

# The Role of Indian Tribal Governments and Communities in Regional Land Management

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## ABSTRACT

Indian tribes and other Indian communities in the Sierra Nevada Ecosystem Project (SNEP) study area are its original stakeholders. Their current and future effect on land management is larger than simple demographics would suggest because federally recognized Indian tribes have a government-to-government relationship with the United States; therefore, in most matters they are not subject to state or county jurisdiction. Because this unique relationship is poorly understood by the general public, this chapter presents certain key concepts of Indian law.

Throughout the centuries of conquest and attempted assimilation, Native Californians have maintained their cultural identity and ties with the land. Today there are thirty-five recognized tribes with traditional territory in the SNEP study area, sixteen tribal communities seeking federal recognition, and two tribes seeking restoration. There are also a number of increasingly influential intertribal organizations focused around particular issues.

In the past thirty years, federal Indian policy has shifted from assimilation and termination to promotion of self-governance for tribes and, recently, toward strengthening the government-to-government relationship. Tribal efforts at economic development, reassertion of aboriginal rights, repatriation of ancestral remains and cultural items, recovery of traditional cultural lands, and protection of sacred sites have been fostered by contemporary federal legislation. Examples of involvement in land management are offered, along with a discussion of future trends.

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## INTRODUCTION

... the relationship of the Indians to the United States is marked by peculiar and cardinal distinctions which exist as nowhere else.

Chief Justice John Marshall,  
*Cherokee Nation v. Georgia* (1831)

### The Issue

The purpose of this assessment is to provide a basis for understanding the effect of Indian tribes and Indian communities on land-use management. The Indian people in the Sierra Nevada Ecosystem Project (SNEP) study area are the one social group with both ancient roots in the ecoregion and a continuing stake in its future. It goes without saying that they are culturally and historically distinct from other rural communities. Less obvious, and certainly less well understood by the general public, are the constitutional and legal distinctions that comprise the impetus for the assessment in this chapter. Federal Indian law (U.S. Code title 25) is not directly analogous to any other body of federal law. It is based on Western European international law, colonial precedents, constitutional provisions, treaties, and U.S. Supreme Court and lower court decisions (AIRI 1988; U.S. Commission on Civil Rights 1981).

In today's world the status and rights of native peoples is a global issue. Here in the United States the issue takes on its "peculiar" character through the sovereign status of tribes and the trust responsibilities of the federal government to them. It is also a local issue: in the Sierra Nevada ecoregion, where

over half the land base is managed by federal agencies, the unique legal status of tribal governments ensures they will be a factor in future land-management decisions.

This fact is contrary to the general public's perception. According to the congressionally chartered American Indian Policy Review, "One of the greatest obstacles faced by the Indian today in his drive for self-determination and a place in this Nation is the American public's ignorance of the historical relationship of the United States with Indian tribes and the lack of general awareness of the status of the American Indian in our society today" (U.S. Commission on Civil Rights 1981).

In addition to this pervasive lack of knowledge about the history and legal position of Native Americans in contemporary American society, there are a number of commonly held myths that often interfere in the development of working relationships between native people and other segments of society. One of the most enduring is that the Sierra Nevada was a pristine wilderness before non-Indians arrived to exploit its resources. Another is that California Indians were all "diggers" with no historical differences or cultural complexity, that they were simply small, roving bands of hunter-gatherers with, at best, a localized presence. The term digger itself is a demeaning racial pejorative that has been used in history books and school texts, misrepresenting Native Californian cultures and perpetuating the myth of racial inferiority. A casual conversation at any local gathering in the Sierran ecoregion will demonstrate that many of the people who were taught from these books still hold negative images of Native Californians. There are others who think that most Indians are gone from their ancestral homelands in the Sierra and have been acculturated into the "melting pot" and therefore aboriginal rights to lands and resources and ongoing traditional cultural activities need not be considered. Some people feel that Indians receive "special treatment" through minority racial status. In many Sierran communities these myths exacerbate a national problem of racial prejudice against Indian people (U.S. Commission on Civil Rights 1981).

### Relevance to Other SNEP Issues

The Indian's preservation of the land and its products for the ten thousand or more years of their undisputed occupancy was such that the white invaders wrested from them a garden, not the wilderness it salvaged their conscience to call it.

Kroeber and Heizer 1968

Tribal governments, Indian communities, and individual Indian people must be considered separately from the general population under a suite of federal and state laws dealing with environmental analysis, religious freedom, archaeological sites, and protection of Native American human remains. This being the case, they have an effect on land management greater than simple demographics would suggest.

In California, the land base of most tribal governments is

121.5 ha (300 acres) or less, creating a reliance on federal lands for exercise of reserved rights, access to traditional resources, ceremonial use, economic development, and land acquisition that is far greater than in other states.

Another important consideration is that Indian people relate to and use the land differently than other members of society. Whether they live there or not, Indian people have a spiritual connection to their ancestral lands that derives from traditional cultural teachings about the use and management of nature. They feel that they are the original land managers and have ongoing responsibilities and rights.

The active participation of tribal governments and Indian communities and individuals in developing and implementing land-use plans is not only important, it is mandated by federal law. Tribes are not special interest groups, they are part of the family of governments in the United States. Furthermore, the well-being or lack thereof of tribal governments and Indian communities will directly affect the well-being and capacity of the larger community aggregates (Doak and Kusel 1996). As detailed in the "Future Trends" section, land acquisition/recovery plans, water rights, tribal economic development, and related issues will figure prominently in the future of the Sierra Nevada ecoregion.

### Methods of Data Collection

For this chapter, government documents and published legal, anthropological, and historical sources were supplemented with input from all tribal governments and communities in the SNEP study area by means of a letter disseminated through the U.S. Forest Service's Tribal Relations Program (TRP). (The text of the letter is provided in appendix 10.1.) The letter was followed up by personal contacts, telephone calls, and presentations to tribal councils. Group presentations about SNEP and this assessment were made by the author and Connie Millar of the SNEP Science Team to twenty-four tribes and communities at a TRP workshop in Fresno and by Sonia Tamez, TRP Region 5 program manager, to the Native American Heritage Commission and to the Council on the Status of California Indians. All persons and organizations cited herein were given an opportunity to review the first draft of this chapter.

Written and verbal responses were received from members of the Kern Valley Indian Community, Chico Band of Mechoopda Indians, Big Pine Tribal Council, Pit River Tribe, Native American Heritage Commission, California Indian Basketweavers Association, Fort Independence Reservation, California Indian Legal Services, Maidu Bear Dance Committee, Tuolumne Me-wuk Tribe, Lone Pine Band of Paiute Indians, Tule River Reservation, Tyme Maidu, Commission on the Status of California Indians, Native American Heritage Preservation Council of Kern County, Holkoma Mono, Calaveras Miwok Tribal Group, and Shingle Springs Rancheria. Those individuals who were comfortable being quoted are cited in the text.

These responses clarified issues, provided examples of land uses, and identified the need for changes in terminology. In all cases where there was a preference for one term over another, for example, unacknowledged rather than unrecognized, this chapter uses the term preferred by native people. Another term that was repeatedly corrected is traditional insofar as respondents feel that traditional by itself is insufficient and needs to be accompanied by cultural and/or heritage. All respondents but one were pleased that the assessment was being written and especially that the salient legal and historical background was discussed. The idea that “people need to know these things” was expressed a number of times. Negative comments concerned timing; that is, Indian people should have been involved earlier in the SNEP study. Some respondents expressed concern that the legal and cultural separateness of individual tribes and communities would be ignored in an overview document. And one person commented that this would just be one more document that could be used against Indian people.

Information gaps exist in several areas. Demographics constitute a major gap even though Indian people and tribal membership are included in the U.S. Census: like most minority communities, they are undercounted. Another gap lies in the realm of traditional land-management practices (Anderson and Moratto 1996). This is of concern because land managers seeking a baseline “natural environment” from which to establish a desired future condition are working with the models of non-Indian researchers, who often lack knowledge of the type, extent, and duration of vegetation management practices of Native Californians. One of the most glaring gaps lies in writings about Native Californians by Native Californians. To date, most writing about American Indian culture, history, and traditions has been done by non-Indians, with resulting cultural biases and misinterpretations. This gap is closing, and we can look forward to more direct information in the future.

My knowledge of the status of tribes and future trends is largely derived from my education in anthropology and my experience as a U.S. Forest Service employee. I have worked in the Heritage Resources program since 1977—in the Sierra Nevada since 1981—and have been responsible for Native American consultation on the Inyo National Forest since 1986. In 1992, I was appointed Inyo National Forest TRP manager. Most recently, I was asked by the Timbisha Shoshone of Death Valley to coordinate a congressionally mandated interagency study of lands suitable for a reservation.

I am a non-Indian writing about sensitive topics with due respect for Native Californian peoples and cultures. I have been honored by many years of productive working relationships with Indian colleagues and friends, including consultation with native peoples from throughout the SNEP study area and beyond for this chapter. In the final analysis, however, it must be made clear that I write from my own viewpoint and do not speak for Indian people, tribes, communities, or organizations.

## Organization

The next section presents key concepts of Indian law necessary for understanding the contemporary situation and future trends. The sections that follow provide an overview of the history of Native Californians and their contemporary presence in the SNEP study area and a discussion of contemporary federal policy as it relates to tribes, land use, and ecosystems management. The final section considers the relationship of tribal issues to land management, with a discussion of future trends that will affect the Sierra ecoregion.

Treatment of such a complex and little-known topic within the space allotted for this assessment necessitates that it will be general. For more information and detail, the reader is referred to the sources listed in the references, the offices of the tribal governments listed in appendix 10.2, the intertribal organizations referred to in the text, and the offices of land management agencies in the Sierra Nevada ecoregion.

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## KEY CONCEPTS

### Allotments

Allotments are holdings of individuals or families outside a reservation; some in trust, some in fee simple. These are scattered throughout the SNEP study area. Within reservations, assignments of tribal land, as opposed to allotments, are made by the tribal government to individuals and/or families. The land so assigned remains tribal trust land.

### California Indians

The term California Indians refers to indigenous peoples in the land now known as California. Today they continue to maintain their separate cultural identities while participating in the social and economic activities of non-Indian communities. The Indian Claims Commission defined the “Indians of California” to whom Congress has a fiduciary duty as

all Indians who were residing in the State of California on June 1, 1852, and their descendants now living, as set forth by the Act of May 18, 1928. . . . This identifiable group includes the descendants of members of what have sometimes been loosely described as tribes, bands, rancherias, and villages of Indians of California, and other individual Indians, who resided in California at the time of the promulgation of the Treaty of Guadalupe Hidalgo in 1848. Members of the group who were born prior to May 18, 1928, were enrolled as Indians of California by direction of the Act of Congress approved May 18, 1928. . . . Members of the group who were born subsequent to May 18, 1928, are to be enrolled by direction of the Act of Congress approved June 30, 1948. (Quesenberry 1993)

## Federal Recognition

A tribe is federally recognized if “(1) Congress or the executive created a reservation for the group whether by treaty (1871), by statutorily expressed agreement or by executive order or other valid administrative action; and (2) the United States has some continuing political relationship with the group, such as providing services through the BIA [Bureau of Indian Affairs]” (AIRI 1988).

## Indian

An Indian is a person with some amount of Indian blood who is recognized as an Indian by the person’s tribe or community. . . . While membership in a federally recognized tribe is the general criteria used by the BIA for participation in most federal programs, a blood standard also is used alternatively for eligibility for some programs. In recent years Congress has not allowed the BIA to rely solely on a blood standard for federal program eligibility. (AIRI 1988)

## Indian Country

The Indian Country Statute of 1948 (18 U.S. Code sec. 1151) defines Indian Country as “all land within the limits of any Indian reservation under the jurisdiction of the United States Government . . . all dependent Indian communities within the borders of the United States . . . all Indian allotments, the Indian titles to which have not been extinguished.”

## Indian Reservation

Federal reservations exist for several purposes. An Indian reservation is that land over which a tribe is recognized by the United States as having governmental jurisdiction (25 Code of Federal Regulations part 151). Some reservations in California have also been called rancherias or colonies.

## Reserved Rights

“Tribal rights, including rights to land and to self-government, are not granted to the tribe by the United States. Rather, under the reserved rights doctrine (*United States v. Winans*, 1905), tribes retained (‘reserved’) such rights as part of their status as prior and continuing sovereigns” (AIRI 1988). Reserved rights are those that were not specifically extinguished by treaty or lands claim cases. In addition to land and self-government, these include hunting and fishing rights, the right to gather traditional materials, and water rights. There are many unanswered questions about reserved rights, and they are a source of conflict in many areas between states and tribes and between tribes and local communities (AIRI 1988; U.S. Commission on Civil Rights 1981).

