

Editorial



This issue is the third and last in Volume 23 wherein we began to make some changes in *Environments* to build up its usefulness to a wide range of readers. As noted in Volume 23 (1) the intention is to continue the work of *Environments* along the same general lines, i.e. to focus on issues of environment, heritage, development, planning, and design. The aim is to do this in a multidisciplinary way, across economic and other sectors and traditional fields of interest, to give a broader view, a sum of the whole. The aim is to link the scholar, the professional, and the citizen. The interest is very much in good science, scholarship, and design as well as in interpreting and demonstrating what this means to people and places on the ground, in Canada and other parts of the world.

In this sense there is considerable interest in *Environments* as a civic forum where scholars, professionals, practitioners and citizens discuss the issues of the day and the various ways in which they might be thought about and addressed. A basic goal is to encourage papers and other submissions that focus on assessing and understanding public issues for improved decision-making.

The terms assessment and understanding, are used in the broad sense of encouraging research scholarship, criticism and design. Underlying all this is a strong interest in history and heritage, in both the natural and cultural senses. This interest is taken because of the belief that a historical and heritage approach can do much to improve science, scholarship, design and decision-making. The interest in history and heritage also reflects the association with the Heritage Resources Centre at Waterloo. Currently this association is viewed as a general and rather informal one in the expectation that *Environments* will continue to draw support from members of the University of Waterloo Faculty of Environmental Studies and other organizations and people in and outside the university, as in the past.

In this issue of *Environments*, five papers are included which although addressing different topics, all grapple with the issues of environment, heritage, development, planning and design. All are to varying degrees multi or interdisciplinary and deal with interaction among environment and human uses and effects. All also attempt to relate to public policy. All also involve working with different ways of knowing and with different academic, scientific, scholarly and civic interests. All the papers also address issues relevant to decision makers and citizens, although they do so in terms of differences in language and accessibility. But the bridges need to be built and crossed.

We welcome and will consider publishing comments on the papers published in *Environments*. We also continue to welcome ideas and suggestions from the readers of *Environments*. We have been working to encourage and increase Supporting Subscriptions from universities, agencies and groups especially interested in the challenges addressed by *Environments*. A new list of Supporting Subscribers is included on the inside cover of this issue. We welcome expressions of interest in becoming Supporting Subscribers and participating more fully in the work of *Environments*.

Indian Reservations, Solid Waste and Development: Some Difficult Choices¹

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Indian reservations, long held to be examples of chronic underdevelopment, have recently assumed new importance because of their natural resources. The diversity of resources to be found on reservation lands mirrors the diversity of Indian Country itself. For example, although Indian tribes on 278 reservations control only about 3 percent of the land in the United States, it has been estimated that 25 percent of all the nation's mineral wealth is located on reservation lands (Lester, 1986). While the potential value of mineral reserves underlying tribal lands has been recognized for some time, other attributes of reservations are only now being appreciated. Recently the vast tracts of sparsely populated reservation lands in the Western United States have attracted the attention of commercial waste companies.

The development of reservation land for use as a solid waste site offers potential for increased economic well-being, but often presents tribes with difficult choices. These choices highlight a broad range of concerns that underlie development decisions, including: questions about what appropriate development or use of resources might mean; the nature of the linkages between tribes and reservations and other communities; and the meaning and extent of tribal self-determination, specifically the ability to manage their own environment. The complex and provocative nature of these decisions is epitomized in the current debate over waste disposal on Indian lands. This paper examines some of the key issues underlying that debate, and uses two case studies to contrast the different decisions being made about this type of development. In order to simplify the discussion, the focus will be on solid (vs. hazardous) waste. However, many of the underlying issues and conflicts are common, and some of these implications are highlighted at the end.

Solid Waste Management and Indian Reservations – the Context

Solid waste management is not a new problem, nor is it an issue confined to Indian reservations. A shrinking number of landfills, public opposition to new sites, more stringent environmental regulations, and recognition of waste as an article of interstate commerce are several of the pressures that have fueled the escalating garbage wars (Congressional Report, 1990; Fitzgerald, 1994). Some states are busy trying to restrict or limit garbage importation, and many communities have successfully blocked new dump and incinerator plans under what has become known as the NIMBY (or not in my back yard) movement. More generally, however, many state-adopted measures to restrict the importa-

tion of waste and/or regulate flow controls have been found to violate the Commerce Clause, and have been held to be unconstitutional (Gold, 1993; McCann, 1994; Ewel, 1994). As a result, solid waste, as an article of interstate commerce, poses both a challenge and potential opportunity for various localities. Not all communities have been hostile to the overtures of commercial waste companies, and some have clearly decided that it makes sense to accept an environmentally sound landfill in return for economic benefits (Simon, 1990).

