

CHAPTER SEVEN

MULTIPLE SOVEREIGNS AND COOPERATIVE FORMAL RELATIONSHIPS

Introduction

All sovereigns have institutions that encompass both formal and informal structures that influence human behavior. In the previous chapter, examples of multiple uncooperative relationships between sovereigns were illustrated and how they often lead to distrust and hostility. There are examples of multiple cooperative relationships that have been enacted through instruments of cooperative formal relationships such as contracts, memorandums of agreements, memorandums of understanding, and various grant programs that form long-term relationships between sovereigns. This is the focus of this chapter.

Part I of this chapter describes those instruments of cooperative formal relationships between sovereigns that exist to enable tribes to improve their solid waste management practices. Part II of this chapter describes actual ongoing tribal solid waste management projects in order to emphasize the success of cooperative formal relationships and to illustrate how these translate into workable solutions in Indian country.

Part I - Instruments of Cooperative Formal Relationships

Remoteness, small community size, and the lack of financial resources make solid waste management more difficult in Indian country than in other communities across the United States. Even with recent improvements, far too many Indian tribes and Alaska Native Villages still use open dumping as their principal solid waste disposal method. Despite the recent success of gaming by some tribes, there is still prevailing high unemployment and a reduced standard of living on most reservations. The majority of tribes still have difficulty in obtaining funds to construct, operate, and regulate modern disposal methods for their own waste, much less commercial ventures.

The route away from open dumping is linked closely to tribal prosperity with the ability and determination by the tribe to obtain and allocate financial resources. Fortunately, in recent years many tribes have become sophisticated and have made federal agencies aware that issues such as solid waste management demand attention as well. Certain grants have been set aside by Congress and are administered by various federal agencies to assist tribes in managing their solid waste. Also, more cooperative arrangements between tribes and federal agencies have taken place and have been formalized by way of agreements such as memoranda of understandings that outline the nature and scope of these cooperative ventures, as discussed below.

Memorandum of Understanding Between BIA, EPA, IHS, and HUD

In 1991, a Memorandum of Understanding (MOU) between BIA, EPA, IHS, and the U. S. Department of Housing and Urban Development (HUD) was implemented to identify and acknowledge areas of overlapping responsibilities and to encourage opportunities for interagency coordination.

The MOU outlines areas of primary mutual environmental interest and responsibilities by these federal agencies in such areas as air quality management, radiation hazard identification and mitigation, water quality and critical habitat management, clean and safe drinking water, underground storage tank design requirements, hazardous materials management and emergency response activities, solid waste management, pesticide management, and the monitoring of toxic substances such as asbestos and lead.

The significance of this MOU is that it specifically calls for each federal agency to cooperate in providing program services to tribal governments and to collaborate on overlapping responsibilities. The MOU requires that federal agencies integrate funding assistance to tribal governments in the above areas of environmental protection and it is still in force today.

Memorandum of Understanding 2000

In 1998, tribes identified the need for increased coordination between federal agencies as a major priority at the 1998 EPA/Tribal Leaders' Summit held in Denver, Colorado. The 1991 MOU between BIA, EPA, IHS, and HUD was used as a starting point for various means to accomplish increased coordination cooperation and collaboration. These points were highlighted and addressed the following year at the March 17 - 18, 1999 EPA/Tribal Leader's Summit.

Tribal leaders and participating federal agencies at the 1999 Summit concluded that a new, more regional based MOU should be developed to broaden and promote more effort toward interagency cooperation in addressing environmental protection issues in Indian Country. It was envisioned that a regional interagency MOU would serve as a demonstration initiative to develop and test new approaches to cooperation and coordination that may have national application. A steering group of key federal agency and tribal organizations was established to guide the development of this new MOU. The objective was to have it in place in the year 2000 and therefore, the MOU was referred to as MOU 2000.

On January 18, 2000, at a ceremony held in Denver, Colorado, tribal leaders and federal officials signed MOU 2000 and the MOU was read aloud to all attendees. Its purpose is to identify areas of mutual interest and responsibilities of participating federal agencies in order to focus on specific environmental problems in Indian country in the EPA Region 8 geographical area. This EPA Region encompasses the states of Colorado, Montana, North Dakota, South Dakota, Utah and Wyoming.

