

KENNY C. GUINN
Governor

SHERRADA JAMES
Executive Director



STATE OF NEVADA
INDIAN COMMISSION

EXHIBIT C

Mailing Address

5366 Snyder Avenue
Carson City, NV 89701

Phone: (775) 687-8333
Fax: (775) 687-8330

Physical Address

Stewart Facility – Building #3
5500 Snyder Avenue
Carson City, NV 89701

Position Paper for
Legislative Committee on Public Lands
Subcommittee to Study Wilderness Areas and
Wilderness Study Areas (S.C.R. 7)

Prepared by:

Nevada Indian Commission

March, 2004

EXHIBIT C Committee Name **Wilderness** Document consists of **12 Pages**

☒ Entire document provided.

☐ Due to size limitations, pages _____ provided. A copy of the complete document is available through the Research Library (775/684-6827) or e-mail library@lcb.state.nv.us.

Meeting Date: **3-25-04**

Table of Contents

Introduction and Recommendations	2
Historical Background	2
Attachments:	
A. State of Nevada Indian Commission	4
Commission Officers, Members and Staff	
B. Tribal Lands In Nevada – Nevada Natural Resources Status Report	6
Division of State Lands	
Department of Conservation and Natural Resources	
C. List of Tribes in Nevada	7
D. Map of Tribe Locations in Nevada	8
E. Tribal Land Base in Nevada	9
F. Definitions and Information for Working Effectively with Tribal Governments	11

Position Paper for
Legislative Committee on Public Lands
Subcommittee to Study Wilderness Areas and Wilderness Study Areas (S.C.R. 7)
March 25, 2004 Legislative Subcommittee Meeting
Reno, Nevada

Prepared by Nevada Indian Commission

Introduction and Recommendations:

The Nevada Indian Commission recognizes that tribes in Nevada have a stake in land management and planning issues in Nevada and need to have a place and forum to provide input in all areas of wilderness designation and study areas.

In recognition of the long standing Native American presence in Nevada evidenced by historic and pre-historic documentation, it is the position of the Nevada Indian Commission to encourage that Native American cultural, traditional and spiritual perspectives are considered in Study Wilderness areas and Wilderness Study Areas in Nevada provided under S.C.R 7 and provides the following recommendations:

1. Provide a state process and procedure for consultation and collaboration with tribes and Native Americans for Nevada in relation to study wilderness areas and Wilderness Study areas provided by S.C.R. 7.
2. Include and consider federal law and executive orders specific to Sacred Sites Protection, Native American Grave Protection and Repatriation (NAGPRA), National Environmental Protection Act (NEPA).
3. Provide a forum on wilderness areas/study specifically for tribal participation, including the Great Basin Inter-Tribal (NAGPRA) Coalition, Inter-Tribal Council of Nevada and the Nevada Indian Commission, DOI/Bureau of Land Management, DOI/Bureau of Indian Affairs, and State of Nevada.
4. Ensure a position on all planning boards, teams and review committees has at least one position for specific tribal representation.
5. Provide informational and educational media on cultural, ceremonial and traditions specific to Native Americans in Nevada. Including information on the history of federal Indian policy.
6. In Nevada's Policy Plan for Public Lands, tribal and Native American cultural perspectives need to be included in addition to other State Public Land policies. Currently no references are included.

In support of efforts of state and federal entities involved in the Study Wilderness areas and Wilderness Study Areas in Nevada, the Nevada Indian Commission is limited in funding and staff resources, however, through its limited capacity, staff can provide information and support assistance as needed and requested for the state and federal agency networking with tribal governments and other Indian organizations impacted by land planning development. It is the focus of the Indian Commission to promote and strengthen tribal-state relations and building cooperative partnerships in natural resource protection, preservation, planning venues.

Historical Background:

The following is provided as a basis in understanding the complexities of Tribal governments, trust lands and the need for collaborating and consulting with Native Americans and Tribes throughout the state on policies, regulations and special use designation of public lands throughout Nevada.

