to special measures that ensure the full exercise of their rights.” Henceforth, Saamakas, and other Maroons throughout the Americas, would be treated as equivalent to Indigenous Peoples in international law and subject to the United Nations Declaration on the Rights of Indigenous Peoples. The Judgment also concluded that the State had violated Articles 3 (Right to Juridical Personality), 21 (Right to Property), and 25 (Right to Judicial Protection), in relation to Article 1(1) (Obligation to Respect Rights) of the American Convention on Human Rights, and ordered the State of Suriname to take a series of ten actions, the most important of which were that: ‘The State shall delimit, demarcate, and grant collective title over the territory of the members of the Saramaka people, in accordance with their customary laws, and through previous, effective and fully informed consultations with the Saramaka people.’ Indeed, the justices specified that the map made by the Saamaka People and presented to the Court, which included territorial boundaries as defined by their history and traditions, would serve as the benchmark for titling by the State, saying ‘The State shall grant the members of the Saramaka people legal recognition of the collective juridical capacity, pertaining to the community to which they belong, with the purpose of ensuring the full exercise and enjoyment of their right to communal property, as well as collective access to justice, in accordance with their communal system, customary laws, and traditions. The State shall remove or amend the legal provisions that impede protection of the right to property of the members of the Saramaka people and adopt, in its domestic legislation, and through prior, effective and fully informed consultations with the Saramaka people, legislative, administrative, and other measures as may be required to recognize, protect, guarantee and give legal effect to the right of the members of the Saramaka people to hold collective title of the territory they have traditionally used and occupied as well as their right to manage, distribute, and effectively
control such territory, in accordance with their customary laws and traditional collective land tenure system. The State shall adopt legislative, administrative and other measures necessary to recognize and ensure the right of the Saramaka people to be effectively consulted, in accordance with their traditions and customs, or when necessary, the right to give or withhold their free, informed and prior consent, with regards to development or investment projects that may affect their territory, and to reasonably share the benefits of such projects with the members of the Saramaka people, should these be ultimately carried out. The State shall allocate the amounts set in this Judgment as compensation for material and non-material damages in a community development fund created and established for the benefit of the members of the Saramaka people [a total of $675,000 US]. In other words, the Judgment requires Suriname to change its laws (and, if necessary, its constitution) in order to grant the Saamaka People collective title to their traditional territory as well as considerable sovereignty over it – jurisprudence that henceforth applies to all Indigenous Peoples and Maroons in the Americas.” “The five years since the judgment bear witness to the multiple challenges faced by both plaintiffs and defendants in complex cases of human rights violations, where national development (such as mining, logging, and other extractive industries) is pitted against the rights of Indigenous or Maroon populations. National development – what the State calls “modernization” – has continued to drive Suriname’s policies, with scarcely a backward glance at the strictures imposed by the Court. In its various pronouncements and communications, the State has taken the position that it can resolve the Saamaka situation only as part of a broader reconsideration of the place of all Indigenous Peoples and Maroons within Suriname, unilaterally (and illegally) postponing compliance with the Court’s Judgment. Meanwhile, the Saamaka People have continued to barrage the government and the Court with reports and petitions documenting the State’s lack of action in fulfilling the terms of the Judgment. In July 2010, Desi Bouterse – ex-dictator, convicted drug dealer, and accused murderer of fifteen political opponents in 1982 – was chosen by parliament to be president of Suriname, after his NDP party won a majority in the May elections. To date, his administration has not strayed from the policies of his predecessor regarding Maroons and Indigenous Peoples. Indeed, it has relied on much the same personnel and organizations that have been involved for years in such matters. Among the headlines involving Saamakas, other Maroon Peoples, and Indigenous Peoples since Bouterse’s inauguration,” are: “—In December 2010, President Bouterse announced that his administration had signed a 6 billion US dollar memorandum of understanding with China to finance (among other mega-projects) a railroad and highway from Paramaribo to Manaus (Brazil), cutting right through the heart of Saamaka territory. There was no mention of the Saramaka People Judgment nor any consultation with Saamaka representatives. —In January 2011, Canadian multinational IAMgold announced that it would increase substantially its investments in Suriname, with the intent of expanding its Rosebel Mine (which lies in traditional Saamaka territory) at the same time as announcing record fourth-quarter profits from the mine. In a separate communiqué, the company announced that it would need considerable additional cheap energy to meet its production targets and therefore planned to invest heavily in the proposed Tapajai project, which would dam the Tapanahoni river in Ndyuka Maroon territory (sinking numerous villages), bring its waters through vast canals along the Jai Creek into Saamaka territory, have them flow into the Afoakaba reservoir, where rising water levels would sink several Saamaka villages, all to increase hydropower at the Afoakaba dam. Meanwhile, the Suriname government has contracted with CNEC, a Brazilian engineering consultancy, to make a feasibility study for what is now expected to be a 1-billion US$-plus project. There has been no consultation with Saamaka (or Ndyuka) representatives. —In February 2011, after seven months of protests and meetings by Pamaka Maroons against government plans to mine bauxite and gold in the Nassau Mountain region that they consider part of their traditional territory, followed by a public meeting at which President Bouterse spoke of the necessity of “development,” Newmont Mining announced that it had found greater gold deposits than expected and intended to begin operations in conjunction with Alcoa as soon as negotiations with the government were concluded. Despite the unanimous declaration of Maroon and Indigenous leaders that the question of land rights titles must be settled before they could react to government proposals concerning Newmont, the government is hurrying along its negotiations with the giant multinational company. In September 2011, Newmont announced that it had found twice as much gold in the region as suspected and that it would build two mines near one another at a cost of about 1 billion US$. On December 21, 2011, the Secretary of the Inter-American Court served notice to the Saamaka People, the Inter-American Commission of Human Rights, and the State of Suriname, of the Order issued by the Court on 23 November in the case of Saramaka People v Suriname. This 18-page document orders the State to submit by March 30, 2012, “a detailed report on the measures it is undertaking to comply with the reparations that remain pending.” (Among the various measures ordered by
the Court that the State has not yet complied with, the Court mentions the delimitation, demarcation, and granting of collective title over the territory of the Saamaka people; the granting to the Saamaka people legal recognition as having a collective juridical capacity [a legal personality]; removing or amending the legal provisions that impede protection of the Saamakas' collective property; adopting legislative, administrative, and other measures to ensure the right of the Saamaka people to be effectively consulted, and to give or withhold their free, informed, and prior consent with regard to development projects that may affect their territory.) Thereafter, the Order continues, the State must submit a progress report on its compliance every three months. In addition, the Court will convene a private hearing (with the Saamaka People, the Commission, and the State) at a date to be determined in 2012 to consider further action. As of summer 2012, none of these orders have been carried out. The future of Maroons and Indigenous Peoples in Suriname hovers precariously between hope and despair. The country’s economy is booming, led by gold and bauxite mining, new discoveries in offshore oil, and the unquantified but highly lucrative drug trade (and its closely linked money-laundering casino operations). The UN Economic Commission for Latin America and the Caribbean now projects that Suriname will lead all Caribbean nations with a growth rate of 4.5% in 2012. There are no signs that the national government has any plans for its Maroon and Indigenous Peoples other than their assimilation (the sooner the better) into the urban underclass, leaving the country’s forested interior free for extractive industries. In this scenario, Saamakas would be replaced in their traditional territory by Chinese loggers, Brazilian goldminers, and in select locations by wealthy city-dwellers in weekend vacation homes. On the other hand, the Saamaka People and their Maroon and Indigenous neighbors do have the Inter-American Court and potentially the General Assembly of the Organization of American States (and the Inter-American Development Bank) on their side. Will they have the patience, and the leadership, to continue to fight what sometimes seems like an interminable and unequal bureaucratic and legal battle? To succeed, the Saamaka People will need to draw on their proud heritage of three hundred years of collective struggle for self-determination.”

Rick Kearns, “A Kichwa Victory Against Big Oil and Government in New Documentary,” ICTMN, October 10, 2012, http://indiancountrytodaymedianetwork.com/article/a-kichwa-victory-against-big-oil-and-government-in-new-documentary-138753, reports, “The Kichwa people of Sarayaku, Ecuador won two major victories this year: in April, for the first time in their history, the government of Ecuador acknowledged responsibility for illegally licensing an oil company to do business on indigenous territory without the community’s consent; and in July the Interamerican Court of Human Rights (ICHR) ruled that the government must consult with indigenous communities prior to such enterprises and to pay for physical and ‘moral’ damages to the community. The story of the ten year struggle of the Sarayaku community to protect their land from oil companies and illegal government intrusions has been recorded on film by Kichwa filmmaker Eriberto Gualinga of the affected Sarayaku community, in Children of the Jaguar, the winner of this year’s Best Documentary at the 2012 National Geographic All Roads Film Festival held September 27 – 30 in Washington, D.C. The 35-year old filmmaker co-produced the work along with Amnesty International.”

“Vietnam buys into Peru’s controversial oil fields,” Survival International, July 13, 2012, reports, “Vietnamese oil company PetroVietnam has bought a stake in two Peruvian oil blocks in a region known to be inhabited by uncontacted tribes. The company has bought a 52.6% stake in Anglo-French Perenco’s block 67 and 35% of block 39 owned by Spanish company Repsol. Both blocks lie near the Ecuador border in the northern Peruvian Amazon. The European companies have been globally criticized for carrying out damaging oil work in the region despite evidence that uncontacted tribes live there. The Indians could be decimated if oil exploration continues as they lack immunity to diseases brought by outsiders. A 200 km pipeline is planned by Perenco to cut across the Indians’ territory, increasing the devastating possibility of unwanted contact. Perenco denies the uncontacted tribes exist and has repeatedly cited an anthropological report as proof. But in May this year British newspaper The Guardian published evidence that the report had omitted material showing that the tribes are present in the area. now PetroVietnam faces condemnation from Peru’s indigenous organizations who are demanding the right of uncontacted Indians to be left alone.”

A study released by the National Institute for Public Policy on Alcohol and Other Drugs at the University of Sao Paulo found that Brazil is the world’s biggest market for crack cocaine and second, after the U.S. for
all cocaine use. This is important, because increasing smuggling of drugs into Brazil has become a threat to tribal people in border areas ("Crack King," San Francisco Chronicle, September 9, 2012).

“Brazilian judge halts illegal and controversial Amazon dam,” Survival International, August 16, 2012, http://www.survivalinternational.org/news/8595, reports A Brazilian judge has ordered work to be suspended on the highly controversial Belo Monte dam in the Amazon, describing the project’s failure to properly consult the indigenous population affected as ‘illegal’. Following his verdict, the judge said, ‘only in a dictatorial regime does a government approve a project before holding consultations.’ “The Belo Monte dam threatens to devastate large areas of forest and harm fish stocks upon which thousands of indigenous people depend for their survival. No consent was ever given by the local population and widespread protests have made the dam notorious.” In his ruling, the judge acknowledged the company’s failure to follow an international law, ratified by Brazil, which demands consultations of tribal and indigenous people, before work can commence. Norte Energia faces a daily fine of almost $250,000 if it fails to comply with the ruling.” It was expected that the company would appeal.

“Brazilian Indians fear ‘absurd’ setback over land rights,” Survival International, July 25, 2012, http://www.survivalinternational.org/news/8525, reports, Brazilian Indians have expressed their anger and dismay as a newly issued Directive 303 threatens to weaken their control over their lands, and they are contesting the directive, signed by Brazil’s Solicitor-General, that prohibits the expansion of indigenous territories, upon which many tribes depend for their survival. The Solicitor-General’s action is a result of pressure from Brazil’s powerful rural lobby group which includes many politicians who own ranches on indigenous land due to be returned to the Indians. Directive 303 could prove particularly disastrous for the Guarani Indians, many of whom are living in roadside camps or overcrowded reserves while they wait for their ancestral land to be fully mapped out. The text also states that certain projects on Indian land may be carried out ‘independently of consulting the indigenous communities’. This violates Brazilian and international law, and could pave the way for more disastrous dams in indigenous territories in the Amazon. Brazil’s Public Prosecutors’ Office has described the text as ‘absurd’ and ‘unconstitutional’. FUNAI, the Brazilian government’s indigenous affairs department, has requested the Solicitor-General’s office to suspend the directive to allow indigenous peoples to be consulted about its content. Brazilian indigenous organizations, NGOs, and Survival International have called for the directive to be revoked.

“Brazil arrests 18 over high profile execution of Indian leader,” Cultural Survival, July 19, 2012, http://www.survivalinternational.org/news/8502, reports, Brazilian authorities arrested 18 people, in July, in connection with the high profile killing of indigenous religious leader Nísio Gomes by masked gunmen in front of his Guarani community in the state of Mato Grosso do Sul, in November 2011. The list of suspects includes the owner of a notorious security firm which hires out gunmen to patrol areas of land occupied by ranchers. Brazil’s federal police have also linked other prominent suspects to Gomes’s murder, including six ranchers, a lawyer and a civil servant. The charges brought against those arrested include: planning the attack, supplying arms, corrupting witnesses and fraud. Brazil’s Guarani are repeatedly thrown off their land by cattle ranchers and forced to live in dangerous conditions by the roadside or in overcrowded reserves. Assassinations of Guarani leaders by gunmen are also commonplace, in an effort to stop communities returning to their land.

“Full-scale gun attack on Brazilian Indians ends in leader’s kidnap,” Survival International, August 13, 2012, http://www.survivalinternational.org/news/8581, reports, More than 50 gunmen have launched a full-scale attack on a Guarani Indian community in southwest Brazil, shooting, threatening and then reportedly kidnapping one of their leaders, shortly after the Guarani community reoccupied part of its ancestral land, which was occupied by ranchers. “A Guarani spokesman described how 50 gunmen surrounded around 400 Indians, firing shots at them, whilst laughing and shouting, ‘You Indians! Today, not one of you Indians will get out of here alive!’ He says hundreds of shots were fired at the Guarani men, women and children, who fled into the forest to try to escape injury. The Guarani say that one of their leaders, a man in his fifties, was taken by gunmen and put into a car. He has not been seen since but the burnt remains of some of his clothes have been discovered. The shooting stopped hours later, when a police vehicle arrived at the scene. No arrests have been made. The Guarani of Arroio Korá community have been living in makeshift roadside camps, and in overcrowded reserves,
while they wait for the government to map out their land and return it to them. Unable to further endure the appalling living conditions in the camps and reserves, the Guarani decided to march back to their ancestral land on Friday, after two days of traditional prayer and rituals. A community member said on Saturday, ‘We are surrounded by gunmen. They could attack us again. They could kill us all!’”

