



Indian Dispute Resolution Service, Inc.

Presents

**BUILDING EFFECTIVE RELATIONSHIPS
WITH TRIBAL GOVERNMENTS**



SECTION I

**Overview of Indian tribes
in the US and their relationship
with federal and state governments**



**Tribes relationship with the
federal government**

- First contact



Discovery of the Mississippi
By William Henry Powell



Lewis & Clark
Among The Mandan
By Kim Wiggins





Tribes relationship with the federal government

- First contact
- Government to government “negotiations” and “agreements”



*Treaty of Penn
With Indians*
By Benjamin West



*Trustees of
Georgia*
By William Verelst



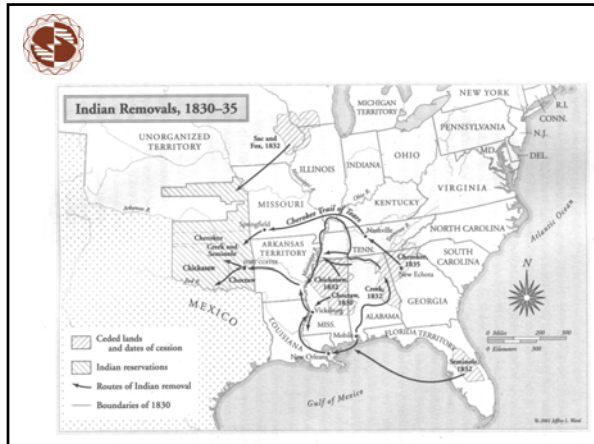
Greenville Treaty
By Hal Sherman

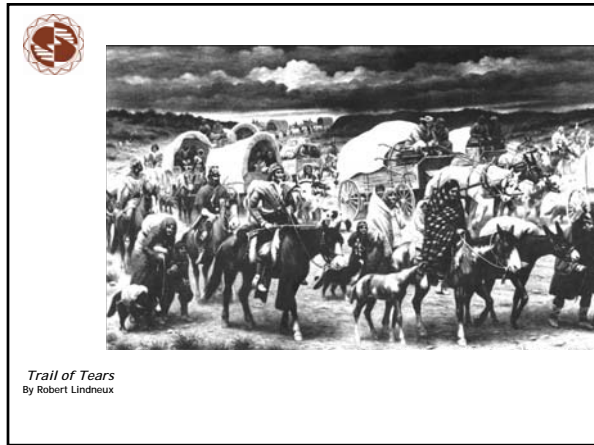


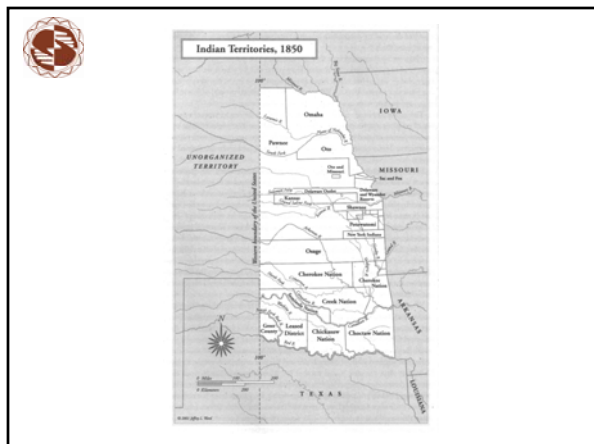
Tribes relationship with the federal government

- First contact
- Government to government “negotiations” and “agreements”
- Removals and Westward Expansion











Tribes relationship with the federal government

- First contact
- Government to government “negotiations” and “agreements”
- Removals and Westward Expansion
- Assimilation (1870’s)



Girls at Indian School, Norway House
By E. L. Bruce, 1919



Tribes relationship with the federal government

- First contact
- Government to government “negotiations” and “agreements”
- Removals and Westward Expansion
- Assimilation (1870’s)
- Indian Reorganization Act (1934)
- Indian Termination Act (1950’s) Restoration
- Indian Education and Self-Determination Act (P.L 93-638)



Tribes relationship with the California government

- The early days



California Tribal Lands Pre-Contact



Tribes relationship with the California government

- The early days
- Missions



Carmel Mission
Carmel, CA



Tribes relationship with the California government

- The early days
- Missions
- Westward Expansion
- The Gold Rush



Mining Scene
Circa 1855



Tribes relationship with the California government

- The early days
- Missions
- The Gold Rush
- Extermination Policies



SECTION II

The Contemporary Scene



California Tribal Lands Produced by the U.S. EPA (2011)



What is tribal sovereignty?