## Restoration

Tribes once federally recognized were terminated from federal recognition during the termination era. Such tribes may seek to be “restored” to their former status. One other use of the term restoration is as the alternative preferred by many Indian people to the term land acquisition. In that context herein, the phrase used is land acquisition/restoration.

## Sovereignty

The special status of Indian tribal governments was defined by a series of United States Supreme Court decisions of the 1830s referred to as the “Marshall Trilogy” after their author, Chief Justice John Marshall. In *Cherokee Nation v. Georgia* (1831), he wrote that “it may well be doubted whether those tribes which reside within the acknowledged boundaries of the United States can, with strict accuracy, be denominated foreign nations. They may, more correctly, perhaps, be denominated domestic dependent nations. . . . Their relation to the United States resembles that of a ward to his guardian.” From this decision and the two others of the trilogy—*Johnson v. M’Intosh* (1823) and *Worcester v. Georgia* (1832)—grew the concept of the sovereignty of Indian tribes and the trust responsibility of the U.S. government. (The trust relationship is discussed in a later section.)

Tribal sovereignty is the third source of sovereignty in the United States, the other two being federal and state. Indian tribes, regardless of size, are internally sovereign; external relationships with other countries are reserved to the federal government. Each tribe has a government-to-government relationship with the United States, including all agencies and bureaus, as will be discussed in the “Contemporary Federal Policy” section.

Powers that are not limited by federal law or treaty remain with tribes. These include the power to establish a form of government and to determine membership, some police powers, and the power to administer justice, to exclude persons from the reservation, to charter business organizations, and to exercise sovereign immunity. In general, state law and local law do not apply in Indian country without congressional consent. The degree to which federal statutes apply in Indian Country has been adjudicated in federal courts on a case-by-case basis.

Environmental laws, such as the National Environmental Protection Act (NEPA), apply in only some situations. These include any so-called federal action, such as the transference of other federal or private land to tribal trust, or the use of Housing and Urban Development monies for construction. Environmental laws also apply on tribal land that is held in fee simple. For example, the Big Pine Tribe of Owens Valley acquired private land from the Los Angeles Department of Water and Power. Construction of an industrial park on the land required compliance with NEPA and other federal laws

because that land was owned by the tribe, not held in trust for the tribe by the federal government.

Another aspect of sovereignty was articulated at a Tribal Relations workshop in Fresno (May 2–4, 1995) by Joseph Myers, executive director of the National Indian Justice Center. In discussing the idea of sovereignty, he pointed out that it also needs to be understood in nonlegal, cultural terms, because to Indian people it also means land, inner strength, spirituality, and the wholeness of life.

## Tribe

The term tribe has several meanings, depending upon the context. The legal meaning is discussed here, and the anthropological one is discussed in the “Native Californians” section.

Historically, the federal government has determined that it will recognize particular groups of Indians as Indian tribes pursuant to its authority under the Indian Commerce Clause of the United States Constitution. Thus reservations variously have been set aside for ethnologically defined tribes, for bands or other subgroups of tribes, and for confederations of several tribes or bands. All are considered as tribes for legal purposes. . . . Indian groups not recognized under federal law may seek recognition through litigation, through the administrative procedures established by the BIA, or through congressional statute. (AIRI 1988)

This is codified in Code of Federal Regulations title 25, part 150, where tribe is defined as a tribe, band, nation, community, rancheria, colony, pueblo, or other federally recognized group of Indians. “Tribal membership requirements can be established by usage, written law, treaty, or international agreement. Today, membership typically is defined by a tribal constitution, tribal law, or a tribal roll; varying degrees of blood quantum are required by different tribes” (AIRI 1988).

## Trust

As stated earlier, the trust relationship derives from the concept of tribal sovereignty. Congress has broadly construed authority over Indian tribes based on the Indian Commerce Clause of the Constitution (art. 1, sec. 8, clause 3). The executive branch has much more narrowly construed power in its relationship with Indian tribes, but, as with Congress, it has a fiduciary, that is, trustee role. Beneficiaries of the trust relationship include tribes and individual Indians.

Perhaps the most important aspect of the trust relationship is the protection of Indian landownership. The Trade and Intercourse Acts prohibited the sale of Indian land without federal consent. Indians, although not citizens at that time, held land and other property as trust beneficiaries of the United States. This arrangement, in

theory at least, protected Indian landownership and allowed the federal government rather than the states to control the opening of Indian lands for non-Indian settlement. The trust relationship, therefore, enhanced federal power, but it also created federal duties relating to Indian lands and other natural resources (AIRI 1988).

The trust relationship also includes legal representation: 25 U.S. Code sec. 175 states, “In all states and territories where there are reservations or allotted Indians, the United States Attorney shall represent them in all suits at law and in equity.”

Finally, we need to acknowledge that the trust relationship has been defined over time through federal court decisions, congressional actions, and executive orders:

The trust relationship has proved to be dynamic and ongoing, evolving over time. One question that constantly arises is whether the trust relationship is permanent. Is it a perpetual relationship, or is it one that can or ought to be “terminated”? Is the purpose to protect Indian landownership and self-governing status? Or is it to give the federal government power to assimilate Indians into the larger society, to rehabilitate them as “conquered subjects” or to “civilize” them?

Different eras have provided different answers to these questions. At the turn of the century the trust relationship was seen as short term and transitory. Indian land was to be protected for a brief transition period while Indians were assimilated into the “mainstream.” The trust relationship was seen as the basis for congressional power to pass legislation breaking up tribal landholdings into individual allotments.

More recently, the view has broadened. The trust relationship now is seen as a doctrine that helps support progressive federal legislation enacted for the benefit of Indians, such as the modern laws dealing with child welfare, Indian religion, and tribal economic development. The trust also controls contemporary interpretations of time-honored treaties and statutes. The once transitory trust relationship apparently has developed into a permanent doctrine that will serve as a benevolent influence in the future of Indian law. (Geary 1994)

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## NATIVE CALIFORNIANS: AN OVERVIEW

The technological and complex social organizations of California’s hunter and gatherers were integrated with value systems which encouraged increased productivity and acquisition of surpluses. The abundance of plant and animal resources and the development of

storage techniques and other truly skilled applications of human ingenuity allowed these people to develop beyond the normal parameters of hunting and gathering, particularly in the sociological, philosophical, and religious realms.

Bean and Lawton 1994

Scientific evidence for human presence in California extends back in time approximately 10,000–12,000 years (Chartkoff and Chartkoff 1984; Moratto 1984). Many changes in population, land-use practices, and subsistence-settlement patterns occurred during this time. The evidence that prehistoric populations in California were an interactive and effective component of their environments is substantial and is discussed by Anderson and Moratto (1996). The legacy of these millennia is found throughout the Sierra Nevada ecoregion in the form of traditional use areas, sacred places, and archaeological sites, all of which entail legal obligations that affect activities occurring on federal, state, and, in some cases, private land. Space limitations preclude a discussion of these contemporary landscape features; the focus of this chapter will be on the historical period, especially from the time the United States annexed California (1846), when the issue of tribal relations under United States law came into being.

### Non-Indian Contact

The first recorded European contact with California Indians was with the voyage of Juan Rodriguez Cabrillo in 1542. Occupation followed much later, in 1769, when, in response to Russia's incursion into Alaska and British interest in the west coast of North America, Spain sent soldiers and padres north from Mexico to establish a colonial presence in California. The Spanish were followed in 1812 by the Russians, who established an outpost at Fort Ross, and the entrance—legal and otherwise—of other non-Indian peoples (Bean 1968).

At that time California was inhabited by peoples speaking many different languages and organized into myriad groupings labeled by anthropologists as tribelets, village communities, and districts (Kroeber 1925, 1962; Steward 1933). In this chapter these autonomous sociopolitical units will be referred to as tribes. Traditionally, non-Indian scholars have lumped these tribes into larger ethnolinguistic groupings that demonstrate a linguistic and cultural affiliation, not a political or corporate unity in either aboriginal or contemporary terms. (See Anderson and Moratto 1996 for a map of the territories and a listing of the ethnolinguistic groups in the Sierra Nevada circa 1800.) Concomitant with this deceptively simple political organization was a complex social web of intermarriage, trade, economic redistribution, vegetation and game management, and long-distance movement of people and resources. The Sierra Nevada itself was no obstacle to social intercourse, and people throughout the region had and still maintain connections with one another (d'Azevedo 1986; Heizer 1978a; Myers 1995).

### Manifest Destiny

With the signing of the Treaty of Guadalupe Hidalgo on July 4, 1848, Mexico ceded the territory occupied by the United States during the Mexican-American War. In return, the United States guaranteed protection of the property rights and civil liberties of former Mexican citizens, including native peoples. In California this commitment was jeopardized that same year with the discovery of gold and was abrogated the following year when delegates to the California constitutional convention voted to deny citizenship to California Indians.

The difficulty of dealing with the inevitable conflicts between the gold seekers and Indian people led to protracted debate in Congress. After California was admitted to the Union on September 9, 1850, Congress authorized President Fillmore to make treaties with Native Californians; three Indian agents were named and sent to California in 1851. Between 1851 and 1852, eighteen treaties were drawn up with 138 tribes, designating land to be ceded and reservations to be established. Under urging from the California delegation, however, none of these treaties was ever ratified, and in 1852 Congress took the extraordinary measure of sealing them until 1906 (Heizer 1978b; Stewart 1978).

### The Indians of California

California is thus in the unique position of being a nontreaty state; federal recognition has been gained through other actions. In the 1850s groups of Indian people were gathered onto seven former military reservations to protect them from violence by non-Indians (Heizer 1978b). Beginning in 1864, reservations were established for dispossessed Native Californians by executive order. Ultimately, 117 communities were established by the federal government on lands set aside from the public domain or purchased for the "homeless Indians of California" (Stewart 1978). The tribes who have been federally recognized by executive order have all the rights that treaty tribes have, including sovereignty and a trust relationship with the United States. Unfortunately, other tribes remain unacknowledged.

The historical circumstances in California have created a situation today in which several groups may be included in one tribe and several tribes may be located on one reservation. An individual tribe may also have several reservations intermingled with other land. In some tribes, tribal members may retain their tribal affiliation and participate in tribal affairs but reside off the reservation. Tribes and their members may also retain an interest in their aboriginal territories even if they no longer reside in the area.

Furthermore, California Indians have been treated as one group by the federal government since the Treaty of Guadalupe Hidalgo. In 1850, Congress passed the California Indians Act. "These actions taken as a whole, manifest Congress' early intent to deal with the California Indians as a single, identifiable group or community of Indians for

purposes of providing federal protection and services" (Quesenberry 1993). This act was followed by a series of statutes and actions designed to provide homes, education, and other services for the "Indians of California," regardless whether the groups that benefited were federally recognized tribal governments.

In 1928, the California Indians Jurisdictional Act was passed, enabling California Indians with notice of the act to sue the federal government for the uncompensated taking of land. California Indian land claims were settled in 1950 at the 1850 price of 47 cents per acre. This rate was raised in 1968 to \$1.50 per acre. Where the money was taken, land claims were extinguished; however, it is not widely recognized that the settlement was for land, not resources, so the issue of reserved rights may still be open. For those tribes and individuals who did not settle, there are still outstanding claims and questions of aboriginal rights.

### General Allotment Act of 1887 (Dawes Act)

The General Allotment Act is a mighty pulverizing engine to break up the tribal mass. It acts directly upon the family and the individual.

Theodore Roosevelt (1901)

Federal policy toward Indian people in the latter half of the nineteenth century consisted of an effort to "assimilate" tribal people into Euro-American society. Children were sent away to boarding schools, traditional religion and medicine were suppressed, and through the granting of allotments, an attempt was made to break up the traditional social structure by turning native individuals into Indian versions of Jeffersonian yeoman farmers.

Some allotments from public lands had been made through individual treaties prior to the Dawes Act, but in no way did these equal its effect. Nationally, the act allowed 32 ha (80 acres) of tribal land to be allotted to individuals, 64 ha (160 acres) to a family. In California, the allotments were taken from available public lands. In central California alone, there were 1,000 public land allotments amounting to more than 2,834 ha (7,000 acres) granted between 1887 and 1984. After twenty-five years, the lands could pass from trust to fee simple, and the allottee become a citizen. Indians who became citizens under the allotment process gained the allotments in fee simple, and these could be sold to non-Indians. This practice was ended with the passage of the Indian Reorganization Act (AIRI 1988).