The significance of this MOU is that it establishes a means to develop solutions to environmental challenges shared by tribes and various federal agencies in a cooperative manner. MOU 2000 encourages interagency cooperation, collaboration, consultation, coordination and effective communication among the parties in addressing environmental issues on Indian lands. The MOU serves as an instrument to assist in the establishment of tribal environmental programs and to use interdisciplinary approaches to environmental program coordination and problem solving.

The regional approach can serve as a demonstration of principles and practices that may be adopted nationally. Respective agencies may desire to develop more specific agreements pursuant to the general tenets established in the MOU. All participating entities have responsibilities and interests pertaining to the protection of the environment and human health in Indian Country.

Implementation of MOU 2000 will include close consultation with the regional tribes on a government-to-government basis in accordance with federal responsibilities. It will include a broad spectrum of federal agencies that are working on environmental issues in Indian Country. Furthermore, MOU 2000 serves to strengthen the linkages with tribal governments and federal agencies in a cooperative approach and is responsive to tribal needs, concerns, and cultural heritage. The expected outcome of this initiative is to enable more integrated and comprehensive approaches to environmental protection, pollution prevention, and compliance with tribal and federal environmental requirements.

In March 2000, the Northern Cheyenne Tribe located in Montana initiated its “Operation Sacred Beauty” as an implementation project under the provisions of MOU 2000. The tribe is seeking long-term solutions to its solid waste problems on their reservation. Tribal leaders will identify their preferred solution for solid waste management while identifying potential sources of funding to finance the improvements. EPA is working with the tribe and other governmental entities to facilitate their development of an integrated solid waste management program.

Cooperative Agreement Between EPA, the Arizona Indian Tribes and the Arizona Department of Environmental Quality

Accidental release of RCRA hazardous wastes can and do occur on tribal lands. Under a cooperative agreement between EPA Region 9, the nineteen tribes in Arizona, and the Arizona Department of Environmental Quality (ADEQ), the State of Arizona uses emergency response contractors to undertake initial activities to respond to hazardous materials incidents such as chemical spills occurring on tribal lands.

The cooperative agreement specifies that ADEQ will respond when requested by a tribe and will place itself under the authority and approval of tribal officials. The ADEQ will even utilize state funds for cleaning up spills on tribal lands under a reimbursable support agreement with EPA. This formal level of cooperative relationship between EPA, the tribes, and the state of Arizona was also corroborated from other tribal and government sources as well.

Funding for this cooperative agreement is covered under the Superfund Core Grant for EPA Region 9. Approximately \$130,000 in Fiscal Year 1999 and approximately \$140,000 in Fiscal Year 2000 was spent for response to hazardous material incidents on tribal lands.¹ It emphasizes cooperative formal relationships between sovereigns as a means to improve intergovernmental cooperative efforts.

The significance of this cooperative agreement is that it illustrates that jurisdictional issues between sovereigns can be worked out ahead of time before an actual crisis occurs. When spills of hazardous materials occur, there is no time to determine jurisdictional issues since environmental damage can occur rapidly. With this kind of arrangement, all sovereigns are in agreement as to jurisdictional issues.

Grants for Solid Waste Management in Indian Country

The significance of this discussion for grants is that they can become the means for tribes to manage their solid waste constructively. Grants provide the practical means for cooperative formal relationships to actually occur. Furthermore, they enable much needed assistance to be given to tribes to address their solid waste management needs. However, as with all grants, much depends upon available funding. Furthermore, not all grants are funded equally and in any given year the available funding will vary. Finally, many tribes have become quite sophisticated in submitting multi-grant proposals.

The EPA administers the bulk of grants to tribes for solid waste management purposes with others administered by other federal agencies as well. The EPA is responsible for the administration and distribution of General Assistance Program (GAP) grants, authorized by the Indian Environmental General Assistance Program Act of

1992.² In Fiscal Year 1993, when the grants were first awarded, GAP grants amounted to \$8 million.³ The purpose of GAP grants is to assist tribes in building the basic infrastructure of a tribal environmental program, which may include planning, developing, and establishing the administrative, technical, legal, and enforcement infrastructure.

Planning an environmental protection program may include setting goals and designing an approach for the program. Developing an environmental protection program may include progressing from plans on paper to actions that help establish the program. Establishing an environmental protection program may include working out the glitches of the development phase and making the program secure. These stages usually precede the implementation of an environmental protection program.