Tribes, too, are assessing the desirability of taking on solid waste disposal as a form of economic development. It is hard to get an exact accounting, but it is evident that tribes have been, and are being, approached by companies seeking to locate commercial landfills on reservation lands.² While it is difficult to generalize, given the diversity that characterizes Indian Country, there are several factors that make Indian reservations particularly inviting locations. These include tribes' status as sovereign entities (with the right to manage their own environmental resources – independent of state regulations); the relative abundance of sparsely populated, apparently underutilized lands; the often underdeveloped economies (and need for economic opportunities for tribes and tribal members); the evolution of federal policies regarding environmental regulation on Indian Reservations (notably the Resource Conservation and Recovery Act); and the need to address solid waste issues on many reservations.

Based on treaties, and modified by legislation and court decisions, Indian tribes have a unique status as domestic dependent sovereign nations. Contemporary Indian reservations are politically defined territorial entities, generally the remnants of much larger areas that were originally set aside for various tribal groups. Federal policies toward Indians and reservations have been convoluted and inconsistent, but Indian lands have helped to sustain tribal identity and are an integral part of it. The legal and political dimensions of modern reservations are quite complex (Sutton, 1976), but the assertion of tribal sovereignty and jurisdictional control are essential and necessary elements of territorial and tribal aspirations.

Sovereignty is important in understanding emerging battles over resource development and environmental management on tribal lands. While the dimensions of tribal sovereignty continue to evolve, Indian self-government is generally understood to include the power of a tribe to operate under its own form of government, define conditions of membership, regulate domestic relations of members, levy taxes, regulate property, and administer justice (Cohen, 1971). These powers of self-government have been severely tested and, many would argue, eroded through years of federal neglect and state intrusion. But tribes have also been aggressive in protecting their right to self-determination, often in the face of considerable opposition. The assertion of sovereignty is increasingly evident – and critical – in the area of environmental management (Royster et al, 1989; Brockman, 1992).

Clearly, environmental issues recognize no political boundaries, and the location and management of landfills is a concern to both state and tribal entities. Given their powers of self-government, each can develop their own resource management regulations and systems, as long as both comply with federal regulations. In practice, however, states often have sophisticated environmental standards and regulatory mechanisms in comparison to tribes, who frequently have underdeveloped environmental management capabilities. This

disparity, together with the conditions of economic underdevelopment that characterize many reservations, has led to charges that the waste industry is 'targeting' Indian lands, and has fueled the debate over environmental racism (Alston, 1990; Angel, 1991; Mohai et al, 1992). It has also aggravated jurisdictional disputes (Haner, 1994). Tribes and states have a long history of territorial conflict that re-emerges with renewed strength whenever valuable resources are in contention.

A myriad of federal agencies, legislative initiatives, and state and federal court cases further shape the institutional context surrounding waste disposal (Kovnat, 1990). A key piece of legislation is the Resource Conservation and Recovery Act (RCRA), which was passed in 1976 (42 U.S.C. 9601, 1988). RCRA distinguishes between hazardous and solid waste, and treats each separately. For example, while RCRA establishes a comprehensive regulatory system, and gives the Environmental Protection Agency (EPA) authority for managing hazardous waste, there is no such mandate or scheme for regulating solid waste. Instead of a federal permitting and enforcement system, the Act provides for the establishment of federal guidelines, authorizes technical assistance, and largely leaves the development and enforcement of standards up to states. It is notable that, while RCRA seeks to foster cooperation between state and federal entities, the Act effectively ignores Indian tribes, and thus neglects to address waste management issues on reservations.