- ❖ Original aboriginal land areas encompassed the entire area now known as Nevada.
- ❖ Prior to statehood, Nevada was occupied by the Washoe, Paiute and Shoshone tribal groups. Today, the tribal groups remain in tact but are now separated in to individual tribes, bands and colonies under the jurisdiction of the tribe and federal government.

- ❖ State government has no jurisdiction on tribal lands, but establishment of cooperative partnerships and relations with tribal, state and federal agencies is needed.
- ❖ Native Americans and tribes are the only ethnic group who has a unique legal relationship with the federal government in addition to trust lands held for the benefit of tribal members.

The Nevada Admission Act (Act of Congress (1861) organizing the Territory of Nevada provided:

“That nothing in this act contained shall be construed to impair the rights of person or property now pertaining to the Indians in said Territory, so long as such rights shall remain unextinguished by treaty between the United States and such Indians, or to include any territory which, by treaty with any Indian tribe, is not, without the consent of said tribe, to be included within the territorial limits or jurisdiction of any State or Territory; but all such territory shall be excepted out of the boundaries and constitute no part of the Territory of Nevada, until said tribe shall signify their assent to the President of the United States to be included within the said Territory, or to affect the authority of the Government of the United States to make any regulations respecting such Indians, their lands, property, or other rights, by treaty, law, or otherwise, which it would have been competent for the Government to make if this act had never passed”

Yesteryear and today, American Indians and Alaskan Natives culture and tradition is to honor and respect the land and its resources. They view the earth as a living entity, which brings forth and sustains life. Their traditional relationship to the land is one of stewardship and protection of the land and its resources.

Numerous agencies are involved with management of land resources at federal, state, tribal and local levels. Historically little interaction between tribal and state agencies regarding resource management and land use has occurred. Tribal-federal relationships, have improved allowing tribal and American Indians and Alaskan Natives an opportunity to directly give input into planning and policy development by federal regulatory agencies on natural resource issues. A similar statewide collaboration and consultation policy is needed for Nevada to ensure tribal and Native American input is considered as most land areas may be adjacent to tribal or reservation lands or have sacred or ceremonial and gathering significance to Indian people.

An example of Native American consultation by a state agency on natural resources can be seen through the Nevada Division of Wildlife - Sage Grouse Conservation Project - Native American Consultation. Initial efforts by the Indian Commission on the Governor's Sage Grouse Conservation Team provided a forum to include information and tribal input in the conservation development process. Tribes were included and informed on the process and encouraged to participate in local tribal conservation plan development or to partner with a regional sage grouse conservation group.

The Sage Grouse Conservation Team recognized that Native Americans in Nevada and surrounding States have significant interest in sage grouse and sage grouse management in Nevada. Consultation provided an invaluable means of obtaining expert advice, ideas, and diverse opinions from Native American constituents regarding the management appropriate treatment of Federal and state resources. The Sage Grouse in Native American culture is significant of worship and the dance of the bird is imitated today through dance and ceremonial practices still used today.

Understanding of Native American history, their relationship and ties to the land provides important information on sacred sites, burial grounds/sites protected by federal law along with protecting and preserving the pristine nature of wilderness areas.

For more detailed information and definitions on how to work effectively with tribal governments, see attachment E.

ATTACHMENT A

State of Nevada Indian Commission

The Nevada Indian Commission (NIC) is a State agency created by statute in 1965 to “study matters affecting the social and economic welfare and well-being of American Indians residing in Nevada, including, but not limited to, matters and problems relating to Indian affairs and to federal and state control, responsibility, policy and operations affecting such Indians.” The Indian Commission was originally established to be a mediator for tribal-state relations and the entity whereby tribal concerns and issues affecting Native American Indians could be directly addressed with the Governor.

Commission activities are aimed at developing and improving cooperation and communications between the Tribes, State, local governments, and related public agencies with the purpose of improving, education, employment, health, well-being and socio-economic status of Nevada’s American Indian citizens and enhancing tribal sovereignty, economic opportunities and community development.