For solid and hazardous waste programs, the use of GAP grants is limited to the planning, developing and establishing stages. However, proposed regulations may allow GAP grants to be used for the actual implementation phase of solid and hazardous waste programs that would allow GAP grants to be used for construction and cleanup activities. In Fiscal Year 2000, GAP grants amounted to approximately \$43 million.⁴ The President's budget for Fiscal Year 2001 increases funding of GAP grants by \$10 million for a total of \$53 million.⁵ Finally, the significance of GAP grants is that they constitute the major funding for tribal environmental programs like solid waste management.

Municipal Solid Waste Grant Program for Indian Country

The Municipal Solid Waste Grant Program for Indian Country is to assist tribes and tribal organizations to create and sustain effective solid waste management programs.⁶ The program funds demonstration projects that promote effective integrated solid waste management practices in Indian country. Integrated solid waste management is the complementary use of a variety of waste management practices to safely and effectively handle the municipal solid waste stream with the least adverse impact on human health and the environment.

In Fiscal Year 1997, eight demonstration projects received awards. The award amounts ranged from \$50,000 to \$100,000 per year for up to three years.⁷ An additional \$450,000 was awarded in Fiscal Year 1999 to ten tribes and multi-tribal organizations to develop or enhance their tribal solid waste management programs. For Fiscal Year 2000, funding is estimated to remain about the same.⁸

Tribal Open Dump Cleanup Project Grants

The purpose of this project is to assist tribes with closure or upgrade of open dumpsites. EPA administers the project, however, it is part of a Tribal Solid Waste Interagency Workgroup that includes representatives from other federal agencies (e.g., BIA, HUD, IHS) in order to coordinate federal assistance.⁹ The project's specific goals include assisting tribes with (1) completing and implementing comprehensive and integrated waste management plans; (2) developing realistic solid waste management alternatives; (3) closing or upgrading existing open dumps; and (4) developing post-closure programs.¹⁰

Individual project selections are made by the federal project interagency workgroup. In Fiscal Year 1999, approximately \$1.6 million was made available by participating agencies to fund eight open dump cleanup projects and approximately \$2.4 million was made available to fund eleven open dump cleanup projects.¹¹

Alaska Solid Waste Management Demonstration Grant Project

This is a joint project between the Alaska Native Health Board, a non-profit health agency, and EPA to fund village-based solid waste projects. Grant awards range from \$2,000 to \$10,000 and grant recipients are expected to demonstrate both need and community support.¹² Projects range from developing solid waste management plans to properly closing Alaska Native Village dumpsites.

Hazardous Waste Grant Program

This grant program seeks to assist tribes in developing and implementing hazardous waste activities; developing tribal organizational infrastructure; achieving economic sustainability of tribal hazardous waste programs; and building partnerships among tribes, federal agencies, states and local communities.¹³ It provides capacity-building grants to federally recognized tribes and tribal organizations. Since there is often co-mingling of hazardous and non-hazardous wastes in tribal landfills and open dumpsites, the goal of the grant program is to encourage comprehensive integrated hazardous waste management practices that are protective of human health and the environment. Grant funding was \$919,000 in Fiscal Year 1999, \$800,000 in Fiscal Year 2000, and \$800,000 was requested for Fiscal Year 2001.¹⁴

The significance of these instruments of cooperative formal relationships such as memorandums of understanding and various cooperative agreements is that they convey a sense of honor, respect and trust between sovereigns. They provide a mechanism where sovereigns exchange instruments of authority as a means to enable relationships to occur on a government-to-government basis.

Part II – Solid Waste Management Projects in Cooperative Formal Relationships

It is often easy to forget that despite the economic hardships that tribes face today, much is being accomplished within Indian country as a result of these relationships. Through cooperative formal relationships, many tribes have ongoing projects to address their solid waste management needs. Therefore, it is important to look at some examples of both larger and smaller projects in order to see what is being accomplished as a result of cooperative formal relationships.

Larger Projects

White Mountain Apache Tribe

The White Mountain Apache Tribe's reservation with 1.7 million acres and located in east central Arizona, has about 14,000 tribal members in six tribal

communities. There was at least one open dumpsite in all six communities. The tribe realized that to address the growing environmental and health hazards from open dumps, it had to make solid waste management a priority.

In 1994, the tribe applied for and received a \$1.1 million Indian Community Block Grant from the U. S. Department of Housing and Urban Development to help pay for the design and construction of a new municipal solid waste landfill on the reservation. The grant was used in the following ways: \$740,000 for landfill design and construction, \$200,000 for equipment, \$80,000 for closing existing dumps, and \$80,000 for administrative costs. Matching funds of fifty percent came from the tribe and other organizations (\$150,000 from IHS, \$300,000 from BIA for the landfill road access, and \$50,000 from the Inter-Tribal Council of Arizona for planning and education).