This oversight is not unique to RCRA. Most environmental legislation initially ignored tribes and reservations, and failed to delegate environmental management responsibilities to tribes. Over the past decade, however, there have been attempts to mitigate this problem. For example, in 1984 the EPA issued an Indian policy designed to protect the environment of Indian reservations while adhering to basic principles of tribal self-determination.³ In addition, recent amendments (for example, to the Clean Air, Clean Water, and Safe Drinking Water Acts) recognize tribes as sovereign governments and give them a role in the enforcement of environmental legislation. Similar amendments to RCRA have been considered but have yet to be enacted. Congress has also considered legislation that would provide financial and technical assistance to tribes to enhance their environmental regulatory and management capacity (Winder, 1992), but no such measure has yet passed. The persistent failure to include Indian tribes as equal parties in legislation addressing solid waste management has created an uncertain, uneven landscape in regard to waste disposal and tribal lands.

The absence of explicit Congressional recognition of tribal authority has created a regulatory wasteland, where federal, state, and tribal interests overlap and jurisdictions conflict. Several court cases have highlighted the confusion in the area of solid waste disposal. For example, in 1985 the Federal Court upheld EPA's refusal to approve a proposed Washington State hazardous waste program that sought to include state regulation of Indian lands (*State of Washington v. EPA*, 1985). The Court found that RCRA did not authorize states to regulate Indians on Indian lands, and, instead, recognized the regulatory authority of the EPA on tribal lands. The role and authority of Indian tribes were not addressed, and the Court explicitly did not consider the question of the state's ability to regulate non-Indians in Indian Country. Two years later, in *Blue Legs vs. E.P.A.*, (1987) the Court found that the Oglala Sioux Tribe had

responsibility, based on inherent sovereignty, to manage solid waste on the Pine Ridge reservation. The Court also held that the EPA did not have authority over open dumping on the reservation, finding instead that, absent specifically enumerated powers, any enforcement encroachment would be a violation of the inherent sovereignty of the Tribe. Thus, while the first case precluded state jurisdiction over Indian lands and pointed toward a federal responsibility, the second recognized the sovereign powers and obligations of tribes, and underscored the limited responsibilities of the EPA under RCRA solid waste provisions. A more extreme interpretation suggests that while tribes have been denied regulatory authority under RCRA, they may be held liable for violations of the Act on reservations (Wilson, 1990).

While it appears that tribes, as sovereign governments, may be held legally responsible for managing waste on reservations, they have not benefited from the technical and financial assistance extended to states under RCRA and, in many cases, have yet to develop the necessary expertise and infrastructure. In fact, proper regulation, operation and maintenance of existing waste sites on reservations is a problem. In the *Blue Legs* case, a member of the Oglala Sioux Tribe sued the EPA, Bureau of Indian Affairs (BIA), Indian Health Service (IHS) and the Tribe to ensure that solid waste disposal would meet RCRA standards. The concerns raised in that case are common across Indian country. For example, according to testimony before the Select Committee on Indian Affairs, there are an estimated 650 sites on Indian lands where solid waste is deposited; 108 of these sites are tribally owned IHS constructed landfills; and only one of these would likely comply with the most recent and more stringent (1990) EPA regulations (Select Committee on Indian Affairs, 1990). It was estimated that the minimal cost of bringing Indian solid waste sites up to standards would be \$113 Million. Whatever the eventual count and cost, the need to develop tribal infrastructure to manage environmental (and waste) issues effectively is clear, but the sources of support are less evident. As Senator Inouye, former Chairman of the Select Committee on Indian Affairs, noted:

The issues are obviously critically important to all of us, but particularly to the Indian tribal governments who are responsible for maintaining viable, permanent homelands for their people. The historical disparity between the financial and technical assistance that EPA provides to States and the assistance that it has provided to tribes is significant. Now, when less funding is available and the method of funding is changing, tribes are finally able to participate as full partners. Once again, for tribes it may be too little too late (Select Committee, 1990, 1-2).

Tribes obviously have a special interest in protecting and managing reservation environments. The reservation, the land, and its resources have provided cultural, spiritual, political, even economic sustenance to tribes continually threatened by external pressures. It is misleading, if not dangerous, to generalize (or romanticize) about Indians and their attitudes toward their environments: Indian country is notable for its diversity, and simplifications can be very misleading. It is evident, however, that there are fundamental differences in world views between native groups and their non-native counterparts (Momaday, 1976; Lopez, 1989). Reservations encompass and embody internal and external 'landscapes'. They are inextricably linked to cultural, tribal, and individual identity and survival. And tribes are especially concerned with protecting and

maintaining this resource and homeland. It is notable that the concern for the reservation as 'place' and the desire to promote an ethic of place is a theme that is being echoed in broader literature about environment and development in the American West as a whole (Stegner, 1987; Pommersheim, 1989; Wilkinson, 1988). But what this evolving ethic of place will mean for particular tribes, reservations and states remains to be seen.