Brazil’s Guarani Indians announced, in August that they were taking the government of Brazil to the Inter-American Court of Human Rights, over its failure to protect their land, “in light of the delay in mapping out our lands, the violence to which our leaders and communities are exposed and the genocide resulting from the government’s failure to protect us and give us our land back... We will not wait any longer!” The Guarani’s statement also demands better education and health care for the communities. It ends, “We remain united and strong” (“Guarani Indians to take demands to Inter-American Court,” August 7, 2012, http://www.survivalinternational.org/news/8561).

A Brazilian Judge ruled in October that a group of 170 Guarani Indians, who were facing eviction, can remain on a small patch of their ancestral land that they have been occupying on a ranch that was established by invaders of their tribal land, until the land demarcation is complete and the Indians can reoccupy the rest of their territory. In September, a judge has ordered their eviction, following which these Guarani declared in a letter, ‘This ruling is part of the historic extermination of the indigenous peoples of Brazil. We have lost hope of surviving with dignity, and without violence, on our ancestral land... We will all die soon. We want to die and be buried with our ancestors right here, so we ask the government and the justice system not to order our eviction, but to order our collective death and our burial here. We ask, once and for all, for our slaughter to be ordered, and for tractors to dig a big hole for our bodies. We have decided, all together, not to leave here, dead or alive.’ Four Guarani from the community had already died since the reoccupation: two from suicide, and two following attacks by gunmen. FUNAI, Brazil’s indigenous affairs department, which is responsible for mapping out Guarani land, and demarcating it, says it worked to overturn the eviction order. The huge delay in its demarcation program means thousands of Guarani are living in overcrowded reserves and camped on roadsides, with little access to food, clean water and health care. They suffer one of the highest suicide rates in the world: recent government statistics show an average of one Guarani suicide every week for the last ten years. Guarani anthropologist Tonico Benites said, ‘Guarani suicide is happening and increasing as a result of the delay in identifying and demarcating our ancestral land’ (“Kill us all, then bury us here”: desperate appeal of Indians facing eviction, Survival International, October 25, 2012, update October 31, 2012 http://www.survivalinternational.org/news/8767).

“Shell scraps controversial biofuels plan after Brazilian Indian protest,” Survival International, June 13, 2012, http://www.survivalinternational.org/news/8399, reports the biofuels company Raizen, set up in 2010 as a joint venture of Shell and Brazilian ethanol giant Cosan to produce biofuel from sugar cane in Brazil, has scrapped controversial plans to source sugar cane from land stolen from an indigenous tribe after a vociferous campaign by the Indians and Survival International. But some of its sugar cane is grown on land claimed by the Guarani tribe, one of the most persecuted and impoverished in South America. Raizen has agreed to stop buying sugar cane from land declared as indigenous by the Ministry of Justice. Sustained campaigning by Survival, and pressure from Brazil’s public ministry kick-started negotiations between Raizen and FUNAI, Brazil’s Indian affairs department. Raizen also has promised to consult FUNAI, to avoid further investment or expansion in conflict areas that could be recognized as indigenous land in the future. Guarani Indians have welcomed the news. Many of the tribe live in appalling conditions, in overcrowded reserves or camped on roadsides after being forced from their land. Valdelice Veron’s community in Mato Grosso do Sul state is directly affected. Guarani there report that their rivers have been polluted by pesticides used in the plantations. Raizen told Survival, ‘We want to use our withdrawal as a good example for other companies to follow. We are committed to respecting indigenous land declared by the Ministry of Justice.’

“Countdown: Brazil has three months to evict invaders,” Survival International, September 11, 2012http://www.survivalinternational.org/news/8653, reports, Brazil has just three months to evict illegal loggers from land belonging to Earth’s most threatened tribe before it will be in breach of a court order, but Survival International can reveal that logging is still rife inside the territory.” “Last December 9th, a judge ruled that a deadline of one year was ‘sufficient time for non-Indians to be removed, and the constructions
built on Awá land undone.” Later in September, The Awá of Brazil, known as Earth’s most threatened tribe, wrote to the country’s Justice Minister telling him to ‘evict invaders urgently’, as news emerges that their hunting livelihood is being held to ransom by the activities of illegal loggers. Their written appeal coincides with fresh video testimony from an Awá man denouncing the dramatic effects illegal logging is having on his tribe’s ability to hunt. The man, called Piar’ima’a (“Little Fish”), says, ‘Children are crying and they are hungry. Where shall I go to hunt? The loggers are here. We can’t go out alone, the loggers could kill us. ‘There are trucks, chainsaws and cars everywhere. So I don’t go out hunting any more. We stay at home. We are sad we can’t go out into the forest.’ Such restrictions are catastrophic for the Awá’s future. The tribe is one of the world’s few nomadic hunter-gatherer peoples, relying on the forest for their food and survival (“Earth’s most threatened tribe demands help ‘urgently’ amid hunting peril,” Survival International, September 25, 2012, http://www.survivalinternational.org/news/8690). On October 2, 2012, hundreds of Indians, including the Awá protested, blocking the tracks of Vale’s Carajás railway to voice their opposition to Brazilian government plans that could weaken their land rights, if legalized. The action forced the world’s largest iron ore mine to suspend operations along its main railway line. The demonstration followed months of anger surrounding a draft text called Directive 303, which prohibits the expansion of indigenous territories. The government has refused to scrap the proposed directive, despite it violating national and international laws by suggesting certain projects can be carried out on Indian land without proper consultation. The blockade is the latest in a string of controversies to involve mining giant Vale, whose railway borders the territory of the Awá. In September, a judge reversed a ruling that had stopped the company from doubling its railway line to increase production. The decision was a blow for the Awá, who blame the railway for bringing thousands of invaders into their lands and scaring off the animals they hunt (“Blockade by Earth’s most threatened tribe paralyzes railway,” Survival International, October 4, 2012, http://www.survivalinternational.org/news/8722; and “Judge halts rail project close to Earth’s most threatened tribe,” Survival International, August 2, 2012, http://www.survivalinternational.org/news/8549).

“Brazilian Federal Supreme Court Overrules Decision to Suspend Removal of Invaders from Xavante Lands,” Cultural Survival, October 22, 2012, http://www.culturalsurvival.org/news/brazilian-federal-supreme-court-overrules-decision-suspend-removal-invaders-xavante-lands, reports that the President of Brazil’s Federal Supreme Court (STF), Minister Carlos Ayres Britto, overruled the decision to suspend the removal of illegal occupants from the Xavante Territory of Marawàitsede, October 18, 2012. “Tserewamriwe, a leader from Marawàitsede, applauded the decision and stated, “Because of our struggle, the [court] decided in our favor. Now we want to recuperate all that was lost: our roots, our trees and animals. We will plant our gardens to nourish our families.” Since 1998, when the Brazilian state definitively recognized Xavante’s legal right to the Marawàitsede Indigenous Territory, Xavante have been engaged in a continuous fight for this land. Xavante have not been able to fully recoup and occupy this territory. They have been prevented by land grabbers who aggressively intruded into the area, deforested large tracts and established infrastructure, such as roads, fences, and settlements, including a town known as Posto da Mata. Legal suits filed by powerful interests have obstructed justice by tying up the case in the courts for years.” Cultural Survival reported earlier, that armed invaders stepped up their occupation of the Xavante territory of Marawàitsede, on June 23, 2012, after digging trenches in the highway and burning bridges to prevent access to nearby towns, in an attempt to prevent Xavante from attaining the final step for legal recognition of their rights to Marawàitsede (Laura R. Graham, “Ranchers Arm Land Invaders to Prevent Xavante from Recouping Lands in Brazil,” Cultural Survival, June 27, 2012, http://www.culturalsurvival.org/news/ranchers-arm-land-invaders-prevent-xavante-recouping-lands-brazil).

“Police arrest illegal gold miners in Brazil’s Yanomami territory,” Survival International, July 18, 2012, http://www.survivalinternational.org/news/8498, reports, After years of protests by Brazil’s Yanomami about the devastating impact on them of mining, and numerous failed efforts by authorities to stop illegal mining, a year long investigation has led to the arrest of 26 goldminers, and the confiscating of their gold, motor boats, dredging equipment, firearms and several light aircraft. The police also uncovered five criminal groups that were allegedly funding the goldmines. Those involved include local pilots, businessmen and jewelers. One group of miners was operating near a community of uncontacted Yanomami. A spokesman for
FUNAI, the government’s indigenous affairs department, told a local newspaper that, ‘There was a risk of genocide due to the pressure from the miners. We already have information about confrontations between Indians and miners.’ Over the years, the illegal mining has had a devastating impact on the Yanomami. The dredges have destroyed the river beds, and the mercury used to separate the gold has contaminated fish and drinking water. The miners have brought in diseases to which many remote communities have little or no resistance, and have attacked some Yanomami. Previous operations in the territory have failed to stop illegal goldmining. This time, a spokesman for the federal police said they hoped to ‘cut off the economic motor’ of the miners by targeting those funding them.

“Revealed: secret agenda of ranchers to steal uncontacted tribe’s land,” Survival International, July 21, 2012, http://www.survivalinternational.org/news/8541, reports, “Ranching firms are destroying the land of Paraguay's uncontacted tribes. The secret agenda of a huge ranching firm in Paraguay has been exposed by satellite photos showing a newly-constructed reservoir. The reservoir reveals the firm’s intention to clear nearby forest belonging to an uncontacted tribe. In a pattern characteristic of the Chaco region, landowners first build large water containers before clearing tracts of forest for livestock. Carlos Casado SA’s construction of the reservoir puts neighboring Indians, especially uncontacted Ayoreo, in immediate danger. The hunter-gatherer tribe relies on the forest for its survival. Ayoreo organization OPIT has called on Paraguay’s Ministry of Environment to step in and prevent such illegal deforestation.”

“Paraguay’s government confirms Spanish tycoon’s company acted illegally,” Survival International, August 23, 2012, http://www.survivalinternational.org/news/8605, reports, “Accusations that a ranching company owned by one of Spain’s richest men illegally bulldozed forest inhabited by uncontacted Indians have been upheld by the Paraguayan authorities. The company, Carlos Casado SA, is owned by Spanish construction and property giant Grupo San José. Jacinto Rey González is President of both companies, and controlling shareholder of Grupo San José. Earlier this month Survival revealed that Paraguayan authorities had mounted a raid on Carlos Casado’s estate, discovering a huge amount of unauthorized forest clearance. The rapidly shrinking island of forest is the last refuge of uncontacted Ayoreo Indians, who are known to be hiding there. Grupo San José has denied all knowledge of Casado’s activities. Carlos Casado denied that any illegal works have been carried out. In a statement on their website, the company’s vice-President, Diego Eduardo León, said, ‘[We] categorically deny carrying out any unauthorized deforestation in Paraguay’. However, a letter from Paraguay’s Environment Ministry to an Ayoreo organization confirms both that works such as reservoir construction and road-building have been carried out by the firm, and also that they do not have the required permission.” In October 2012, it was revealed that Diego Eduardo León is the vice-President and acting Chairman of South American ranching company Carlos Casado, which is majority-owned by Spanish construction giant Grupo San José, was linked to a scandal involving forged signatures of in Paraguay, on a document providing permission to bulldoze an access road through Ayoreo land. Carlos Casado ‘owns’ a large area of land inside the territory of Paraguay’s Ayoreo-Totobiegosode Indians. The company was already under investigation by local authorities for clearing land without the necessary permits (“Company boss named in forgery probe linked to Spanish construction giant,” Survival International, October 9, 2012, http://www.survivalinternational.org/news/8733).

“Good News - Chile: Partner Suspends Plans for Dam,” Cultural Survival, July 11, 2012, http://www.culturalsurvival.org/news/good-news-chile-partner-suspends-plans-dam, reports, “In a major win for Chileans, one of the two corporations behind the HidroAysén mega-dam project has announced it will indefinitely suspend plans to continue with the project in the Aysen region of Chilean Patagonia, reported the National Resource Defense Council last month. Cultural Survival's Global Response program launched a campaign in 2008 to protect two of Patagonia's pristine rivers from five mega-dams that would lay waste to one of the world's last unspoiled regions and flood thousands of acres of wildlife habitat. This is a cause for celebration for the seventy-two percent of Chileans who oppose the dams and 1,200 mile long transmission line. However, we have no guarantee that progress on HidroAysén will not resume at a later date, unless Chilean President Piñera cancels the project for good.” Cultural Survival, in July, was urging people to visit NRDC's web page and send an email encouraging Piñera to overturn HydroAysén's approval. For more information go to: NRDC: http://www.savebiogems.org/patagonia/ , and BBC: http://www.bbc.co.uk/news/world-latin-america-17620307).
Simon Romero, “Slow-Burning Challenge to Chile on Easter Island.” The New York Times, October 6, 2012, http://www.nytimes.com/2012/10/07/world/americas/slow-burning-rebellion-against-chile-on-easter-island.html?ref=todayspaper, reports, “Inspired by other parts of Polynesia that have obtained a considerable degree of political autonomy or are in the process of seeking independence, leaders of the Rapanui people are mounting a slow-burning rebellion against Chile. Their movement on the island — which they call Rapa Nui, not Easter Island — presents a unique test for a Latin American country: quelling a challenge to its rule in the middle of the South Pacific.” “Newcomers from mainland Chile, which is almost twice that distance in the other direction, are fueling a sharp increase in Easter Island’s population, increasing it by 54% to 5,800 over the last decade. Continentals, as mainland Chileans are called here, now slightly outnumber Rapanui on the island, at about 3,000 to 2,800, according to the mayor, Luz Zasso Paoa. Protests here have crystallized around the thwarted efforts by one prominent Rapanui clan, the Hitorangi, to reclaim land on which a luxury hotel was recently completed. But other sources of ire among the Rapanui have also emerged, including bitterness over privileges like subsidized housing that have been extended to some mainland Chileans, competition for jobs in the lucrative tourism trade and the mainland’s control over the island’s affairs.” “But unresolved disputes over land and sovereignty, between the Rapanui and continentals — and even among some of the Rapanui themselves — are clouding this superficially easygoing outpost. Rather than subjugating the autonomy movement, the crackdowns seem to have added to the resentment here, with the Rapa Nui Parliament now taking its fight to the courts by filing a lawsuit on the mainland this year seeking independence. The group says the island’s annexation, under an 1888 treaty, was made illegitimate by Chile’s inequitable administration of it, including the removal of Rapanui from ancestral lands, their forced confinement to the town of Hanga Roa and the leasing of almost the entire island for decades to the Williamson-Balfour Company, a Scottish sheep-ranching concern.”

