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MEMORANDUM

THE WHITE HOUSE

WASHINGTON

December 20, 1982

TO: FRED F. FIELDING

FROM: JOHN ROBERTS *JSR*

SUBJECT: Enrolled Bill H.R. 4364 - Trust
Land for Pascua Yaqui Tribe

Richard Darman has requested comments by close of business today on Enrolled Bill H.R. 4364, which would transfer 570 acres of land held by the Bureau of Land Management in Pima County, Arizona, to the Pascua Yaqui Tribe. The bill would add the land to the existing reservation, and is justified on the ground that the existing reservation is too small (200 acres) to support the tribe (5,000 members). The bill leaves existing legal rights in the land unaffected, and stipulates that Arizona will exercise civil and criminal jurisdiction over the land. OMB recommends approval, and Interior has no objection.

As noted in the memorandum to the President from James Frey, Assistant Director of OMB for Legislative Reference, however, the land transfer violates Administration policy that land transfers be accompanied by payment of fair market value. The Administration generally supported the bill prior to establishment of this policy by the Property Review Board, and subsequently sought an appropriation to purchase the land for the tribe, in order that the transfer would be consistent with the Property Review Board policy. This effort was not successful. OMB nonetheless recommends approval, noting that the bill can be "grandfathered" without creating a serious precedent of violating the fair market value policy.

I contacted Bruce Selfon, Deputy Director of the Property Review Board, to discuss the bill. He was originally under the impression that Interior was going to recommend a veto. In any event, he noted that the Property Review Board had serious reservations about the bill, for the foregoing reasons, and would communicate them directly to Darman. I recommend that you note this concern in the memorandum to Darman.

Attachment

THE WHITE HOUSE

WASHINGTON

December 20, 1982

TO: RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT
AND DEPUTY TO THE CHIEF OF STAFF

FROM: FRED F. FIELDING *Orig. signed by FFF*
COUNSEL TO THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 4364 - Trust Land
for Pascua Yaqui Tribe

The above-referenced Enrolled Bill is, as noted in the memorandum to the President from James Frey, Assistant Director of OMB for Legislative Reference, inconsistent with the policy of the Property Review Board to require payment of fair market value for most transfers of Federal land. While this does not preclude Executive approval of the bill, the Property Review Board has advised this office that it has serious reservations about such approval. The Property Review Board will communicate those concerns directly to you.

FFF:JR:ma 12/20/82

cc: FFFielding

JRoberts

Subj.

Chron.

THE WHITE HOUSE

WASHINGTON

December 20, 1982

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ASSISTANT TO THE PRESIDENT
AND DEPUTY TO THE CHIEF OF STAFF

FROM: FRED F. FIELDING
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WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

☐ O - OUTGOING☐ H - INTERNAL☐ I - INCOMINGDate Correspondence
Received (YY/MM/DD) 1/1Name of Correspondent: Richard G. Narman☐ MI Mail Report

User Codes: (A) _____ (B) _____ (C) _____

Subject: Enrolled Bill H.R. 4364 -- Trust
Land for Pascua Yaqui, Pima
County, Arizona

ROUTE TO:

ACTION

DISPOSITION

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
<u>W Holland</u>	ORIGINATOR	<u>82/12/20</u>			<u>1/1</u>
<u>CVAT 18</u>	Referral Note: <u>D</u>	<u>82/12/20</u>			<u>582/12/20</u>
	Referral Note:	<u>1/1</u>			<u>1/1</u>
	Referral Note:	<u>1/1</u>			<u>1/1</u>
	Referral Note:	<u>1/1</u>			<u>1/1</u>
	Referral Note:	<u>1/1</u>			<u>1/1</u>

ACTION CODES:

A - Appropriate Action
 C - Comment/Recommendation
 D - Draft Response
 F - Furnish Fact Sheet
 to be used as Enclosure

I - Info Copy Only/No Action Necessary
 R - Direct Reply w/Copy
 S - For Signature
 X - Interim Reply

DISPOSITION CODES:

A - Answered
 B - Non-Special Referral
 C - Completed
 S - Suspended

FOR OUTGOING CORRESPONDENCE:

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Comments: _____

Keep this worksheet attached to the original incoming letter.
 Send all routing updates to Central Reference (Room 75, OEOB).
 Always return completed correspondence record to Central Files.
 Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

WHITE HOUSE STAFFING MEMORANDUM

DATE: Dec. 17, 1982 ACTION/CONCURRENCE/COMMENT DUE BY: COB Monday December 20, 1982

SUBJECT: Enrolled Bill H.R. 4364--Trust Land for Pascua Yaqui, Pima County, Arizona

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☐	☐	FULLER	☒	☐
MEESE	☐	☒	GERGEN	☐	☐
BAKER	☐	☒	HARPER	☒	☐
DEAVER	☐	☒	JENKINS	☐	☐
STOCKMAN	☐	☐	MURPHY	☐	☐
CLARK	☐	☐	ROLLINS	☐	☐
DARMAN	☐ P	☒ SS	WILLIAMSON	☒	☐
DOLE	☐	☐	VON DAMM	☐	☐
DUBERSTEIN	☒	☐	BRADY/SPEAKES	☐	☐
FELDSTEIN	☐	☐	ROGERS	☐	☐
FIELDING	☒	☐		☐	☐

Remarks:

Please forward comments on this enrolled bill to my office by close of business Monday.

Thank you.

Richard G. Darman
Assistant to the President
(x2702)

Response:



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

DEC 17 1982

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 4364 - Trust Land for Pascua Yaqui,
Pima County, Arizona
Sponsor - Rep. Udall (D) Arizona

Last Day for Action

December 24, 1982 - Friday

Purpose

Transfers 570 acres of land held by the Department of the Interior, Bureau of Land Management, in Pima County, Arizona, to the Pascua Yaqui Tribe.

Agency Recommendations

Office of Management and Budget

Approval

Department of the Interior

No objection

Department of Justice

Defers to Interior (Informally)

Discussion

The Pascua Yaqui Tribe, currently composed of nearly 5,000 members, is a group of Indians whose ancestors lived in Mexico's Senora area. In the late 1800's, members of the Tribe left Mexico and established themselves near Tucson, Arizona, where they maintained their tribal identity, culture, and language in an area that became known as the Old Pascua Village.

In 1964, some 203 acres of Federal land adjacent to Tucson were used to create a reservation and a land base for the Pascua Yaqui. In 1978, the Tribe was, by law, accorded Federal recognition, including eligibility for all Federal benefits and services provided to Indians because of their status as Indians.

In its report on H.R. 4364, the Senate Select Committee on Indian Affairs asserted that the existing reservation is too small to reasonably accommodate the tribal members living there. The Committee further noted that the Tribe's effort at improving its socio-economic status is dependent on a larger land base.

H.R. 4364 would expand the Pascua Yaqui Tribe's land base by transferring 570 acres of Bureau of Land Management land to the Tribe. The land would become a part of the Tribe's reservation and would be held in trust by the United States for the Tribe. The enrolled bill protects existing legal rights and uses of the land until they expire. Finally, H.R. 4364 stipulates that the State of Arizona would exercise civil and criminal jurisdiction over the land.

The Administration generally supported H.R. 4364 during its consideration in the House of Representatives in 1981. Subsequent to this position being taken, you issued Executive Order 12348, which requires payment of fair market value for most lands transferred out of Federal ownership. Accordingly, in testifying on this legislation before the Senate Select Committee on Indian Affairs in September of this year, Interior recommended that funds be appropriated to the Secretary of the Interior to carry out the purchase of this land for the Pascua Yaqui. Interior estimates the value of the land at between \$684,000 and \$1,040,000.