### The Indian Reorganization Act of 1934

The Indian Reorganization Act was passed in response to the influential Merriam Report of 1928, which detailed the terrible living conditions on many reservations. One major facet was to end the parceling out of tribal lands as allotments and extend the trust period of existing allotments. Another thrust

was promotion of tribal self-government. Not all tribes accepted the act, but many did and formed constitutions and corporations under its provisions (AIRI 1988).

### Termination

After World War II, the federal government embarked on a policy of "mainstreaming" reservation Indians, as embodied in the Termination Act of 1953. Termination in this sense is the revocation of federal recognition. In California, this policy was implemented through the California Rancheria Act of 1958, which resulted in the termination of forty-one tribes statewide. Within ten years, 60% of the land processed for termination went to non-Indians. Another result of termination was the relocation movement, under which terminated people from all over the United States were relocated to urban areas, placing an additional burden on state services.

Several tribes sued individually for restoration of federal recognition in the 1970s, and then a class action suit, *Tille Hardwick v. United States* (1978), was filed on behalf of all terminated tribes who wished to participate. Seventeen tribes, including six in the SNEP study area, were restored to federal recognition under this lawsuit and are consequently known as Tille Hardwick tribes. Tribes that were dismissed from the lawsuit may still file their own suits to regain federal recognition (AIRI 1988; Slagle 1989).

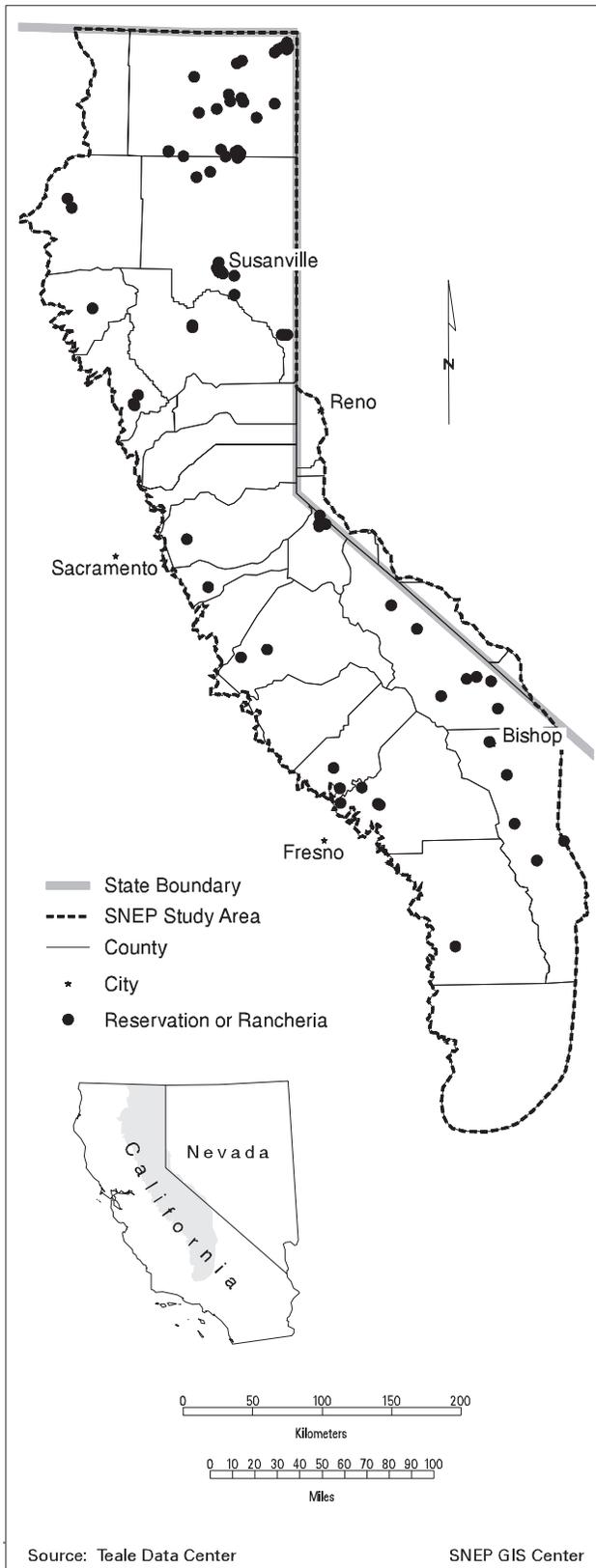
### Tribal Governments, Communities, and Organizations

There are thirty-five federally recognized tribal governments in or with traditional heritage lands in the SNEP study area (figure 10.1), sixteen unacknowledged tribes seeking federal recognition, and two restoration candidates. These are listed, along with addresses and other information, in appendix 10.2. There are also intertribal organizations formed around particular issues throughout the state that are gaining importance in Indian affairs in California. Some of these groups are presented in the sections that follow.

#### Confederation of Aboriginal Tribes of California

A group of unacknowledged central Sierra Nevada tribes, the Confederation of Aboriginal Tribes of California, was formed in 1988. Leadership was taken by the North Fork Mono, one of the unratified treaty tribes. Today, the North Fork Mono is an aboriginal nation of 600 members, with cultural and leadership systems intact and are very much involved in tribal issues. They are representative of tribes whose aboriginal rights to land and water have never been extinguished by treaty.

The confederation was established to work on federal recognition and was instrumental in bringing about the enactment of the act that established the Commission on the Status of California Indians (Goode and Franco 1995).



**FIGURE 10.1**

Reservations of groups with traditional territory in the SNEP study area.

**Advisory Council on the Status of California Indians**

In 1989, legislation was introduced in Congress with the purpose of clarifying the status of certain California tribes and providing recognition to others. This was passed as the Advisory Council on California Indian Policy Act of 1992. With the exception of Auburn Rancheria, specific recognition provisions in the act were deleted, and an Advisory Council of eighteen members was established. Membership is composed of representatives from sixteen tribes (acknowledged and unacknowledged), one from the BIA, and one from the Indian Health Service. They were charged with the responsibility to

1. develop a comprehensive list of California Indian tribes and a "descendancy list" for each tribe;
2. "identify the special problems confronting unacknowledged and terminated tribes";
3. "propose reasonable mechanisms to provide for the orderly and fair consideration of requests by such tribes for Federal acknowledgment";
4. assess the "social, economic, and political status of California Indians";
5. examine the effectiveness of federal policy with respect to California Indians;
6. compare services and facilities provided to California Indian tribes with those provided to Indian tribes nationwide;
7. conduct public hearings; and
8. develop recommendations.

To meet its responsibilities, the Advisory Council has held hearings throughout the state. Task forces have been established to deal with specific issues. There is a federal recognition task force, a health task force, and a legislative committee. One task force is dealing with a variety of cultural heritage issues involving sacred sites, burial grounds, archaeological sites, and ceremonial lands. The Advisory Council has prepared an executive order addressing protection of these places. In addition to land acquisition/recovery, the Advisory Council is addressing the issue of access for traditional cultural uses. Through the hearings and the work of the task forces, a tremendous amount of information has been collected. The life of the Commission on the Status of California Indians was supposed to end in October 1995, but an extension has been requested (Johnson and Manuel 1995).

**The Native American Heritage Commission (NAHC)**

Created by the California legislature in 1977, the Native American Heritage Commission is composed of nine members appointed by the governor, five of whom must be Native Californians. Commission meetings are held throughout

the state in traditional tribal territories to make it easier for tribal members to attend.

The responsibilities of NAHC include identification of the most likely descendants when aboriginal human remains are found; liaison between Indian people and other government agencies at the federal, state, county, and city level; and maintenance of a Sacred Lands Inventory File and review of environmental documents for possible impacts to sacred lands (NAHC 1992).

### **California Indian Legal Services (CILS)**

An offshoot of California Rural Legal Assistance, California Indian Legal Assistance formed in 1967 to deal with the special legal problems of Indian people in California. From a single office in Berkeley, it has expanded to branches in Oakland, Bishop, Escondido, and Eureka (Margolin 1993).

### **California Indian Basketweavers Association (CIBA)**

From a gathering of northern and central California basketweavers, the California Indian Basketweavers Association has grown to a statewide organization. CIBA's purposes, as listed in its statement of purpose (CIBA 1995) are

1. to preserve, promote and perpetuate California Indian basketweaving traditions;
2. to raise awareness and provide education of Native Americans, the public, public agencies, arts, educational and environmental groups of the artistry, practices and concerns of Native American basketweavers;
3. to promote solidarity and communication between Native American basketweavers;
4. to promote and provide opportunities for Native American basketweavers to pursue the study of traditional basketry techniques and forms and to showcase their work;
5. to provide information and services to Native American basketweavers, including means of protecting their rights as artists and Native Americans;
6. to establish rapport and work with public agencies and other groups in order to provide a healthy physical, social, cultural, spiritual and economic environment for the practice of Native American basketry;
7. to increase Native American access to traditional cultural resources on public and tribal lands and traditional gathering sites, and to encourage the reintroduction of such resources and designation of gathering areas on such lands;
8. to broaden communications with other Native American traditional artists; and
9. to do all of the above in a manner which respects our Elders and Mother Earth.

### **Native American Heritage Preservation Council of Kern County**

An example of people from different tribes working together with city and county governments to deal with local concerns is the Native American Heritage Preservation Council of Kern County, composed of representatives from the Chumash, Wachumni, Kawaisu, Paiute, Tubatulabal, Tule River Tribes, and others. It was formed in July 1991, when a development project was proposed on ancestral homelands containing burials and prehistoric archaeological sites. Since then, the council has been recognized as a credible resource by the county, by agencies, and by the private sector in dealing with Native American issues in Kern County and reviewing the adequacy of the cultural resources portions of environmental impact reports prepared under the California Environmental Quality Act (CEQA). A joint effort is currently under way between the county board of supervisors and the council to develop countywide CEQA guidelines. Other activities include burial protection, an annual gathering at California State University, Bakersfield, and other cultural activities. Currently, the council is petitioning the City of Bakersfield to name places on an eight-mile bikepath along the Kern River with native names (Gomez 1995).

### **California Indian Forest and Fire Management Council (CIFFMC)**

The California Indian Forest and Fire Management Council is a recently constituted group comprising members from Elk Valley, Hoopa, Round Valley, Karuk, Pauman, Yurok, and Tule River Tribes. It began in 1992 as a group of concerned natural resources tribes (tribes that need to manage natural resources on their reservations). These tribes are dealing with such contemporary ecosystems management issues as prescribed burning, reintroduction of fire to the ecosystem, and cultural resources management. Their statement of purpose includes the following: "It is essential as Tribal people for us to protect and enhance the earth that we live with, especially with changes of management of natural resources compared to centuries ago" (CIFFMC 1995).

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## **CONTEMPORARY FEDERAL POLICY**

The federal agenda began to shift toward a policy supportive of tribal self-governance in the 1960s. In his 1970 message to Congress, President Nixon explicitly rejected termination policies and coined the term self-determination. His declaration was followed by a steady stream of legislative and executive action designed to actualize self-determination on the ground and to clarify aspects of Indian law. In addition to laws dealing specifically with Native Americans, three pieces

of environmental and land-management legislation have been important in including Indian people in management activities: the National Environmental Policy Act of 1969 (NEPA), the Federal Land Policy and Management Act of 1976 (FLPMA), and the National Historic Preservation Act of 1966 (NHPA).

NEPA establishes national policy for environmental protection. Included are requirements to consider cultural values and diversity and to consult with affected tribal governments, communities, and traditional practitioners. Similar provisions are found in CEQA.

FLPMA requires coordination with Indian tribes along with other federal agencies and state and local governments in preparing and maintaining an inventory of public lands and their various resource and other values, in developing and maintaining long-range plans for the use of public lands, and in managing public lands.

NHPA requires federal agencies to take into account the effects of their activities on historic and prehistoric properties eligible for listing on the National Register of Historic Places. Where properties are eligible because of their traditional religious and/or cultural importance to Native Americans, consultation with the appropriate tribe, community, or individual is required.

## The Role of Federal Agencies

On April 29, 1994, President Clinton issued an executive order to the heads of executive departments and agencies outlining the principles involved in working with federally recognized tribes as sovereign tribal governments. In it, he emphasized that each executive department and agency, "including every component bureau and office," is responsible for developing a government-to-government relationship with federally recognized tribes, for consulting with tribes on the effects of federal actions on the tribe and tribal trust resources, for removing obstacles to developing a working government-to-government relationship, and for developing methods to deal with specific tribal issues and needs. In California, the federal agencies have recently formed an Inter-agency Indian Policy Group with representation from the Forest Service (USFS), the Bureau of Land Management (BLM), and the National Park Service (NPS).