- A federally recognized tribe is a legal and political entity
- Rights conferred upon them by the Constitution, by treaties, Congress, the federal courts, and Executive Orders.
- States and state laws do not have jurisdiction
- Tribes and federal agencies have a “government to government” relationship



How might this affect agencies approach to Indian people?

- As individual members of the public?
- As members of other organized constituencies e.g., Sierra Club
- As a municipal or county government?
- As another state?



- What exactly is the “government to government” relationship?
- What Is the Federal Government’s Trust Responsibility?



What is PL 280?

- PL 280 was enacted in 1953
- It gives state government concurrent criminal and civil jurisdiction over Indian Reservations and Rancherias
- Until 1968 Tribes were not consulted by state that elected to become a 280 state
- Six states have adopted 280 status
- Excuse for the feds to refuse funding for tribal law enforcement programs
- P.L. 280 gives only limited jurisdiction to the state




SECTION IV

How California Tribes Are Governed: An Internal Look



How do tribal governments work?

- Tribal constitutions or common law
- Common template: IRA 1934
- Ordinances
- Formal resolutions to record important decisions



THE
DOCUMENT ENVOYING
THE LAWS, CUSTOMS AND TRADITIONS
OF THE


PREAMBLE

We, the Coyote Valley Band of Pomo Indians, being a sovereign native people, in order to organize for our common good, to maintain and foster our tribal culture, to protect and conserve our land and natural resources, to promote the social, economical and general welfare of our people, to maintain peace and order, and secure the rights and powers inherent in our sovereign status, guaranteed to us by the laws of the United States, do hereby establish and adopt this Document which from this time forward shall govern the Coyote Valley Band of Pomo Indians.

ARTICLE I - PURPOSE

The Coyote Valley Band of Pomo Indians, hereinafter referred to as the Band, pursuant to the Act of June 18, 1934 (48 Stat. 994), adopts this Document which shall henceforth constitute the governing document of the Band, for the purposes of governing ourselves, under our own

*Tribal
Constitution of
a California
Tribe*



ORDINANCE NO. 3 - B
TRIBAL ELECTIONS

ARTICLE I STATEMENTS OF PURPOSE

Section I This ordinance governs the procedures of tribal elections as necessarily conducted by the Robinson Rancharia.

Section II Well organized elections, regulations, and procedures governing all such elections are necessary to safeguard and promote the peace, safety, health and general welfare of the members of the rancharia.

ARTICLE II DEFINITION OF TERMS

The following definitions of terms, as herein described, shall supersede any other definition of those terms for purposes of this ordinance.

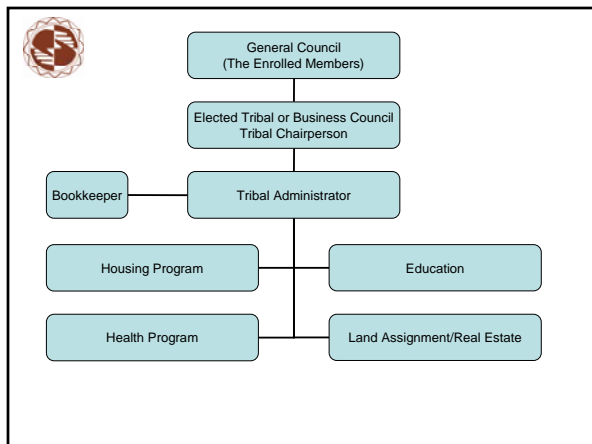
Section I "Business Council" means the governing body of the Robinson Rancharia and consisting of six (6) members elected at-large from the Robinson Rancharia and composed of a Chairperson, Vice-Chairperson, Secretary-Treasurer, and three (3) members; and representative of the tribal council in the course of normal business.