We do not view the omission of a "fair market value appropriation authorization" as warranting disapproval of the bill. Given the initial Administration position prior to development of Executive Order 12348, we believe this case can be "grandfathered" without creating a serious precedent in the future. Similarly, Interior expresses no objection to approval of H.R. 4364 as it notes in its enrolled bill letter that prior to promulgation of the Executive order, the Department favored the bill.

H.R. 4364 passed both Houses of the Congress by voice vote.

(Signed) James M. Frey

Assistant Director for
Legislative Reference

Enclosures

TO DECLARE THAT THE UNITED STATES HOLDS IN TRUST FOR
THE PASCUA YAQUI TRIBE OF ARIZONA CERTAIN LAND IN
PIMA COUNTY, ARIZONA

OCTOBER 1 (legislative day, SEPTEMBER 8), 1982.—Ordered to be printed

Mr. COHEN, from the Select Committee on Indian Affairs,
submitted the following

R E P O R T

[To accompany H.R. 4364]

The Select Committee on Indian Affairs, to which was referred the bill (H.R. 4364) to declare that the United States holds in trust for the Pascua Yaqui Tribe of Arizona certain land in Pima County, Arizona, having considered the same, reports favorably thereon with amendments and recommends that the bill (as amended) do pass.

The amendments are as follows:

1. On page 2, line 1 strike all through line 13 and substitute in lieu thereof the following:

1. The east half of southeast quarter of Section 22;
2. The northeast quarter of northeast quarter, south half of northeast quarter, north half of southeast quarter, south half of northwest quarter, southwest quarter of Section 23;
3. The southwest quarter of northwest quarter of Section 24; and
4. The southeast quarter of northeast quarter of north west quarter of Section 24.

2. On page 2, at the end of line 13, add a new Section 2 as follows:

Nothing in this Act shall deprive any person or entity of any legal existing right of way, legal mining claim, legal grazing permit, legal water right or other legal right or legal interest which such person or entity may have in land described in Section 1.

3. On page 2, line 14 renumber Section 2 to read Section 3.

PURPOSE

The purpose of H.R. 4364 is to authorize the transfer of 570 acres of Bureau of Land Management Land located in Pima County, Arizona to the Pascua Yaqui Tribe of Indians. This land would be held in trust by the United States for the Tribe and would become part of the Tribe's reservation.

BACKGROUND

The Tribe presently has 202 acres of reservation land which was established by Public Law 95-375. The present land area is not sufficient to accommodate the 1,000 tribal members now living on the reservation in overcrowded conditions. Tribal efforts to develop light industry on the reservation have also been hampered by an insufficient land base. The transfer of lands provided for by H.R. 4364 will assist the Tribe in improving the socio-economic environment of its members.

LEGISLATIVE HISTORY

H.R. 4364 was introduced in the House of Representatives on December 15, 1981, by Congressman Morris Udall of Arizona. Hearings were held on the bill before the House Interior and Insular Affairs Committee on October 15, 1981. The bill was reported out of the Committee on December 12, 1981 and was passed by the House on December 20, 1981.

The Senate received H.R. 4364 on December 15, 1981. Hearings were held before the Select Committee on Indian Affairs on September 23, 1982. The Committee met on September 29, 1982 and, by unanimous vote of the Members, a quorum being present, ordered S. 2418 reported with amendments.

A companion bill to H.R. 6364, S. 1799, was introduced in the Senate by Senator Dennis DeConcini on October 30, 1981. This bill was referred to the Committee on Energy and Natural Resources. No hearings have been held.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTE

The Select Committee on Indian Affairs, by unanimous vote of a quorum present, in an open business meeting on September 29, 1982, recommends that the Senate pass H.R. 4364, as amended.

AMENDMENTS

There are two amendments to this bill. The first amendment provides a technical amendment to correct the description of land to be taken in trust for the tribe. The second amendment provides protection for existing interests on the land.

SECTION-BY-SECTION ANALYSIS

Section 1. This section provides for certain described lands to be taken in trust for the Pascua-Yaqui Indian tribe.

Section 2. This section provides that existing rights of third parties be protected.

Section 3. This section provides that the State of Arizona shall exercise civil criminal jurisdiction over the lands as provided under existing law.

COST AND BUDGETARY CONSIDERATIONS

The cost estimate for H.R. 4364, as amended, as provided by the Congressional Budget Office, is set forth below:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., September 30, 1982.

HON. WILLIAM S. COHEN,
*Chairman, Select Committee on Indian Affairs,
Dirksen Senate Office Building, Washington, D.C.*

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed H.R. 4364, a bill to declare that the United States holds in trust for the Pascua Yaqui Tribe of Arizona certain land in Pima County, Arizona, as ordered reported by the Senate Select Committee on Indian Affairs, September 29, 1982.

Based on this review, it is expected that no additional cost to the government would be incurred as a result of enactment of this bill. The bill would provide that the United States hold in trust 570 acres of land near Tucson, Arizona, for the Pascua Yaqui Tribe of Arizona. This land is presently administered by the Bureau of Land Management and is valued by the Department of the Interior at \$684,000 to \$1,140,000. Since, in the absence of this legislation, the lands in question would be transferred to the State of Arizona under the State Indemnity Selection program, the bill will not result in any transfer of federal assets that would not otherwise take place.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ALICE M. RIVLIN, *Director.*

REGULATORY IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires each report accompanying a bill to evaluate the regulatory and paperwork impact that would be incurred in carrying out the bill.

The Committee believes that H.R. 4364, as amended, will have no regulatory or paperwork impact.

EXECUTIVE COMMUNICATION

The legislative report on H.R. 4364 received by the Committee from the Department of the Interior is set forth below:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., September 28, 1982.

Hon. WILLIAM S. COHEN,
Chairman, Select Committee on Indian Affairs,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The following are the views of this Department on H.R. 4364, a bill "To declare that the United States holds in trust for the Pascua Yaqui Tribe of Arizona certain land in Pima County, Arizona."

We would have no objection to the enactment of H.R. 4364, if it is amended as suggested herein.

H.R. 4364 would require the Secretary of the Interior to hold in trust for the Pascua Yaqui Tribe of Arizona 570 acres of Federal lands presently managed by the Bureau of Land Management. Under the provisions of the bill, those lands would become a part of the tribe's reservation and would be subject to the criminal and civil jurisdiction of the State of Arizona.

We fully support the purposes of this legislation: to make the tribe more economically self-sufficient and improve its general socio-economic status. However, the transfer of Federal property to any entity, whether other Federal agency, State, Indian tribe or private citizen, without payment of fair market value to the Treasury, is inconsistent with Executive Order 12348 concerning the disposal of Federal property. Therefore, in addition to technical amendments, we recommend that funds equal to the amount of the fair market value of the subject lands be appropriated to the Secretary of the Interior to carry out the purchase of the subject lands. This will insure that the goals of H.R. 4364 can be achieved, without impairing other land management objectives. Payment for the land could be made through at least two possible mechanisms: direct appropriation in an amount equal to the market value of the subject land; or installments payments by the tribe over a reasonable period of time.

The ancestors of the Pascua Yaqui historically resided on lands in what is now the State of Sonora in Mexico. During the reign of the Mexican Dictator Diaz, in the late 19th Century, the Yaqui Tribe fled to the United States, to avoid persecution. Around 1904, the Yaqui settled near Tucson, Arizona, in what became known as the Old Pascua Village, where they lived in a state of poverty and economic depression. However, they were able to maintain their tribal identity, language and culture.

Under the Act of October 8, 1964 (78 Stat. 1196), 202.76 acres of Federal land adjacent to Tucson, Arizona, were transferred to the Pascua Yaqui Tribe. However, section 4 of that Act provided that the Yaqui would not be eligible for any Federal services or benefits commonly made available to Indians because of their status as Indians. Pursuant to that Act, the tribe organized under State Articles of Incorporation as the Pascua Yaqui Association. Most of the tribal members moved to the new location, which became known as the new Pascua Village.