Chevron had not yet paid any of $19 billion judgment against it in Ecuador, for massive contamination of the country’s northern Amazonian region, home to 30,000 indigenous peoples and farmers, as of December, 2012, so the plaintiffs in that case shifted their struggle to the international stage, earlier in fall 2012. On November 7, 2012 Judge Elcuj Miranda of the Commercial Court of Justice in Buenos Aires, Argentina froze the close to $2 billion worth of assets that Chevron holds in that country. The plaintiffs are pursuing a similar strategy in Brazil and, on November 28, they sought a judicial order in Ontario, Canada to obtain Chevron assets in that country. Funds covered by the November 7th freeze include 100% of Chevron's capital in Argentina, all dividends, all of Chevron's stake in pipeline operator Oleoductos del Valle SA, 40% of Chevron's oil sales to Argentine refineries, and 40% of the money Chevron has deposited in Argentine banks. The rainforest communities have been able to file this suit in Buenos Aires as Argentina is one of the signatories, along with Ecuador, to the Inter-American Convention on the Execution of Preventative Measures. That treaty includes a provision to freeze assets of a defendant that fails to abide by the law and refuse to pay a judgment in the respective country. The other nations that signed and ratified the treaty were Colombia, Peru, Paraguay, Guatemala and Uruguay (Rick Kearns, “Chevron Assets Frozen in Argentina as Part of Amazonian Lawsuit,” ICTMN, December 1, 2012, http://indiancountrytodaymedianetwork.com/article/chevron-assets-frozen-argentina-part-amazonian-lawsuit-146030).

David D. Kirkpatrick, “Libya Struggles to Curb Militias, the Only Police,” The New York Times, October 13, 2012, http://www.nytimes.com/2012/10/14/world/africa/libyan-government-struggles-to-rein-in-powerful-militias.html?ref=todayspaper, reports, “A month after the killing of the American ambassador ignited a public outcry for civilian control of Libya’s fractious militias, that hope has been all but lost in a tangle of grudges, rivalries and egos. Scores of disparate militias remain Libya’s only effective police force but have stubbornly resisted government control, a dynamic that is making it difficult for either the Libyan authorities or the United States to catch the attackers who killed Ambassador J. Christopher Stevens. Shocked by that assault, tens of thousands of people filled the streets last month to demand the dismantling of all the militias. But the country’s interim president, Mohamed Magariaf, warned them to back off as leaders of the largest brigades threatened to cut off the vital services they provide, like patrolling the borders and putting out fires.”
“Outrage as World Bank funds power lines linked to controversial dam,” Survival International, July 10, 2012, http://www.survivalinternational.org/news/8483, reports, “Human rights organizations, including Survival and Human Rights Watch, have fiercely criticized a decision by the World Bank to fund power lines in Ethiopia linked to the controversial Gibe III dam. The newly-approved project will help transport power generated by a notorious hydroelectric dam in southern Ethiopia, to Kenya’s power grid. Ethiopia’s controversial Gibe III dam is expected to be complete by 2014, but the devastating social and environmental consequences of its construction are generating widespread opposition. The decision to help back such a controversial project violates World Bank guidelines on safeguarding indigenous peoples’ rights and involuntary resettlement. More than 200,000 indigenous people in the Lower Omo Valley stand to have their livelihoods and food security destroyed by the dam. Water levels are already unprecedently low and are devastating the self-sufficiency of pastoralist tribes such as the Bodi and Mursi and the hunter-gatherer Kwegu. Added to this, violent land grabs, forcible resettlement and human rights abuses are rife in the Lower Omo, as the government clears land to make way for lucrative sugarcane and cotton plantations irrigated by the newly-dammed river. Violent land grabs in the Lower Omo are forcing tribes such as the Mursi from their villages. Ethiopia has failed to consult any indigenous communities over the construction of Gibe III or its aggressive plantation plans, which are devastating the Lower Omo Valley, a UNESCO World Heritage site. The dam will also affect many tribal communities across the border near Kenya’s Lake Turkana, the world’s largest desert lake. Survival’s Director Stephen Corry said today, ‘The electrical needs of Kenya and Ethiopia should not be used to justify such flagrant human rights abuses. This is yet another ill-fated project supported by the World Bank, which will destroy the lives of hundreds of thousands of people. These are some of the most self-sufficient communities in the Horn of Africa, and yet their human rights are being openly trampled on by an organization that ought to have learnt from history, rather than repeat the mistakes of the past.’” Earlier in July, Survival received disturbing reports from members of several tribes in Ethiopia’s Lower Omo Valley, which describe how the government is destroying their crops and confiscating cattle to force them to move off their land into designated resettlement areas (“Hunger – Ethiopia’s new weapon to force tribes off their land,” Survival International, July 11, 2012, http://www.survivalinternational.org/news/8467; and “Land grabs in Ethiopia leave tribes hungry on World Food Day,” Survival International, October 16, 2012, <http://survivalinternational.us1.list-manage.com/track/click?u=b14580b05b832fb959c4ee444&id=f75add7389&e=CqQTrZoCrQ> http://www.survivalinternational.org/news/8751).

“Campaign Update - Ethiopia: Farmer to Take UK to Court Over Links to Abuse,” Cultural Survival, September 10, 2012, http://www.culturalsurvival.org/news/campaign-update-ethiopia-farmer-take-uk-court-over-links-abuse, reports, “The Ethiopian government leased the homelands of these Anuak women to an Indian company, Karuturi Global Ltd, and moved them to a village where there is no land for farming. An Ethiopian farmer could sue the British government after being evicted violently from his home as part of a villagization project that receives funding from a UK development institution. The farmer, who is using the pseudonym “Mr. O,” is from Gambella, Ethiopia, where 1.5 million people are being forcibly resettled to make room for massive land acquisitions by foreign agricultural companies. Part of a worldwide trend in what is known as “Land-grabbing” the land is being used to grow food mainly for export to wealthy countries. Cultural Survival launched a campaign last February to stop the abuse of the Indigenous peoples in Gambella who have traditionally occupied this land for generations. Mr. O, a father of six children, told lawyers at London firm Leigh Day & Co that his family was forced from their farm in November 2011 by soldiers from the Ethiopian National Defense Force (ENDF). The family was made to resettle in a new village where they were given no replacement farmland, food, or water and could not earn enough money to live. When he tried to return to his former home, he claimed he was hit repeatedly with a rifle butt and taken to a military camp by ENDF soldiers, then gagged and subjected to further beating. The lawyers say the project receives funding from the UK Department for International Development (Dfid) through the Ethiopian Protection of Basic Services program. The law firm has asked the International Development Secretary of the UK, Justine Greening, for the release of several documents and further information about the role of Dfid in the villagization process. Rosa Curling, from the Leigh Day & Co team representing Mr. O, said the government has "a responsibility for transparency", as reported by the BBC. "The UK spends a considerable amount of money on international aid and Dfid has a responsibility to ensure that this money does not contribute in any way to human rights abuses such as the ones suffered by our
client," explained Curling. Ethiopia receives more foreign aid than any other country in Africa, more than 3$ billion a year, this aid mostly comes from the U.S. and the U.K."

Campaign Update – Cameroon: Protests Show Dissent on Palm Oil Project,” Cultural Survival, August 15, 2012, http://www.culturalsurvival.org/news/campaign-update-cameroon-protests-show-dissent-palm-oil-project. Reports, “Two local protests broke out in the Southwest region of Cameroon this summer in opposition to the New York based company Herakles’ Farms, who have already planted nurseries for their proposed palm oil plantation. In the village of Fabe, one of the communities hosting a nursery, a revolt was staged against the company. Protestors blocked the entrance to the nursery, telling workers that they had put a curse on the seedlings, scaring off all the workers. In an in-depth report, Reuters interviewed the local chief from Fabe who has been accused of corruption for his cooperation with Herakles. Although the village chief Wangoe Philip Ekole says he believes the project will bring jobs and wealth, Many of his 200 or so subjects accused him of seeking to enrich himself through the project. Some even disowned him as their leader. In another event, a community in the Ndian Division held peaceful demonstrations against the project, during the visit of the Governor of the Southwest Region. Despite peacefully organizing, local administrators made arrests for not having advised of the protest in advance. Local activists Nasako Besingi said protests held in June in Fabe and other villages in the concession suggest many locals do not want the plantation. He reported that over 10 police summons have been served against opponents since late May. Reuters interviewed another local leader, deputy mayor of Mundemba, Peter Okpo wa Namolongo, who said the last thing he wants is more palm, in a country that is already crowded with palm oil plantations. "We don't lack palm oil. Shall we not also have space for our family? We have children to feed," said Namolongo…We are tired of palms, palms, palms." Herakles conducted a survey of village attitudes to the project in late 2010, along with armed guards due to their security concerns. The company later acknowledged that "may have influenced some of the participants in their responses." Subsequent meetings to allow locals to comment on Herakles' environmental assessment for the project were held at the height of the rainy season last year, when it is extremely difficult to travel. "It was improper to organize public hearings during that period when you know people will find it difficult to get to Mundemba," said Malle Adolf, a lawyer who has filed suit against the company. For Herakles, the ambiguity of their free, prior, and informed consent from the community and shoddy environmental impact study casts shadows on their claims to sustainability and respect for the Indigenous peoples whose land they occupy. It also puts their project at risk for being denied approval from the Roundtable on Sustainable Palm Oil, a certification they need.” In early September, Herakles Farms withdrew their application to the Roundtable on Sustainable Palm Oil (RSPO) for their palm oil plantation in the Southwest region of Cameroon, after a coalition of environmental and human rights groups submitted a complaint to the RSPO citing that the oil palm plantation would cause irreparable deforestation and damage to wildlife, as well as depriving the local indigenous communities of their livelihoods. The RSPO is a group that certifies palm oil plantations as fulfilling rules for basic environmental sustainability and responsibility towards stakeholders. Denying the allegations, Herakles said in its letter of withdrawal to the RSPO, its decision to withdraw is due to a need to move forward with planting seedlings from the nursery to the field. RSPO certification would have disallowed Herakles from the clear-cutting of biodiverse and wild-life rich forests, known as high conservation value forests or HCV. They would also be tied to maintain safeguards for workers, adhere to the UN Declaration on the Rights of Indigenous Peoples by consulting with local stakeholders over project, and take measures to reduce pollution. The company’s withdrawal indicates their interest in avoiding deep investigation into their practices, to avoid a negative assessment by the widely accredited RSPO. By September 2012, the local communities’ documented opposition to the project was growing. For months, Herakles had been claiming to have “huge support from local communities”; but the affected people on the ground have said otherwise (“Campaign Update – Cameroon: Herakles Withdraws from Sustainability Certification,” Cultural Survival, September 5, 2012, http://www.culturalsurvival.org/news/campaign-update-cameroon-herakles-withdraws-sustainability-certification).

Edward Wong, “Tibetan Protesters Injured in Crackdown; Self-Immolations Continue,” November 27, 2012, http://www.nytimes.com/2012/11/28/world/asia/tibetan-protesters-injured-in-crackdown-self-immolations-continue.html?ref=todayspaper, reports, “At least five Tibetans have set fire to themselves in recent days to protest Chinese rule in Tibetan regions, while at least five Tibetan students were in critical condition and 15 others were being treated for injuries after security forces cracked down on a large protest in western China on Monday, according to reports by Radio Free Asia and Free Tibet, an advocacy group. The protest took place in an area of Qinghai Province that the Chinese call Hainan Autonomous Prefecture, and that Tibetans call Tsolho. More than 1,000 Tibetans, mostly students and teachers, took to the streets to demand equal rights for ethnic minorities and the freedom to study and use the Tibetan language.”