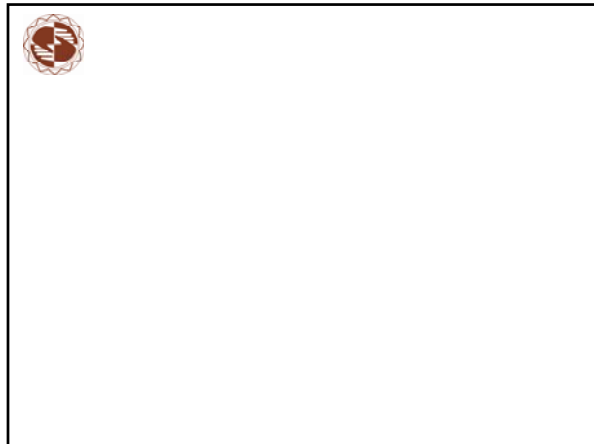
Section II "Tribal Council" means all enrolled members of the rancharia, eighteen (18) years of age or older, who are eligible to vote, acting together as a group in a regular or duly called special meeting.

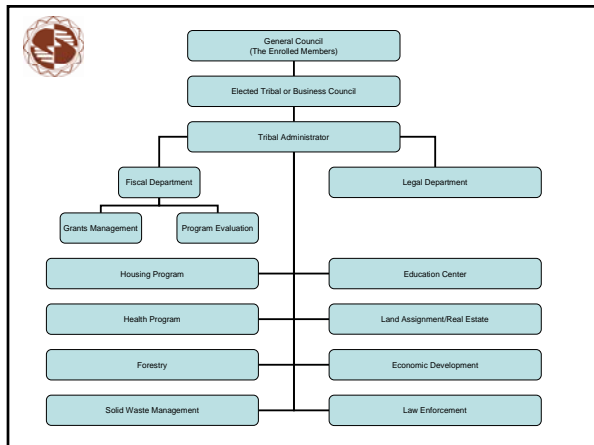
Section III "Enrolled Member" is a person whose name appears on the current membership roll of the rancharia or meets the requirements of Ordinance No. 1 "Enrollment".

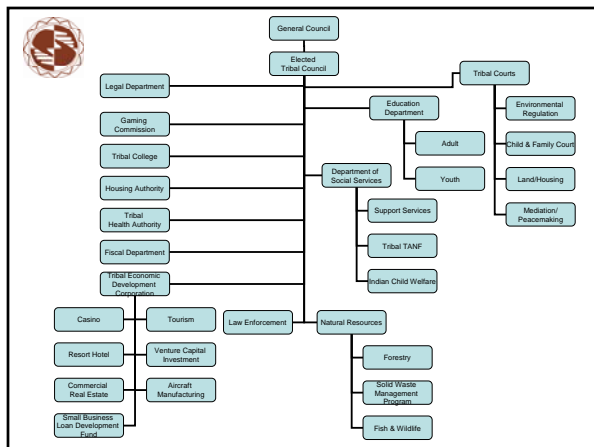
Section IV "Non-Resident" means an enrolled member of the

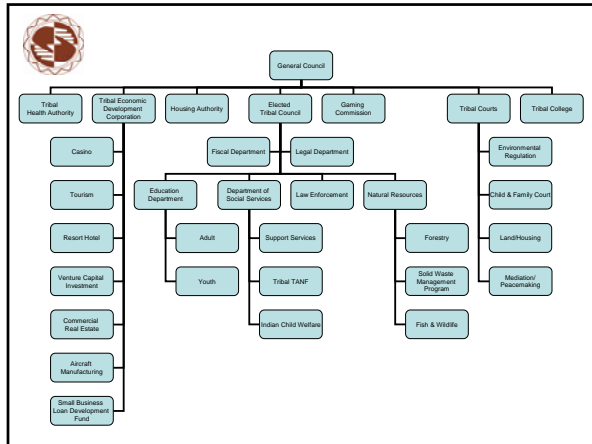
*Tribal
Elections
Ordinance*















How are decisions made by Tribes in California today?