The tribe was able to improve its economic condition at its new location only to a certain extent, because many of the housing and other social programs of the Federal Government were denied to the tribe and its members due to section 4 of the 1964 Act and because of the fact that their land was not held in trust by the Secretary. Finally, in 1978, the enactment of P.L. 95-375 (92 Stat 712) provided Federal recognition to the Pascua Yaqui Tribe of Arizona. Recognition included eligibility for all Federal services and benefits provided to Indians because of their status as Indians.

If enacted, H.R. 4364 would provide an additional 570 acres to the Pascua Yaqui Reservation. These lands are located west and south of Tucson, Arizona, and consist of two non-contiguous parcels, one of 10 acres and one of 560 acres. The ten-acre parcel is bounded on the east and south by the existing reservation. The 560-acre parcel has a 1/4-mile common boundary with the westernmost boundary of the existing reservation and a 3/4-mile common boundary with the north boundary of the San Xavier Reservation. All of the 570 acres are public lands under the jurisdiction of the Bureau of Land Management.

According to preliminary estimates by BLM, land values in the area under consideration range from \$1,200-\$2,000 per acre.

Enactment of H.R. 4364 would provide land for tribal programs designed to improve the economy of the tribe and its members through the development of housing, industry and agriculture. The tribal enrollment is approaching 5,000 members. This legislation would enable all tribal members to live on tribal lands, if they so desire.

We are also recommending that the bill be amended to protect valid existing rights of parties who, acting in good faith, have established rights-of-way, easements, mining claims, roads or other uses on or across the subject lands. Language should be included in the bill stipulating that such uses shall be allowed to continue, or providing that compensation shall be paid if uses are restricted or precluded as a result of enactment of the bill.

We also believe the bill should be amended to provide protection to existing water rights and priorities. Our amendments address this issue, as well.

Finally, we recommend that the land be transferred in fee instead of being held in trust status by the United States. This would allow the tribe to make greater use of the property as an integral part of its long range economic plan and will more likely enhance the prospects for non-Federal financing of economic development. Further, transferring the title in fee will avoid the jurisdictional problem described in the attached March 25, 1982, letter from our Phoenix Field Solicitor's Office to the Arizona Attorney General's Office.

Based upon the foregoing, we recommend enactment of H.R. 4364. However, we do suggest the following technical amendments:

1. The bill should be self-executing. The use of the words "shall be held by the United States" and "shall be a part of the reservation" imply that a future action will be required to effect the purposes of the bill. The bill should specify an effective date of the transfer, or merely transfer the lands immediately. This would eliminate any question and any administrative costs related to the transfer.

2. There are several existing use authorizations on the involved lands, including a pipeline right-of-way and a power line right-of-way. It is important that the law assure that the Tribe merely replaces BLM as landlord to all existing authorized uses, subject to the terms and conditions of such authorizations until they expire by their own terms. This could be accomplished by amending line 3 of page 1 of the bill to read "That, subject to all valid existing rights and use authorizations . . . and".

3. The bill should make it clear that "all right, title, and interest of the United States" includes both the surface and mineral estates.

4. The legal description of the land is inaccurate, and should read as follows: "(1) the east half of the southeast quarter of section 22; (2) the northeast quarter of the northeast quarter, the south half of the north half, the north half of the southeast quarter, and the southwest quarter of section 23; and (3) the southeast quarter of the northeast quarter of the northwest quarter, and the southwest quarter of the northwest quarter of section 24, all in township 15 South, Range 12 East, Gila and Salt River meridian."

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of Administration's program.

Sincerely,

JOHN W. FRITZ,
Deputy Assistant Secretary.

○

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

December 23, 1982

The President has signed the following legislation:

H.R. 2329 which waives statutes of limitation and confers jurisdiction on certain courts of the United States to consider specified claims of the Cherokee, Choctaw, and Chickasaw Indian Nations of Oklahoma;

H.R. 4364 which transfers 570 acres of land held by the Department of the Interior, Bureau of Land Management, in Pima County, Arizona, to the Pascua Yaqui Tribe.

S. 2611 which authorizes an increase in the readjustment allowance paid to Peace Corps volunteer leaders; and

S. 3073 which authorizes the United States Information Agency (USIA) film "Dumas Malone: A Journey with Mr. Jefferson" to be distributed within the United States.

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THE WHITE HOUSE

WASHINGTON

December 28, 1982

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Enrolled Bill S. 1735 - Disposition of
Pembina Chippewa Indians Judgement Funds

Richard Darman has requested comments by close of business today, December 28, on S. 1735, which authorizes distribution of some \$52 million previously awarded and appropriated to the Pembina Chippewa Indians. The award was made in 1980 by the Court of Claims for the 1905 value of a large tract of land in North Dakota. The bill specifies the manner of distribution of the award among the different groups of Pembina descendants. This legislation is necessary under the Indian Judgment Funds Act of 1973 because the Secretary of Interior did not submit a plan for distribution within 180 days of the time Congress appropriated the funds. OMB and Interior recommend approval, and Justice defers to Interior.

I have reviewed the memorandum to the President prepared by James Frey, Assistant Director of OMB for Legislative Reference, the legislative reports, and the bill itself. I see no legal objections, and have prepared a memorandum to Darman to that effect for your signature.

Attachment

THE WHITE HOUSE

WASHINGTON

December 28, 1982

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING *Orig. signed by FFF*
COUNSEL TO THE PRESIDENT

SUBJECT: Enrolled Bill S. 1735 - Disposition of
Pembina Chippewa Indians Judgment Funds

Counsel's Office finds no objection from a legal perspective
to the above-referenced enrolled bill.

FFF:JGR:aw 12/28/82

cc: FFFielding
JGRoberts
Subj.
Chron

THE WHITE HOUSE

WASHINGTON

December 28, 1982

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Enrolled Bill S. 1735 - Disposition of
Pembina Chippewa Indians Judgment Funds

Counsel's Office finds no objection from a legal perspective
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cc: FFFielding
JGRoberts
Subj.
Chron

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

☐ O - OUTGOING☐ H - INTERNAL☐ I - INCOMINGDate Correspondence
Received (YY/MM/DD) 1/1Name of Correspondent: Richard G. Dorman☐ MI Mail Report

User Codes: (A) _____ (B) _____ (C) _____

Subject: Enrolled Bill S. 1735 -- Disposition
of Pembina Chippewa Indians' Judgment
Funds

ROUTE TO:

ACTION

DISPOSITION

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
<u>CU Holland</u>	ORIGINATOR	<u>82112127</u>			<u>1/1</u>
<u>CU AT18</u>	Referral Note: <u>D</u>	<u>82112127</u>		<u>5</u>	<u>82112128</u>
	Referral Note:	<u>1/1</u>			<u>1/1</u>
	Referral Note:	<u>1/1</u>			<u>1/1</u>
	Referral Note:	<u>1/1</u>			<u>1/1</u>
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Always return completed correspondence record to Central Files.

Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

WHITE HOUSE STAFFING MEMORANDUMCOB TUESDAY
December 28, 1982DATE: Dec. 23, 1982 ACTION/CONCURRENCE/COMMENT DUE BY: _____SUBJECT: Enrolled Bill S. 1735--Disposition of Pembina Chippewa Indians
Judgement Funds

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☐	☐	FULLER	☒	☐
MEESE	☐	☒	GERGEN	☐	☐
BAKER	☐	☒	HARPER	☒	☐
DEAVER	☐	☒	JENKINS	☐	☐
STOCKMAN	☐	☐	MURPHY	☐	☐
CLARK	☐	☐	ROLLINS	☐	☐
DARMAN	☐ P	☒ SS	WILLIAMSON	☒	☐
DOLE	☐	☐	VON DAMM	☐	☐
DUBERSTEIN	☒	☐	BRADY/SPEAKES	☐	☐
FELDSTEIN	☐	☐	ROGERS	☐	☐
FIELDING	☒	☐	_____	☐	☐

Remarks:

Please forward comments on this enrolled bill by close of business
Tuesday, December 28.