Through development of its own landfill, the tribe provided an alternative to open dumps. The tribe also closed its former thirty-year old, fifteen-acre White River dumpsite. The dump closure was coordinated with the Inter-Tribal Council of Arizona, BIA, EPA, IHS, and the community. While closure costs for the old dumpsite reached approximately \$600,000 for the tribe, this amount was less than half of a private contractor's estimate.

The tribal council was adamant that it did not want to operate a commercial landfill accepting off-reservation waste, so none is accepted. The tribal council set a collection fee of \$5 per month per household, which was quite impressive given the political ramifications. With an estimated 67 percent collection rate (some households cannot afford to pay the \$5, while others refuse), the tribe generates \$120,000 per year from household collection fees.

In comparison, commercial haulers pay \$30 per ton, which is why the tribal council may have to raise the collection fee. The total revenue associated with the landfill is approximately \$185,000 per year while operating costs run around \$500,000 per year with the tribe having to make up the difference. To break even the tribal council may have to raise fees to \$15 per month, which may be politically unpopular.

Closing the dumps not only helped the reservation environment but also improved the health and safety of tribal members who used the facilities. Now, weekly trash pickup is available, and the tribe operates a state of the art landfill within their community. The White River dump closure demonstrates that with the assistance of formal instruments like the \$1.1 million block grant, cooperative relationships among sovereigns can occur and a former reservation dumpsite can be transformed into a viable state of the art facility.

Hoopa Valley Tribe

The Hoopa Valley Tribe, located in the forestlands of northwestern California, has been confronted with a number of environmental problems due in part to past inadequate land management policies. During the 1950s and 1960s, more than seven lumber mills operated in Hoopa, California's largest Indian Reservation. The rich timber resources of the tribe were subject to past timber harvest practices, which resulted in a myriad of water quality problems. Landslide prone areas were logged and roads constructed within stream riparian zones, which resulted in severe impacts to the salmon and steelhead fisheries and overall water quality.

In 1981, the tribe established the Tribal Environmental Protection Agency (TEPA), the first tribal environmental agency within the EPA Region 9 geographic area, to further develop, monitor and enforce both federal and tribal environmental laws. TEPA has been working closely with other tribal authorities including the police and the Tribal Court on the development, monitoring, and enforcement of environmental policies, codes, and ordinances.

The tribe has finally closed its Supply Creek Dumpsite that consists of two buried pits and one open pit that it used for over 25 years. In 1996, a cooperative relationship among the tribe, BIA, and IHS was initiated to develop a Draft Solid Waste Management Plan, which included evaluating several closure alternatives for the dumpsite. As a result of this cooperative relationship, the tribe was able to take preventative measures to keep surface and ground water from mixing with waste at the dump.

For final closure, the tribe covered the open pit, capped the dumpsite with a flexible membrane liner, placed a compact soil foundation layer over the entire dumpsite, added a gas collection layer, installed gas ventilation wells in each of the three waste pits, and planted new vegetation. The final closure of the site reduced the potential for groundwater contamination and minimized monitoring and maintenance needs.

Another example of cooperative formal relationship occurred when the tribe obtained both an EPA GAP grant and an EPA drinking water quality grant to address environmental problems relating to water quality, protection of wetlands, and monitoring and assessment of the Celtor Chemical works (one of the first Superfund sites located in Indian country). The tribe has developed and demonstrated a soil remediation technology that reduces pentachlorophenol levels in soils that would otherwise contaminate both surface and groundwater bodies.

The tribe's land reclamation efforts and soil remediation processes have resulted in the development of twenty-five acres of formerly contaminated soil into agricultural production. They have acquired additional government funding to convert a former eighty-four acre sawmill with contaminated soil into an industrial park and low-income housing for their tribal community. Through such instruments of cooperative formal relationships such as the EPA grants and the Draft Solid Waste Management Plan, the tribe has made substantial environmental improvements.

The Inter Tribal Council of Arizona

The Council was very instrumental in working with its nineteen member tribes in entering into a cooperative agreement with EPA and the State of Arizona for hazardous materials incidents. Through an EPA GAP grant, the Council was able to develop a Tribal Solid Waste Management Model Code that member tribes can adapt to their needs. The code affirms tribal sovereignty and addresses jurisdictional issues for both on reservation and off-reservation concerns.