In Cambodia, Indigenous and environmental activists have been under government repression. “Campaign Update– Cambodia: Activists in Cambodia Under Threat,” Cultural Survival, September 21, 2012, http://www.culturalsurvival.org/news/campaign-update-cambodia-activists-cambodia-under-threat, reports, “Activists in Cambodia are feeling the heavy hand of the government. Threats, intimidation and, in extreme cases, even murder have been occurring in the country. The killing of environmental activist Chut Wutty, the arrest of Beehive radio director Mam Sonando on secessionist charges and the imprisonment of the “Boeung Kak 13” were among the worst examples of a system becoming increasingly intolerant of those questioning their government, unwilling to allow challengers to have a voice. In a forum recently held by the Cambodian Centre for Human Rights, an analysis was provided that found 15 human rights activists, land activists, politicians and policy reformers have been killed in suspicious circumstances since 1990, and 1,440 have been charged with a crime. Yi Sok San, deputy director in charge of land affairs at the rights group Adhoc, said freedom of expression was also being stifled in the media – where it was of vital importance. “We have an abundance of media such as newspapers, radios and TV, but how many of them reveal what’s really going on?” he said. Boeung Kak representative Tep Vanny, one of 13 women sentenced to two and a half years in prison in May over a land protest but released in June, said residents fighting against eviction were considered thorns in the authorities’ side rather than being seen as having rights. The Prey Lang Forest Network has been advocating for land rights and the right of the Indigenous Kuy people for some time now. They have faced many oppressive situations and have even been threatened and told that the police will not protect them from the companies destroying their forest. “Campaign Update– Cambodia: Court Drops Case in Killing of Activist Chut Wutty,” Cultural Survival, October 10, 2012, http://www.culturalsurvival.org/news/campaign-update-cambodia-court-drops-case-killing-activist-chut-wutty, reports, “Koh Kong provincial court has dropped the case in the murder of environmental activist Chut Wutty. Chut Wutty was killed a jungle checkpoint in the province in April, as he was escorting two journalists to look into illegal logging and the potential harvesting of a vine for drug production. Authorities had arrested one man and accused him of accidentally killing a military policeman who they said had just shot Chut Wutty. However, rights groups have said the scenario laid out by police was improbable and that his death should be better investigated. ‘The court will not take action on Chut Wutty’s murder case,’ said In Kong Chit, rights coordinator for Licadho in Koh Kong.” “The decision was another blow to the reputation of Cambodia’s beleaguered court system, which is widely viewed as beholden to powerful political and business interests. It comes on the heals of a 20-year prison sentence for Beehive Radio owner Mam Sonando, who has been accused of helping foment a secessionist movement in Kratie province. On Virak, head of the Cambodian Center for Human Rights, said the evidence in Mam Sonando’s trial was much weaker than in Chut Wutty’s murder case, demonstrating the unfair nature of Cambodia’s judiciary.

homes were burned and more than 200,000 people fled their homes to relief camps. On July 26, Assam’s chief minister, Tarun Gogoi, met with Bodo and Muslim leaders in an effort to defuse tensions and restore peace, while the federal government ordered more troops to be sent to three worst-hit districts, Kokrajhar, Dibrugarh and Chirang.

“Indian islands challenge Supreme Court move to end ‘human safaris’,”” Survival International, July 24, 2012, http://www.survivalinternational.org/news/8517, reports, “A ruling by India’s Supreme Court which would have drastically curtailed the notorious ‘human safaris’ in the Andaman Islands is being ignored by the islands’ authorities.” In early July, India’s Supreme Court imposed a 5-kilometer buffer zone around the Jarawa Reserve, to help reduce the exploitation of the tribe by tourists. The ruling puts an end to tourist resorts near the Reserve, and closes other commercial attractions such as the Islands’ mud volcano and limestone caves. However, after more than two weeks on, the volcano and caves remained open. Activists have welcomed the ruling, even though it did not close the Andaman Trunk Road (ATR) that runs through the Reserve, it would significantly reduce the amount of traffic using it. At least 250 vehicles use the road through the Reserve on a daily basis, and many are tour operators, transporting visitors from the south of the islands. “If enacted properly, the new buffer zone will significantly minimize the number of tourists on the road, as there will be little reason for tour operators to use the ATR. However, the Andaman administration is refusing to close the volcano and cave sites, having appealed for the Supreme Court to exclude them from its recent order. The Andaman administration has now filed a plea to the Supreme Court for an eight-week suspension period so it can submit plans for a new buffer zone. It is believed that these will not include the cave and volcano. Survival’s Director Stephen Corry said today, ‘The Supreme Court missed an opportunity by leaving the ATR open – the main artery to India’s ‘human safaris’. However the decision to close the caves and mud volcano is a positive step and would deny tour operators the chance to run human safaris by stealth. If the mud volcano and limestone caves remain open, hundreds of tourists will continue to drive through the reserve every day ogling at the Jarawa. The Andaman administration must demonstrate its commitment to ending these tours by closing the cave and volcano.’”

“Victory: Vedanta to close Orissa refinery,” Survival International, September 13, 2012, http://www.survivalinternational.org/news/8670, reports, “Supporters of India’s Dongria Kondh tribe are celebrating after controversial British mining company Vedanta Resources declared it will close its bauxite refinery in the state of Orissa, this December. The news is a major breakthrough for the tribe, who have fought a David and Goliath battle against Vedanta’s plans to extract bauxite from their land.” The Lanjigarh refinery sits at the base of the Dongria Kondh’s Niyamgiri Hills, which are home to the 8,000-strong tribe, and the seat of their god Niyam Raja. The company has spent more than one billion US dollars expanding the site without securing all the required clearances, as well as knowing it was unable to source enough bauxite to run the refinery at capacity.” “Opposition to Vedanta’s push to mine the mountains has embroiled the company in a near decade-long dispute, and forced the Lanjigarh refinery to be run with bauxite from different mines across India. A Vedanta spokesman claimed this has cost the company half a billion dollars. Survival International’s Director Stephen Corry said today, ‘When we started our campaign for the Dongria Kondh, we were repeatedly told it was a hopeless case and the mine would be built. It hasn’t been. The infrastructure is rusting away and now Vedanta says it will shelf its refinery. This is a fantastic vindication of the tribal people’s determination to keep the lands which are rightfully theirs, and the pressure brought to bear by thousands of their and our supporters around the world. Public pressure is the only thing which can save tribal peoples in the long-term, and it works.’”

United to End Genocide reported, November 13, 2012, that there have been escalating s on the Rohingya in western Burma, warning, “Ethnic and religiously motivated violence, burning of homes, and hateful rhetoric seen in recent days are ominous warning signs of genocide in Burma. Two major outbreaks of violent attacks have claimed the lives of more than one hundred Rohingya people in Rakhine State in Burma. Entire villages have been burned and over 100,000 displaced. An entire people are under attack not because of what they have done but because of who they are.” “While initial attacks in June could be described as communal violence between the Muslim Rohingya and Buddhist Rakhine, those attacks have devolved into systematic violence targeting the Rohingya. These attacks are taking place with a mixture of implicit and blatant support from the military-backed government in Burma. Burma’s President, Thein Sein, has responded by fomenting hatred against the Rohingya community. He has even asked the United Nations to help him ethnically cleanse Burma by forcing 800,000 Rohingya people out of their home villages and into refugee camps or out of the
country altogether! **Warning signs of potential genocide are rampant.** Rakhine monks are using language reminiscent of the hateful propaganda directed at the Tutsi population and their sympathizers in the lead up and during the Rwandan genocide. And in renewing calls for the expulsion of the Rohingya from Burma, several prominent Rakhine monks have called on Rakhines to expose Rohingya sympathizers as national traitors, opening them up to violent attacks.” United to End Genocide was engaged in a campaign, in November, demanding that “President Obama act quickly and forcibly to ensure the safety of the Rohingya and all those at risk of sectarian violence and ethnic cleansing in Burma. President Obama has just announced plans to visit the very leaders who want to ethnically cleanse Burma of the Rohingya even as the conditions that led to two major outbreaks of violence worsen. Instead of traveling to Burma to normalize diplomatic relations with the Burmese government, President Obama should be leading a call for an end to the violence and a robust international response. Instead of tolerating the military dominated government, President Obama should be speaking out against their refusal to protect the Rohingya minority.” “The response from the United States and the international community to the violence against the Rohingya has been wholly inadequate. The conditions that led to two major outbreaks of mass killings are getting worse. Greater loss of life and displacement are a certainty without a change of course.” For more information go to: [http://action.savedarfur.org/site/R/?i=imlmtULay1Ebhe4DPr7t1Q](http://action.savedarfur.org/site/R/?i=imlmtULay1Ebhe4DPr7t1Q), or see: Thomas Fuller, “Ethnic Hatred Tares Apart region of Myanmar, *The New York Times*, November 30, 2012).

**Myanmar security forces, in late November, used fire bombs to break up a large protest by villagers and Buddhist monks who have been objecting to the expansion of a copper mine, causing considerable injury** (Thomas Fuller, “Myanmar Uses Fire Bombs To Break Up Mine Protest, *The New York Times*, November 30, 2012).

**ICG, Indonesia: Dynamics of Violence in Papua,** Asia Report N°232, August 9, 2012, [http://www.crisisgroup.org/en REGIONS/ASIA/SOUTH-EAST-ASIA/INDONESIA/232-INDONESIA-DYNAMICS-OF-VIOLENCE-IN-PAPUA.aspx?utm_source=indonesiaemail&utm_medium=execsum&utm_campaign=mremail](http://www.crisisgroup.org/en REGIONS/ASIA/SOUTH-EAST-ASIA/INDONESIA/232-INDONESIA-DYNAMICS-OF-VIOLENCE-IN-PAPUA.aspx?utm_source=indonesiaemail&utm_medium=execsum&utm_campaign=mremail), comments, “A spate of violence in Papua in May and June 2012 exposed the lack of a coherent government strategy to address this multidimensional conflict. Shootings of non-Papuans in the provincial capital Jayapura in June, likely involving pro-independence militants, were followed by the death of one of those militants at police hands, highlighting the political dimension of the problem. In Wamena, a rampage by soldiers after the death of a comrade shows the depth of distrust between local communities and the army, and the absence of mechanisms to deal with crises. The shooting of five Papuans by newly arrived members of a paramilitary police unit (Brigade Mobile, Brimob) in a remote gold-mining area of Paniai highlights the violence linked to Papua’s vast resource wealth and rent-seeking by the security apparatus with little oversight from Jakarta. While these events are still under investigation, they signal that unless the Yudhoyono government can address these very different aspects of the conflict, things may get worse. An overhaul of security policy would help. Two factors are driving much of the violence: a wide range of Papuan grievances toward the Indonesian state and a security policy that seems to run directly counter to the government’s professed desire to build trust, accelerate development and ensure that a 2001 special autonomy law for Papua yields concrete benefits. To date the law has failed to produce either improvement in the lives of most Papuans or better relations with the central government. Its substance has been frequently undercut by Jakarta, although provincial lawmakers also bear responsibility for failing to enact key implementing regulations. One of the last measures to prompt accusations in Papua of Jakarta’s bad faith was the 2011 division into two of the Papuan People’s Council (Majelis Rakyat Papua, MRP), an institution set up under the law to safeguard Papuan values and culture that was supposed to be a single body, covering all of Papua. In many ways the MRP was the keystone of special autonomy but it has been plagued by problems since its much-delayed establishment; the division, with Jakarta’s active endorsement, has further reduced its effectiveness. These problems would be hard enough to manage if Papua had functioning political institutions, but it does not. An ineffectual caretaker governor appointed in July 2011 has left the Papuan provincial government in limbo. Meanwhile, the organization of a new election has been stymied by a provincial legislature that has focused most of its energy on blocking the former governor from running and vying in national courts with the local election commission for control over parts of the electoral process. The picture is just as grim at district level. This leaves the central government without an engaged partner in Papua, and Papuans without a formal channel for conveying concerns to Jakarta. The role of a new policy unit – the Unit for Accelerated Development in Papua and West
Papua, known by its Indonesian abbreviation of UP4B – established in September 2011, increasingly appears limited to economic affairs, where it will struggle to show visible progress in the short term. Hopes that it might play a behind-the-scenes political role in fostering dialogue on Papuan grievances are fading, as it becomes increasingly clear that dialogue means different things to different people. Efforts to hammer out some consensus on terms and objectives have been set back by the violence, as the government is reluctant to take any steps that might be perceived as making concessions under pressure. The challenge for the government is to find a short-term strategy that can reduce violence while continuing to work out a policy that will bring long-term social, economic and political benefits and address longstanding grievances. That strategy must involve clear and visible changes in the administration, control and accountability of both the police and military. The security apparatus is not the only problem, nor are police and soldiers always the perpetrators of violence; many have been victims as well. But they have come to symbolize everything that has gone wrong with Jakarta’s handling of the Papuan conflict. It therefore follows that a change in security policy is the best hope for a “quick win” that can transform the political dynamics and halt the slide toward further violence.”

**ICG recommends: To the Government of Indonesia:**

1. Develop a more integrated policymaking mechanism on Papua at the national and provincial levels to ensure that: a) programs designed to deliver concrete benefits to Papuans and build trust are not inadvertently undercut by decisions or actions taken in home affairs or by intelligence and security agencies; b) a more unified security reporting mechanism is created under the Papuan regional police commander to ensure that elements of the military and intelligence apparatus do not undertake operations that report only to Jakarta and are not coordinated with other relevant authorities in Papua. c) strict oversight of programs is not restricted to the development sphere but encompasses security policy, including examination of income-generating programs of the security forces; and d) Papuan perspectives are included, either by participation of elected governors or the head of the MRP.

**To the Indonesian National Police:**

2. Improve dissemination of and training in Police Regulation No8/2009 on Implementation of Human Rights Standards and Principles in Carrying Out Police Tasks, with particular attention to: a) Article 10(e) prohibiting any form of torture and inhumane or humiliating treatment, even in the face of an order from a superior or extraordinary circumstances; b) Article 10(f) guaranteeing the health of those in custody and providing medical care as needed; c) Article 10(g) prohibiting corruption and abuse of authority; d) Article 17 on procedures for arrest; e) Article 40 prohibiting police from acting in a way that generates antipathy in the community, including by asking for unauthorized fees and covering up mistakes; f) Articles 42-44 on protecting human rights in a situation of mass unrest; and g) Articles 45-49 on use of firearms, particularly the provision that non-violent methods should always be used first and firearms should only be used in a way that is proportional to the threat faced. 3. Review policy on use of live ammunition with a view to restricting its use to specific situations and ensuring an adequate supply of non-lethal equipment for handling civil unrest. 4. Ensure that police are fully equipped with protective body equipment when assigned to insecure areas or when facing civil unrest so as to reduce the incentive to shoot first. 5. Reassess training needs, to ensure that anyone posted to a particular kabupaten (district) in Papua receives a thorough and detailed briefing from those who have served in the area about local conditions, conflict dynamics and relations with local government and community leaders, and that anyone finishing a tour of duty undergoes an equally thorough debriefing so that knowl-edge and lessons learned can be institutionalized. 6. Redesign allowances and incentive structures so that police are rewarded rather than penalized for taking posts in isolated and difficult areas and encouraged to build stronger links with local communities.