Thank you.

Richard G. Darman
Assistant to the President
(x2702)

Response:



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

DEC 23 1982

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 1735 - Disposition of Pembina Chippewa
Indians Judgment Funds
Sponsors - Senators Andrews (R) North Dakota and
Melcher (D) Montana

Last Day for Action

January 1, 1983 - Saturday

Purpose

Authorizes the distribution and use of funds already awarded and appropriated to the Pembina Chippewa Indians.

Agency Recommendations

Office of Management and Budget	Approval
Department of the Interior	Approval
Department of Justice	Defers to Interior (Informally)

Discussion

The Pembina Chippewa Indians of North Dakota, Minnesota and Montana have been awarded judgments totaling \$52,227,338 in satisfaction of claims against the United States. S. 1735 provides the statutorily required authorization for the distribution and use of these funds by the five modern entities that are representative of the historic Pembina Chippewa Indians: (1) the Turtle Mountain Band of Chippewa Indians; (2) the Chippewa Cree Tribe of Rocky Boy's Reservation; (3) the Minnesota Chippewa Tribe; (4) the Pembina descendants of at least one-quarter Pembina blood who are not members of the three organized successor tribes; and (5) the Little Shell Tribe of the Chippewa Indians of Montana. The last Tribe is not Federally recognized, and the enrolled bill requires the Secretary of the Interior to act on the Tribe's petition for Federal recognition prior to September 30, 1985.

In its enrolled bill letter, Interior recommends approval:

"Because of the desirability of settling these remaining debts, because the enrolled bill

reflects the Department's recommendations regarding several technical amendments, and because the legislation reflects the Indians' wishes concerning distribution of the award, we recommend that the President sign it into law."

S. 1735 passed both Houses of the Congress by voice vote.

(Signed) James M. Frey

Assistant Director for
Legislative Reference

Enclosures

Ninety-seventh Congress of the United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Monday, the twenty-fifth day of January, one thousand nine hundred and eighty-two

An Act

To provide for the use and distribution of funds awarded the Pembina Chippewa Indians in dockets numbered 113, 191, 221, and 246 of the Court of Claims.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any provision of the Act of October 19, 1973 (87 Stat. 466; 25 U.S.C. 1401 et seq.), or any other law, regulation, or plan promulgated pursuant thereto, any funds appropriated in satisfaction of a judgment awarded to the Pembina Chippewa Indians in dockets numbered 113, 191, 221, and 246 of the Court of Claims shall be used and distributed as provided in this Act.

SEC. 2. All of the funds appropriated with respect to the judgment awarded the Pembina Chippewa Indians in dockets 113, 191, 221, and 246 (less attorney fees and litigation expenses), including all interest and investment income accrued, shall be divided by the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") among the Turtle Mountain Band of Chippewa Indians, the Chippewa Cree Tribe of Rocky Boy's Reservation, the Minnesota Chippewa Tribe, the Little Shell Band of the Chippewa Indians of Montana, and the nonmember Pembina descendants (as a group) so that each is allocated an amount which bears the same relationship to such funds as the number of members of such band, tribe, or group who are described under section 3(1), 4(1), 5(1), or 6(1) or 7(a) bears to the sum of—

(1) the number of members of the Turtle Mountain Band of Chippewa Indians described in section 3(1),

(2) the number of members of the Chippewa Cree Tribe of Rocky Boy's Reservation described in section 4(1),

(3) the number of members of the Minnesota Chippewa Tribe described in section 5(1),

(4) the number of members of the Little Shell Band of the Chippewa Indians of Montana as described in section 6(1) plus

(5) the number of nonmember Pembina Chippewas enrolled by the Secretary under section 7(a).

SEC. 3. The funds allocated by section 2 to the Turtle Mountain Band of Chippewa Indians shall be used and distributed as follows:

(1) Eighty per centum of such funds shall be distributed in the form of per capita payments (in sums as equal as possible) to all enrolled members of the Turtle Mountain Band of Chippewa Indians who are living on the date of the enactment of this Act.

(2) Twenty per centum of such funds shall be held in trust and invested by the Secretary for the benefit of the members of the Turtle Mountain Band of Chippewa Indians. The governing body of such band is authorized to use the interest and investment income accrued on such 20 per centum portion, on an annual budgetary basis subject to the approval of the Secretary, for—

- (A) the administration of such band, or
- (B) social and economic programs.

Such 20 per centum portion of the principal shall not be available for per capita payments.

SEC. 4. The funds allocated by section 2 to the Chippewa Cree Tribe of Rocky Boy's Reservation shall be used and distributed as follows:

(1) Eighty per centum of such funds shall be distributed in the form of per capita payments (in sums as equal as possible) to all enrolled members of the Chippewa Cree Tribe of Rocky Boy's Reservation who—

(A) establish Pembina Chippewa ancestry to the satisfaction of the Secretary, and

(B) are living on the date of the enactment of this Act.

(2) Twenty per centum of such funds shall be held in trust and invested by the Secretary for the benefit of the members of the Chippewa Cree Tribe of Rocky Boy's Reservation. The governing body of such tribe is authorized to use the interest and investment income accrued on such 20 per centum portion, on an annual budgetary basis subject to the approval of the Secretary, for—

- (A) economic programs,
- (B) recreation, or
- (C) tribal administration.

Such 20 per centum portion of the principal shall not be available for per capita payments.

SEC. 5. The funds allocated by section 2 to the Minnesota Chippewa Tribe shall be used and distributed as follows:

(1) Eighty per centum of such funds shall be distributed in the form of per capita payments (in sums as equal as possible) to all enrolled members of the Minnesota Chippewa Tribe who—

(A) are designated as Pembina Band Chippewas on the basis of tribal procedures which are approved by the Secretary, and

(B) are living on the date of the enactment of this Act.

(2) Twenty per centum of such funds shall be held in trust and invested by the Secretary for the benefit of the members of the Minnesota Chippewa Tribe. The White Earth Reservation Business Committee is authorized to use the interest and investment income accrued on such 20 per centum portion, on an annual budgetary basis subject to the approval of the Secretary, for—

- (A) a joint investment and use program for the bands affiliated with the reservation, or
- (B) reservation social and economic programs.

Such 20 per centum portion of the principal shall not be available for per capita payments.

SEC. 6. The funds allocated by section 2 to the Little Shell Tribe of Chippewa Indians of Montana shall be used and distributed as follows:

(1) Eighty per centum of such funds shall be distributed in the form of per capita payments (in sums as equal as possible) to all enrolled members of the Little Shell Tribe of Chippewa Indians of Montana who are living on the date of the enactment of this Act and who would meet the enrollment criteria under section 7(a) of this Act if they were not enrolled members of the Little Shell Tribe of Chippewa Indians of Montana.

(2) Twenty per centum of such funds shall be held in trust and invested by the Secretary for the benefit of the members of the

Little Shell Tribe of Chippewa Indians of Montana. The governing body of such tribe is authorized to use the interest and investment income accrued on such 20 per centum portion, on an annual budgetary basis subject to the approval of the Secretary, for—

(A) the administration of such tribe, or

(B) social and economic programs:

Provided, That the Secretary shall act on the tribe's petition for Federal recognition prior to September 30, 1985. In the event that recognition is not approved, the 20 per centum portion shall be distributed in the form of per capita payments (in sums as equal as possible) to those persons who qualify for per capita payments under section 6(1): *Provided further*, That if the Secretary fails to act on the recognition petition by September 30, 1985, the Secretary shall make a report to Congress on that date outlining the reasons for his failure to act and shall make no per capita payments under this subsection until action on the petition is final.