### The United States Forest Service (Department of Agriculture)

The Forest Service Manual (sec. 1563) describes the relationship between tribal governments and communities. The USFS is to

1. maintain a government-to-government relationship with federally recognized tribal governments;
2. implement programs and activities honoring Indian treaty rights and fulfill legally mandated trust responsibilities to

the extent that they are determined applicable to National Forest System lands;

3. administer programs and activities to address, respect, and be sensitive to traditional native religious beliefs and practices; and
4. provide research, transfer of technology, and technical assistance to Indian governments.

Following the president's executive order, the Inyo National Forest held a Tribal Relations workshop in October 1994 attended by representatives of ten tribes and communities from eastern California and western Nevada, USFS employees from Regions 4 and 5, NPS, BLM, California Department of Transportation (CALTRANS), the Los Angeles Department of Water and Power (DWP). In May 1995, the Sequoia, Sierra, and Stanislaus National Forests combined to hold a workshop attended by twenty-six tribes and communities, representatives of intertribal organizations, NPS, California Fish and Game, CALTRANS, and other state and local agencies.

Region 5 has a TRP Handbook, and many of the national forests have developed forest-specific handbooks. A working draft of the Forest Service National Resource Book on American Indian and Alaska Native Relations is being reviewed by agency and tribal people and will be finalized in 1996.

### The Bureau of Land Management (Department of the Interior)

The BLM is similar to the USFS in that both are multiple-use land-management agencies responsible for millions of acres of formerly tribal land and both have many opportunities to work with Indian people and tribes as partners. The BLM has established a National Native American Program Office in Santa Fe, as opposed to the USFS's more decentralized approach, in which each Region is developing policies that meet particular needs. The office in Santa Fe has recently issued national guidelines for working with tribes. Another important difference is that the BLM has identified "surplus lands" available for transfer to recognized tribes through the BIA. Transference may be accomplished by administrative action of the secretary of the interior or through legislation.

### The National Park Service (Department of the Interior)

NPS has a preservation mission and has taken a correspondingly more restrictive approach toward aboriginal rights. Certain activities, like collecting traditional resources, typically are not allowed, and this often creates difficulties between the NPS and Indian people. Changes are being made in the SNEP study area, however, with draft protocols dealing with the range of government-to-government relationships by both Yosemite and Death Valley National Parks.

The Office of American Indian Trust Responsibilities under the secretary of the interior plans to issue a compilation of the Native American consultation guidelines of all the agencies in the Department of the Interior in the fall of 1995. These

guidelines were drawn up in compliance with President Clinton's executive order. This, along with the USFS National Resource Book, should provide both agencies and the tribes with clearer and more uniform direction. The different agency approaches are as confusing and dismaying to Indian people as they are to the general public.

With the growth of tribal relations programs and consultation from all levels of government, many tribes are feeling overwhelmed by the number of requests for consultation. Many simply do not have the staff or resources to handle all of it in a timely manner, nor trained personnel to address specific issues. In this situation there is a need for personal contacts, sensitivity in communication, and technical assistance.

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## FUTURE TRENDS

### Outstanding Aboriginal Rights, Restoration, and Federal Recognition

Tribes who were parties to the unratified treaties did not surrender any land or resources to the United States. Land claims were settled in most cases by the Land Claims Commission. However, some individuals and tribes did not accept the land settlement money, and the BIA is still holding money for those who have not extinguished their aboriginal claims. Those who did not "take the money" often express the intention of pursuing further legal action.

Though not all Indian communities want federal recognition (Velasquez 1995), eighteen unacknowledged and terminated tribes in the SNEP study area are seeking recognition or restoration. As these tribes become recognized or restored, they will be sovereign nations under federal law. As individuals and tribes continue to pursue reserved rights, local communities and state and federal land and resource management practices will be affected.

### Land Acquisition/Restoration

The federal government has the authority to convey land to federally recognized tribes under different authorities: The USFS exchanges land, the BLM transfers land, and Congress may create Indian Country out of public land by legislation. A precedent for returning national park land to Indian tribes was established 1975 when the Havasupai Nation's claim to a homeland in the Grand Canyon was partially recognized. Recently, the secretary of the interior administratively transferred BLM lands adjacent to tribal governments in California, including the Utu Utu Gwaitu Tribe of Benton, the Fort Independence Reservation, the Bridgeport Indian Colony, and the XL Ranch in the SNEP study area. Lands transferred range from 16 to 101 ha (40 to 250 acres).

A precedent-setting case has arisen in Death Valley, where the Timbisha Shoshone were made homeless through the cre-

ation of a national monument in 1933. The tribe gained federal recognition in 1983, and today their temporary land base consists of 16 ha (40 acres) at Furnace Creek in Death Valley, which they hold under an expired special use permit.

The traditional homeland of the Timbisha includes the southeastern portion of the SNEP study area, on lands managed by the Inyo National Forest, the Park Service, the Ridgecrest Area Office of the BLM, and the China Lake Naval Air Weapons Station. Section 705(b) of the 1994 California Desert Protection Act mandated a study by the relevant federal agencies and the tribe to identify lands suitable for a reservation. At present, a large working group has been established along with smaller working groups focused on issues such as current land uses, legal questions, and agency mandates.

Another type of land acquisition/restoration is being sought by the Tyme Maidu, Berry Creek Rancheria, Oroville. The Tyme Maidu are a federally recognized tribe who have a small rancheria of 57 acres. The BLM had identified adjacent land to transfer to the tribe, who planned to erect a roundhouse there for traditional ceremonies. Other portions were to be used for reburial of repatriated ancestral human remains excavated during the construction of Oroville Dam. The local congressman withdrew the request for the transfer under protest from the county board of supervisors (Bjork 1995). In several areas, there is a clear conflict between tribes and counties that do not want any land to go to trust and thereby be removed from the tax base. Whether that was the case in Oroville is not known.

### Self-Governance

The Indian Self-Determination and Education Assistance Act of 1975 was intended to maximize Indian people's authority to direct federal programs and services to their communities. Priorities are now set by the tribe according to its needs, laws, and individual management guidelines. In addition, authority is provided for tribal governments to acquire lands adjacent to reservations for purposes of the act.

Under current federal policy, the BIA is downsizing; in fact there are plans for the California office to be moved to Albuquerque. Through the provisions of the 1975 act, monies are being distributed to tribes rather than the BIA so that they can directly acquire necessary services. Tule River in the SNEP study area was one of the first tribes in the nation to contract programs from the government in 1980.

### Water Rights

The landmark Supreme Court decision *Winters v. United States* (1908) established the Winters Doctrine, which holds that when a reservation is established under treaty, implicitly sufficient water is reserved for the tribe's present and future use. This doctrine was upheld for reservations established by executive order in *Arizona v. California* (1963). In 1952, Congress

passed the McCarren Amendment, giving the states some jurisdiction to adjudicate water rights on trust lands (AIRI 1988).

An interesting situation involving five tribes exists in Owens Valley, the setting for one of the classic western water wars. In the last century, the Paiute people were displaced and their irrigation systems taken over by non-Indians. Both Indians and non-Indians were then drastically affected by claims of the City of Los Angeles to Owens River water. Indian people who had adjusted to the conquest by becoming agricultural workers were again displaced as farms were bought up to protect the watershed. A Los Angeles Department of Water and Power (DWP) study (Ford 1930) detailed the impoverished condition of the Indian people due to water diversions and lack of employment. It also pointed out the advantages to the DWP of acquiring trust lands. This report set the stage for a land exchange among the DWP, the Paiutes, and the Department of the Interior, which Congress approved in 1937. Although the legislation provided that a “fair and equal trade” be made, that is, the land exchanged should be of equal value, plus water rights, only 607 ha (1,500 acres) of DWP land was exchanged for trust land, and with no accompanying water rights.

The subsequent history is complex, with the DWP ultimately claiming that the Owens Valley tribes have no water rights. The affected tribes—Lone Pine, Fort Independence, Big Pine, Bishop, and Benton—formed the Owens Valley Indian Water Commission and engaged California Indian Legal Services to represent their interests. A federal fact-finding team composed of members from the Solicitor General’s office, the BLM, and the BIA studied the case and issued a report finding that the exchange did not meet the legislative requirement for equity; therefore, the tribes have a valid claim. The secretary of the interior has requested Los Angeles to begin negotiations to settle the claim. To date, a Water Rights Negotiating Team still has to be appointed (Stidham 1995).

Another aspect of this controversy is its effect on the community as a whole. The DWP negotiated with Inyo County for years to develop a ground-water pumping agreement. When the draft environmental impact statement was completed in 1990, the tribes successfully challenged it because neither the county nor the DWP had consulted with them.

## Who Owns the Past?

Two important pieces of legislation dealing with native people’s rights to their cultural legacy and ancestral remains were enacted in the past twenty years: the Archaeological Resources Protection Act of 1979 (ARPA) and the Native American Graves Protection and Repatriation Act of 1990 (NAGPRA).

ARPA provides for the protection and management of archaeological resources and specifically requires notification of the affected Indian tribe if proposed archaeological investigations could result in harm to or destruction of any location considered by the tribe to have religious or cultural

importance. As amended in 1992, ARPA incorporates the provisions of NAGPRA.

NAGPRA provides that federal agencies must consult with appropriate Indian tribes or individuals prior to authorizing the intentional removal of Native American human remains, funerary objects, and objects of cultural patrimony. As with other federal legislation, it applies on federal land and on any land if the project is funded with federal monies.

NAGPRA also provides for consultation over existing collections to identify and assure disposition of human remains and related cultural items in a manner consistent with the desires of lineal descendants or the appropriate tribal authorities. Since its enactment, all federal agencies and associated museums and repositories have been required to make listings of their holdings available to tribes and provide them access to view collections. Cost to both agencies and tribes has been high, and repatriation itself creates additional obligations. In the case of the Tyme Maidu mentioned earlier, additional land is needed for the tribe to inter the human remains that are being returned. In Inyo County, a state-proposed “green sticker” (off-highway vehicle) route was stopped by local opposition to the project, including by several of the Owens Valley tribes, who wish to use a portion of the area—a traditional burial ground—to perform reburial ceremonies for human remains being repatriated from the Smithsonian Institution. The Tuolumne Me-wuk Tribe has received a 1995 Economic Recovery Rural Community Assistance Program grant of \$43,424 to develop a plan for an interpretive center to be used to curate repatriated human remains and associated funerary items for the five tribes of the Central Sierra Me-wuk Cultural and Historic Preservation Committee (Fuller 1995).

The protection of human remains is an important and sensitive issue for Indian people. In addition to federal legislation, California Public Resources Code, sec. 5097.99, makes it a felony to willfully, unlawfully, and knowingly obtain or possess Native American human remains taken from a Native American grave or cairn. Other state law requires immediate notification of the coroner upon discovery of human remains. Within twenty-four hours the coroner notifies the Native American Heritage Commission, which identifies the most likely descendants. The most likely descendants then make recommendations for treatment and disposition of the remains.

## Tribal Courts

A lasting legacy of the termination period for California Indians is Public Law 280, enacted in 1953. PL 280 provides for partial state jurisdiction over law enforcement on some or all reservations. In some states it applies only to specific laws; in California it extends to most crimes and some civil matters. Some matters, such as zoning, taxation, and hunting and fishing rights, were specifically exempted. PL 280 does not extinguish a tribe’s sovereignty or jurisdiction, and tribal courts may exist concurrently with state courts.

No monies were appropriated for PL 280, placing a financial burden on local law enforcement. At the same time, tribal expectations of effective law enforcement were not fulfilled. Neither Congress nor the BIA has really dealt with this problem, and at present the only tribal court system in the state is on the Hoopa Reservation in northern California.

There is a move toward the development of tribal circuit courts and Indian law enforcement systems in other parts of California to deal with the special cases of the Indian Child Welfare Act, voting irregularities, housing, and violations of the Indian Civil Rights Act. In Owens Valley, the Big Pine Tribe of Paiute Indians has received an Administration for Native Americans (ANA) grant from the Department of Health and Human Services to conduct a two-year demonstration project to develop a tribal court system. The system will serve tribes throughout the eastern Sierra Nevada, following a model established by the Toiyabe Indian Health Clinic, which serves tribes from Antelope Valley to Death Valley.