**To the Indonesian National Army and the Indonesian National Police:**

7. Make a clear commitment to ending impunity for inappropriate use of force and torture and to enforcing more credible sanctions against individuals responsible for such behavior in a visible and public manner so that Papuans can see that justice is being done. 8. Ensure in particular that there is a policy – rigorously implemented – of zero tolerance that begins in police and military academies for kicking, beating with any instrument including rifle butts or other forms of physical violence in the course of detention, interrogation or on-the-spot punishment for alleged offences. 9. Make clear that “emotion” can never be used to justify excessive use of force, especially in reacting to attacks by Papuan groups. 10. Provide more systematic oversight and scrutiny of income and expenditures in district and sub-district-level commands, particularly in those close to mining sites, with a view to ending illegal levies on the trans-portal goods and services.

**To the Unit for Accelerated Development in Papua and West Papua (UP4B):**

11. Work with the provincial and district-level governments in Papua as well as ministries at national level to identify gaps in implementation of special autonomy legislation and develop strategies for addressing them.

**To the National Elections Commission (KPU):**

12. In light of the Constitutional Court’s upholding of the practice of voting by acclamation (using the noken system), work with the provincial-level elections commission (KPUD Papua) to
develop clear guidelines that will ensure tabulating these votes includes at least minimum standards against electoral fraud and conduct increased voter education efforts accordingly. **To Papuan Provincial Legislators and the Elected Governor (when one is in place):** 13. Give top priority to enacting the some two dozen regulations necessary to ensure that special autonomy is fully implemented.”

**Indonesia denies it has any indigenous peoples** October 1, 2012, [http://www.survivalinternational.org/news/8710](http://www.survivalinternational.org/news/8710). Reports, the government of Indonesia responded at the end of September 2012 to the recommendations to recognize the rights of its indigenous peoples, of the United Nations Periodic Review, a four-year human rights check-up for all countries, by claiming that none live in Indonesia. In fact, Indonesia is home to an estimated 50-70 million indigenous and tribal people. The UN’s report recommended that Indonesia should consider ratifying ILO Convention 169, the only international law for indigenous and tribal peoples. It also recommended that Indonesia should secure the rights of indigenous peoples, especially to their traditional lands, territories and resources. Indonesia’s denial of the existence of indigenous peoples within its borders was in response to this. The UN’s Periodic Review on Indonesia is available at: [http://www.survivalinternational.org/document/827upr-indonesia.report.pdf](http://www.survivalinternational.org/document/827upr-indonesia.report.pdf), and Indonesia’s response to the review is available at: [http://assets.survivalinternational.org/documents/828/indonesias-response-to-unpr.pdf](http://assets.survivalinternational.org/documents/828/indonesias-response-to-unpr.pdf). Survival International states that it believes that Indonesia treats its indigenous and tribal people, especially in West Papua, worse than any other country in the world. In West Papua killings, torture and rape of tribal people are commonplace – the figure of 100,000 people killed since 1963 is believed to be a conservative estimate. The denial of the very existence of indigenous peoples in Indonesia is symptomatic of the government’s total disregard for their rights.

**Penan tribe blockade Murum dam site,”** Cultural Survival, October 2, 2012, [http://www.survivalinternational.org/news/8717](http://www.survivalinternational.org/news/8717), reports that in the Malaysian state of Sarawak, hundreds of members of the Penan tribe had been blocking the road leading to the controversial Murum Dam, one of 12 planned across Sarawak, since September 26, 2012. Police had visited the blockade three times, calling on the Penan to dismantle it, but the Penan are refusing to leave until their demands are met. When finished next year, the Murum dam will flood the Penan’s ancestral lands. **Approximately 1,300 Penan have been told they must move to make way for it.** Surang Alung, Chairman of Pelieran-Murum Penan Affairs Committee (PEMUPA) explained in a statement that the government had failed to consult the Penan on all aspects of the dam project. He added, ‘We have to stand up and assert our rights, as our problems, issues and demands have been neglected for so long by the government’. It was revealed via a leak in mid-October, while the blockade was continuing, that the government plans to relocate the Penan to ‘sufficient arable land…to provide for transition into cash crop agriculture’, despite evidence showing that the Penan rely on the forest for 75% of their sustenance. The Penan have not been consulted about the dam building or relocation. The Penan say they will continue their blockade until a just settlement is negotiated (“Leaked plans to resettle Penan surface as blockade continues,” Survival International, October 12, 2012, [http://www.survivalinternational.org/news/8745](http://www.survivalinternational.org/news/8745)).

A major component of a bill pushed through the Philippine Congress in 2012 by the Philippine Department of Education addresses the linguistic discrimination that occurs in emphasizing English education and only the most widely spoken Philippine language, Tagalog, by implementing Mother Tongue Based, Multilingual Education (MTB-MLE). This model promotes language of instruction in the mother tongue of the school district, rather than Filipino (Tagalog) or English. However, these other languages will be taught and incorporated into the curriculum gradually. Advocates of this approach point to pilot programs in the Philippines that have been successful in helping students gain full proficiency in the mother tongue, the national language Filipino, and English (Laura Garbes, “Mother Tongue Based Education in the Philippines,” Cultural Survival, July 13, 2012, [http://www.culturalsurvival.org/news/mother-tongue-based-education-philippines](http://www.culturalsurvival.org/news/mother-tongue-based-education-philippines)).

October US enews 10_3_2012&utm_medium=email, reports that Australia’s Channel 7 network has been found guilty by the country’s press regulator of serious violations of the broadcasting code, after screening a report so extreme it was branded ‘Freakshow TV’ by Survival International (for details see IPJ summer 2012, in ‘International Developments’). The report labeled Brazil’s Suruwaha tribe as child murderers; ‘Stone Age’ relics; and ‘one of the worst human rights violators in the world’. Survival complained to Australia’s regulator ACMA after Channel 7 refused Survival’s request to issue a correction to its report, broadcast on its Sunday Night program. In a landmark judgment, ACMA has now ruled that the Channel was guilty of breaking its racism clause – ‘provoking intense dislike, serious contempt or severe ridicule against a person or group’ – believed to be the first time it has found a broadcaster guilty of this serious offence under the 2010 TV Code. It has also ruled that the Channel was guilty of broadcasting inaccurate material.

“New Zealand’s Whanganui River Gets Personhood Status,” Environment News Service, September 13, 2012, reports, “New Zealand’s longest navigable river, the Whanganui, has been given “legal standing and an independent voice” under a framework agreement to settle the historical claims of indigenous people, the Whanganui Iwi. Although the agreement does not state specifically that the river will have the same rights under law as a corporation, a spokesman for the government minister of who negotiating the settlement said the Whanganui will be recognized as a person when it comes to the law, ‘in the same way a company is, which will give it rights and interests.’” The agreement recognizes the status of the river as Te Awa Tupua (an integrated, living whole) and the inextricable relationship of iwi with the river, appoints a two person river guardianship (one by the Iwi and one by the government), and provides for developing river values and a whole river strategy – encompassing ensuring the rights of third parties, including private landowners and public access, in the course of taking a major step towards the resolution of the historical grievances of Whanganui Iwi. The agreement provides for development of a set of Te Awa Tupua values, that recognize the intrinsic characteristics of the river and will serve to guide decision-makers, enables the development of a “Whole of River Strategy” by collaboration between iwi, central and local governments, commercial and recreational users and other community groups, while the strategy will identify issues for the river, consider ways of addressing them, and recommend actions. The goal of the strategy will be to ensure the long-term environmental, social, cultural and economic health and wellbeing of the river. Settlement negotiations are continuing on Matters of detail and additional issues of redress. The parties continue working towards the goal of achieving a deed of settlement by the end of the year which will then be the subject of Cabinet approval and ratification by the members of Whanganui Iwi.

DIALOGUING:

Mark Trahant, “Supreme Court’s affirmation of ‘ObamaCare’ means a fundamentally different debate; Indian Health Care Improvement Act is permanent.”

Mark Trahant, “Voter registration at Indian Health clinic is a way to boost number of Native Americans at polls”

Gregory Ch’oc (Q’eqchi’), “Maya in Belize Hope to Set Historic FPIC Precedent”

Stefan Kirshner’s Reply to Survival International Response to Stefan Kirshner’s comment on the Jarawa
The entire debate over “ObamaCare” is now fundamentally different. It’s the law of the land that has been upheld by the Supreme Court. And, deep in the pages of the Affordable Care Act, the Indian Health Care Improvement Act, is permanent. It no longer requires going back to Congress every few years and arguing for reauthorization.

It’s important to note that the Supreme Court’s ruling Thursday does not end the debate over health care reform. There are still fights to be had over the law itself, funding, and the where we go from here.

We should remember that this country (and much of the developed world) has a demographic imbalance that is driving up the cost of health care. The entire federal budget deficit can be wiped out, if we can figure out how to deliver health care at a lower cost. The Affordable Care Act is a small step (not a solution) in that direction. The smartest way to control cost is to also improve the quality. These two elements go hand in hand.

Of course improving quality of health care is what the Indian Health Care Improvement Act is all about. To my mind: It’s one of the most successful pieces of legislation ever enacted. If you look at the health care disparity of American Indians and Alaska Natives before the law was passed there was a 24-year gap between life expectancy for Native Americans and the general population. Now that difference is only about 2-and-a half years (depending on where you live). There has been significant progress in most Indian health statistics since 1976.

But despite the law’s success, Congress did not have the votes to reenact the Indian Health Care Improvement Act, so it was folded into the Affordable Care Act by House committee chairmen, George Miller, D-Calif., and Nick Rahall, D-WV. It was a strategy many thought risky at the time. But it paid off.

“The Indian Health Care Improvement Act contains provisions that will help to improve health care on the Navajo Nation. I'm relieved to see that the provisions remain undisturbed,” Navajo Nation Vice President Rex Lee Jim said in a news release.

The Indian health system -- the federally-operated Indian Health Service and the tribal and independently-run facilities -- should continue to focus on improving quality and prevention. Yes, there will still be fights over money. The Indian health system is funded (read this: underfunded) by congressional appropriations. That is Congress must vote to spend the money every year; it’s not automatic.

But the Affordable Care Act opens up new streams for automatic funding, money that flows from Medicaid into the Indian health system. The law expands Medicaid eligibility, both for individuals and for families, making it easier for the Indian health system to get paid. The problem here is that there are 50 sets of rules for Medicaid because it’s a federal, state partnership. This may be the most complicated portion of Thursday’s ruling for Indian Country.

The Court ruled that the federal government has limited authority here. It may “induce” states to accept the terms of the Medicaid expansion, but it says states may choose to reject expansion. If that happens, the federal government cannot take away current Medicaid funding. This is a problem because state budgets are under so much stress.

But while Indian Country’s Medicaid funding goes through state rules, the money is ultimately federal. That means this part of the ruling might open up new solutions: Such as expanding tribal authority to regulate Medicaid (I have suggested a Medicaid, 51st state idea in the past.)

Thursday’s ruling opens up serious questions about Medicaid. “As a practical matter,” the court said,
“states may now choose to reject the expansion; that is the whole point. But that does not mean all or even any will. Some states may indeed decline to participate, either because they are unsure they will be able to afford their share of the new funding obligations, or because they are unwilling to commit the resources necessary to support the expansion. Other States, however, may voluntarily sign up, finding the idea of expanding Medicaid coverage attractive, particularly given the level of federal funding the Act offers at the outset.”

But the resolution of these significant concerns is now on a different plane. The Affordable Care Act is the law. Any change of that requires extraordinary legislative consensus -- something that’s not in our body politic right now. Republican presidential candidate Mitt Romney said he would repeal the law on day one. But what does that mean? Ignore portions, and, if so, which portions? Would he continue to operate those programs already operated (such as the Indian Health Care Improvement Act)? What is the authority to suspend contracts with tribes running a program under current law?

The legislative repeal will not be easy either. Any change in the law requires passage in both the House and Senate. In the Senate that means rounding up a super majority of 60 votes. (They could focus on the tax issues with 50 votes, but that would leave in place the Medicaid expansion, the most important part of the law.)

As I said the debate continues. But for now American Indian and Alaska Native people today is one to celebrate what was accomplished; it’s a big win.

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**VOTER REGISTRATION AT INDIAN HEALTHCLINIC IS A WAY TO BOOST NUMBER OF NATIVE AMERICANS AT THE POLLS**

Mark Trahant*


Voting should be easy, almost routine. If it’s election day ... we should vote. It’s that simple because it’s the very foundation of democracy. It is only when “we” have a say in what happens next, in our future, that governance meets the basic test of a democracy.

But, too often, that’s not the case for American Indians and Alaska Natives. This week the National Congress of American Indians called the problem of access to voting a “civic emergency” requiring an immediate fix.

“Native people have remained one of the most disenfranchised group of voters in the United States. Today as a result, only two out of every five eligible American Indian and Alaska Native voters are not registered to vote, in 2008 over 1 million eligible Native voters were unregistered,” said Jefferson Keel, president of NCAI, the nation’s oldest and most representative tribal advocacy organization. Keel said that starting this week, “we all must be unified we all must be unified by one mission – we must mobilize like never before – register tens of thousands of people, and turn out the largest native vote in history.”

One way that can happen is to increase the velocity of voter registration by going to places where Native Americans already gather. One such magnet is the local clinic. A new report from Demos explains why the Indian health clinic is ideal: “Appropriate IHS facilities should be designated as official voter registration agencies along the same lines as state based public assistance agencies are now designated under the National Voter Registration Act.”

This basic idea has worked in other places where low-income voters register at public assistance agencies. Demos found that when the law was implemented tens of thousands of new voters were added in North Carolina,
Virginia, Missouri, Ohio and Illinois. “In Illinois, the number of public agency registration applications is now at levels 18 times the rate before re-implementation” of that voting registration law. That’s exactly the kind of boost that would be needed to register a million American Indian and Alaska Native voters. This process would also be cost-effective voter registration, the Congressional Budget Office estimates the total cost at less than $500,000 over a four-year period.