Studies in Contrast: The Rosebud Sioux and Campo Band

It is difficult to talk in generalities about tribal decisions regarding development initiatives and environmental management, as any tribe's decision reflects a unique set of circumstances and social and cultural factors; for example, while it appears that a majority of tribes have elected to turn down business initiatives that involve waste disposal (Western Governor's Association, 1991), several have chosen to pursue the opportunity (Sheehan, 1991). Instead, the debate over solid waste disposal on Indian lands as an economic development opportunity and environmental management challenge is best explained in light of specific cases. The Rosebud Sioux in South Dakota and Campo Band in California are both recognized Indian tribes, but they have little else in common. Their recent experiences in reaching decisions about commercial waste ventures on their lands are a study in contrasts.

The Rosebud Sioux Reservation encompasses 5,300 square miles in south central South Dakota, and is home to some 13,000 members of the Sicangu Lakota. In November, 1990, the Tribal Council gave initial approval to an agreement between the Tribe and RSW, a Delaware-based subsidiary of O&G Industries, a Connecticut construction company. The Agreement called for development of a 5,700 acre landfill, which could accept up to 5 million annual tons of household garbage, including ash from municipal solid waste and other non-hazardous waste. The facility had an expected operating lifetime of 25 years (with a possible renewal option for another 25 years), and initial plans included the possibility of a power generating station. Payments to the Tribe included an initial \$100,000 (upon BIA approval); a percentage of gross revenues per ton, and tipping fees (at least \$1 per ton), to be divided between the 20 tribal communities and the Tribe itself.

The proposed project seemingly addressed a number of concerns. First, the land itself appeared ideal from a technical standpoint: composed of shale and clay, it was characterized as isolated and unproductive by project proponents. Second, under terms of the agreement, the Tribe could use the landfill free of charge, thus relieving existing solid waste problems.⁴ The major selling point, however, was the project's economic benefits. Estimates vary, but unemployment on the reservation is clearly high (anywhere from 60-85%), and economic opportunity has been limited. Given the promise to hire and train local residents, and the projected \$1 million in annual revenues, the project had obvious appeal. Tribal Chairman Ralph Moran emphasized these benefits on the day he announced the tentative agreement, noting that the landfill had the potential of generating millions of dollars for the Tribe, with profits dedicated to environmental and economic development programs (*Chicago Tribune*, 9/22/91; *Rapid City Journal*, 11/24/90).

The Agreement was the culmination of several years of quiet negotiations between the Tribal government and RSW, and was initially passed with no opposition in the Tribal Council. Things have not been so quiet since. Immediately following the November announcement, opposition emerged and coalesced in the form of a grassroots organization known as the Good Road Coalition. The coalition focused on informing communities and residents about potential problems with the landfill through community meetings and informational brochures, and mobilized public opposition to the project. As a result, the project received close public scrutiny, and objections and public resistance surfaced. For example, a detailed examination of the Agreement raised a number of issues, including the following:

- 1) The extent of RSW's operational control. Under terms of the Agreement, RSW alone could decide what kinds of non-toxic materials it would accept, and they had sole authority for monitoring groundwater pollution and eventual land reclamation.
- 2) The authority of Rosebud Sioux Tribe (RST) over the project. At the time the Agreement was signed, the Tribe had no comprehensive waste regulations in place, but specific provisions exempted the landfill from any subsequent tribal environmental regulations.
- 3) The project's financial arrangements. It became evident that specific provisions were either less clear or less favorable than might have originally been thought. For example, the Agreement did not contain an escalator clause, raising the possibility that the Tribe would be paid the same amount of money for up to 50 years. More generally, it was argued that the financial benefits were inadequate when compared to comparable landfill projects.⁵

Even the site itself was controversial. While the 5,700 acres were largely tribally owned, the site was located outside of the existing reservation boundaries, and it appeared to include some fee (privately owned) parcels. It also contained an old Indian grave site.