## Environmental Justice

As roads and buildings go up, basketry material and medicine plants grow scarce, burials are disturbed and sacred places become inaccessible, if not completely destroyed. As riverbanks erode from clear-cutting, fish become scarce. Foresters use chemical herbicides to manage brush, with little thought of their effect on native food and cultural resources. Water projects flood traditional homelands, and water is diverted from rural communities to meet the needs of growing urban populations. Waste management companies, attracted by the fact that state and local regulations do not apply in Indian country, look to reservations as sites for landfills, hazardous waste sites, and recycling facilities. (Gendar 1993)

There do not appear to be any toxic waste dumps or other significant toxic problems on reservations in the SNEP study area as there are on reservations in southern California. A positive avenue for protection is available to tribes through Treatment as a State grants administered by the U.S. Geological Survey. Tribes with a land base may apply to be treated as a state for environmental purposes and may apply for monies to develop a wide range of environmental protective measures. The Utu Utu Gwaitu Tribe of Benton has achieved this status.

An important concern is protection of watersheds of all the tribes, including underground water for those reservations with no surface water. Without protection, reservation growth and development would be affected in the future.

## Traditional Cultural Uses of Public Lands

Traditional tribal communities rely on the maintenance of a natural landscape and protection of key locations, plants, and animals in order to sustain their identity and exercise tradi-

tional cultural practices. They often interpret as disrespectful of nature major land alterations such as clear-cutting and road building.

Herbicide application is interpreted as harmful to the ecosystem, including the human beings who live and work on the land. As a result of consultation, some steps toward accommodating traditional cultural uses have been made in some national forests (e.g., the Eldorado, Plumas, Tahoe, and Sierra National Forests) with the establishment of herbicide-free plant collection areas. As a result of meetings by the California Indian Basketweavers Association with the chief of the USFS and the Environmental Protection Agency (EPA), the USFS and California EPA's Department of Pesticide Use are doing a joint study to develop a methodology for assessing risks to basketmakers (Greensfelder 1995).

Access to traditional heritage lands is also important for sacred and ceremonial uses. Sacred lands are designated by the Creator and cannot be "desanctified" or re-established like the churches of other religions. Often these areas are located on lands that have specific geological or other attributes that make them unique and fixed on the landscape. The American Indian Religious Freedom Act of 1978 (AIRFA) and the Religious Freedom Restoration Act of 1993 (RFRA) address this issue. AIRFA states that the policy of the United States government is to protect and preserve the rights of Native Americans to believe, express, and exercise their traditional religions, including access to religious sites. A U.S. Court of Appeals decision has determined there is a compliance element in AIRFA that requires federal consultation with Indian leaders when a proposed land use might conflict with traditional beliefs or practices so that unnecessary interference with religious practices is avoided. AIRFA was strengthened by the passage of RFRA, which restored the judicial standard that requires federal agencies to demonstrate a "compelling governmental interest" before substantially burdening a person's religious liberty. Furthermore, it must be "the least restrictive means of furthering that compelling governmental interest."

There are many sacred sites in the SNEP study area. One is Cave Rock, a prominent volcanic plug on the east shore of Lake Tahoe that can be seen as a microcosm of issues surrounding tribal rights and contemporary land-use practices. One of the first toll roads between the Nevada Comstock and the California Mother Lode wound around the outside of the rock, buttressed by rock walls constructed by Chinese workers in the 1860s. In the 1920s and again in the 1930s, tunnels were blasted through it to accommodate U.S. 50. In the 1960s a Nevada State Parks boat ramp and parking area were constructed at its base. Today, Cave Rock is a popular recreational spot offering many activities, including boating and rock climbing.

For the Washoe people of Nevada and California, Cave Rock is a focal point for spiritual power and the dwelling place of mythic beings. Indian spiritual leaders obtained their power by visiting Cave Rock, and Elders went there to pray. Despite

the changes wrought by construction and recreational use, it still retains power and significance to Washoe people and continues to be treated with respect and awe. The tribe has been actively seeking assistance from managing agencies, including Nevada State Parks and the Lake Tahoe Basin Management Unit, to restore damage from rock climbers, terminate rock climbing, control boat access, and repatriate the rock (Rucks 1995).

There are also many traditional cultural gatherings and ceremonies that take place on public lands. One is the Jamani (Mountain) Maidu Wedam held early in June of each year. The Wedam is a spring ceremony popularly known as the Bear Dance. In the past, the People gathered to give thanks to Kodojapen (i.e., Earthmaker; God; Creator of Everything in This World) and to pray for protection from grizzly bears and rattlesnakes. When the private land where the Wedam had been held was sold, a proposal was made to establish a permanent campsite for the Wedam in the Eagle Lake Ranger District of Lassen National Forest. The campsite would be reserved for the Wedam fourteen days of the year, then open to the public for the rest of the time. Lassen officials reacted positively. According to a former forest supervisor, Dick Henry, "This is just one good example of the kind of partnerships that can help us realize some untapped potential in the forest. We provide the opportunity, some technical assistance, and perhaps a little funding help, and the Native American community volunteer their time and talent. They get an excellent location to gather and hold their traditional activities. The public gets a first-class campground."

Assistance in holding the Wedam has been provided by other elements of the community, including the Lassen Indian Health Center, the California Department of Fish and Game, the Lassen County Sheriff's Department, and the California Department of Forestry.

A special use permit is required for the Wedam, placing on the Bear Dance Committee the onerous burden of obtaining insurance for the event costing close to \$800. They have been assisted by the Pit River Tribe in meeting this obligation, but not all groups are as fortunate. Such insurance problems are fairly common and place a burden on the free exercise of religion (Benner 1995).

### Special Forest Products

Through the years there have been some conflicts between traditional and commercial uses of resources on public lands. One long-standing example involves the piñon pine nut, a traditional food staple of tribes in the eastern portion of the SNEP study area. Commercial harvesters were using machinery and methods that not only cleaned out whole groves but in many cases damaged and even killed the trees. Twenty years ago, the Inyo and Sequoia National Forests and the California BLM established a policy prohibiting commercial pine nut harvesting, while allowing collection for personal use. Increasingly, illegal harvesters have been going into the

eastern Sierra, necessitating extra efforts from law enforcement personnel during harvesting season.

Other plants, such as mushrooms, bear grass, ferns, and staghorn lichen, are being targeted by "self entrepreneurs," and the problems are exacerbated by the USFS's promotion of "special forest products," especially in areas where timber harvest has been reduced. There is a need to manage these plants for sustainability to meet all of the users' needs (Richards 1996).

### Rural Economic Development

A number of avenues are open to tribes to apply for economic development grants. Two examples are presented in this section.

In 1992, the Stanislaus National Forest nominated the Tuolumne Me-wuk Tribe to participate in the Rural Development Program. The following is a summary of the grants the tribe has received in the past two years from the USFS and other sources for rural development opportunities (Montoya 1995):

1. \$5,000 grant from the USFS to complete an action plan required for participation in the 1990 Farm Bill grant activities.
2. \$25,000 Economic Diversification Study grant from the USFS to look in detail at economic diversification opportunities at the rancheria. The study has been completed and will be used for future grant proposals, and information will be shared with other tribes.
3. \$19,500 Economic Recovery grant from the USFS to develop a business plan for a wood products manufacturing business. The business plan was completed, and future funding will be sought.
4. \$20,000 grant for a native plant nursery received from the ANA. Their application was based on the action plan that was completed for the USFS Rural Development Program. The nursery opened in April 1995 and employs four tribal members. The local community is very supportive.

In the northern Sierra, a \$20,000 Economic Recovery Project award through the USFS Cooperative Forestry Assistance Program has been made to develop a plan to market "A Maidu Sense of Place" in Indian Valley, one of Plumas County's most impoverished forest-dependent communities. Funds were sought by the Maidu Cultural and Development Group, a consortium of Indian Valley residents (primarily Maidu) who are interested in developing culturally based tourism and forest stewardship. Planning will focus on three areas (Ackerman 1995):

1. The Maidu Place-Name Plan, which involves youth and elders working together to add Maidu language place-names to new visitor and USFS maps of the area.

2. A Roundhouse Living Village Plan for a site on or near Highway 89 (a major tourist thoroughfare), which involves development of a cultural focus for both visitors and residents, including a replica of a traditional Maidu settlement, a craft sales area, a dance and visitors' arena, and an interpretive ethnobotany trail.
3. A Riparian and Forest Land Native American Stewardship Plan, which involves integrating Maidu resource management concepts and practices into existing USFS and community partnerships such as the Feather River Coordinating Resource Management Group.

## Resource Management

The National Indian Forest Resources Management Act (NIFRMA) directs the secretary of the interior, in consultation with affected Indian tribes, to obtain an independent assessment of the status of Indian forest resources and their management. To achieve this, the secretary contracted with the Intertribal Timber Council, which in turn selected seven nationally recognized forestry experts to serve as an Indian Forest Management Assessment Team (IFMAT), which made the following findings (IFMAT 1993):

1. Tribal members emphasize different visions and goals for their forests than do BIA forestry employees.
2. Generally, a small proportion of tribal members or BIA forestry employees believe that current resource management is good or excellent.
3. The administrative relationship between the United States and each tribal government is the key factor affecting the ability of tribes to achieve their forest goals.
4. Indian forestry is seriously underfunded and understaffed compared with forestry on similar federal and private lands.
5. Managers of Indian forests are practicing more ecosystem management now than in the past.
6. The health and productivity of Indian forests are mixed and vary by forest type and geographic location.
7. Roads have contributed to a number of environmental problems.
8. Opportunities exist to substantially increase income and other benefits.
9. Forest management plans for reservation forests have the potential for meeting many tribal goals and priorities, but a narrow definition of sustained yield management, inadequate analysis in some cases, and lack of funding and personnel make attainment of goals difficult.
10. A number of issues require special planning and management, including allotments, non-Indian ownership on reservations, and off-reservations lands where tribes have treaty rights.

The Forest Division of the BIA is basically responsible for forestry operations on reservations or allotments. They must approve all Indian sales of timber. Since NIFRMA the BIA has been trying to adjust its goals to be more in synch with tribal goals. Furthermore, tribes that fall under the Self-Governance Project are now completely autonomous; they have their own budgets and make their own decisions without BIA approval (Collins 1995). In the SNEP study area, the Tule River Reservation has its own forestry program (Stewart 1996).

The Indian Mineral Development Act of 1982 gives tribal governments the authority to develop mineral resources and to enter into joint-venture agreements, operating agreements, and leases. The act conveys and extends tribal authority to regulate and cooperate with private and governmental entities in the development of tribal energy and nonenergy mineral resources.

## Gaming

In a 1987 decision, the U.S. Supreme Court ruled that the tribe, not the state, has authority over gaming on reservations. The Indian Gaming Regulatory Act of 1989 created three classes of reservation gaming with varied jurisdiction:

Class 1: traditional gaming, such as hand game, which is the exclusive jurisdiction of the tribe.

Class 2: bingo and some other games, which are jointly regulated by the tribe and the federal government.

Class 3: high-stakes gambling, which requires a tribal compact with the state.

At present, there is a case before the Supreme Court on the issue of whether the state is obligated to enter into a gaming compact when requested to by a tribe.

In the SNEP study area there are several tribal governments that have applied for Class 3 compacts: Alturas Rancheria, Auburn Rancheria, Berry Creek Rancheria, Big Sandy Rancheria, Bishop Tribal Council, Chicken Ranch Rancheria, Fort Independence Reservation, Jackson Band of Mi-wuk Indians, Picayune Rancheria, Shingle Springs Band of Miwok Indians, Table Mountain Rancheria, Tule River Indian Tribe, and Utu Utu Gwaitu Tribe of Benton (Medeiros 1995).

Native American gaming is controversial, and the positive benefits to the communities where it occurs are not widely known. On December 15, 1993, the inspector general of the U.S. Department of the Interior (IGRA) issued an audit report on Indian gaming. Among other things, it found the following:

In three states, alone, benefits included dramatically increased employment levels among Indians and non-Indians; increased tax revenues, increased nongaming tourism revenues; increased housing, education, and health benefits to Indians; and reduced Government assistance to tribal and nontribal members. The IGRA . . . noted that the “striking feature” of the current debate over Indian gaming is the lack of deference to tribal views and positions. (Indian gaming news 1995)

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## CONCLUSION

Native Americans have a special legal relationship with the federal government unlike that of any other group of citizens. The central concepts of this relationship, tribal sovereignty and the trust responsibility, were first enunciated in Supreme Court decisions of the 1830s. Sovereignty and trust are dynamic, evolving concepts. Federal agencies are still working at the development of government-to-government relationships, and final guidelines have yet to be promulgated. The initial steps are being made, however, and working relationships are being forged. Because over half the land in the Sierra Nevada ecoregion is managed by federal agencies, primarily the USFS, the government-to-government relationship ensures that tribes will have a much greater role in land-management decisions than in the past.