“The Native community in the United States is increasingly making its voice heard in state and national elections,” the Demos report said. “Unfortunately, most of our history has been one of state mistreatment and exclusion of indigenous peoples. There are still problems and tensions ... Making voter registration easier and more accessible through designation of Indian Health Service facilities as voter registration agencies will not solve all the problems that are causing low rates of participation among American Indians and Alaska Natives or fully address the ongoing mistrust. Nonetheless, it would be an important step that would have a significant positive impact on the voting rights of thousands of Americans.”

The good thing about this plan is that it builds on the successful voter efforts that are already out there, such as Native Votes. The impact of native voting has already impacted elections in Alaska, Montana and beyond. But that success has been limited by a smaller voter pool than what could be. Imagine if the numbers were increased by one million.

This next election at the local, state and federal level, is all about austerity and the nature of government.

NCAI has already called for the biggest turn out of Indian Country voters in history -- and that’s exactly right because there’s no better time for American Indians and Alaska Native voters to have a say. Especially when that means tens of thousands of new voters. Then, given the chance, those voters will make elections routine.

*Mark Trahant is a writer, speaker and Twitter poet. He is a member of the Shoshone-Bannock Tribes and lives in Fort Hall, Idaho. Trahant’s recent book, “The Last Great Battle of the Indian Wars,” is the story of Sen. Henry Jackson and Forrest Gerard. He is writing a book about the impact of government austerity.

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MAYA IN BELIZE HOPE TO SET HISTORIC FIP SETTLEMENT

Gregory Ch’oc (Q’eqchi’)


Imagine this scene: a bus hurdles over the dirt roads of thick, tropical rainforest in southern Belize. It travels from village to village picking up Maya who are panicked and confused about oil drilling on their ancestral lands. Instead of going directly to the meeting, the Maya must first listen to a two-hour presentation by the oil company. Once they finally arrive, they gather for a traditional blessing, which is how they start every meeting. They are told there is no time for that. In fact, they have only one minute. As the appointed representative, I start to speak. After 60 seconds, a government official, backed by police and military personnel, pries the microphone out of my hands. Apparently, the meaning of “consultation” is lost in translation from English to Q’eqchi. The story I am about to tell is more than an ordinary parable: it is a tale with implications for a people’s survival or extinction. The Maya of Belize established the first legal precedent for the United Nations Declaration on the Rights of Indigenous Peoples. Now we are ready to do the same for the right of Free, Prior and Informed Consent. The true beginning of this story is the morning in 1997 when several Maya villages woke up to learn that their ancestral land had been declared a national park—and that it had been so designated for three years. Community elders wondered why it had taken so long for the government to let them know. Five years later, they know that secrecy is official government policy on Maya land.
The Belize government has long recognized the area between the Sarstoon and Temash Rivers as the “least disturbed wildlands” in the country. Following the state’s designation of the Sarstoon Temash National Park, the Ramsar Convention on Wetlands classified its 42,000 acres as land of “international importance.” More recently, researchers have uncovered a rare and entirely new ecosystem in the park. Research acknowledges that the Maya have managed these forests for millennia, to the point that we are considered responsible for the wide diversity of tree species. As the National Geographic Society recently noted, “What might appear to be ‘primary’ or ‘pristine’ forests are likely remnants of ancient Maya agroforestry systems.”

For a country that prides itself on low deforestation, trees in the Toledo District were already being felled at a rate of 10 percent a year even before Prime Minister Dean Barrows made his infamous vow, “drill we will.” The government had already handed out leases to 41 percent of communal land to commercial loggers and other interests, even when communities were actively farming the land. In hindsight, the prime minister’s off-handed comment to the press about drilling constitutes the only direct, official word Maya communities have ever received about the government’s intentions for their land.

Back in 1997, the elders were told it was necessary to legally establish the communities as park “co-managers.” At first they thought giving a permit to explore for oil was a strange way to protect a park. Since their communities were the most impoverished in the country, they certainly understood the economic pressures on Belize; the skeletons of failed government experiments in cash crops on Maya land, all of the withered fields abandoned on the side of road, speak to the futility of shortsighted schemes. So, they created the Sarstoon Temash Institute for Indigenous Management (SATIIM) as their administrative body to meet their co-management obligations. Imagine their surprise to learn four years later that the government had entered into a Production Sharing Agreement with the local subsidiary of a small energy exploration company based in the American southwest, US Capital Energy. The company was granted the exclusive right to conduct petroleum operations within a 12 square mile area of the park called Block 19. Park rangers reported that dynamite explosions had cleared paths wide enough for jeeps to drive across to the Guatemalan border, giving poachers and loggers access to virgin forest. Upon this discovery, the elders held community meetings long into the night. They decided that SATIIM would object to the permit as a violation of the National Park System Act. In response, the government simply ignored its “partners.” So in 2006, the elders reluctantly instructed the Institute to file a lawsuit to stop the activity.

The Supreme Court of Belize ultimately decided that an environmental impact assessment was prerequisite for an exploration permit, and the permit was temporarily put on hold—but for how long? In the meantime, the elders were advised to legally establish their right to land they had occupied for millennia. In 2007 the Supreme Court decided a landmark judgment that gave the nearby Maya villages of Conejo and Santa Cruz full legal ownership over their lands and its resources. In 2010 the remaining Mopan and Q’eqchi villages in Toledo District won similar land recognition. These historic judgments made international news when the Maya held the Belize government to its commitments under the UN Declaration on the Rights of Indigenous Peoples, setting a new legal precedent as its first domestic application. The government’s appeal resulted in an injunction that prohibited activities on Maya lands until the appellate court decided the case. During this time, the Maya realized that they also needed to take their case to the people of Belize. They organized a national oil summit to discuss the issue on all sides. Ultimately, all major organizations publicly condemned oil drilling on protect lands. Yet the government acted as if public opinion and consistent court rulings simply did not matter and secretly granted a new permit in late 2010.

In 2011 the Maya woke up to another surprise: the sound of explosions right outside their village. Without any warning, US Capital Energy had cleared some four miles of forest. Additionally, seismic testing ignited a massive fire that destroyed more than 400 acres of the newly discovered ecosystem. Panicked Conejo residents asked SATIIM to assess fire damages, and independent experts were contracted to research the concept of Free, Prior and Informed Consent. It became evident that the government was obligated under both domestic and international law to obtain consent for oil activity on Maya lands, which it clearly had not done. Meanwhile,
US Capital Energy started to court certain villages, painting school rooms and offering services of trash disposal and limited contract employment. But the company showed its true colors after media reports on the environmental damage it had caused: it threatened SATIIM with legal action.

We now reach the final chapter of our story, although this ordeal is far from over. This past October, under the guise of “consultation,” Maya villagers were asked to review a 300-page document—in English—at the height of the harvest season. When SATIIM requested to move the review date by a few weeks, the government refused. At this point, the elders feel they have exhausted all good faith options. On behalf of the four communities likely to be affected by the exploratory drilling, SATIIM has retained a major US law firm. So, instead of answers, we are left with a question: Will another lawsuit be enough to save us from extinction?

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**STEFAN KIRSHER’S REPLY TO SURVIVAL INTERNATIONAL’S RESPONSE ON THE JARAWA**

Stefan Kirshner’s Reply to Survival International Response to Stefan Kirschner’s comment on the Jarawa

Survival International’s response to my original article [*IPJ* Summer 2012] essentially sidestepped the issue that I was trying to raise. They engaged in some word games and semantics but did not address the main thrust of my writing. And that point is that the Jarawa need to decide if they want to continue living in the forest or if they would like more contact with the more technologically advanced society around them. Firstly they deny the charge that they want to keep the Jarawa in a “pristine” condition and say no one is in a pristine condition because the Jarawa, just like everyone else, have changed over time. To compare the changes that have occurred nearly everywhere in the last thousand years and the changes that the Jarawa have gone through in the same period is absurd. The Jarawa have remained essentially the same while general society has changed beyond recognition.

But the more important point here is that Survival says they agree with me. They say “it is about letting them decide if and when they do so” (make contact with general Indian society). But they say the existence of the ATR denies them the choice. I do not know why the ATR denies them the choice but one can see that Survival’s claim that they want the Jarawa to decide their own fate and that they are not specifically for isolation is betrayed by their actions. Survival has only advocated isolation for indigenous peoples. But as I wrote in my article, in order to ascertain Jarawa wishes one must speak to them, one must contact them. And this is something that Survival has ignored and it is this that was the essence of my article.

Survival questioned how I could say that there is an inevitable and inexorable process underway towards “civilization”. If I am not mistaken that is the direction all societies are headed. I have not heard of any cases of peoples abandoning technology and heading back to the wilderness. The Jarawa coming to the ATR instead of running away from it shows that they are interested in what it can bring even though they may “go back to the forest as soon as they can”.

Survival states that previous historical evidence shows that trying to help tribal peoples has “invariably been disastrous” and that I overlook that evidence. I obviously did not overlook that evidence since the title of my article was “Do not let the Jarawa become another Onge”. But it is possible to learn from the past. Look at the experience of the neighboring Nicobarese for example.

Survival claims that I “betray my true position” when I speak of the modernization process but Survival betrays its true position when it states “when tribal people are left to live on their land in freedom, they thrive. We must not force the Jarawa to be another experiment”. So where is the choice in this? Here we can see what Survival truly advocates. They give lip service to “choice”.

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REVIEW OF RECREATING THE CIRCLE: THE RENEWAL OF AMERICAN INDIAN SELF-DETERMINATION

John W. Friesen, Professor, Faculty of Education, University of Calgary

Review of Re-Creating the Circle: The Renewal of American Indian Self-Determination. LaDonna Harris, Editor and Mentor; Stephen M. Sachs and Barbara Morris, General Authors; Deborah Esquibel Hunt, Gregory A. Cajete, Benjamin Broome, Phyllis M. Gagnier and Jonodev Chaudhuri, Contributing Authors (Albuquerque, NM: University of New Mexico Press, 2011, 513pp., including bibliography and index, for $75 cloth or E-book).

Let it not be said that there are major differences between the challenges faced by Native American Indians and First Nations in Canada, because the contents of this book will prove them wrong. While the primary focus of this bold new book is the recreation of the sacred circle, the foci of the various chapters emphasize the need for authentic self-government for Native Americans, economic development, banking, healing, leadership, and education, all of which can more meaningfully be realized by a return to traditional forms of governance.

According to the preface, Recreating the Circle is a collective undertaking by both Aboriginal and nonAboriginal researchers designed to draw attention to the need for Native Americans to achieve self-determination. This objective will be achieved when American Indians are able to live well in their communities while partnering meaningfully with their neighbors, the nation, and the world for mutual advancement. The writing style undertaken by the authors involves weaving the perspectives and styles of individual contributors into a larger whole in order to provide a broader understanding of important issues and events.

Recreating the Circle examines current efforts towards renewal, primarily aimed at Native American communities, and secondly at interested members of mainline society. The writers begin by examining imported disruptive influences that impacted devastatingly on well-working resident Indigenous societies, but they do not stop there. They go on to suggest meaningful ways in which the cultural devastation can be halted. To accomplish this, each author draws on his/her own work as exemplary means by which to recreate the circle. One of the very convincing arguments of Recreating the Circle is its emphasis on traditional American Indian values, forms of governance, and societal functioning, and their relevance in the 21st century. The continuing impact of colonialism on Native American peoples is as evident as it was when Indian Commissioner John Collier made this observation in the 1940s: “They have what the world has lost. They have it now. What the world has lost, the world must have again, lest it die…. It is the ancient, lost reverence and passion for human personality, joined with the ancient, lost reverence for the earth and the web of life…. what the American Indians almost universally had, and representative groups of them have it still” (Collier, 1947, p. 7).
Returning Indian Nations to sovereignty as partners in American federalism can have mutual benefits for improving tribal life, encouraging appropriate Indigenous economic development, providing relevant education, and promoting healing of communities and people. There is an urgent need to improve tribal governance and life by applying inclusive traditional values appropriately for current and developing conditions in the 21st century.

The message of Re-Creating the Circle is clear. Like their counterparts in Canada, the First Nations of the United States are seeking empowerment, pursuing justice, and striving for decolonization by retracing their steps and adopt more traditional practices. The principle of respect for all people, and indeed for all things (including the earth), must be reinstated (p. 5), because, as Black Elk put it, “the nation’s hoop is broken and scattered” (p. x). The circle or “hoop” has been shattered because of “five hundred years of devastating contact with Europeans and European Americans that brought physical and cultural genocide” (p. 52). As a result, many Native American communities are suffering economic hardships and often struggling to overcome destructive infighting among their members.

The book’s writers contend that the circle can be restored, beginning with a renewed relationship between Indian tribes and the American federal government. One of the problems is that perceptions of the concept of federalism differ between the two parties. Initially, the relationship was one of perceived equality, but has evolved to where even into the 1980s the Bureau of Indian Affairs, which is essentially a colonial institution, dominated many matters pertaining to Indian self-determination. The self-sufficiency of American Indians was “hampered and inhibited by a lack of implementation policy by the very federal agencies charged with working together on a government-to-government basis” (p. 117), until a still continuing process of building genuine government-to-government interactions began to change the relationship.

Tribal self-determination can only occur by returning to what might be called pan-Indian, culturally approved forms of decision-making that vary with tribal interpretation but incorporate the principle of inclusive participatory decision-making. The goal of Native American leaders is to be able to act as full partners in federalism, with full government-to-government relations between tribe and state and local governments. This can only happen when neighboring governments come to appreciate the mutual benefits of relating with Indian nations on that basis. The latter need to be able to create their own structures and develop their own personnel—including hiring, education, and training for effective functioning (p. 183).