As the debate over the landfill became publicized, the project became increasingly controversial and divided the community and Tribe. The Good Road Coalition developed into an alliance of both Indians and non-Indians opposed to the landfill. The Coalition countered the characterization of the land as 'desolate,' and sought to moderate the perceived crisis over the Tribe's waste disposal problem, arguing that other alternatives could and should be considered. They developed ties with other environmental organizations, and challenged RSW's claims about the project's safety and state of the art technology. The Tribal government continued to publicize the benefits of the proposed agreement, especially the promised jobs and revenue. There were community meetings where proponents and opponents squared off, and there were rumors about bribes and payoffs. In spite of the economic benefits that would have accrued directly to the twenty Tribal communities, many of them passed resolutions opposing the landfill. In the end, the conflict over the landfill was a major issue in Tribal elections, held in the Fall of 1991. A new Tribal Chairman who clearly opposed the project was elected, and the proposed Agreement was subsequently rescinded by the Tribal council.

Unlike the Lakota Sioux on the Rosebud Reservation, the Campo Band appears more certain about their waste disposal facility. The Band has been working for the past several years on the planning and development of an integrated solid waste management facility on their 15,600 acre reservation near San Diego.⁶ The idea for the project stemmed, in part, from a 1987 County (of San Diego) study that identified several potential landfill sites near the reservation. At the Tribe's request, the reservation was subsequently included as a prospective site in the study (Western Governor's Association, 1991). At the same time, the Tribe took steps to develop their capacity to plan and manage a waste disposal facility. These actions included the creation of the Campo Environmental Protection Agency (CEPA) to develop and implement appropriate Tribal environmental regulations (including a solid waste management code); and the formation of a tribal corporation (Muht-Hei, Inc.), chartered and wholly owned by the Band, to represent its business interests in dealing with commercial waste vendors.

As envisioned by the Tribe, the integrated waste management facility would include a sanitary landfill for non-hazardous solid waste disposal (with a total capacity of about 28 million tons), and recycling and composting facilities. At present, through Muht-Hei, Inc., the Tribe has agreed to sublease a portion of the reservation (approximately 600 acres) to Mid-American Waste Systems to construct and operate the landfill portion of the project. Mid-American has been working with the Band for several years, and to date has invested about \$25 million on the planning and development of the project (*San Diego Business Journal*, 7/11/94).⁷ Using estimates of an average daily waste flow of 3,000 tons and \$3 per ton Tribal tipping fee, projected tribal income from the project is estimated at \$1.642 Million annually, or \$50 Million over a thirty year project lifetime. It is also anticipated that the project will significantly reduce the current reservation unemployment rate of 50-60%, and will create direct employment opportunities for some 55 people, including an estimated 35 tribal members (U.S. Dept. of Interior, Final EIS, 1992, 4-78). Tribal Chairman Ralph Goff noted the economic benefits the project would bring, but also emphasized its significance for Tribal 'self-esteem' and focused on the Tribe's ability to protect itself and its environment (*San Francisco Examiner*, 4/10/91).

The planning and development undertaken by the Campo Band was decidedly different than that of the Rosebud Sioux. The project was initiated (and controlled) by the Tribe, and the process has been open and inclusive from the beginning. The Campo Band is relatively small (with enrollment of less than 300), and is governed by a General Council, a group consisting of all adult tribal members. As the project has evolved, decisions have been subject to a series of Council votes. While there was some initial concern among tribal members about the environmental implications of the project, and the desirability of this mode of economic development, a positive consensus about the project has evolved. The votes of the General Council have been strongly favorable, and the Band's decision has been to proceed with the landfill.

While the Campo landfill project has evolved with Tribal support, it has proven to be controversial in other ways. Opposition has come from some State and local officials and non-Indian neighbors, and has centered on environmental considerations (notably, the landfill's potential impact on water and air quality) and regulatory concerns (US Dept of Interior Final EIS, Comments and

Responses, 1992). The Band has sought to address environmental issues throughout the planning process, in part by developing the necessary environmental and regulatory infrastructure and expertise, including CEPA. Established in 1990, CEPA operates as an independent regulatory agency, with an extensive permitting process. The Band has established pollution control standards for their landfill that meet (or exceed) federal and State requirements.⁸ Campo has also sought collaboration with various State agencies.