The Commission effectively serves as liaison between the State and the 20 federally recognized tribes comprised of 28 separate tribes, bands and community councils. The Commission has assisted State agencies and Tribes on issues affecting Nevada’s American Indian constituency and serves as a forum in which Indian needs and issues are considered. The Commission is a conduit by which concerns involving Native American Indians or Tribal interests are channeled through the appropriate network and serves as the point of access for Tribes to find out about state government programs and policies.

The Commission, comprised of five (5) Commissioners appointed by the Governor meets at least quarterly. Three Commissioners are Native American Indian and two Commissioners are of the general public. Staff for the Commission includes an Executive Director appointed by the Governor and a Management Assistant.

Specific statutory responsibilities of the Commission include: 1) recommending necessary or appropriate action, policy and legislation or revision of legislation and administrative agency regulations pertaining to American Indians and Alaskan Natives; 2) makes and reports its findings and recommendations to the legislature, to the Governor and to the public and; 3) reports biennially to the Governor and the Legislature on all matters of concern to Indians in Nevada.

Statutory powers of the Commission include: 1) the power to appoint advisory committees; 2) negotiate and contract with agencies, public or private as necessary or appropriate for services, facilities and studies; and 3) cooperates with and secures the cooperation of state, county, city and other agencies, including Indian tribes, bands, colonies and groups and intertribal organizations in connection with its studies or investigations.

Statutory Authority: NRS 233A

COMMISSION OFFICERS, MEMBERS AND STAFF (AS OF 03/2004)

Richard Harjo, Chairman
Native American Indian Representative
Reno, Nevada
(First Appointed 6/93, Current Term expires 10/30/03)

Patricia Hicks, Vice-Chair
Native American Indian Representative
Schurz, Nevada
(First Appointed 10/30/03)

Davis Gonzales, Commissioner
Native American Indian Representative
Elko, Nevada
(First Appointed 30/02)

Joaquin Roces, Commissioner
General Public Representative
Reno, Nevada
(First Appointed 11/00, Current Term expires 10/30/03)

Teresa Sprouse, Commissioner
General Public Representative
Ely, NV
(Appointed 04/8/02)

Staff:
Sherrada L. James, Executive Director
Jane Gardner, Administrative Assistant I

In terms specific to natural resources, the Nevada Indian Commission has focused on the following goals.

Goal #1: Build positive and cooperative Tribal-State Government-to-Government relationships to address natural resource protection and issues on and off reservation

Objectives:

1. Coordinate communication and collaboration of federally funded state programs to insure Tribal input and interests are included in program and policy development as requested
2. Educate Federal, State and County agencies on Native American Indian culture and heritage in relation to natural resources and the environment
3. Coordinate Inter-Tribal/Inter-Agency networks for communication and collaboration on natural resources issues in Indian Country
4. Develop statewide Tribal natural resource study
5. Coordinate Tribal-State efforts in resolution of water right issues as requested

Goal #2: Coordinate and cooperate with Tribal, State and Federal agencies to clarify trustee responsibility, environmental protection issues and clarify jurisdictional/sovereignty authorities

Objectives:

1. Provide workshops or presentations on Federal "trust" responsibility in Indian Country and federal policy on Indian affairs to state and county agencies
- 2.
3. Coordinate interactions by sponsoring meeting forums between Tribal and the Nevada Department of Natural Resources and Conservation to address issues and build working relations and partnerships

ATTACHMENT B

NEVADA NATURAL RESOURCES STATUS REPORT

Division of State Lands
Department of Conservation and Natural Resources

Tribal Lands in Nevada

Nevada includes 18 federally recognized Indian Tribes located throughout the state. Prior to statehood, the Washoe, Paiute and Shoshone peoples occupied Nevada. Today, a relatively small amount of Nevada is reserved for the 18 tribes and their members. The amount of tribal acreage in Nevada is estimated at 1,161,972 acres. The borders of many reservations overlap state or county borders, adding unique complexities to land administration efforts. .

Tribal lands are diverse and have been reduced from their original base located throughout Nevada. Tribal land base today include: colonies, reservations, allotments, ranches, tribal fee land, federal land, government owned land, and trust lease lands. Tribal sovereignty encompasses lands within the exterior bounds of Tribal land held in trust by the federal government for Tribes and members. Tribal lands, colonies, and reservations are held in trust for the beneficial use of tribal members.