The pre-contact sociopolitical organization of Native Californians was complex, with many politically autonomous groups. This fact, coupled with their treatment in the past 200 years, has produced a contemporary situation unlike that of any other group of Native Americans. In the SNEP study area alone, there are thirty-five federally recognized tribes, sixteen tribes seeking federal recognition, and two tribes seeking restoration. Not only do sheer numbers add a degree of complexity to the consultation process, but also California Indians have historically been treated as a single unit toward which Congress has fiduciary responsibilities, whether federally recognized or not.

Although the basic premise of tribal sovereignty and the trust relationship were established early in the nineteenth century, historical circumstances have prevented California Indians from effectively exercising their rights in many cases. The shift in federal policy in the past thirty years, accompanying legislation, and clear executive definition of the government-to-government relationship have all combined to empower native peoples. With new avenues of economic development such as rural economic recovery grants and gaming, tribal governments are in a position to advance their own goals and to contribute to overall rural development and well-being.

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all the reports and you will have the opportunity to review these scenarios and their effect on tribal governments.

I am working with Kacy Collons, a graduate student at the University of California, Berkeley. Kacy will be getting a dual degree in law and urban development. She is very interested in environmental law and has worked with tribal people in the past. Kacy's contribution to the project will be a section which focuses on four individual examples. The groups chosen will not be presented as representative of all tribes and communities. They will be included as specific examples to fill in the larger picture.

Sonia Tamez, Tribal Relations Coordinator for the Forest Service Region 5, whom many of you know, is involved in the project, too. Sonia is consulting with the Native American Heritage Commission and the Committee on the Status of California Indians. Connie Millar of the Pacific Southwest Research Station, geneticist on the SNEP Science Team, and chair of the SNEP Coordinating Committee is over-seeing the project. Connie is available to answer any questions you have about SNEP and this project. Her phone number is (510) 559-6435.

My work phone is (619) 873 2423 and I can be reached evenings at (619) 387 2483. I am looking forward to hearing from you and working with you on development of this report.

Sincerely,

/s/

LINDA A. REYNOLDS

Tribal Government Program Manager  
SNEP Associate

#### ATTACHMENT A

(Condensed from SNEP Update June, 1994)

#### **The Sierra Nevada Ecosystem Project: An Introduction**

The Sierra Nevada Ecosystem Project (SNEP) is an assessment of the Sierra Nevada ecoregion. Requested by Congress in 1992, this ecosystem evaluation undertakes a scientific review of late-successional forest, key watersheds, and significant natural areas on federal lands of the Sierra Nevada ecoregion. It also broadly evaluates the entire set of Sierra Nevada ecosystems, including their social, economic, and ecological components. A scientific assessment, as defined for this project, is one that is clear (e.g., uses explicit assumptions, models, criteria, and methods) and objective, carefully evaluating data quality and the validity of inferences that can be made from these data. The project will be completed in December, 1995.

Effective ecosystem management requires that elements of special concern, such as late-successional forest or intact stream systems, be examined in the context of the over-all ecosystem and its surroundings. Although it is relatively simple to manage for a single ecosystem output, such as water, single element management fails to account for other components through which the ecosystem responds. For example,

it is apparent that management for a single species may trigger changes in the ecosystem that impact other species and hence, not meet broader management goals.

With our society possessing many different values, and competition for resources in the Sierra Nevada intense, we must address all ecosystems components and processes in assessing the Sierra Nevada. For instance, we know that diversions of water for agricultural or residential use competes with preservation of organisms that require unimpeded streamflow. Forest grazing competes with use of forage resources by wildlife and may affect protection of riparian systems. The timber economy competes with organisms that depend upon the preservation of intact forests for their existence. Human settlement in the Sierra Nevada and resources that it requires compete with protection of wildlands. Development and transportation across much of California produce air pollution that stresses the forest and impedes clear, scenic vistas.

Conflict such as these are poorly resolved by single-element analysis and management, as the ecosystems that underlie these issues are far more complex and interdependent than such management allows. The more refined our understanding of ecosystem functions and interactions, and the more accurate our measures of the dynamics of internal and external ecosystem processes, the better we are able to choose ecosystem management solutions that minimize unexpected and perhaps undesirable outcomes.

Moreover, some ecosystem management scenarios present a more satisfactory combination of socially desired outcomes than do others. Desirable short-term outcomes may not be sustainable over decades or centuries. Scientists can estimate what the outcomes of a particular set of policies or actions will be, but they cannot provide a "best" choice, which is beyond the bounds of science. This decision and direction must be made by society, and the effects of such a decision monitored in the ecosystem to allow future adjustments in management practices.

The overall goal of the Sierra Nevada Ecosystem Project is to provide an accurate, multidimensional ecosystem assessment such that key structural components and functional processes can be identified and adequately described to enable the management of these systems at sustainable levels into the future. In doing this, we follow the multiple charges given to the SNEP Science Team by Congress and the SNEP Steering Committee, as well as further direction held within the correspondence between the Chief Forester and interested members of Congress. These documents direct us to address specific features of the Sierra Nevada, including "old-growth forests" and "key watersheds." Although the Science Team believes that late-successional forest and intact stream systems are indeed of appropriate concern, Congress and society will best be served by an ecosystem assessment that places these elements in context and determines the linkages among as many important components of the system as possible, so

that a fuller understanding of the consequences of policy decisions may be attained.

That said, our ability to accomplish this second, far more ambitious and comprehensive goal is constrained by time, information, and the limitations of our science. We believe that of equal importance to our assessment, either of present conditions or of any predicted future state, is our development of tools, models and approaches that will be available to evaluate the potential outcomes of future management policies as they evolve over the years to come.

What SNEP is . . .

- An ecosystem management approach to assessing resource information.
- An integration of all values.
- An analysis of the landscape from three perspectives:
  - a look at past conditions and the range of variability for those conditions,
  - a look at the present situations,
  - a look at the future based on current trends of management.
- A set of management options and their possible outcomes based on a variety of goals for ecosystem sustainability.

And, what SNEP is not . . .

- Not planning or implementation of plans.
- Not a set of recommended alternatives.
- Not a foreclosure of manager's options.
- Not a definition of management objectives.
- Not a funding source for research.
- Not a delineation of political boundaries.
- Not part of a NEPA process.

### The SNEP Approach

The SNEP charge as directed by Congress first asks for a scientific review of late-successional forests, key watersheds, and significant natural areas on federal lands of the Sierra Nevada ecoregion. Concurrently, the SNEP will also conduct a broad assessment of Sierra Nevada ecosystems with the goals of assessing environmental and social conditions throughout the entire Sierra Nevada and developing policy methodologies for achieving sustainable management of Sierra Nevada ecosystems. To achieve these goals, the Science Team is addressing five fundamental questions for each ecosystem issue of concern. These questions are divided into two categories:

For ecosystem assessments:

1. What are current ecological, social and economic conditions?
2. What were historic ecological, social and economic conditions, trends, and variabilities?
3. What are trends and risks under current policies and management?

For policy development and evaluation:

4. What policy choices will achieve ecological sustainability consistent with social well-being?
5. What are the implications of these choices to ecological, social and economic conditions?

The Science Team has formed workgroups and study plans to address these five questions for each of the following issues:

1. biodiversity (e.g., biotic community composition and structure, seral stage distribution, genetic diversity, distribution and viability of key terrestrial and aquatic plants and animals, and ecologically and culturally significant areas. Analysis of late-successional forests, key watersheds, and giant sequoia forests will receive emphasis.);
2. natural disturbance regimes (e.g., fire, drought, insect and pathogen effects);
3. human disturbance regimes (e.g., grazing, silviculture, agriculture, fire suppression, recreation);
4. water quality and quantity (e.g., surface waters, hydrological systems, watershed features);
5. air quality (e.g., natural and artificial emissions, composition, distribution and levels of airborne particulates);
6. Sierra Nevada human communities (e.g., rural community stability and well-being, community participation in resource policy decisions, rural economies);
7. land development and human settlement patterns (e.g., demographic, ecologic, economic, infrastructure and employment aspects).

These issues are of greatest public concern and of most importance to ecological sustainability, economic vitality and social health of the Sierra Nevada, as identified in proceedings and other documents from the Sierra Summit, Sierra NOW, Sierra Economic Summit, Sierra Nevada Research Planning Team, and many smaller local groups.

The team will evaluate each issue and determine historic and current environmental conditions to establish baseline conditions for future management, assessing trends and risks

under current management policies, determining which policy choices will provide the highest probabilities for achieving ecosystem sustainability, and determining the implications of these choices for the economy. Recognizing that issues vary in priority regionally within the Sierra Nevada and that available data is variable in quality, we are not attempting to evaluate each issue with equal emphasis.

In addition to assessing individual elements and issues we will synthesize assessments by subregion (Modoc-Lassen; northern Sierra Nevada; central-western Sierra Nevada; central-eastern Sierra Nevada; Lake Tahoe Basin; southern Sierra Nevada), and by critical ecosystems (e.g., giant sequoia, riparian systems). Where appropriate and illustrative, we will provide case studies of assessments of environmental and social issues and of institutional approaches to ecosystem management and community participation in decision-making.

It is important to understand that each issue is not studied in isolation. Workgroups tasked to answer the five questions above are composed of an interdisciplinary cadre of Science Team members, each of whom are linked to other workgroups. Synthesis will also be achieved through simulation modeling where critical ecosystem elements and processes are quantitatively linked. Thus, results will be fully integrated for the entire system.

### Development and Evaluation of Policy Choices

In developing an approach to policy analysis (questions 4 and 5), we must combine Congressional direction for the SNEP that specifically focuses on late-successional forests and key watersheds with direction we received regarding the integrated ecosystem study. To address requirements of both, we propose to:

1. Develop and evaluate alternatives for Sierra Nevada-wide sustainable management of late-successional forests and key watersheds. Using the extensive database and analyses produced by the initial SNEP assessment of forests and watersheds, we will develop alternative strategies for maintaining and restoring these late-successional forests and critical watersheds.
2. Develop methodologies for subregional simulations of management alternatives that integrate diverse ecological and social inputs and outputs, and test these methodologies in representative Sierra Nevada subregions. The subregional simulations will use inputs of many attributes (e.g., areas by different land-allocation categories, sivicultural treatments, road treatments) to provide information on forest structures and commodity outputs (e.g., commercial timber harvest volume, biomass volume, water, forage, wildlife habitat, seral stage) over time under each alternative. This information would then be used to assess risks to species and ecosystem processes, and effects on local and regional economies. At the subregional level, simulations will be implemented

in representative case studies in the western and eastern Sierra Nevada.

3. Develop an integrated spatial model for simulating management alternatives at the watershed level, and use this in at least one representative Sierra Nevada watershed. The objective of this analysis is to integrate and link individual models developed or used by the SNEP, such as vegetation-change models, hydrologic models, human settlement models, and forest management models, and to identify possible solutions for maintaining ecosystem sustainability across public and private ownerships. An important part of the model will be the ability to portray cumulative effects of alternatives and, in the case of alternative developments, to control cumulative effects within policy guidelines.

The SNEP will then use this model to simulate, more accurately than in the past, the implications of the many policies that prescribe spatial relationships among seral-stage patches (such as wildlife corridors), nonlinear cumulative effects (such as water quality), and simulation of non-timber activities (such as recreation, water diversions, human settlement). This model will be tested in at least a single Sierra Nevada watershed (the Cosumnes River basin), where sufficient data exist to allow such testing.

Finally, integrated ecosystem management requires that concerned publics be involved in the generation and evaluation of management strategies and alternatives. For policy analysis in the broader ecosystem study (the latter two objectives above), the Science Team will develop and evaluate methods for scientists and public representatives to cooperate in articulating issues for which alternative solutions can be considered. Public representatives will come from communities within the Sierra Nevada, and from other organizations and groups that have a vested interest in the future of the Sierra Nevada. The approach will attempt to improve upon the public participation experience of federal, state and county agencies by gathering and evaluating information from those who have intimate ecosystem knowledge, and by learning from public representatives how they perceive the benefits and costs of particular management alternatives are being distributed.

## ATTACHMENT B

### Draft Outline

#### TRIBAL GOVERNMENTS IN THE SIERRA NEVADA REGION

1. *Introduction:* This assessment will discuss Indian tribes and communities in the SNEP study area as a distinct social group with ancient ties to the Sierra Nevada, who helped shape the historic landscape through traditional land management practices, and whose separate legal status must be taken into account in any present or future land management scenarios.
  - A. Indian tribes and communities are culturally, historically and legally distinct from other rural communities.
    1. Sovereign status of recognized tribes.