SEC. 7. (a) In order to establish eligibility to participate in the distribution of the funds allocated to the nonmember Pembina Chippewa descendants under section 2, the Secretary shall develop a roll of all individuals who—

- (1) are of at least one-quarter Pembina Chippewa blood,
- (2) are citizens of the United States,
- (3) are living on the date of the enactment of this Act,
- (4) are not members of the Red Lake Band of Chippewa Indians, the Turtle Mountain Band of Chippewa Indians, the Chippewa Cree Tribe, or the Minnesota Chippewa Tribe, or the Little Shell Band of Chippewa Indians of Montana, and

(5) are—

(A) enrolled, or the descendants of a lineal ancestor enrolled—

(i) as Pembina descendants under the provisions of the Act of July 29, 1971 (85 Stat. 158), for the disposition of the 1863 Pembina Award, or

(ii) on the McCumber roll of Turtle Mountain Indians of 1892, or

(iii) on the Davis roll of Turtle Mountain Indians of 1904, or

(iv) as Chippewa on—

(I) the tentative roll of the Rocky Boy Indians of May 30, 1917, or

(II) the McLaughlin census report of the Rocky Boy Indians of July 7, 1917, or

(III) the Roe Cloud Roll of Landless Indians of Montana, or

(B) able to establish Pembina ancestry on the basis of any other rolls or records acceptable to the Secretary.

(b) The Secretary shall promulgate regulations regarding non-member Pembina enrollment procedures and shall utilize any documents acceptable to the Secretary in establishing eligibility of an individual to receive funds under this section.

(c) Funds allocated to the nonmember Pembina descendants under section 2 shall be distributed on a per capita basis to the individuals enrolled under subsection (a).

SEC. 8. (a) Any payment of a per capita share of funds to which a living, competent adult is entitled under this Act shall be paid directly to such adult.

(b) Any per capita share of funds to which a deceased individual is entitled under this Act shall be paid, and the beneficiaries thereof determined under regulations prescribed by the Secretary.

(c) Any per capita share of funds to which a legally incompetent individual or an individual under eighteen years of age is entitled under this Act shall be paid in accordance with such procedures (including the establishment of trusts) as the Secretary determines to be necessary to protect and preserve the interests of such individual.

SEC. 9. None of the funds distributed per capita or made available under this Act for programs shall be subject to Federal, State, or local income taxes or be considered income or resources or otherwise utilized as the basis for denying or reducing the financial assistance or benefits to any person or household participating in any Federal, State, or local programs.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*

THE WHITE HOUSE

WASHINGTON

December 29, 1982

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: H.R. 7356 - Department of the
Interior Appropriation Bill

Richard Darman's office delivered the above-referenced enrolled bill to this office at 2:40 p.m. today, requesting comments by 3:30 p.m. The bill is the appropriations measure for Interior, Energy, Agriculture, and several other agencies. The bulk of the bill, of course, concerns funding levels for various activities and does not raise any issues of concern to this office.

Legal issues are raised by the Administrative Provisions of the Indian Affairs section, at pages 11-12 of the bill. These provisions substitute a claims processing procedure for the existing statute of limitations on pre-1966 Indian claims in 28 U.S.C. 2415. That provision bars pre-1966 Indian claims not filed before December 31, 1982. The Secretary of Interior has been sued on the ground that several claims which he had a fiduciary obligation to prosecute were due to expire. The suit was successful to the extent that the Secretary will be held in contempt if action of some sort is not taken to preserve asserted claims by Friday. The bill takes such action by removing the imminent statute of limitations bar. This is also the reason the bill is on such a "fast track." Hank Habicht, Deputy Assistant Attorney General, Lands Division, has advised me that the Justice Department approves of the procedure established in the bill. Based on a necessarily quick review, I see no objections.

The bill also contains restrictions on the Secretary's leasing authority with respect to the Outer Continental Shelf off California and wilderness lands generally. This is a compromise provision negotiated with the Hill by Interior. Finally, section 311 of the bill exempts employment funded by the Act from any personnel ceilings. As noted in OMB's legislative reference letter, this is a highly objectionable restriction on Executive power. It was, however, included in the continuing resolution, so it is not feasible to object at this stage.

I have reviewed the bill, in a somewhat rushed fashion, and see no legal objections. Because of the quick turnaround time, I talked with the Solicitor's Office at Interior (William Satterfield), the Legislative Office (Dave Brown), and the Budget Office (Joseph Gorell). I also talked with the Lands Division at the Justice Department (Hank Habicht). All of these individuals advised that the bill contained no unusual legal provisions other than those discussed above. All affected agencies recommended approval. Based on this review, I recommend that you sign the attached memorandum to Darman.

Attachment

THE WHITE HOUSE
WASHINGTON

December 29, 1982

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING *RAH for*
COUNSEL TO THE PRESIDENT *Orig. signed by FFF*

SUBJECT: H.R. 7356 - Department of the
Interior Appropriation Bill

Counsel's Office finds no objection from a legal perspective
to the above-referenced enrolled bill.

FFF:JGR:aw 12/29/82

cc: FFFielding
JGRoberts
Subj.
Chron

THE WHITE HOUSE

WASHINGTON

December 29, 1982

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: H.R. 7356 - Department of the
Interior Appropriation Bill

Counsel's Office finds no objection from a legal perspective
to the above-referenced enrolled bill.

FFF:JGR:aw 12/29/82

cc: FFFielding
JGRoberts
Subj.
Chron

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

☐ O - OUTGOING☐ H - INTERNAL☐ I - INCOMINGDate Correspondence
Received (YY/MM/DD) 1 1 1Name of Correspondent: Richard G. Darman☐ MI Mail Report

User Codes: (A) _____ (B) _____ (C) _____

Subject: H.R. 7356 - Department of the Interior
Appropriation Bill**ROUTE TO:****ACTION****DISPOSITION**

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
<u>W Holland</u>	ORIGINATOR	<u>82/12/29</u>			<u>1 1</u>
	Referral Note:				
<u>CV AT 18</u>	<u>D</u>	<u>82/12/29</u>		<u>S</u>	<u>82/12/29</u>
	Referral Note:				
		<u>1 1</u>			<u>1 1</u>
	Referral Note:				
		<u>1 1</u>			<u>1 1</u>
	Referral Note:				
		<u>1 1</u>			<u>1 1</u>
	Referral Note:				

ACTION CODES:

A - Appropriate Action
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Comments: _____

Keep this worksheet attached to the original incoming letter.
 Send all routing updates to Central Reference (Room 75, OEOB).
 Always return completed correspondence record to Central Files.
 Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

WHITE HOUSE STAFFING MEMORANDUM

DATE: 12/29/82 ACTION/CONCURRENCE/COMMENT DUE BY: 3:30 TODAY

SUBJECT: H.R. 7356 - DEPARTMENT OF THE INTERIOR APPROPRIATION BILL

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☐	☒	FULLER	☐	☐
MEESE	☐	☒	GERGEN	☐	☐
BAKER	☐	☒	HARPER	☒	☐
DEAVER	☐	☐	JENKINS	☐	☐
STOCKMAN	☐	☐	MURPHY	☐	☐
CLARK	☐	☐	ROLLINS	☐	☐
DARMAN	☐ P	☒ SS	WILLIAMSON	☐	☐
DOLE	☐	☐	VON DAMM	☐	☐
DUBERSTEIN	☒	☐	BRADY/SPEAKES	☐	☐
FELDSTEIN	☐	☐	ROGERS	☐	☐
FIELDING →	☒	☐		☐	☐

Remarks:

Please provide any comments/recommendations by 3:30 p.m. today.

Thank you.