Native American culture, with respect to land use management and protection, often differs from the general populace. Indian people view their relationship to the land as one of stewardship. Their strong sense of protection over the land and its resources is inherent in the people and culture. Each generation is taught that their responsibility as a people is to guard over and protect "Mother Earth". Reservation community life is tied directly to the land tribal members occupy.

Mainly the tribes with a large land base engage in land use management plan development (i.e., the Pyramid Lake Paiute Tribe, Walker River Paiute Tribe, Duck Valley Shoshone Tribe, and the Washoe Tribe of Nevada and California). Many tribal master plans address natural resources and land use planning for residential and economic development on reservations. Historically, tribal and state agencies have had little interaction on resource plans. The primary reason is that tribal governments are sovereign and manage their own affairs. Tribal interactions on land use planning and resource management mostly involve the federal agencies having federal trust responsibilities (i.e., the Bureau of Indian Affairs, BLM, and USFS). In recent years awareness has grown that local, state, and federal land use and resource management decisions can impact tribal communities and tribal decisions can affect nearby communities.

ATTACHMENT C

List of Nevada's Tribes, Bands and Colonies

Battle Mountain Band Council
37 Mountain View Drive, #C
Battle Mountain, NV 89820
Ph: 775-635-2004
Fx: 775-635-8016

Goshute Business Council
P.O. Box 6104
Ibapah, UT 84034
Ph: 435-234-1138
Fx: 435-234-1162

Timbisha Shoshone Tribe
P.O. Box 206
Death Valley, CA 92328
Ph: 760-786-2374
Fx: 760-786-2376

Carson Colony Community Council
2900 South Curry St.
Carson City, NV 89703
Ph: 775-883-6459
Fx: 775-883-6467

Las Vegas Paiute Tribe
1 Paiute Drive
Las Vegas, NV 89106-3261
Ph: 702-386-3926
Fx: 702-383-4019

Walker River Paiute Tribe
P.O. Box 220
Schurz, NV 89427
Ph: 775-773-2306
Fx: 775-773-2585

Dresslerville Community Council
1585 Watasheamu Drive
Gardnerville, NV 89410
Ph: 775-265-5645
Fx: 775-265-6240

Lovelock Paiute Tribe
P.O. Box 878
Lovelock, NV 89419
Ph: 775-273-7861
Fx: 775-273-1144

Washoe Tribe of Nevada & California
919 Highway 395 South
Gardnerville, NV 89410
Ph: 775-265-4191
Fx: 775-265-6240

Duck Valley Shoshone-Paiute Tribe
P.O. Box 219
Owyhee, NV 89832
Ph: 775-757-3211
Fx: 775-757-3212

Moapa Band of Paiutes
P.O. Box 340
Moapa, NV 89025
Ph: 702-865-2787
Fx: 702865-2875

Wells Band Council
P.O. Box 808
Wells, NV 89835
Ph: 775-752-3045
Fx: 775-752-2179

Duckwater Shoshone Tribe
P.O. Box 140068
Duckwater, NV 89314
Ph: 775-863-0227
Fx: 775-863-0301

Pyramid Lake Paiute Tribe
P.O. Box 256
Nixon, NV 89424
Ph: 775-574-1000
Fx: 775-574-1008

Winnemucca Colony Council
P.O. Box 1370
Winnemucca, NV 89446
Ph: 775-623-0888
Fx: 775-623-6918

Elko Band Council
1745 Silver Eagle Drive
Elko, NV 89801
Ph: 775-738-8889
Fx: 775-753-5439

Reno-Sparks Indian Colony
98 Colony Road
Reno, NV 89502
Ph: 775-329-2936
Fx: 775-329-8710

Woodfords Community Council
96 Washoe Blvd.
Markleeville, CA 95120
Ph: 530-694-2170
Fx: 530-694-1890