The authors discuss a number of efforts by Indian nations to overcome the inappropriate forms of government imposed on them by the U.S. Federal government. In the case of Navajo Nation’s long process to improve tribal government by applying traditional values appropriately for current circumstances, it was interesting that the Dine Policy Institute of Dine College, at the request of the Navajo Nation Council, presented a governmental reform report, posing four options for reviving traditional elements of tribal governance (pp. 201-213): (i) the status quo model, which emphasizes little change but alludes to efficiency in government; (ii) a bicameral parliamentary model, which stresses the integration and cooperation of a traditional and legislative body that would formulate and execute laws and require approval from the body politic; (iii) a dialectical option, that would call into question the current system and critique its operations and decolonize its non-functional aspects; and, (iv) a decentralized option that would emphasize national and community concerns and give greater power to subgroups and agencies. Moreover, it would also reflect traditionally revered customs and norms. The fourth option identified four steps to moving their current system of governance from a presidential model to something more like the historic naachid (p. 214). Essentially this implies a moderation of power in the executive branch, a restructuring of agency councils to balance power between legislative and chapter house members, and creating new mechanisms through which nongovernmental organizations can influence governmental processes.

A good example of successfully modifying established modes of governance is the Comanche Nation that for a time applied the Indigenous Leadership Interactive System (ILIS) to build tribal consensus through an inclusive participatory process on proposals for the tribal business committee. Set in stages, the ILIS begins with a problem-definition phase, then moves to a deeper comprehension of outstanding challenges. Essentially a facilitated group interactive process, ILIS procedures adhere to the traditional “talking stick” model wherein all participants have opportunity to address a topic of discussion but may pass on the opportunity. In the Comanche
case, the process concluded in a spirit of collaboration and harmony. As one elder put it, “We managed to disagree without being disagreeable” (p. 229). In the end a concrete set of plans for future development materialized without violating traditional Comanche values.

Self-government is not the only concern voiced by the writers. They also address the rebuilding of the sacred circle by focusing on economic development, and stress the importance of the kind of tribally appropriate education that would provide needed skills for employment and heal psychological and social wounds that limit individuals from pursuing these goals. For the most part, Native American communities have been undercapitalized and underdeveloped. If sovereignty and independence are to be at the forefront of development in Indian communities, the institution of banking must also be addressed. The last decade has witnessed some improvement in this area, particularly in the field of economic development. Many Native American tribes that have done well in creating jobs and increasing income as aspects of community development (rather than as ends in themselves), and in general this is a better model for development than what is generally used by the western world.

Native Americans tend to view learning as a creative act. Educators in these communities are constantly engaged in the art of making meaning and re-creating their world through the unique process of human learning. The Indian view is that true learning must be instinctual, continuous, and simultaneously the most complex of human traits (p. 332). The envisaged model to correct the shortcomings of the present system would focus on the roots of tribal education that reflects of the needs, values, and socio-political concerns of the people themselves, not some state-approved mainstream model. Native American educators must begin to dialogue about the perceived nature of such a model, and that need is urgent. One example of this new model involved an approach using the acronym, “c-u-l-t-u-r-a-l” to include caring, understanding the teenage brain, love and heart intelligence, truth, understanding, relationship building, awareness, and learning.

Finally, the writers address the topic of tribal and local leadership, noting that traditionally leadership in Indian society was “largely a matter of inclusively facilitating the forming of community consensus while providing guidance for reinforcing traditional values and applying them to contemporary contexts” (p. 408). As Native American societies regain self-determination, they will gravitate to more traditional modes of leadership, a trend that may be identified in both Canada and the United States.

This book clearly has relevance for First Nations in both Canada and the United States although Canadian readers may have to adjust to use of the terms “Indian,” “tribal,” and “Native American,” and the fact that the United States maintains a Bureau of Indian Affairs. Canadian writers tend to prefer the designations First Nations or Aboriginal, but terminology should not deter from the message of this timely book. Both Aboriginal and non-Aboriginal researchers, students, and politicians in both countries should find this book a valuable resource.

Reference


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**REVIEW OF SEEING RED: A HISTORY OF NATIVES IN CANADIAN NEWSPAPERS**

**BY MARK CRONLUND AND CARMEN L. ROBERTSON**

John W Friesen,* johnwfriesen@gmail.com, http://drsfriesen.com


This is an unfortunate book—unfortunate in the sense that the authors have been able to document what many of us have feared for a long time. Racism towards First Nations is not dead in Canada, at least not in the
newspapers. In the book the authors examined what newspapers have said about Canada’s Native people from 1869 to 2009. Their message is terse; “This may come as a surprise if you think that colonialism is a best-forgotten relic of days gone by in Canada. It may also surprise you if you think that the press is strictly objective and non-partisan. If that is the case, you will be surprised to discover that the evidence shows something strikingly different” (p. 4).

Twelve chapters later, the authors observe that while in 1900 Canada had 120 newspapers, most of them were independently owned; today, a handful of corporations control the same number. The slant of writing, however, in regard to the treatment of the nation’s Native peoples has not changed (p. 266). The same underlying presuppositions drive news-stories; Native people are characterized as depraved and racially inferior, and tend to function in accordance with a stubborn resistance to progress (pp. 6-7).

So what further can the various chapters tell us? What areas of legitimate grievance do they target? Space does not permit a summary of all twelve chapters, but sampling of concerns may suffice. The first chapter, dealing with happenings in 1869, targets the Rupert’s land purchase with newspapers in Toronto and Montreal chortling about massive land aggrandizement, “virtually free for the taking” (p. 19), and wrested from “as degraded a set of savages as can be imagined” (p. 35).

As expected, chapter two continues in the same vein, and concentrates on the signing of Treaty Number Three in 1883 involving 28 First Nations. Several newspapers state that the seizure of Aboriginal lands was fortuitous for the Natives since they were incapable of reaping needed harvests from the land. After all, “A man cannot be both a hunter and an farmer” (p. 42). The chapter that follows investigates the aftermath of the Riel wars with the Tory-aligned Daily Colonist suggesting that Louis Riel had deluded his followers and deserved to be hanged. Apparently Prime Minister Sir John A. Macdonald did Canadians a service in consenting to end Riel’s life (p. 66).

The fourth chapter picks up the theme of the Klondike Gold Rush of 1898-1905 and newspaper headlines describe local Native residents in these terms: “An inordinate Amount of Superstition; Heap Old Man: The Young Squaw! Both Crazy;” and, “Dying Off Like a Flock of Sheep with the Rot.”

With her death, English-Iroquois born Pauline Johnson was conveniently stripped of her “Indianness” (chapter five) by some newspapers, and fondly described as a “poet, princess, and [English] possession,” (see also chapter ten). The Sudbury Star refused to acknowledge Johnson’s death and continued with its usual orientation of downplaying Native cultures with this type of story: “The Liquor men of Sudbury experienced a regular field day on Monday afternoon when Indian Agent Cockburn of Sturgeon Falls had four of the local hotels or their bartenders on the carpet for selling ‘booze’ to his ‘Red Men’” (p. 115).

Archie Belaney, an Aboriginal imposter, presented himself as Grey Owl, and managed to attract considerable positive press (chapter six), even to the extent that some observers preferred to believe that he had Indigenous roots if only to illustrate that some Aboriginals could live fairly productive lives.

The remaining chapters of this amazing study indicate similar literary fare albeit focusing on a variety of topics. The notorious White Paper of 1969 (chapter seven), posited a blatant undercurrent assimilationist policy, and was prepared without consultation with Native people. The assimilationist position was generally supported by the press as the avenue by which Aboriginals could access the good life in Canada. Some newspapers labeled the Anicinabe Park Standoff of 1974 as an act of vandalism by Aboriginals (p. 179), and newspaper descriptions of the Oka crisis (chapter eleven) are similarly denounced.

The final chapter of the book addresses the prairie centennial of 1905 to 2005 with recent newspaper editions touting themes of “the passing race” (p. 245), “Aboriginal neediness” (p. 257), and “a culture of dependency” (p. 258). The authors conclude by noting that through the generations, “colonialism has remained intact in the press (p. 276).
While this book certainly documents fine scholarship, it is unfortunately clothed in a format comprising an artsy cover that distracts from the book’s title, very small, faint print, and completely unreadable page numbers. Let’s hope that a second edition corrects these shortcomings!

Seeing Red documents what close observers of Aboriginal ways already know to be true. Perhaps if Canadians once again witness the malady of racism that this book documents, a change in perception may finally come. One can only hope.

*John W. Friesen is on the Faculty of Education at the University of Calgary.

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REVIEW OF THOSE WHO KNOW:
PROFILES OF ALBERTA ABORIGINAL ELDERS BY DIANNE MEILI

John W. Friesen,* Professor, University of Calgary, www.drsfriesen.com


Dianne Meil’s second edition of this work merits attention for several reasons, first, perhaps, because releasing a second edition as a “20th anniversary edition” is a unique marketing idea. Few books about Indigenous peoples have been awarded such an historically significant entitlement. More important, however, is the published result of Meili’s commitment to revisit the contributions made by the 31 elders she interviewed in the first edition of this book in 1991. All but two of those individuals had passed on at the time of writing, and Meili states that she wanted to research how their legacy had been maintained. She was not disappointed in this pursuit and carefully updated information about each of those elders from the perspective of their descendants—a rare and unique undertaking. Thus each of the profiles of elders interviewed in the first edition was expanded.

Easily the highlight of the book is its informality. Elders were interviewed in their day-to-day surroundings and encouraged to participate on their own terms. English is a second language for many elders so they were encouraged to express their thoughts in English, and in ways that were comfortable to them. This choice of venue is unusually productive if the underlying objective is to preserve elements of traditional Indigenous thought, and Meili came away from the project believing that she had accomplished that. In her words, “All of them (interviewed relatives) had read with pride their family member’s story in the first edition of Those Who Know” and were eager to fill in the last twenty years…. That’s when I realized that these elders hadn’t left completely; they were living on through their descendants” (p. 3).

Although Meili seems uncertain as to who is an elder, academic research has identified four kinds of elders, all of whom have to be recognized—formally or informally within their own communities. Most Aboriginal communities have elders in their midst who are valued as (i) culturally-knowledgeable elders, (ii) storytellers, (iii) medicinally-knowledgeable individuals, and (iv) ceremonial elders who have the right to organize ceremonies and conduct rituals. It is not immediately clear by which distinction the various elders included in the book can be identified.

The organization of the book is a somewhat puzzling. First of all, the elders are not listed alphabetically, either by surname or First Nations affiliation. Neither does the presentation proceed geographically, that is, by interviews conducted in northern Alberta down to the southern part of the province—or vice versa. In addition, the criteria by which Meili selected individual profiles for inclusion are not explained. Interviewed elders appear to have been personal acquaintances of the author, and are not presented in proportion to resident populations. Interviews of members of the Blackfoot Confederation (Kainai, Peigan, Siksika) and Cree First Nations dominate the book comprising two-thirds of those interviewed. Among the Blackfoot, for example, the Kainai First Nation rates four interviews, Siksika has three, and the Peigan have one. Two of the three Plains Stoney First Nation
Bands—Bear’s Paw and Wesley have one each, while Chiniki, the third band, has none. Other Alberta First Nations represented include Dene Tha’ (six), Beaver (two), Chipewyan (three), and Métis (one).

Meili added seven elder stories in the second edition, from the following communities: Blackfoot (three), Cree (two), Tsu T’ina (one), and Dene Tha’ (one). The Dene Tha’ were formerly known as South Slaveys. Once again, however, readers are not enlightened as to the rationale for including these particular elders.

Many of Canada’s First Nations are trying hard to maintain their language and cultural teachings, particularly spiritual teachings. These can best be explained and retained through elder teachings such as those Meili has taken time to record. In this context she has rendered Alberta’s First Nations communities an invaluable service. In the days that follow, the following representative elder sayings will bear this out:

“…if the Dene people really listen to the messages and songs sent from heaven and pray with all their strength, they and the world will not be destroyed.” —Alexis Seniantha, Dene Tha’ First Nation, p. 61.

“In my own mind, I go in there [sweatlodge] to pray. I’m not going in there for the person leading it, I’m going there for God. These are my beliefs in the Creator, so I’m not afraid to enter any lodge.” —George Kehewin, Kehwin (Cree) First Nation, p. 109.

“Have faith. Share all that you have; everything happens for a reason.” —Vanora Big Plume, Tsuu T’ina First Nation, p. 185.

“[Beaver] people know about the Creator from spirit travels and dreams. White people have the Bible, but the Beavers didn’t write anything down. God came to us in dreams. He told our prophets—the ones who have drums—to tell us how to live.” —Dominique Habitant, Beaver First Nation, p. 221.

“As far as I can remember, the Chipewyan have always been spiritual people.” —Fred Marcel, Chipewayan First Nation, p. 231.

* John W. Friesen, is a Professor on the Faculty of Education, University of Calgary.

REVIEW OF STRONG HELPERS’ TEACHINGS: THE VALUE OF INDIGENOUS KNOWLEDGE IN THE HELPING PROFESSIONS, BY CYNDY BASKIN

John W. Friesen, Professor, University of Calgary, www.drsfriesen.com


As the discipline of Aboriginal studies continues to grow, an increased degree of specialization becomes evident. This book, although somewhat mistitled, is one such volume, and significantly adds useful insights to this field of study. Although the author purports to discuss helping professions per se, almost all of the chapters in the book specifically address the practice of social work. There are virtually no references to counseling, nursing, or pastoral ministry, all of which to appear to be in the business of helping people.

Baskin’s tack in pointing out the value of First Nations “knowledges” (as though to imply that there are several different kinds in existence), is intriguing, to say the least. I suggest this because the 14 chapter titles seem to illuminate two distinct paths—purely academic and quite practical. Examples of academically inclined chapters include chapter three (Current Theories and Models of Social Work as Seen Through an Indigenous Lens), chapter four (Centering All Helping Approaches), chapter eleven (Pedagogy), and chapter twelve (Research). Chapters featuring a more practical bent include chapter two (The Self is Always First in the Circle), chapter seven (The
Baskin does an excellent job of inserting and interpreting a number of fundamental precepts of Aboriginal philosophy including the importance of the circle, value of elder input (the word “Elder” is capitalized for some reason), importance of the extended family, Indigenous ties to the land, the role of storytelling, and, of course, spirituality as the foundation of life. I am quite convinced that no one will grasp the intended purpose of Baskin’s discourse without appreciating the underlying importance of these values.