Richard G. Darman
Assistant to the President
(x2702)

Response:



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 7356 -- Department of Interior
and Related Agencies Appropriation Bill, 1983

Sponsor: Rep. Whitten (D), Mississippi

Last Day for Action

January 4, 1983

Purpose

Provides budget authority totaling \$7,940 million for the Department of the Interior, Department of Energy, Department of Agriculture, and related agencies.

Agency Recommendations

Office of Management and Budget	Approval
Department of the Interior	Approval (informally)
Department of Energy	Approval (informally)
Department of Agriculture	Approval (informally)
Other affected agencies	Approval (informally)

Summary of Congressional Action

	Admin- istration Request	Budget Resolution 302(a)	Budget Authority (in millions of dollars) Enrolled Bill	Change From Budget Resolution
Annually funded discretionary programs	6,761	7,704	7,873	+169
All other essentially non-discretionary programs.....	64	67	67	---
Total.....	6,825	7,771	7,940	+169

The bill also provides \$2,074 million in off-budget funding for the Strategic Petroleum Reserve.

Highlights

The enrolled bill provides \$1.1 billion more than you requested. However, we have informed members of Congress that the standard we would use in judging the acceptability of appropriation bills is whether their actions are generally consistent with the congressional budget resolution. The enrolled bill is in general conformance with this standard.

The following table shows, by major agency and program, the effect of congressional action on this bill to the budget resolution and your budget request.

Budget Authority (in millions of dollars)				
	<u>Admin- istration Request</u>	<u>Budget Resolution 302(a)</u>	<u>Enrolled Bill</u>	<u>Change From Budget Resolution</u>
Non-discretionary programs.....	64	67	67	---
Discretionary programs:				
USDA, Forest Service....	1,494	1,543	1,533	-10
Department of Energy....	685	1,323	1,208	-115
HHS, Indian health services and facilities	613	660	680	+20
Department of the Interior.....	3,456	3,627	3,841	+214
Education, Indian education.....	51	78	67	-11
Independent Agencies....	462	473	544	+71
TOTAL.....	6,825	7,771	7,940	+169

Discussion

Forest Service

The enrolled bill provides \$10 million less than the budget resolution. Funding for timber sales is reduced while increases for cooperative forestry, research, and land acquisition nearly offset the reduction.

Energy

The enrolled bill provides \$523 million more than the budget request for programs in the Department of Energy. This increase reflects a fundamental rejection by the Congress of your effort to restrict Federal energy programs to essential basic research. The higher funding level will maintain virtually all of the fossil and conservation programs established by the prior Administration, although at slightly lower levels. The bill also includes \$2.1 billion for the Strategic Petroleum Reserve.

Interior

Overall, the enrolled bill provides \$214 million over the budget resolution for the Department of the Interior. The largest increases are in the following programs:

- Abandoned mine reclamation fund (+\$58 million);
- National park service, land acquisition and state assistance (\$39 million);
- Fish and Wildlife Service (+\$32 million);
- Office of Territorial Affairs (+\$33 million); and
- Operation of the national park system (+\$34 million).

The enrolled bill provides the funding you requested for the Minerals Management Service, a reorganization of functions in the Department designed to manage the Outer Continental Shelf leasing program and to collect oil and gas royalties more effectively and efficiently.

National Foundation for the Arts and Humanities

For the three agencies that constitute the National Foundation on the Arts and Humanities, the enrolled bill provides for increases over the budget resolution of \$88 million in budget authority and \$39 million in outlays in 1983.

The Credit Budget

The table below compares the credit provisions as provided in the resolution, your budget request, and the enrolled bill:

(in millions of dollars)

	<u>Admin- istration Request</u>	<u>Budget Resolution 302(a)</u>	<u>Enrolled Bill</u>	<u>Difference</u>
Department of the Interior				
Bureau of Indian Affairs				
Revolving fund for loans				
Direct loans.....	20	15	20	+5
Indian loan guaranty and insurance fund				
Guaranteed loans.....	16	28	16	-12
Office of Territorial Affairs				
Administration of territories				
Guaranteed loans.....	8	8	---	-8

These credit limitations are generally consistent with your request. The Administration requested a limitation of \$8 million for a guaranteed loan to Samoa. The enrolled bill does not approve the guaranteed loan.

General Provisions

The enrolled bill includes a provision that exempts the employment paid by funds provided by this Act from administrative personnel ceilings. Although this provision is an undesirable restriction on executive branch management that could hinder our efforts to reduce Federal employment, several other restrictive provisions that were included in the House bill were deleted in conference.

There is a provision that restricts leasing on certain portions of the Outer Continental Shelf off the coast of California. This provision may reduce 1984 receipts, but is less restrictive than language contained in the House version of this bill.

Recommendation

While the enrolled bill provides \$1.1 billion more than you requested, it is in conformance with the budget resolution, the standard by which we agreed to judge this bill.

I recommend that you sign the enrolled bill.

David A. Stockman
Director

THE WHITE HOUSE

WASHINGTON

December 29, 1982

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *Jan*

SUBJECT: Enrolled Bill S. 1986 - Disposition
of Indian Judgment Funds

Richard Darman has requested comments by 3:00 p.m. tomorrow, December 30, on Enrolled Bill S. 1986, which authorizes the distribution of funds previously awarded and appropriated to the Blackfeet, Gros Ventre, Assiniboine and Papago Indians. The bill specifies the manner of distribution of some \$37 million awarded the first three tribes by the Court of Claims and awarded the Papagos by the Indian Claims Commission. This legislation is necessary under the Indian Judgment Funds Act of 1973 because the Secretary of Interior did not submit a plan for distribution of the funds within the statutorily prescribed period after Congress appropriated the funds. OMB and Interior recommend approval, and Justice defers to Interior.

I have reviewed the memorandum to the President prepared by James Frey, Assistant Director of OMB for Legislative Reference, the legislative reports, and the bill itself. I see no legal objections, and have prepared a memorandum to Darman to that effect for your signature.

Attachment

THE WHITE HOUSE
WASHINGTON

December 29, 1982

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING *Orig. signed by FFF*
COUNSEL TO THE PRESIDENT *RAM for*

SUBJECT: Enrolled Bill S. 1986 - Disposition
of Indian Judgment Funds

Counsel's Office finds no objection from a legal perspective
to the above-referenced enrolled bill.

FFF:JGR:aw 12/29/82

cc: FFFielding
✓ JGRoberts
Subj.
Chron

THE WHITE HOUSE

WASHINGTON

December 29, 1982

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

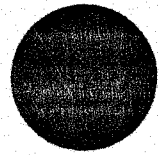
SUBJECT: Enrolled Bill S. 1986 - Disposition
of Indian Judgment Funds

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FFF:JGR:aw 12/29/82

cc: FFFielding
JGRoberts
Subj.
Chron

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

☐ O - OUTGOING☐ H - INTERNAL☐ I - INCOMINGDate Correspondence
Received (YY/MM/DD) 1/1/Name of Correspondent: Richard G. Narman☐ MI Mail Report

User Codes: (A) _____ (B) _____ (C) _____

Subject: Enrolled Bill S. 1986 - Disposition of
Indian Judgment Funds**ROUTE TO:****ACTION****DISPOSITION**

Office/Agency	(Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
<u>W Holland</u>		ORIGINATOR	<u>82.12.28</u>			<u>1/1</u>
<u>WAT 18</u>		Referral Note: <u>D</u>	<u>82.12.28</u>		<u>S</u>	<u>82.12.30</u>
		Referral Note:				
			<u>1/1</u>			<u>1/1</u>
		Referral Note:				
			<u>1/1</u>			<u>1/1</u>
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Comments: _____

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WHITE HOUSE STAFFING MEMORANDUM

3:00 THURSDAY

DATE: Dec. 28, 1982 ACTION/CONCURRENCE/COMMENT DUE BY: December 30, 1982SUBJECT: Enrolled Bill S. 1986--Disposition of Indian Judgment Funds

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☐	☐	FULLER	☐	☐
MEESE	☐	☒	GERGEN	☐	☐
BAKER	☐	☒	HARPER	☒	☐
DEAVER	☐	☐	JENKINS	☐	☐
STOCKMAN	☐	☐	MURPHY	☐	☐
CLARK	☐	☐	ROLLINS	☐	☐
DARMAN	☐	☒	WILLIAMSON	☐	☐
DOLE	☐	☐	VON DAMM	☐	☐
DUBERSTEIN	☒	☐	BRADY/SPEAKES	☐	☐
FELDSTEIN	☐	☐	ROGERS	☐	☐
FIELDING	☒	☐		☐	☐

Remarks:

Please forward comments/recommendations on this enrolled bill by
3:00 Thursday, December 30.