The code's principal concerns are to prevent air, water, and land from solid and hazardous waste pollution, including contamination of the tribal aquifers, ground and

surface waters, drinking water supplies, and other natural resources. The code establishes detailed design, implementation and monitoring criteria for municipal solid waste landfills operated by member tribes and for post-closure requirements for municipal solid waste landfills. The significance of this code and its consideration as a large project is that it will be available for all Indian tribes to use. Again, an EPA grant was the instrument of cooperative formal relationship used to enable the Tribal Solid Waste Management Model Code to become a reality.

Smaller Projects

Wichita and Affiliated Tribes

The Wichita and Affiliated Tribes (Wichita Tribe) are located in Anadarko, Oklahoma, which includes surrounding rural Caddo County, and have approximately 23,000 acres of tribal land. In December of 1997 the tribe's environmental program began with the assistance of an EPA GAP grant. There are no municipal solid waste landfills in Caddo County, so municipal trash and refuse is hauled out of Caddo County. However, no solid waste programs exist for rural Caddo County residents such as the tribe and there are no trash haulers available for rural county residents. Usually, rural areas not serviced by waste haulers indicate that numerous illegal dumps exist.

Through the EPA GAP grant, the tribal environmental program has accessed advanced computerized mapping systems which incorporate both geographical information and global positioning systems to plot various sites where illegal dumps exist and which may impact Wichita "Indian country." These maps indicate the existence of numerous illegal dumpsites on the borders of Wichita tribal lands, often located on remote county roads that adjoin tribal lands. These dumpsites could affect the quality of the Washita River, which serves as a major source of drinking water for the tribe.

In addition to the EPA GAP grant for solid waste management activities, the tribe signed a cooperative agreement with the U. S. Geological Survey on March 9, 2000, to perform an overview of its water resources on its lands that is being funded by BIA.

Again these are examples of instruments of cooperative formal relationships between tribes and the government.

Native Village of Elim

The Native Village of Elim in Alaska will level and clear an old dumpsite and replace it with a modern environmentally compliant landfill with the assistance of a \$255,000 EPA GAP grant. Solid waste management personnel from the Native Village will use equipment rented from the City of Elim to clear timber and brush at the new landfill site, build an access road, prepare solid waste cells, and install a new chain link fence. The Native Village and the City of Elim will jointly oversee the project, provide administrative services, and communicate with both state and federal agencies. The new landfill will discourage disease vectors; birds and other wildlife from gathering at the site, reduce illegal dumping, and protect the public health and groundwater. Cooperative relationships among the Native Village of Elim, the City of Elim, and the assistance of EPA grants enabled the Native Village of Elim to address their solid waste management problem.

Metlakatla Indian Community

The Metlakatla Indian Community (MIC), the only federal Indian reservation in Alaska, will cleanup, remediate, reclaim and close an open dump through a construction grant of \$107,000 obtained from the U.S. Department of Agriculture (USDA). The MIC will complete the project in three phases. The first phase will include site investigation and characterization, installation of monitoring wells, collection of baseline field data, development of engineering plans and designs for cleanup and closure, and sorting and removing metal debris for recycling. The second phase will include establishing drainage control systems and removing solid waste from the site for proper disposal. The third phase will include screening to separate solid waste from soil, replacement of soil, grading the site for reclamation, revegetation, and restricting access to the site through road closure.

The dump cleanup and closure will enhance the Community's ability to close other waste sites and will protect nearby surface water and aquatic life from organic contaminants, hazardous materials, and metals. Again, this demonstrates the success of formal instruments of cooperative relationships such as the USDA grant and the resourcefulness used by the tribe in finding such funding from a different federal agency.

Bois Forte Chippewa Band of the Minnesota Chippewa Tribe

The tribe is located 75 miles south of the Canadian border in Minnesota and occupies approximately 41,863 acres. For years, a hole in the ground served much of the tribe's waste disposal needs – as well as the needs of the local wildlife. Visits from scavenging rodents and bears, along with frequent backyard trash burning and illegal dumping by both tribal and nontribal residents, turned waste disposal from a “free” public activity into a public health and safety hazard. The tribe, however, was committed to correcting the hazards.