Ely Shoshone Tribe
16 Shoshone Circle
Ely, NV 89301
Ph: 775-289-3013
Fx: 775-289-3156

South Fork Band Council
HC 30 B-13, Spring Creek
Lee, NV 89815
Ph: 775-744-4273
Fx: 775-744-4523

Yerington Paiute Tribe
171 Campbell Lane
Yerington, NV 89447
Ph: 775-463-3301
Fx: 775-463-2416

Fallon Paiute Shoshone Tribe
8955 Mission Road
Fallon, NV 89406
Ph: 775-423-6075
Fx: 775-423-5202

Stewart Community Council
5300 Snyder Avenue
Carson City, NV 89701
Ph: 775-883-7767
Fx: 775-883-5679

Yomba Shoshone Tribe
HC61 Box 6275
Austin, NV 89310
Ph: 775-964-2463
Fx: 775-964-2443

Fort Mojave Indian Tribe
500 Merriman St.
Needles, NV 92363
Ph: 760-629-4591
Fx: 760-629-5767

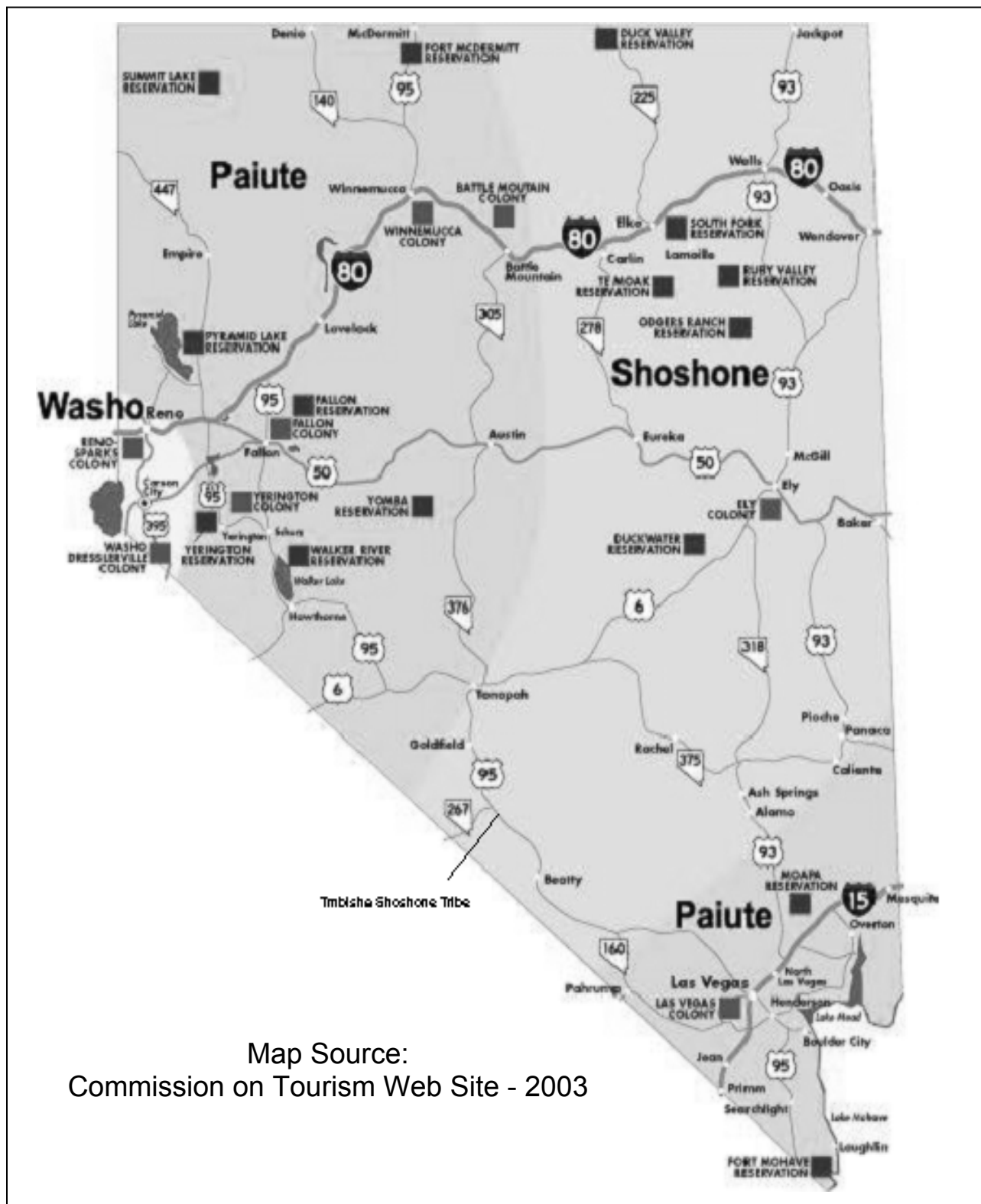
Summit Lake Paiute Tribe
655 Anderson Street
Winnemucca, NV 89445
Ph: 775-623-5151
Fx: 775-623-0558