Thank you.

Richard G. Darman
Assistant to the President
(x2702)

Response:



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

DEC 28 1982

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 1986 - Disposition of Indian Judgment
Funds
Sponsor - Sen. Melcher (D) Montana

Last Day for Action

January 3, 1983 - Monday

Purpose

Authorizes the distribution and use of funds already awarded and appropriated to the Blackfeet and Gros Ventre Tribes of Indians, the Assiniboine Tribe of the Fort Belknap Indian Community, and the Papago Tribe of Arizona.

Agency Recommendations

Office of Management and Budget

Approval

Department of the Interior

Approval (Informally)

Department of Justice

Defers to Interior (informally)

Discussion

The following Indian judgments have been awarded in satisfaction of claims against the United States: (1) \$400,000 for the Blackfeet Tribe; (2) \$10,053,294 for the Gros Ventre Tribe of the Fort Belknap Reservation; (3) \$2,170,013 for the Assiniboine Tribe of the Fort Belknap Indian Community; and (4) \$26,000,000 for the Papago Tribe. S. 1986 provides the statutorily required authorization of the distribution and use of these funds by the four tribes cited above. Finally, the Department of the Interior advises that S. 1986 reflects the desires of the concerned Indians.

S. 1986 passed both Houses of the Congress by voice vote.

(Signed) James M. Frey

Assistant Director for
Legislative Reference

Enclosures

THE WHITE HOUSE

WASHINGTON

January 4, 1982

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *jsr*

SUBJECT: Enrolled Bill H.R. 4496 - Texas
Band of Kickapoo Reservation Act

Richard Darman has requested comments by Wednesday, January 5, on Enrolled Bill H.R. 4496, which would heap Federal benefits on the Texas Band of Kickapoo Indians. The Kickapoos, originally from the Great Lakes area, did not stop running from their encounter with Europeans until they reached Mexico, where they now hold 17,000 acres of land. The Kickapoos provide migrant labor in the United States, and a group of them made Newsweek by choosing to live in squalid conditions beneath the International Bridge in Eagle Pass, Texas, rather than their Mexican homeland. The bill would: (1) require the Secretary of Interior to develop a list of Kickapoos, and grant U.S. citizenship to anyone on that list; (2) entitle Kickapoos to cross the Mexican/U.S. border free of any restrictions; (3) direct the Secretary to accept up to 100 acres of donated land for a Kickapoo reservation in Texas; (4) give the Kickapoos the benefits of the Indian Reorganization Act; and (5) permit Federal services to be provided the Kickapoos without regard to restrictions that limit such services to Indians on a reservation.

OMB, Interior, and State recommend approval; Justice defers to Interior. While the approach of the bill -- ad hoc exceptions to restrictions in general laws -- strikes me as unfortunate, and while its provisions seem overly generous -- particularly in light of the fact that these are, generally speaking, Mexican Indians and not American Indians -- the bill is consistent with the Administration's recommendations. I see no legal objections, and have prepared a memorandum to that effect for your signature.

Attachment

THE WHITE HOUSE
WASHINGTON

January 4, 1983

MEMORANDUM FOR RICHARD G. DARMAN
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING Orig. signed by FFF
COUNSEL TO THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 4496 - Texas
Band of Kickapoo Reservation Act

Counsel's Office finds no objection from a legal perspective
to the above-referenced enrolled bill.

FFF:JGR:aw 1/4/83

cc: FFFielding
JGRoberts
Subj.
Chron

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

☐ O - OUTGOING☐ H - INTERNAL☐ I - INCOMINGDate Correspondence
Received (YY/MM/DD) 1/1

Name of Correspondent: Richard G. Dorman

☐ MI Mail Report

User Codes: (A) (B) (C)

Subject: H.R. 4496 - Texas Band of Kickapoo
Reservation Act

ROUTE TO:

ACTION

DISPOSITION

Office/Agency	(Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
CU Holland		ORIGINATOR	82/12/30			1/1
CU AT 18		Referral Note:	D 82/12/30			S 83/01/05
		Referral Note:				
		Referral Note:				
		Referral Note:				
		Referral Note:				

ACTION CODES:

A - Appropriate Action
C - Comment/Recommendation
D - Draft Response
F - Furnish Fact Sheet
to be used as Enclosure

I - Info Copy Only/No Action Necessary
R - Direct Reply w/Copy
S - For Signature
X - Interim Reply

DISPOSITION CODES:

A - Answered C - Completed
B - Non-Special Referral S - Suspended

FOR OUTGOING CORRESPONDENCE:

Type of Response = Initials of Signer
Code = "A"
Completion Date = Date of Outgoing

Comments:

Keep this worksheet attached to the original incoming letter.
Send all routing updates to Central Reference (Room 75, OEOB).
Always return completed correspondence record to Central Files.
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WHITE HOUSE STAFFING MEMORANDUM

DATE: 12/30/82 ACTION/CONCURRENCE/COMMENT DUE BY: Wednesday, 1/5/83

SUBJECT: H.R. 4496 - TEXAS BAND OF KICKAPOO RESERVATION ACT

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☐	☐	GERGEN	☐	☐
MEESE	☐	☒	HARPER	☒	☐
BAKER	☐	☒	JAMES	☐	☐
DEAVER	☐	☒	JENKINS	☐	☐
STOCKMAN	☐	☐	MURPHY	☐	☐
CLARK	☐	☐	ROLLINS	☐	☐
DARMAN	☐ P	☒ SS	WILLIAMSON	☒	☐
DOLE	☐	☐	WEIDENBAUM	☐	☐
DUBERSTEIN	☒	☐	BRADY/SPEAKES	☐	☐
FIELDING	☒	☐	ROGERS	☐	☐
FULLER	☒	☐		☐	☐

Remarks:

Please provide any comments/recommendations by Wednesday, 1/5/83.

Thank you.

Richard G. Darman
Assistant to the President
(x2702)

Response:



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

DEC 30 1982

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 4496 - Texas Band of Kickapoo
Reservation Act
Sponsor - Rep. Kazen (D) Texas

Last Day for Action

Purpose

Clarifies the citizenship status of the Texas Band of Kickapoo Indians and provides certain Federal services for the Band.

Agency Recommendations

Office of Management and Budget	Approval
Department of the Interior	Approval
Department of State	Approval
Department of Justice	Defers to Interior(Informally)
Department of Health and Human Services	No Comment(Informally)

Discussion

The Texas Band of Kickapoo Indians (hereafter "Traditional Kickapoo"), consisting of some 600-700 persons, are linguistically and culturally part of the eastern Algonquian Indians who were first encountered by Europeans in the Great Lakes region in 1640. This particular Band migrated to Mexico in the middle of the 1800's and settled at Morelos, approximately 40 miles south of Eagle Pass, Texas.

For well over one hundred years the Traditional Kickapoo have associated with the Oklahoma Kickapoo Tribe as there was considerable migration between the two Kickapoo Indian Bands over the years. In fact, some 80 percent of the Traditional Kickapoo are enrolled with the Oklahoma Kickapoo Tribe and thus are eligible for Bureau of Indian Affairs (BIA) and Indian Health Service (IHS) assistance when they are in the Oklahoma Kickapoo service area.