With the assistance of an EPA GAP and a Solid Waste Management grant, the tribe instituted an integrated solid waste management program and now has two centrally located transfer stations with designated containers for trash and recyclable materials such as used oil, tires, scrap metal, appliances, aluminum, plastic and paper. Through a cooperative agreement with the tribe, St. Louis County owns the transfer station containers and collects the trash and recyclables.

Fishing is a common activity on the reservation during the warm season. This activity, however, generates a lot of fish waste that is often dumped illegally both inside and outside of the reservation. A proposed composting facility is expected to alleviate this problem and provide a way to recover organic waste from residents and businesses. The tribe is working cooperatively with Bemidji State University to design the composting facility. The tribe will use its own resources to pay for the construction and operation of the composting facility.

Once again successful cooperative formal relationships are demonstrated by the cooperative agreement between the tribe and St. Louis County for collecting trash and

recyclable materials; the tribe working cooperatively with Bemidji State University on the design of the composting facility; and the availability of EPA grants to enable the tribe to develop their integrated solid waste management program.

Taos Pueblo

The Taos Pueblo in New Mexico will cap its open dump, provide post-closure maintenance and monitoring, establish a transfer station to provide curbside collection service, hire a project director, and provide public outreach through an EPA Solid Waste Management grant of \$43,200 obtained in Fiscal Year 2000. To cap the dump, the tribe will install a cover to prevent infiltration, construct an erosion control layer. For post-closure maintenance and monitoring, the tribe will drill sampling wells and set drive points to trap water flows downgradient from the dump. Closing the open dump and developing alternative solid waste management options will help protect the health of the community and prevent environmental damage to wetlands and underground aquifers. Again, this demonstrates successful cooperative formal relationships through the availability of formal instruments such as EPA GAP grants for tribes.

White Earth Tribe

The White Earth Tribe located in Minnesota will clean up the most severe open dump on its reservation with the assistance of an EPA Solid Waste Management grant of \$130,500 obtained in Fiscal Year 2000. The Cherry Lake road dump has experienced significant illegal dumping over the past 15 years based upon IHS assessments. The wastes present a serious threat to human health and the environment. Wastes include hazardous wastes, hypodermic needles, freon containers, building demolition materials, and automotive and household waste.

Through the grant, the tribe will remove and transfer waste from the dump to appropriate disposal facilities. It will collect data on the soil and water quality to evaluate the success of the cleanup activities. The goal of this project is to make the site usable for hunting, fishing, and homes. Also, the tribe has established an intergovernmental task

force that includes representatives from the Tribal Council, the Minnesota Pollution Control Agency, the Minnesota Department of Natural Resources, and Becker County, Minnesota in order to prevent future illegal dumping. This intergovernmental task force includes joint cooperative law enforcement functions.

The significance of these projects is that it demonstrates what can occur when multiple sovereigns cooperate together to solve problems. Tribes do have the interest and political will to improve their community land base. Their concerns about solid waste management are genuine and must be recognized. Furthermore, these projects demonstrate successful outcomes when instruments of cooperative formal relationships such as grants are made available to tribes to address their solid waste management needs.

Observations: Cooperative Formal Relationships Between Sovereigns

Instruments of cooperative formal relationships such as memoranda of understanding, cooperative agreements and grants keep all sovereigns in an honorable position and on a one-to-one relationship as in solemn council. Such formal settings become a kind of constitution for sanctioning behavior between sovereigns. Since honor and respect are paramount in these relationships, commitments are more firmly established. Resources to honor these commitments are given a higher priority with less chance of being diverted elsewhere. This is especially important to a tribe because it acts simultaneously as a local government and as a sovereign nation. Where cooperative formal relationships occur, in local government matters tribes work closely with adjacent local and state governments; but as sovereigns, tribes also have a direct, special relationship with the United States.

Due to the lack of a property tax base as a stable revenue source, solid waste management projects in Indian country are heavily dependent upon outside funding. This has often put some tribes at odds with environmentalists, particularly for tribes that lack resources and are under pressure for employment and economic development. Given the

high levels of unemployment and the constraints of attracting private investment on reservations it is not surprising that such projects depend entirely on grants.

The use of grants to fund tribal solid waste management programs and projects is not without its critics. Some within the Indian environmental community have indicated that federal agencies have found an effective way to keep tribes fighting among themselves by offering a variety of grants but each having limited funding and creating competition between tribes. Although this is not the intent of federal agencies, it does raise an issue. In general, tribes do not know from year to year if they will have sufficient staff to manage their solid waste programs. Often, a tribe's entire environmental staff may be funded entirely from grants. Since the majority of these grants are limited as to available funding, tribes are often forced to hire entry-level environmental professionals rather than experts.