Ft. McDermitt Paiute-Shoshone Tribe
P.O. Box 457
McDermitt, NV 89421
Ph: 775-532-8259
Fx: 775-532-8903

Te-Moak Shoshone Tribe
525 Sunset St.
Elko, NV 89801
Ph: 775-738-9251
Fx: 775-738-2345

ATTACHMENT C

Location of Tribes in Nevada



ATTACHMENT D

Tribal Land Base

Tribal lands are diverse and have been reduced from their original base located throughout Nevada.

Tribal lands include: Colonies, Reservations, Allotments, Ranch, Tribal Fee Land, Federal Land, Government Owned Land and Trust Lease Lands. Tribal sovereignty encompasses lands within the exterior bounds of Tribal land held in trust by the federal government for the Tribes and their members.

Tribes	County	Total Tribal Land	Land in Nevada	Land in Neighboring State	Comments
Duck Valley Shoshone Tribe	Elko	289,819	144,274	145,545	Land also in Idaho
Duckwater Shoshone Tribe	Nye	3,815	3,815		
Ely Shoshone Tribe	White Pine	111	111		
Fallon Paiute-Shoshone Tribe	Churchill	3,549	3,549		
Ft. McDermitt	Humboldt	35,488	16,660	18,829	Land also in Oregon
Fort Mojave Indian Tribe	Clark	34,998	3,998	31,000	Land also in California and Arizona
Confederated Tribes of the Goshute Reservation	White Pine	108,932.70	70,489	38,443.70	Land also in Utah
Las Vegas Paiute Tribe	Clark	3,897.93	3,897.93		
Lovelock Paiute Tribe	Pershing	20	20		
Moapa Paiute Band	Clark	71,954	71,954		
Pyramid Lake Paiute Tribe	Washoe, Lyon & Storey	475,000	475,000		112,000 acres of lake surface included in 475,000
Reno/Sparks Indian Colony	Washoe	2056	2056		
Summit Lake Paiute Tribe	Humboldt	10,098	10,098		560 acres of lake surface included in 10,097.97
Te-Moak Tribe of Western Shoshone		16,636	16,636		Te-Moak Tribe is comprised of four Bands:
- Battle Mountain Band	Lander		-----		Battle Mountain, Elko,
- Elko Band	Elko		-----		South Fork and Wells
- South Fork Band	Elko		-----		
- Wells Band	Elko		-----		
Timbisha Shoshone Tribe	Nye	7,453.99	5,500	1,953.99	California
Walker River Paiute Tribe	Churchill, Lyon	323,386	323,386		
Washoe Tribe of NV & CA		4,234	3,834	320	The Washoe Tribe is comprised of four
- Carson Colony	Carson City		-----		Colonies: Carson,
- Dresslerville Colony	Douglas		-----		Dresslerville and Stewart
- Stewart Colony	Carson		-----		Communities. Woodfords
- Woodfords Colony	Alpine Co., CA		-----	80	is in California
Winnemucca Colony Council	Humboldt	340	340		
Yerington Paiute Tribe	Lyon	1,635.07	1,635.07		
Yomba Shoshone Tribe	Nye	4,718	4,718		
Total:		1,398,143.62	1,161,972.14	236,171.48	

Resource: Tribal Profiles and Bureau of Indian Affairs

ATTACHMENT E

DEFINITIONS AND INFORMATION FOR WORKING EFFECTIVELY WITH TRIBAL GOVERNMENTS

The following is provided as information to clarify the status of tribes in Nevada and the United States. Nevada's 27 tribes, bands and colonies are all federally recognized with a land base held in trust by the federal government for the beneficial use of their members.