2. Trust Responsibilities of the Federal Government.
  3. The condition and rights of native peoples is a global issue. Indian people in the United States represent both a national and a local issue where there are tribal governments and communities, as there are throughout the Sierra Nevada. The issue is old as the United States' military annexation of California from Mexico in 1846, and it is an issue which will remain with us into the foreseeable future.
- B. Relationship of Indian tribes and communities to Sierra Nevada ecosystems.
1. Indian tribes, communities, and individuals are private land holders (reservations, rancherias, and allotments).
  2. Tribal governments are sovereign nations separate from the federal, state, and counties where they are found.
  3. Tribal governments have a government to government relationship with the federal government and federal land comprises over half of the Sierra Nevada.
  4. In some cases there are reserved rights on public lands.
  5. Indian people relate to and use the land differently than other Sierran communities.
  6. Traditional practitioners have knowledge of traditional land-use practices.
  7. Indian people have a spiritual connection to their ancestral lands and feel they are the original land managers with on-going responsibilities and rights.
- C. Public perceptions.
1. That California was a pristine wilderness before non-indian settlement.
  2. That California Indians were all "diggers"; no understanding of differences or cultural complexity.
  3. Indians are the "invisible minority." Non-indians forest users tend to think that they are all gone.
  4. Misperception that Indians receive "special treatment" through their minority status. Lack of understanding the legal differences between Indians and non-indians.
  5. Outright prejudice in rural communities.
- D. Sources of information for this assessment.
1. Discussion of published literature.
  2. BIA
  3. Tribes and Communities. We will make use of the Forest Service's Tribal Government Program to contact groups.
- II. *Native Californians*
- A. Prehistory.
1. Native California at the time of contact with European nations. There will be a brief discussion of prehistory; the focus will be on the socio-political structure at contact.
  2. Map of traditional territories.
- B. History. Native Californians have been treated differently than other native peoples in the contiguous United States. A brief legal history beginning in with the military occupation of California by the US in 1846 will deal with the following topics:
1. California is a non-treaty state.
  2. The "Indians of California" are a legally distinct entity.
  3. "Recognition"
    - a. Non-federal "treaties"
    - b. Military reservations
    - c. Executive Order tribes
    - d. Commission on the Status of California Indians
- C. Contemporary tribes and communities within the SNEP study area. This section will also consider those groups who have traditional ties to the land.
1. Scale of analysis: The tribe or community will be the primary level of analysis.
  2. Statistics
    - a. Membership
    - b. Reservation/Rancheria
      - Date Established
      - Size
      - Status (recognized, etc.)
      - Map
- III. Present Conditions
- A. Federal and state law as it pertains to Indian people and tribes in relation to land management.
1. PL 280 State/law enforcement
  2. Indian Gaming Act
  3. Indian Child Welfare Act
  4. Winters Doctrine/water rights
    - a. Owens Valley
  5. Etc.
- B. Agencies' Tribal Relations Programs
1. Clinton's EO
  2. Forest Service
  3. Park Service
  4. BLM
- C. Traditional uses on non-tribal land
1. Hunting/fishing/harvesting
    - a. Traditional vegetation management needed to restore plants.
    - b. Herbicide use; conflict between traditional uses and contemporary needs.
    - c. Commercial vs. traditional use, e.g., pinyon pine nuts, mushrooms.
  2. Ceremonies, sacred sites.
  3. Access to private lands.
- D. Rural development
- IV. Trends
- A. Land acquisition and retention rights.
  - B. Question of unratified treaties and retention of aboriginal rights still to be settled.
  - C. Increase in recognized tribes.
  - D. Increase in requests for land acquisition.
  - E. Increased interest in public lands.
  - F. Legislative trends.
  - G. Effects of environmental policy on minority communities.

## APPENDIX 10.2

# Indian Tribes and Communities

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This appendix contains information about tribal governments and communities with traditional cultural lands in the SNEP study area. It is divided into three sections: Federally Recognized Tribes, Tribes Seeking Federal Recognition, and Restoration Candidates.

The following information is taken from Bureau of Indian Affairs 1990 Field Directory and 1993 Tribal Directory, supplemented with additional information learned during the course of this study.

### FEDERALLY RECOGNIZED TRIBES

#### *Alpine County*

Tribe: Washoe

Tribal affiliation: Washoe

Reservation: Colonies at Woodfords, California; Dresslerville, Stewart, and Carson, Nevada

Population: 1,500 (approximate)

Land base: 33,603 ha (83,000 acres) in California and Nevada

Tribal office: 919 U.S. 395 South, Gardnerville, NV 89410

#### *Amador County*

Tribe: Buena Vista Rancheria of Me-Wuk Indians

Tribal affiliation: Me-Wuk

Reservation: Buena Vista Rancheria

Population: 1

Land base: None

Tribal office: 4650 Coalmine Road, Ione, CA 95640

Remarks: Tribe restored to federal recognition under class action suit *Tille Hardwick v. United States of America*, C-79-1910SW. Judgment filed December 22, 1983. There are no tribal trust lands; lands owned in fee status: 72 ha (67.5 acres).

Tribe: Jackson Band of Mi-wuk Indians

Tribal affiliation: Me-Wuk, Miwok, Mi-Wuk

Reservation: Jackson Rancheria

Population: Within rancheria, 20; adjacent, 8

Land base: 134 ha (330.66 acres)

Tribal office: PO Box 150, Jackson, CA 95642

Remarks: Act of March 3, 1893 (27 Stat. 628, c. 209) appropri-

ated \$10,000 for purchase of land, etc., for the "Digger" Indians of Central California at Jackson. The rancheria was established January 7, 1895.

#### *Butte County*

Tribe: Berry Creek Rancheria of Maidu Indians

Tribal affiliation: Tyme Maidu

Reservation: Berry Creek Rancheria

Population: Within rancheria, 15; adjacent, 196

Land base: 26 ha (65 acres)

Tribal office: 1779 Mitchell Avenue, Oroville, CA 95966

Remarks: Original tract purchased March 1, 1916, by the federal government from the Central Pacific Railway Co. for the Dick Harry Band of Indians. Title to the land was vested in the United States of America with the Indians having a right only to occupancy and use of the lands, unless otherwise authorized by Congress. Approximately 13 ha (32 acres) were purchased with a HUD grant and accepted into trust pursuant to the Indian Land Consolidation Act of 1983.

Tribe: Chico Band of Mechoopda Indians

Tribal affiliation: Mechoopda

Reservation: Chico Rancheria

Population: Within rancheria, 0; adjacent, 300

Land base: 0.2 ha (0.5 acre) cemetery

Tribal office: 3006 Esplanade, Suites G and H, Chico, CA 95926

Remarks: On April 17, 1992, the status and rights of the Chico Band of Mechoopda Indians were reinstated by the federal government to the status they had before termination.

Tribe: Enterprise Rancheria of Maidu Indians

Tribal affiliation: Maidu

Reservation: Enterprise Rancheria

Population: Within the rancheria, 24; adjacent, 336

Land base: 16 ha (40 acres)

Tribal office: unknown

Remarks: One parcel sold, purchased under the Acts of 1906 and 1908. Lands purchased by authority of Act of August 1, 1914 (38 Stat. 58–59).

Tribe: Mooretown Rancheria of Maidu Indians

Tribal affiliation: Maidu-Concow

Reservation: Mooretown Rancheria

Population: Within the rancheria, 225; adjacent, 200

Land base: None  
Tribal office: PO Box 1842, Oroville, CA 95965  
Remarks: Federal recognition restored to tribe under class action suit *Tille Hardwick v. United States of America*, C-79-1910SW. Judgment filed December 22, 1983. There are no tribal trust lands; individually owned parcels remain in "fee" status.

### **Calaveras County**

Tribe: Sheep Ranch of Me-wuk Indians  
Tribal affiliation: Me-wuk, Miwok  
Reservation: Sheep Ranch Rancheria  
Population: Unknown  
Land base: 0.37 ha (0.92 acres)  
Tribal office: Unknown  
Remarks: Purchase for homeless California Indians without designation of tribe on April 5, 1916.

### **El Dorado County**

Tribe: Auburn Rancheria  
Tribal affiliation: Nisenan, Southern Maidu  
Reservation: Auburn Rancheria  
Population: Unknown  
Land base: Unknown  
Tribal office: PO Box 3035, Route E, Auburn, CA 95603  
Remarks: Termination: August 16, 1967; restoration 1995.

Tribe: Shingle Springs Band of Miwok Indians  
Tribal affiliation: Miwok  
Reservation: Shingle Springs Rancheria  
Population: Within rancheria, 16; adjacent, 247  
Land base: 65 ha (160 acres)  
Tribal office: PO Box 1340, Shingle Springs, CA 95682  
Remarks: Lands were purchased by the secretary of the interior.

### **Fresno County**

Tribe: Big Sandy Rancheria of Mono Indians  
Tribal affiliation: Western Mono  
Reservation: Big Sandy Rancheria  
Population: Within rancheria, 61; adjacent, 47  
Land base: 48 ha (119.5 acres)  
Tribal office: PO Box 337, 7302 Rancheria Lane, Auberry, CA 93602  
Remarks: Pursuant to the judgment entered in *Big Sandy Band v. Watt*, the community and individually owned lands were accepted into trust.

Tribe: Cold Springs Rancheria of Mono Indians  
Tribal affiliation: Mono  
Reservation: Cold Springs Rancheria (Sycamore Valley)  
Population: Within rancheria, 158; adjacent, 101  
Land base: 63 ha (154.65 acres)  
Tribal office: PO Box 209, Tollhouse, CA 93667  
Remarks: Original land base established by Executive Order 2078 of November 10, 1914, which excluded lands from the

Sierra National Forest, California, for the Cold Springs Band of Indians.

Tribe: Table Mountain Rancheria  
Tribal affiliation: Yokut  
Reservation: Table Mountain Rancheria  
Population: Unknown  
Land base: 25 ha (60.93 acres)  
Tribal office: PO Box 177, Friant, CA 93626-0177  
Remarks: The original rancheria was purchased under the authority of the act of May 18, 1916 (39 Stat. 123, 12), date of deed, September 27, 1916, deed in name of United States of America. The rancheria began termination under the California Rancheria Act pursuant to order in *Table Mountain v. Watt*. Lands have been restored to trust (15 ha [36.96 acres]) individually owned.

### **Inyo County**

Tribe: Big Pine Paiute Tribe of Owens Valley  
Tribal affiliation: Paiute-Shoshone  
Reservation: Big Pine Reservation  
Population: Within reservation, 371; adjacent, 32  
Land base: 113 ha (279 acres)  
Tribal office: PO Box 533, Big Pine, CA 93513  
Remarks: The act of April 20, 1937, authorized the secretary of the interior to exchange Indian lands and water rights for lands owned by the City of Los Angeles and Inyo and Mono Counties (Stat. 50 c. 114).

Tribe: Bishop Indian Tribal Council  
Tribal affiliation: Paiute-Shoshone  
Reservation: Bishop Reservation  
Population: Within reservation, 927; adjacent, 69  
Land base: 354 ha (875 acres)  
Tribal office: PO Box 548, Bishop, CA 93584  
Remarks: The act of April 20, 1937, authorized the secretary of the interior to exchange Indian lands and water for lands owned by the City of Los Angeles and Inyo and Mono Counties (Stat. 50 c. 114).

Tribe: Fort Independence Indian Community of Paiute Indians  
Tribal affiliation: Paiute  
Reservation: Fort Independence Reservation  
Population: Within the reservation, 83; adjacent, 40  
Land base: 224 ha (552.24 acres)  
Tribal office: PO Box 67, Independence, CA 93526  
Remarks: Executive Order 2264 of October 28, 1915, set apart lands for this reservation. Executive Order 2375 of April 29, 1916, enlarged the reservation. Eighty-one ha (200 acres) were added in 1995 through administrative transfer of adjacent BLM lands by the secretary of the interior.

Tribe: Paiute-Shoshone Indians of the Lone Pine Community  
Tribal affiliation: Paiute-Shoshone  
Reservation: Lone Pine Reservation

Population: Within the reservation, 232; adjacent, 64  
 Land base: 96 ha (237 acres)  
 Tribal office: 101 S Main Street, Lone Pine, CA 93545  
 Remarks: The act of April 20, 1937, authorized the secretary of the interior to exchange Indian lands and water for lands owned by the City of Los Angeles and Inyo and Mono Counties (Stat. 50 c. 114).