On February 25, 2000, tribal leaders met at the White House with senior Administration officials to discuss President Clinton's Native American Initiative. This initiative focused on the federal government's trust responsibility for tribes. Accordingly, it provided funding across many agencies, rather than simply at the Department of the Interior's Bureau of Indian Affairs and the Department of Health and Human Service Indian Health Service, both of which traditionally have provided the bulk of funding for tribal communities. The initiative made critical investments in education, health care, law enforcement, infrastructure, and economic development in Indian country. As part of this initiative, President Clinton called for passage of his \$9.4 billion Native American Fiscal Year 2001 budget initiative, an increase in funding of \$1.2 billion over Fiscal Year 2000 – the largest increase ever.¹⁵ Two very important parts of this initiative that are important to this discussion include the following: (1) a \$10 million increase to \$53 million to strengthen tribal environmental programs, and (2) a total of \$349 million to build roads and bridges in Indian country and a total of \$49 million for tribal infrastructure projects. As previously discussed, access and available infrastructure often remain barriers to effective solid waste management by tribes.¹⁶ It is expected that

this budget increase when enacted will improve solid waste management in Indian country.

Decision-making on solid waste management grants by all parties concerned must work, therefore, within a complex structure of intergovernmental relationships because of the many institutional actors involved. Again this raises questions about tribal dependency upon government grants. However, all is not one-sided since many non-Indian communities are also dependent upon the federal government, and enjoy farm subsidies, or the use of the public domain at minimal cost for irrigation, animal grazing, and timber harvesting.

The importance of these instruments of cooperative formal relationships is that they demonstrate how all sovereigns (e.g., tribes and federal and state governments) are linked despite a history of conflict. Environmental contamination caused by poor solid waste management practices originating from either a reservation or from a non-Indian community knows no bounds and as a result all sovereigns will suffer.

According to the Indian Health Service, there are still well over 1,100 open dumpsites in Indian country.¹⁷ However, by working together, tribes along with surrounding communities, which may also have limited resources, may be able to expand their waste management options in order to establish an effective waste prevention program. The objective is to strengthen and enhance tribal solid waste management programs by also establishing protocols regarding relationships. Such cooperative formal relationships can address issues such as how visits between tribal leaders and agency authorities should be handled, how written communication should be addressed and how disputes should be handled. These are extremely important matters for public administrators at all levels to understand.

Summary

This chapter has discussed how cooperative formal relationships offer a unique type of relationship between sovereigns. Instruments of authority (e.g., grants, MOA, MOU) are exchanged in an atmosphere that conveys honor and respect of all parties

concerned. We now move to a different kind of cooperative relationship in Chapter Eight where cooperative informal relationships between multiple sovereigns will be discussed.

NOTES

¹ Personal contact, 30 August 1999.

² 42 U.S.C. § 4386b.

³ Indian Environmental General Assistance Program, *Catalog of Federal Domestic Assistance*, (Washington, D.C., U.S. Environmental Protection Agency, 1994), 66.926.

⁴ “President Clinton Calls for Passage of FY 2001 Native American Initiative,” *The White House*, Office of the Press Secretary, 25 February 2000.

⁵ Ibid.

⁶ “Grant Resources for Solid Waste Activities in Indian Country,” (Washington, D.C.: U. S. Environmental Protection Agency, 1998), 27.

⁷ Personal contact, 2 February 2000.

⁸ Ibid.

⁹ Personal interview, 7 June 1999.

¹⁰ “Indian Program Newsletter,” U. S. Environmental Protection Agency Region 9, January 2000.

¹¹ Personal contact, 13 January 2000.

¹² Personal interview, 6 May 1999.

¹³ “Grant Resources for Solid Waste Activities in Indian Country,” (Washington, D.C.: U. S. Environmental Protection Agency, 1998), 31.

¹⁴ Personal contact, 20 April 2000.

¹⁵ “President Clinton Calls for Passage of FY 2001 Native American Initiative,” *The White House*, Office of the Press Secretary, 25 February 2000.

¹⁶ Ibid.

¹⁷ “Report to Congress on the Status of Open Dumps on Indian Lands,” (Washington, D.C.: Indian Health Service, Department of Health and Human Services, August 1999), 1.