What is Consultation?

In most areas of tribal government and intra-government relations, numerous federal laws and policies specifically require consultation with Native Americans. Consultation can be accomplished through formal consultation or informal consultation. The formal consultation process is generally assigned to Federal Agencies and State Government. Informal Consultations can be accomplished by Local Area Planning groups or their members, the State or the Federal Government. Consultation events need to be tracked to document who has been contacted and which tribes need to be consulted. The consultation process is on-going and helps tribal representatives to be involved and informed.

What is an Indian Tribe?

An Indian tribe was originally a body of people bound together by blood ties who were socially, politically, and religiously organized, who lived together in a defined territory and who spoke a common language or dialect. In the eyes of the U.S. government a body of people as described above must be officially recognized in order to be considered a tribe.

What does the term "federally recognized" mean?

Only tribes who maintain a legal relationship to the U.S. government through binding treaties, acts of Congress, executive orders, etc., are officially "recognized" by the federal government. Once "recognized" a tribe has a legal relationship with the United States. There are currently more than 550 federally recognized tribes in the United States, including some 200-village groups in Alaska. However, there are still hundreds of tribes undergoing the lengthy and tedious process of applying for federal recognition.

What does "tribal sovereignty" mean and why is it so important to Native Americans?

Tribal sovereignty describes the right of federally recognized tribes to govern themselves and the existence of a government-to-government relationship with the United States. Thus a tribe is described as dependant nations with the right to form its own government, adjudicate legal cases within its borders, levy taxes within its borders, establish its membership, and decide its own future fate. The federal government has a trust responsibility to protect tribal lands, assets, resources and treaty rights.

What is a reservation?

In the U.S., there are several kinds of reserved lands two more well known include military and Indian reservations. An Indian reservation is a land base that a tribe reserved for itself when it relinquished its other land areas to the U.S. through treaties. More recently, Congressional acts, executive orders and administrative acts have created reservations. Some reservations, today, have non-Indian residents and land owners.

Do Indians pay taxes?

All Indians are subject to federal income taxes. As sovereign entities, tribal governments have the power to levy taxes on reservation lands. Some tribes do and some don't. As a result, Indians and non-Indians may or may not pay sales taxes on goods and services purchased on the reservation depending on the tribe. However, whenever a member of an Indian tribe conducts business off the reservation, that person, like everyone else, pays both state and local taxes. State income taxes are not paid on reservation or trust lands. In general trust property is exempt from state/county property taxes as the ownership remains with the United States government.

Do Native Americans receive any special rights or benefits from the U.S. government?

Contrary to popular belief, Indians do not receive payments from the federal government simply because they have Indian blood. Funds distributed to a person of Indian descent may represent mineral lease income on property that is held in trust by the United States or compensation for lands taken in connection with governmental projects. Some Indian tribes receive benefits from the federal government in fulfillment of treaty obligations or for the extraction of tribal natural resources - a percentage of which may be distributed as per capita among the tribes membership.

Tribal Sovereignty – a brief historical overview

In 1832, Chief Justice John Marshall articulated the first representation on the doctrine of tribal sovereignty in the court's ruling in *Worcester v. Georgia*. The doctrine reflected that Indian governmental powers, with some exceptions, are not delegated powers granted by express acts of Congress, but are inherent powers of a limited sovereignty that have never been extinguished. Tribal governments possess inherent powers of self-government and sovereignty over both their members and their territory. Examples of tribal governmental

powers include establishing a form of government, determining their membership, legislate or otherwise adopt civil and criminal laws for the reservation, power to administer justice, exclude persons from the reservation, charter business organizations, and like other sovereigns, tribes cannot be sued without an unequivocally expressed waiver of sovereign immunity.