- Tribal Council has the primary responsibility for exercising day-to-day authority
- Ultimate authority rests in the General Council
- A few Tribal courts but independence is limited
- Tribal Council acts through the formal Resolution
- Some decisions need to be ratified by General Council
- Sometimes a separate entity can act independently
- Departments report to the Tribal Administrator
- Tribal Chair could have authority to speak on behalf of the tribe
- Families can be the dominant frame of reference.



What Changes Are Occurring Today?

- Tribal governments are faced with an increased amount and complexity of responsibilities
- Institutions are evolving:
 - Expanding role and responsibilities of tribal government
 - Larger tribal administration and operating budget
 - New tribal institutions
 - New authority and relationships



Current Issues

- Difference between consultation and negotiation
- Jobs and economic self-sufficiency
- Physical infrastructure (e.g. housing, community facilities, roads, internet)
- Public and special education
- Cultural and historical preservation
- Toxic and solid waste management
- Acquisition of ancestral homeland
- Resource management – forests, water, habitat, fisheries and wildlife, other subsistence resources on adjoining federal and state lands



Chukchansi
Gold Resort
Coursegold, CA



SECTION V

Learning Cross-Cultural Communication Issues and Collaborative Skills, Tools, and Processes



Bridging Cultural Differences.

There are very real cultural differences that have to be bridged in order to have successful consultations and negotiations.



Five Levels of “Cultural Sensitivity” desired by tribes

- Avoiding stereotypes
- Acknowledging and respecting the differences
- Sensitivity to the importance of “not assuming”
- Sensitivity to Indian people’s “rights” to be heard and to participate in making decisions
- Sensitivity to the reality of Indian sovereignty





General Cultural Values

- Tribes are different & need to be treated differently
- Strong desire to perpetuate their culture
- Importance on family & kinship relationships
- Trust based on knowing the whole person
- Respect for and deference to “elders”
- Important to protect & exercise “tribal sovereignty”
- Are wary of external alliances.
- Risk aversion when it comes to interference with the environment
- Outside agencies and professionals are not the only people with “expertise”



Additional values

- Land (mother earth) is g-d given,
- Indians were/are part of the ecological equation
- Have a historical role as “stewards” of the land
- They regard their subsistence rights as sacred
- Many still regard their ancestral lands as still theirs and as their responsibility
- “Europinos” are still regarded as newcomers who do not have a clue.
- Skeletal remains are sacred and need to be properly buried if the soul is to find rest
- Other?



Proper “protocol” to point of entry for outsiders

1. First Stop - Tribal Chair / Tribal Council
2. Second Stop - Tribal Administrator
3. Third Stop - Get formal okay to work directly with the appropriate program staff
4. Jointly map out and agree on an explicit schedule and internal decision-making process
5. Go to the “mountain”
6. Build personal relationships and get into the circle of “who knows who”
7. Never rely on written correspondence as an exclusive form of notification or follow-up



SECTION VI

Methods for Engaging Tribes in the Proposition 84 Grants Program



Prop 84

1. Launching special outreach efforts to attract Tribes
 1. Develop personal relationships with tribal leaders/staff
 2. Getting the information to the "right" person
 3. Going to the Tribes with special information sessions
 4. Virtues of personal contact and presence
 5. Limitations regarding written material
 6. "User friendly" language, terminology
 7. The use of summaries, step-by step guides that walk people through
 8. Apprehension of "entangling external alliances" and the unknown



Prop 84

2. Consider a two-step process that involves an initial "concept paper", the provision of agency feedback, and consultation before final proposal is due.
3. Consider funding an intermediary who knows the Tribes, can assist in writing the proposal, and who can help facilitate the Tribe's internal review process within the Administration and the ultimate approval by decision-makers.



SECTION VII
**Some Cross-Cultural
Communication Tools**



**Four Communication
Principles**

1. You cannot not communicate
2. All communication is “reciprocal”
3. All communication is “inter-cultural”
4. We speak and hear through our own “prisms”
(colored lens)