The Traditional Kickapoo hold 17,000 acres of land in Mexico that was granted to them by the Mexican Government for the Band's services in defending Mexican border areas from Indian raids during the mid-1800's. Almost the entire Band is regularly employed as migrant labor in the United States between May and

October. They spend the remainder of the year on their land in Mexico, where they farm and raise cattle, and in Eagle Pass, Texas. Because of the Band's movement between the United States and Mexico and its lack of adequate records, the citizenship status of many of its members has always been in question, even though most of them are entitled to U.S. citizenship either by birth or because one or more parent is so entitled.

The living conditions of the Kickapoo in Texas have recently received national media attention when described in Newsweek as "...shantytown rows of bamboo-and-cardboard huts...and a virtually open-air two-seat outhouse." In fact, legally they are squatters living on city-owned land beneath the International Bridge and the Band is subject to eviction at any time. The myriad health problems, illiteracy, citizenship difficulties, and poor economic situation of the Traditional Kickapoo, convinced the Band's leaders that the only realistic solution would be to seek help at the Federal level.

In turn, the heightened media, congressional, and Executive sensitivity to the Traditional Kickapoo's plight has culminated in a legislative solution designed to resolve at least some of the Band's problems. Specifically, and generally consistent with the Administration's recommendation, H.R. 4496 would:

- require the Secretary of the Interior to compile and maintain a list of enrolled members of Kickapoo blood of the Oklahoma Tribe who comprise the membership of the Traditional Kickapoo;
- allow any member listed by the Secretary as a Traditional Kickapoo, for a period of five years after enactment of this bill, to apply and be granted United States citizenship. Thereafter, noncitizen members of the Band could become citizens only as otherwise provided by law;
- entitle members of the Band to pass and repass the United States-Mexico Border, to work and live in the United States, and be free of restrictions imposed on aliens by immigration laws;
- direct the Secretary of the Interior to accept in trust for the Band no more than one hundred acres of land in Maverick County, Texas (land to be privately purchased and donated). Pursuant to existing law, the Secretary could subsequently accept other lands in Maverick County for the Band;
- make the Indian Reorganization Act, including the right to organize a tribal government, applicable to the Traditional Kickapoo; and

- authorize the provision of Federal services to the Band immediately without regard to the existing legal requirement that such services be provided only on a reservation or to those residing near a reservation. Consultation with Mexico is required to assure that the provision of these services meets, to the greatest extent possible, the special tricultural needs of the Band. Annual costs to the Federal Government of BIA and IHS services would be between \$460,000 and \$735,000.

In recommending approval of H.R. 4496, Interior concludes in its enrolled bill letter that: "...H.R. 4496 is intended to provide an equitable resolution to an unfortunate, complicated and highly unique problem that has arisen due to the Texas Kickapoo's history and present legal status."

(Signed) James M. Frey

Assistant Director for
Legislative Reference

Enclosures

Ninety-seventh Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the twenty-fifth day of January,
one thousand nine hundred and eighty-two*

An Act

To grant Federal recognition to the Texas Band of Kickapoo Indians; to clarify the status of the members of the band; to provide trust lands to the band, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Texas Band of Kickapoo Act".

CONGRESSIONAL FINDINGS AND DECLARATION OF POLICY

SEC. 2. (a) Congress finds that the Texas Band of Kickapoo Indians is a subgroup of the Kickapoo Tribe of Oklahoma; that many years ago, the Band was forced to migrate from its ancestral lands to what is now the State of Texas and the nation of Mexico; that, although many members of the band meet the requirements for United States citizenship, some of them cannot prove that they are United States citizens; that, although the Band resides in the State of Texas, it owns no land there; that, because the Band owns no land in Texas, members of the Band are considered ineligible for services which the United States provides to other Indians who are members of federally recognized tribes because of their status as Indians except when the members of the Band are on or near the reservation of the Kickapoo Tribe of Oklahoma; that members of the Band live under conditions that pose serious threats to their health; and that, because their culture is derived from three different cultures, they have unique needs including, especially, educational needs.

(b) Congress therefore declares that the Band should be recognized by the United States; that the right of the members of the Band to pass and repass the borders of the United States should be clarified; that services which the United States provides to Indians because of their status as Indians should be provided to members of the Band in Maverick County, Texas; and, that land in the State of Texas should be taken in trust by the United States for the benefit of the Band.

DEFINITIONS

SEC. 3. For purposes of this Act—

- (a) "Band" means the Texas Band of Kickapoo Indians, a subgroup of the Kickapoo Tribe of Oklahoma;
- (b) "Tribe" means the Kickapoo Tribe of Oklahoma; and
- (c) "Secretary" means the Secretary of the Interior.

ESTABLISHMENT OF BAND ROLL; CLARIFICATION OF UNITED STATES CITIZENSHIP

SEC. 4. (a) Within one year of the enactment of this Act, the Secretary shall, after consultation with the Tribe, compile a roll of those members of the Tribe who possess Kickapoo blood and who are also members of the Band. When said roll is complete, the Secretary

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shall immediately publish notice in the Federal Register stating that the roll has been completed. The Secretary shall ensure that the roll, once completed, is maintained and that it is current.

(b) If the Secretary does not compile the roll within the period prescribed in subsection 4(a), he shall submit a report to Congress setting forth the reasons he did not do so.

(c) For a period of five years after the publication of the Federal Register notice required under subsection 4(a), any member of the Band whose name appears on the roll compiled by the Secretary, may, at his option, apply for United States citizenship. Such application shall be made to the Immigration and Naturalization Service and, upon receipt of the application, citizenship shall promptly be granted to the applicant.

(d) Notwithstanding the Immigration and Nationality Act, all members of the Band shall be entitled to freely pass and repass the borders of the United States and to live and work in the United States.

LAND ACQUISITION; APPLICABILITY OF THE INDIAN REORGANIZATION ACT

SEC. 5. (a) The Act of June 18, 1934 (48 Stat. 984), is hereby made applicable to the Band: *Provided, however,* That the Secretary is only authorized to exercise his authority under section 5 of that Act (25 U.S.C. 465) with respect to lands located in Maverick County, Texas.

(b) The Secretary is authorized and directed to accept no more than one hundred acres of land in Maverick County, Texas which shall be offered for the benefit of the Band with the approval of the Tribe. Nothing in this subsection shall be construed as limiting the authority of the Secretary under section 5 of the Act of June 18, 1934 (48 Stat. 985).

JURISDICTION

SEC. 6. The State of Texas shall exercise jurisdiction over civil causes of action and criminal offenses arising on the Band's trust lands in accordance with section 1360 of title 28, United States Code, and section 1162 of title 18, United States Code, as if it had assumed jurisdiction pursuant to sections 401 and 402 of the Act of April 11, 1968 (82 Stat. 78, 79). The provisions of section 403 of the Act of April 11, 1968 (82 Stat. 79), shall be applicable and available to the State of Texas.

PROVISION OF FEDERAL INDIAN SERVICES

SEC. 7. (a) Notwithstanding any other provision of law authorizing the provision of special programs and services by the United States to Indians because of their status as Indians, the Band and its members in Maverick County, Texas shall be eligible for such programs and services without regard to the existence of a reservation, the residence of members of the Band on or near a reservation, or the compilation of the roll pursuant to subsection 4(a) of this Act.

(b) In providing services pursuant to subsection (a), the Secretary and the head of each department and agency shall consult and cooperate with appropriate officials or agencies of the Mexican Government to the greatest extent possible to ensure that such services meet the special tricultural needs of the Band and its members. Such consultation and cooperation may include, whenever

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practicable, joint funding agreements between such agency or department of the United States and the appropriate agencies and officials of the Mexican Government.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*