As an educator I was naturally drawn to chapter eleven on pedagogy, hoping to derive new insights for practice. Having worked in Indigenous communities for nearly a half century, I found myself on familiar ground. Baskin appropriately references the value of storytelling, particularly since Native legends are often used by elders to encourage hearers to form their own conclusions. Baskin’s definition of learning steps—watching, learning, and doing are reminiscent of what I learned in Blackfoot country—the four steps to inculcating a concept or practice are listening, watching, participating, and teaching. Baskin also makes a very important distinction between current educational practices that are targeted at “the best interests of the child” and the Aboriginal approach which emphasizes the importance of community values (P. 179). This is First Nations thinking at its best.

Strategic Helplessness has several positive features. It is well written, has an attractive cover, and adopts the unusual approach of listing chapter titles on the back cover. Baskin very ably differentiates between spirituality and religion, suggesting that religion can be a part of spirituality, but the latter is a much broader concept. These terms are not interchangeable because religion comprises formalized practice while spirituality can encompass that as well as a variety of individual relationships with the natural and metaphysical worlds. Spirituality is never stagnant, religion can be (p. 135). Well said!

Readers will appreciate the fact that references are listed at the end of each chapter instead of at the back of the book as has come to be customary. However, the book lacks an index, something that most readers take for granted.

There are several puzzling features about the book, one of which is Baskin’s use of both “White” and “non-Indigenous” to identify writers who do not claim Aboriginal ancestry. In fact, every researcher quoted in the book is identified by heritage—Indigenous, non-Indigenous, or White. This is somewhat surprising since Baskin herself claims to have dual heritage—Mi’kmaq and Celtic, and sees her role as a link between Indigenous and non-Indigenous people (p. 26). The dualism of her identity seems to disappear, however, since she states that her teaching approach combines only Mi’kmaq and Anishnawbe teachings (p. 204). There appears to be nothing Celtic about the book at all. Baskin partially redeems herself when she admits that “White” individuals can be quite effective in dealing with Indigenous data if they familiarize themselves with “the teachings,” and are personally endorsed by the Aboriginal community in doing so (p. 218).

Social work practitioners in First Nations communities should read this book. It provides more than its share of intrigue, ample food for thought, and even some controversy.

Recent offerings from the University of New Mexico Press include: William M. Clements, *Imagining Geronimo: An Apache Icon in Popular Culture* (328 pp. for $39.95 cloth); David Yetman, *Conflict in Colonial Sonora: Indians, Priests, and Settlers* ($45 cloth); Richard Flint, *Great Cruelties Have Been Reported: The 1544 Investigation of the Coronado Expedition* (670 pp. for $60 paper); and Thomas Bescom, *Inka Human Sacrifice and Mountain Worship: Strategies for Empire Unification* (368 pp. for $65 cloth), plus $5 for the first item and $1 for each additional shipping, from the University of New Mexico Press, MSC04 2820, 1 University of New Mexico, Albuquerque NM 87131-0001 (505)272-7777 or (800)249-7737, http://www.unmpress.com/.


University of Pennsylvania Press offerings include: Richard Price, *Rainforest Warriors: Human Rights on Trial* (280 pp. for $27.50 paper); and Ellen Moodie, *El Salvador in the Aftermath of Peace: Crime, Uncertainty and
the Transition to Democracy (304 pp. for $34.95 paper), all plus $5 first item, $2 each additional, from University of Pennsylvania Press, www.pennpress.org.

Offerings from the University of Minnesota Press include: Jodi A. Byrd, The Transit of Empire: Indigenous Critiques of Colonialism, $25 paper, $75 cloth, plus $5 first item, $1 each additional, from: www.upress.umn.edu.


Erika Marie Bsumek, Indian-Made: Navajo Culture and the Marketplace, 1868-1940 is 292 pp. for $19.95 paper, $29.95 cloth, plus $5 for first item, $1 for each additional, shipping, from University of Kansas Press: www.kansaspress.com.


Useful Web Sites

CELANEN: A Journal of Indigenous Governance was launched, this winter, by the Indigenous Governance Program at the University of Victoria, at: http://web.uvic.ca/igov/research/journal/index.htm. CELANEN (pronounced CHEL-LANG-GEN) is a Saanich word for "our birthright, our ancestry, sovereignty" and sets the tone for this annual publication containing articles, poetry, and commentary. The first issue is dedicated to Art Tsaqwassupp Thompson (Ditidaht), who donated his artwork entitled "new beginnings" for use by the Indigenous Governance Program.

Native Research Network is now at: www.nativeresearchnetwork.org. Its vision statement is: "A leadership community of American Indian, Alaska Native, Kanaka Maoli, and Canadian Aboriginal persons promoting integrity and excellence in research". Its mission is "To provide a pro-active network of American Indian, Alaska Native, Kanaka Maoli, and Canadian Aboriginal persons to promote and advocate for high quality research that is collaborative, supportive and builds capacity, and to promote an environment for research that operates on the principles of integrity, respect, trust, ethics, cooperation and open communication in multidisciplinary fields". The Native Research Network (NRN) provides networking and mentoring opportunities, a forum to share research expertise, sponsorship of research events, assistance to communities and tribes, and enhanced research communication. The NRN places a special emphasis on ensuring that research with Indigenous people is conducted in a culturally sensitive and respectful manner. Its Member List serve: NRN@lists.apa.org.

The National Indian Housing Council offers a number of reports at: http://www.naihc.indian.com/.


Some news sources that have been useful in putting the issues of Indigenous Policy together are:


**IndianZ.com**: http://www.indianz.com

**Pechanga Net**: http://www.pechanga.net/NativeNews.html

**Survival International**: http://www.survival-international.org/.


**Censored** (in Indian Country): http://bsnorrell.blogspot.com/.

**ArizonaNativeNet** is a virtual university outreach and distance learning telecommunications center devoted to the higher educational needs of Native Nations in Arizona, the United States and the world through the utilization of the worldwide web and the knowledge-based and technical resources and expertise of the University of Arizona, providing resources for Native Nations nation-building, at: www.arizonanative.net

**The Forum for 'friends of Peoples close to Nature'** is a movement of groups and individuals, concerned with the survival of Tribal peoples and their culture, in particular hunter-gatherers: http://ipwp.org/how.html.

**Tebtebba (Indigenous Peoples' International Centre for Policy Research and Education)**, with lists of projects and publications, and reports of numerous Indigenous meetings: http://www.tebtebba.org/.

Andre Cramblit (andrekar@ncidc.org) has begun a new Native news blog continuing his former Native list serve to provide information pertinent to the American Indian community. The blog contains news of interest to Native Americans, Hawaiian Natives and Alaskan Natives. It is a briefing of items that he comes across that are of broad interest to American Indians. News and action requests are posted as are the occasional humorous entry. The newsletter is designed to inform you, make you think and keep a pipeline of information that is outside the mainstream media. “I try and post to it as often as my schedule permits I scan a wide range of sources on the net to get a different perspective on Native issues and try not to post stuff that is already posted on multiple sources such as websites or other lists”. To subscribe to go to: http://andrekaruk.posterous.com/.

**Sacred Places Convention For Indigenous Peoples** provides resources for protecting sacred places world wide. Including, news, journals, books and publishing online Weekly News and providing an E-mail list serve, as well as holding conferences. For information go to: http://www.indigenouspeoplesissues.com.

**Mark Trahant Blog, Trahant Reports**, is at: http://www.marktrahant.org/marktrahant.org/Mark_Trahant.html

**UANativeNet, formerly Arizona NativeNet**, is a resource of topics relevant to tribal nations and Indigenous Peoples, particularly on matters of law and governance.

**The Harvard Project on American Indian Economic Development** offers a number of reports and its “Honoring Indian Nations” at: http://www.ksg.harvard.edu/hpaied/res_main.htm.

The Seventh generation Fund online Media Center: www.7genfund.org

**Native Earthworks Preservation**, an organization committed to preserving American Indian sacred sites, is at: http://nativeearthworkspreservation.org/.

**Indianz.Com has posted Version 2.0 of the Federal Recognition Database**, an online version of the Acknowledgment Decision Compilation (ADC), a record of documents that the Bureau of Indian Affairs has on file for dozens of groups that have made it through the federal recognition process. The ADC contains over 750 MB of documents -- up from over 600MB in version 1.2 -- that were scanned in and cataloged by the agency's Office of Federal Acknowledgment. The new version includes has additional documents and is easier to use. It is available at: http://www.indianz.com/adc20/adc20.html.

**Tribal Link** has an online blog at: http://triballinknewsonline.blogspot.com.

**The National Indian Education Association**: http://www.niea.org/.
Climate Frontlines is a global forum for indigenous peoples, small islands and vulnerable communities, running discussions, conferences and field projects:  http://www.climatefrontlines.org/.

Cry of the Native Refugee web site, http://cryofthenativerefugee.com, is dedicated to “The True Native American History.”

The RaceProject has a Facebook Page that is a forum for the dissemination and discussion of contemporary Race and Politics issues. It includes a continuing archive of news stories, editorial opinion, audio, video and pointed exchanges between academics, graduate students and members of the lay-public. Those interested can visit and sign up to the page at: http://www.facebook.com/RaceProject.

Rainmakers Ozeania studies possibilities for restoring the natural environment and humanity's rightful place in it, at: http://rainmakers-ozeania.com/0annexanchorc/about-rainmakers.html.

Oxfam America’s interactive website: http://adapt.oxfamamerica.org shows how social vulnerability and climate variability impact each county in the U.S. Southwest region. The methodology exposes how social vulnerability, not science, determines the human risk to climate change.


The Newberry Library received a grant in August, 2007, from the National Endowment for the Humanities to fund “Indians of the Midwest and Contemporary Issues.” The McNickle Center will construct this multimedia website designed to marry the Library’s rich collections on Native American history with state-of-the art interactive web capabilities to reveal the cultural and historical roots of controversial issues involving Native Americans today. These include conflicts over gaming and casinos, fishing and hunting rights, the disposition of Indian artifacts and archeological sites, and the use of Indian images in the media. In addition to historical collections, the site will also feature interviews with contemporary Native Americans, interactive maps, links to tribal and other websites, and social networking. For more information contact Céline Swicegood, swicegoodc@newberry.org.

The site www.pressdisplay.com has scanned and searchable versions of thousands of newspapers daily from around the world. These are not truncated "online versions". You can view the actually pages of the paper published for that day. There are also 100's of US papers included daily. The service also allows you to set search terms or search particular papers daily. The service will also translate papers into English.

The Northern California Indian Development Council has a web-based archive of traditional images and sounds at: http://www.ncidc.org/.

Tribal College Journal (TCJ) provides news related to American Indian higher education: tribalcollegejournal.org.

American Indian Graduate Center: http://www.aigcs.org.

The Minneapolis American Indian Center's Native Path To Wellness Project of the Golden Eagle Program has developed a publication, *Intergenerational Activities from a Native American Perspective* that has been accepted by Penn State for their Intergenerational Web site: http://intergenerational.cas.psu.edu/Global.html.

The *Indigenous Nations and Peoples Law, Legal Scholarship Journal* has recently been created on line by the Social Science Research Network, with sponsorship by the Center for Indigenous Law, Governance & Citizenship at Syracuse University College of Law. Subscription to the journal is free, by clicking on: http://hq.ssrn.com/.

The National Council Of Urban Indian Health is at: http://www.ncuih.org/.


*Lessons In Tribal Sovereignty*, at: http://sorrel.humboldt.edu/~go1/kellogg/intro.html, features *Welcome to American Indian Issues: An Introductory and Curricular Guide for Educators*. The contents were made possible by the American Indian Civics Project (AICP), a project initially funded by the W.K. Kellogg Foundation's Native American Higher Education Initiative. The primary goal of the AICP is to provide educators with the tools to educate secondary students - Indian and non-Native alike - about the historical and contemporary political, economic, and social characteristics of sovereign tribal nations throughout the United States.

The Columbia River Inter-Tribal Fish Commission (CRITFC) has a blog as part of its Celilo Legacy project, serving as a clearinghouse for public discourse, information, events, activities, and memorials. The blog is accessible by going to www.critfc.org and clicking on the "Celilo Legacy blog" image, or by simply entering: www.critfc.org/celilo.

The Coeur d’Alene Tribe of Idaho has Rezkast, a Web site of Native affairs and culture at: www.rezkast.com.

A listing of the different Alaska Native groups' values and other traditional information is on the Alaska Native Knowledge website at: www.ankn.uaf.edu.


A list of Indigenous Language Conferences is kept at the Teaching Indigenous Languages web site at Northern Arizona University: http://www2.nau.edu/jar/Conf.html.

of the UNESCO Atlas, see Peter K. Austin's comments. He is the Marit Rausing chair in field linguistics and director of linguistics at SOAS in the UK: http://blogs.usyd.edu.au/elac/2009/02/unescos_atlas_of_the_worlds_la_1.ht

The Council of Elders, the governing authority of the Government Katalla-Chilkat Tlingit (provisional government): Kaliakh Nation (Region XVII) has initiated a web site in order to expose crimes against humanity committed upon the original inhabitants of Alaska, at: http://www.katalla-chilkat-tlingit.com/.

An interactive website, www.cherokee.org/allotment, focuses on the Allotment Era in Cherokee History during the period from 1887 to 1934, when Congress divided American Indian reservation lands into privately owned parcels that could be (and widely were) sold to non Indians, threatening tribal existence.

The Blue Lake Rancheria of California launched a web site, Fall 2007, featuring the nation’s history, philosophy, economic enterprise, community involvement, and other topics, with many-links. One purpose of the site is to make tribal operations transparent. It is at: www.bluelakerancheria-nsn.gov.


The World Indigenous Higher Education Consortium (WINHEC) and its Journal are online at: http://www.winhec.org/. (See the Ongoing Activities Section for more on WINHEC). The WINHEC site includes links to other Indigenous organizations and institutions.


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