In spite of such overtures, the project remains controversial and jurisdictional conflicts have surfaced. For example, Backcountry Against Dumps (BAD), an organization opposed to the landfill project, continues to raise concerns about water quality and potentially negative off-reservation impacts. In more concrete terms, two bills were introduced in the California legislature during the past several years that sought to apply State permitting requirements to waste operations on Tribal lands (*San Francisco Examiner*, 4/10/91). The first bill, which sought to require state permits for operation of landfills on tribal lands, was passed in 1990 but vetoed by the Governor. A second, similar bill was introduced, but was modified to contain more neutral language on the issue of State jurisdiction and to create a vehicle for state-tribal cooperative agreements. After passage of AB 240 in 1991 Campo entered into a Cooperative Agreement with the State of California which allows consultation and cooperation between CEPA and State Agencies regulating solid waste facilities on the Reservation.⁹ While it is unlikely these legislative measures, in their original form, could have withstood a court challenge, their focus on jurisdictional control in the area of environmental management is a pivotal issue to both tribes and their non-Indian counterparts.

Concluding Comments

Waste generation and disposal are increasingly visible problems nationwide. In spite of industry arguments to the contrary, Indian reservations offer unusual opportunities for commercial waste vendors, opportunities that many companies have chosen to investigate. As sovereign entities, tribes are in a position to make their own decisions regarding development and business options. But the equation is not that simple. The current context has been shaped by a number of institutional and historical factors – from the chronic conditions of underdevelopment that have characterized reservations to the exclusion of tribes as meaningful participants in environmental management processes. Tribal sovereignty is often recognized in theory, but it is often ignored or challenged in practice. This was true for the Campo Band, when they elected to proceed with development of a solid waste facility. The equation is also irrevocably influenced by Indian attitudes toward nature in general, and the significance of reservation environments in particular. In Rosebud, for example, one issue that divided the community was how to reconcile traditional Lakota values for the environment with the waste disposal project – and with the existing waste problem that confronts the reservation. Finally, outcomes are grounded in other attributes of each particular context – for example, the characteristics of a tribe, its government and leadership, its resources and priorities, and the nature of the project itself.

Many factors combined to make the situation on Rosebud especially volatile. The developer had no apparent experience in waste management, and the Tribe lacked the expertise to independently evaluate the project and effectively negotiate with the vendor. Discussions were carried out with Tribal officials, and members were initially uninvolved in the process. The site and project itself appeared to have unanticipated liabilities. As opposition developed, it was evident that Tribal officials had misjudged the community's willingness to trade land for economic gain. This theme resounded in local meetings, and there were times the debate grew acrimonious. For example, in one newspaper account, the Vice President of O&G contended that Indians could no longer 'hide behind' their reverence for their land.¹⁰ At best, the project was poorly planned and implemented; at worst it was a rather blatant example of the 'targeting' of Indian lands.

By way of contrast, the Campo Band's project was more openly planned and benefited from broader support. Instead of widespread internal dissention, the Band's major obstacles appear to be external, and involve confronting environmental opponents and asserting and protecting tribal sovereignty. Genuine sovereignty and self-determination presume that tribes can and will govern themselves. The problem of developing the necessary institutions and infrastructure to strengthen tribal environmental management capabilities is getting some long overdue attention. When a tribe, such as the Campo Band, develops that capacity and makes a decision to proceed, it is self-determination in fact and in practice. This is not always easy for others to accept, whether those others are individuals or groups opposed to a particular project, or other entities concerned with jurisdictional, environmental, economic, or political consequences. The refusal to recognize a tribe's prerogative to exercise rights of self-determination may, indeed, smack of environmental paternalism (Gover et al, 1992).

The issues and conflicts that surround the debate over solid waste are only magnified when discussion is broadened to include hazardous, even radioactive, waste disposal. The search for Monitored Retrievable Storage (MRS) sites is a case in point. The U. S. Department of Energy has been seeking applications from communities interested in becoming temporary sites for radioactive waste. In order to facilitate the site selection process, the Office of the US Nuclear Waste Negotiator mailed letters to a number of governmental entities – including many tribal officials. The result has been that five tribes (out of seven governmental entities total) applied for initial (Phase I) study grants from DOE.¹¹ The grant program is a voluntary, non-binding process, designed to help collect necessary data related to site selection. The tribes involved have cited a number of reasons for their interest, ranging from environmental protection to economic development, but their actions have prompted an outcry from a variety of sources. Given the long term implications and uncertainties inherent in any decision regarding hazardous waste, it is safe to assume that tribal involvement in this arena will continue to be a volatile, highly charged issue.