The federal government, presidential executive orders and memorandums along with the backing of Supreme Court rulings over the years, have continually reaffirmed recognition of the sovereign status of federally recognized Indian tribes as separate and independent political communities within the United States. However, state governments, when engaging in activities or developing policies affecting state government have neglected to consider the interests of Native American tribal rights or trust resources, which has not been consistent with the national policy on Indian affairs in the past. Efforts in many states are underway to change this where tribal sovereignty is being recognized and activities have been initiated towards building positive and stronger government-to-government relationships, which are respectful of tribal sovereignty, but the work has only just begun. A sharing of the federal policy "torch" to protect the promises the United States made to the Indian people is in its infancy, but positive results in some states can be seen.

The United States Constitution gives Congress the power "to regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes" (Section 8, Article I, U.S. Const.) thus recognizing Native American tribes as separate and independent political communities within the territorial boundaries of the United States. With this provision, the United States Constitution has been construed to recognize Indian sovereignty by classifying Indian treaties as part of the "supreme law of the land," and to establish Indian affairs as a unique area of federal concern.

Previous presidents have consistently affirmed tribal sovereignty and, thus, the rights of Indian nations in the following ways: President Lyndon B. Johnson recognized "the right of the first Americans ... to freedom of choice and self-determination"; President Nixon strongly encouraged "self-determination" among the Indian people; President Reagan pledged "to pursue the policy of self-government" for Indian tribes and reaffirmed "the government-to-government basis" for dealing with Indian tribes; and President Bush recognized that the federal government's "efforts to increase tribal self-governance have brought a renewed sense of pride and empowerment to this country's native peoples".

Federal Trust Relationship

The concept of tribal sovereignty, federal Indian policy and the federal trust responsibility is complex. Thousands of treaties, statutes, executive orders, supreme court decisions and agency rulings play integral

roles pertaining to tribes and Native American Indians throughout the country, leading some say that Indian people are the most governmentally regulated people in the world.

From the earliest days, the United States has recognized the sovereign status of Indian tribes as "domestic dependent nations." Cherokee Nation v Georgia (30 U.S., 1, 17 (1831)). The U.S. Constitution recognizes Indian sovereignty by classing Indian treaties among the "supreme law of the land" and establishes Indian affairs as a unique area of federal concern. The Supreme Court has reaffirmed a standing principle that has long dominated the government's dealings with Indians. The principle is "the undisputed existence of a general trust relationship" between the United States and the Indian people. This relationship is one of the most important concepts in Indian law.

The Supreme Court first recognized the existence of a trust relationship between the federal government and Indian people in its early decisions interpreting Indian treaties. Between 1787 and 1871, the United States entered into hundreds of treaties with Indian tribes. In almost all of these treaties, Indians gave up land in exchange for promises. The promises included a guarantee that the United States would create a permanent reservation for the tribe and would protect the safety and well being of tribal members. The Supreme Court has held that such promises create a trust relationship. This relationship is marked by peculiar and cardinal distinctions, which exist nowhere else and resembles that of a ward to his guardian. These promises created a duty of protection toward the Indian, which exists today but is continually threatened.

In 1977 a Senate commission expressed the obligation of the United States in relation to the trust responsibility as follows:

The purpose behind the trust doctrine is and always has been to ensure the survival and welfare of Indian tribes and people. This includes an obligation to provide those services required to protect and enhance Indian lands, resources, and self-government, and also includes those economic and social programs which are necessary to raise the standard of living and social well-being of the Indian people to a level comparable to the non-Indian society. (American Indian Policy Review Commission, Final Report p.130 (Washington D.C: Government Printing Office, 1977))

The Supreme Court has used such terms as "solemn," "special", and "trust" to describe the government's relationship with Indian tribes. The federal government is the "fiduciary" of tribal resources, which means "that it must act with good faith and utter loyalty to the best interests" of the Indians.