Tribe: Death Valley Timbisha Shoshone Tribe  
 Tribal affiliation: Western Shoshone  
 Reservation: Timbisha Band of Shoshone Indians  
 Population: Within the rancheria, 55; adjacent, 145  
 Land base: None  
 Tribal office: PO Box 206, Death Valley, CA 92328  
 Remarks: Notice published in the Federal Register, November 4, 1982, acknowledged Death Valley Timbisha Western Shoshone Band as federally recognized. Notice was based on determination that the group satisfies all the criteria set forth in 25 CFR 83.7 (formerly 54.7). Members at present reside on a 16 ha (40 acre) site in Death Valley National Park, commonly referred to as the Indian Village. Under the California Desert Protection Act of 1995, the tribe and affected agencies have been directed to complete a study for land suitable for restoration to the tribe as a reservation.

#### **Lassen County**

Tribe: Susanville Indian Rancheria  
 Tribal affiliation: Paiute–Maidu–Pit River–Achomawi–Atsugewi–Washoe  
 Reservation: Susanville Indian Rancheria  
 Population: Within the rancheria, 145; adjacent, 228  
 Land base: 61 ha (150.53 acres)  
 Tribal office: PO Drawer U, Susanville, CA 96130  
 Remarks: Original rancheria purchased August 15, 1923, for homeless California Indians, deed in the name of United States of America. Public Law 95-459 approved October 14, 1978, provided for the United States of America to hold 49 ha (120 acres) in trust for the rancheria.

#### **Madera County**

Tribe: North Fork Rancheria of Mono Indians  
 Tribal affiliations: Mono  
 Reservation: North Fork Rancheria  
 Population: Within the rancheria, 75; adjacent, 205  
 Land base: None  
 Tribal office: PO Box 120, North Fork, CA 93643  
 Remarks: Rancheria restored to federal recognition under class action suit Tille Hardwick v. United States of America, C-79-1910SW. There are no tribal lands; individually owned lands restored to trust: 32 ha (80 acres).

Tribe: Picayune Rancheria of Chukchansi Indians  
 Tribal affiliation: Chukchansi  
 Reservation: Picayune Rancheria  
 Population: Within the rancheria, 12; adjacent, 8  
 Land base: 16 ha (38.76 acres)

Tribal office: PO Box 269, Coarsegold, CA 93614  
 Remarks: Restored to federal recognition under class action suit Tille Hardwick v. United States of America, C-79-1910SW. Judgment filed December 22, 1983. There are no tribal lands. One parcel, consisting of 12 ha (28.76 acres), was restored to trust for an individual.

#### **Modoc County**

Tribe: Alturas Rancheria of Pit River Indians  
 Tribal affiliation: Pit River–Achomawi–Atsugewi  
 Reservation: Alturas Indian Rancheria  
 Population: Within the rancheria, 8; adjacent, 0  
 Land base: 8 ha (20 acres)  
 Tribal office: PO Box 1035, Alturas, CA 96101  
 Remarks: Rancheria established by act of June 21, 1906, appropriating funds for purchase of lands for California Indians. Rancheria purchased by provisions of act of January 24, 1923 (43 Stat. L 1188); purchase date: September 8, 1924.

Tribe: Cedarville Rancheria of Northern Paiute Indians  
 Tribal affiliation: Northern Paiute  
 Reservation: Cedarville Rancheria  
 Population: Within the rancheria, 10; adjacent, 3  
 Land base: 8 ha (20 acres)  
 Tribal office: PO Box 126, Cedarville, CA 96104  
 Remarks: Rancheria established under the authority of acts of June 21, 1906, and later, appropriating funds for purchase of lands for California Indians. Purchased October 19, 1915.

Tribe: Fort Bidwell Indian Community of Paiute Indians  
 Tribal affiliation: Paiute  
 Reservation: Fort Bidwell Reservation  
 Population: Within the Reservation, 124; adjacent, 39  
 Land base: 1350 ha (3,334.97 acres)  
 Tribal office: PO Box 127, Fort Bidwell, CA 96112  
 Remarks: A joint resolution of January 30, 1879, authorized the secretary of the interior to use the abandoned Fort Bidwell Military Reserve for an Indian Training School. An act of January 27, 1913, granted land to the People's Church for a cemetery and right-of-way over the Fort Bidwell Indian School Reservation, the Indians to have right of internment therein (37 Stat. 652, c. 15). Executive Order 2679 of August 3, 1917, enlarged the reservation.

Tribe: Pit River Tribe of California  
 Tribal affiliation: Pit River  
 Reservation: Likely Rancheria  
 Population: None  
 Land base: 0.53 ha (1.32 acres) cemetery  
 Tribal office: None  
 Remarks: See Pit River Tribe of California, Shasta County.

Tribe: Pit River Tribe of California  
 Tribal affiliation: Pit River–Achomawi–Atsugewi  
 Reservation: Lookout Rancheria  
 Population: Within the rancheria, 16  
 Land base: 16 ha (40 acres)

Tribal office: None  
Remarks: See Pit River Tribe of California, Shasta County.

### **Mono County**

Tribe: Utu Utu Gwaitu Paiute  
Tribal affiliation: Paiute  
Reservation: Benton Paiute Reservation  
Population: Within the reservation, 82  
Land base: 166 ha (410 acres)  
Tribal office: PO Box 909, Benton, CA 92512  
Remarks: Executive Order July 22, 1915, recognized the tribe. One ha (2.5 acres) purchased by the tribe using HUD grant funds August 24, 1984. One hundred one hectares (250 acres) were transferred from adjacent BLM lands through administrative order of the secretary of the interior in 1995.

Tribe: Bridgeport Paiute Indian Colony  
Tribal affiliation: Paiute  
Reservation: Bridgeport Indian Colony  
Population: Within the reservation, 53; adjacent, 26  
Land base: 32 ha (80 acres)  
Tribal office: PO Box 37, Bridgeport, CA 93517  
Remarks: Rancheria established October 18, 1974, by Public Law 93-451. Sixteen ha of adjacent BLM land were transferred through administrative action of the secretary of the interior in 1995.

### **Plumas County**

Tribe: Greenville Rancheria of Maidu Indians  
Tribal affiliation: Maidu  
Reservation: Greenville Rancheria  
Population: Within the rancheria, 279; adjacent, 38  
Land base: None  
Tribal office: 1304 E Street, Suite 106, Redding, CA 96001  
Remarks: Rancheria restored to federal recognition under class action suit Tille Hardwick v. United States of America, C-79-1910SW. Judgment filed December 22, 1983.

### **Shasta County**

Tribe: Pit River Tribe of California  
Tribal affiliation: Eleven Autonomous Bands—Ajumawi, Porige, Astarawi, Atsugewi, Atwamsini, Hammawi, Hewisedawi, Ilmawi, Itsatwi, Kosalektawi, Madesi  
Reservation: Ajumawi-Atsugewi Nation  
Land base: 3,873 ha (9,567.18 acres)  
Tribal office: PO Drawer 1570, Burney, CA 96013  
Remarks: The Pit River Nation comprises eleven autonomous bands. Each band head is elected by band members. The chairperson and vice-chairperson are chosen through a general election.

Tribe: Pit River Tribe of California  
Tribal affiliation: Pit River—Achumawi—Atsugewi—Wintun  
Reservation: Big Bend Rancheria  
Population: Within the rancheria, 6  
Land base: 16 ha (40 acres)

Tribal office: None  
Remarks: See Pit River Tribe of California, earlier.

Tribe: Pit River Tribe of California  
Tribal affiliation: Madesi Band of Pit River Indians  
Reservation: Montgomery Creek Rancheria  
Population: Within the rancheria, 30  
Land base: 29 ha (72 acres)  
Tribal office: None  
Remarks: See Pit River Tribe of California, earlier.

Tribe: Redding Rancheria  
Tribal affiliation: Wintun—Pit River—Yana  
Reservation: Redding Rancheria  
Population: Within the rancheria, 170; adjacent, 30  
Land base: 13 ha (30.89 acres)  
Tribal office: 2000 Rancheria Road, Redding, CA 96001-5528  
Remarks: Federal recognition restored on December 15, 1985, as a result of class action suit Tille Hardwick v. United States of America.

Tribe: Pit River Tribe of California  
Tribal affiliation: Pit River—Ajumawi—Atsugewi  
Reservation: Roaring Creek Rancheria  
Population: Unknown  
Land Base: Unknown  
Tribal Office: None  
Remarks: See Pit River Tribe of California, Shasta County.

### **Tulare County**

Tribe: Tule River Indian Tribe  
Tribal affiliation: Yokut  
Population: Within the reservation, 590; adjacent, 260  
Land base: 22,411 ha (55,356 acres)  
Tribal office: PO Box 286, Porterville, CA 93258  
Remarks: An act of April 8, 1864, authorized the establishment of Indian reservations in California (13 Stat. 39–41 c. 48). An executive order of January 9, 1873, established this reservation and an order of October 3, 1873, canceled the order of January 9, 1873, and reestablished the reservation. (An act of May 17, 1923, changed the boundaries of the Tule River Reservation [45 Stat. 600–601 c. 614].)

### **Tuolumne County**

Tribe: Tuolumne Band of Me-wuk Indians  
Tribal affiliation: Me-wuk, Miwok, Yokut  
Reservation: Tuolumne Rancheria  
Population: Within the rancheria, 169; adjacent, 445  
Land base: 144 ha (355.77 acres)  
Tribal office: 19595 Miwok Street, Tuolumne, CA 95379  
Remarks: Original purchase of 177 ha (289.52 acres) on October 25, 1910, under authority of acts of June 21, 1906, and April 30, 1908. Executive Order 1517 of April 13, 1912, added 14 ha (33.58 acres), and an additional 5 ha (12.67 acres) were purchased on April 14, 1978, under authority of the act of June 18, 1934.

Tribe: Chicken Ranch Rancheria of Me-wuk Indians  
 Tribal affiliation: Miwok, Me-wuk  
 Reservation: Chicken Ranch Rancheria  
 Population: Within the rancheria, 3; adjacent, 3  
 Land base: 1 ha (2.85 acres)  
 Tribal office: PO Box 1699, Jamestown, CA 95327  
 Remarks: Tribe restored to federal recognition under class action Tille Hardwick v. United States of America, C-79-1910SW. Judgment filed December 22, 1983.

### TRIBES SEEKING FEDERAL RECOGNITION

Tribe: American Indian Council of Mariposa County  
 Address: PO Box 1200, Mariposa, CA 95338

Tribe: Antelope Valley Paiute Tribe  
 Address: PO Box 119, Coleville, CA 96107

Tribe: Big Meadows Lodge Tribe  
 Address: PO Box 362, Chester, CA 96020

Tribe: Calaveras County Band of Miwok Indians  
 Address: Star Route 1, Bald Mountain Road, West Point, CA 95255

Tribe: Choinumni Tribe  
 Address: 3330 East Dakota, #113, Fresno, CA 93726

Tribe: Chukchansi Tribe  
 Address: PO Box 852, Oakhurst, CA 93644

Tribe: Dunlap Band of Mono Indians  
 Address: PO Box 126, Dunlap, CA 93621

Tribe: Ione Band of Miwok Indians  
 Address: Route 1, Box 191, Ione, CA 95640

Tribe: Kern Valley Indian Community  
 Address: PO Box 168, Kernville, CA 93238

Tribe: Maidu Nation  
 Address: PO Box 204, Susanville, CA 96130

Tribe: Mono Lake Indian Community  
 Address: PO Box 237, Lee Vining, CA 93541

Tribe: Northern Maidu Tribe  
 Address: 516 Grand Avenue, Susanville, CA 96130

Tribe: North Fork Band of Mono Indians  
 Address: PO Box 49, North Fork, CA 93643

Tribe: Plumas County Indians, Inc.  
 Address: PO Box 102, Taylorsville, CA 95947

Tribe: Tehatchapi Indian Tribe  
 Address: 219 East H Street, Tehatchapi, CA 93561

Tribe: Wukchumni Tribe  
 Address: 1426 W Sunny View, Visalia, CA 93291

### RESTORATION CANDIDATES

Tribe: Chico Rancheria  
 Affiliation: Wailiki and Maidu  
 Address: 4237 Third Avenue, PO Box 988, Lakeport, CA 95453  
 Termination: June 2, 1967

Tribe: Nevada City Rancheria  
 Affiliation: Maidu  
 Address: Nevada City  
 Termination: September 22, 1964