Resource development has often presented tribes with difficult choices, and waste disposal is no exception. Decisions about whether or not to accept landfills make choices between economic growth and 'appropriate' land management seemingly very stark, and these are particularly profound decisions for many Indian tribes. At a minimum these decisions raise basic questions about

how to incorporate tribal values in contemporary approaches to resource and reservation development. In recent testimony, the Executive Director of the National Congress of American Indians noted that tribal leaders are fully aware of the responsibility they have to ensure their citizens are economically as well as environmentally safe (U.S. Senate Select Committee on Indian Affairs, 1991). But there is no unanimity about how to ensure both outcomes, and it is likely tribal communities will come to different conclusions. What is evident is that any tribal decision regarding waste disposal will challenge, and possibly strengthen, tribal values and institutions. And the larger issues may prompt more careful consideration of what is meant by economic development and environmental management.

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Endnotes

- ¹ The author would like to acknowledge the valuable assistance of Cheryl Crazy Bull, Vice President of Sinte Gleska University in Rosebud, South Dakota in obtaining information about the Rosebud Sioux case; and Mr. Mike Connolly, Director of Campo Environmental Protection Agency, for information regarding the Campo Band project. Any mistakes in interpretation, however, are mine alone.
- ² In many discussions, solid and hazardous waste disposal projects are lumped together. For example, a Lakota Times article states that 50 tribes across the country have been approached by waste merchants in the past two years; a different publication notes 14 waste disposal projects referred to the BIA for environmental review since 1988. See Lakota Times, 12/18/91; Kemezis, 1991.
- ³ The results can be characterized as mixed, at best. For a review of the EPA's role, see U.S. Senate, Select Committee on Indian Affairs Hearing, Administration of Indian Programs by the Environmental Protection Agency, 1990, especially testimony of Dr. Everett Rhoades, Director of IHS.
- ⁴ There are currently 14 recognized landfills (and up to 150 dumps) on the reservation, and cleanup costs have been estimated at between \$6-7 million, according to one unofficial account. Good Road Coalition files.
- ⁵ For example, material from the Good Road Coalition suggests the estimated \$1-2 per ton fee was one of the lowest in the nation. Senator Tom Dashle, Democrat from South Dakota and a member of the Select Committee on Indian Affairs, unfavorably compared the Tribe's fee with a national average of \$25 per ton. Some of this is discussed in a Lakota Times article, 9/24/91; the rest is from Good Road Coalition files.
- ⁶ Discussion is based on several articles co-authored by Kevin Gover and Jana Walker, Western Governor's Association survey; Final EIS for the Campo Project; and personal conversation with Mike Connolly. The Gover, Stetson and Williams law firm represents the Campo Band.
- ⁷ This investment has included support for infrastructure improvements on the Reservation, as discussed in the Final EIS. The Agreement with Mid-America is temporarily on hold, due to internal corporate matters. The company continues to meet the terms of the sub-lease, however. At this time there are no agreements with operators for the recycling and composting facilities.
- ⁸ In April, 1995, the EPA certified the Campo Band's EPA's regulatory program as meeting or exceeding federal environmental standards. To date, Campo is the only Tribe to receive such program approval from the EPA.
- ⁹ The Cooperative Agreement, the first of its kind, recognizes the functional equivalency between Tribal and State Solid Waste Codes and Regulations, emphasizes information sharing, and has reciprocal provisions for State access to Reservation facilities and Tribal access to State facilities that handle waste destined for the reservation. The Agreement seems to finesse potential issues about jurisdictional conflicts and/or enforcement mechanisms.
- ¹⁰ For example, in one newspaper account, the Vice President of O&G contended that Indians could no longer 'hide behind' their reverence for their land. St. Louis Post-Dispatch, n.d.
- ¹¹ The five tribes included Mescalero Apache of New Mexico; Sac and Fox Nation and Chickasaw Nation of Oklahoma; Yakima Nation of Washington and Oregon; and the Prairie Island Indian community of Minnesota. See articles in the Lakota Times, 10/23/91; 10/30/91; and 1/21/92. After considerable dissention (and two Tribal referendums) the Mescalero Apache are proceeding with plans to develop a MRS facility (Indian Country Today 3/16/95).