83

Subject: Comments on the Clean Water Action Plan
Sender: GeraldWalhovd /Internet (GeraldWalhovd@bia.gov)
Attached Date: 04/14/00 16:42
Priority: normal
Sensitivity: normal
Importance: normal

Part 1

FROM: GeraldWalhovd / Internet
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Part 2

ARPA MESSAGE HEADER

Part 3

The definition of federal lands needs to be very precise, and must not include Indian Trust lands. Also the definition of federal actions must not include Indian actions which require Bureau of Indian Affairs (BIA) approval!!

This proposed policy (Clean Water Action Plan) will impose regulatory procedures upon federal agencies, and supposedly will not be imposed on state, county, local governments, or upon individual citizens. However, if the definition of federal lands (or federal actions) is not clear, this proposed policy will be imposed upon Tribal Governments and Individual Indians through the trust relationship that exists between them and the Federal Government.

The Trust Relationship that exists between the Federal Government is there to protect the trust interests of Indian people and Tribal governments, it should not be used impose national policy or procedures intended for federal agencies. If the definition of federal lands (or federal actions) includes Indian Trust Lands (or Indian actions which require BIA approval) these proposed policies will impose costs and delays to Tribal Government and Individual Indian actions which require Bureau (trustee) approval, and would be in direct conflict with Tribal Sovereignty and Tribal Self-determination.

The National Environmental Policy Act (NEPA) and National Historical Protection Act (NHPA) were also only intended to regulate federal agencies, however, because of the trust relationship that exists, these regulations have been unilaterally imposed upon Tribal Governments and Individual Indians. These policies (NEPA/NHPA) are unfunded mandates upon Indian people and they infringe upon Tribal Sovereignty and Tribal Self-determination.

Is the Clean Water Action Plan going to be another unfunded mandate upon Indian people?

Is the Clean Water Action Plan going infringe upon Tribal Sovereignty and Tribal Self-determination?

The National Environmental Policy Act (NEPA) uses the term "major federal action" to determine when certain regulatory procedures must take affect. The definition of "major federal action" includes; (...new and continuing activities, including projects and programs entirely or partly financed, assisted, conducted, regulated, or approved by federal agencies...) It is this definition which imposes NEPA regulatory procedures upon Tribal Governments and individual Indians because the Bureau, as trustee, must approve many Indian actions.

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APR 14 2000

83

The National Historical Protection Act (NHPA) uses the term "undertaking" to determine when certain regulatory procedures must occur. The definition of Undertaking includes; a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including those carried out by or on behalf of a Federal agency; those carried out with Federal financial assistance; those requiring a Federal permit, license or approval; and those subject to state or local regulation administered pursuant to a delegation or approval by a Federal agency. Again it is this definition which imposes NHPA regulatory procedures upon Tribal Governments and individual Indians because the Bureau, as trustee, must approve many of their actions.

Again, the definition of federal lands (or federal actions) must not include Indian Trust lands and must not include Indian actions which require BIA approval!!

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