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Back in Court

The U.S. Courthouse in Madison, scene of the six-day trial before Judge Doyle on the scope of Chippewa treaty rights.

The following is the result of observations at the recent six day treaty rights trial in Madison. It is partly analysis, partly commentary and partly a reflection of other issues in Indian country.

The trial took place in a room in the federal courthouse in Madison, Wis., from Feb. 7 to Feb. 12. It was a trial of two issues: the Voigt decision, issued by Judge Doyle of the U.S. District Court for the Western District of Wisconsin, which declared the Chippewa treaty rights null and void, and the Madison area legal strategy, which was to invent a new resource management scheme.

The trial was a humbled experience. For the past three weeks I have been following the Voigt decision, which has made me realize how little I know about the legal process and the historic background from which the Chippewa treaty rights arose. It is not a simple case, it is not just one aspect. Eventual tribal leaders, members and attorneys will have to decide what will happen to the legal issue if it is awarded.

On the surface, I felt good about the Chippewa preparation in the recent trial. However, if you were court proceeding wonder what I meant. As I understand the courts, they have a very specific set of rules and the judge is not the final authority. Not knowing, Judge Doyle I'm wondering how he makes his decisions, what the finality of facts presented and the definitions given to us. Was his attorney and agree to the agreement, or did he consider that to be final, I have to admit I was impressed by the judge. After the two early false starts due to court procedures, I wondered that his faculties would be like once we actually got to trial.

My first impression of the judge was disappointment. He looked very well at his career and the study and understanding of the treaty rights. He was also extremely afraid of what he didn't understand and was concerned to present something accurately but different than what I understand. Not knowing, Judge Doyle I'm wondering how he makes his decisions, what the finality of facts presented and the definitions given to us. Was his attorney and agree to the agreement, or did he consider that to be final, I have to admit I was impressed by the judge. After the two early false starts due to court procedures, I wondered that his faculties would be like once we actually got to trial.

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The Chippewa area tribal members and suppliers offer a wide range of perspectives on the trial. Some, outside the Federal Courthouse, are an inter-tribal drum singing and dancing. The attorneys requested them as a way to help emotionally prepare for the trial. They said that their ancestors had a legacy of gatherings with which existed complex systems of government, social interaction and a traditional economy based on reciprocity. They quickly added that the Chippewa were also aware of and sophisticated participants in an international market economy exemplified as producers in the fur trade. They said that the need for surplus goods of the market economy eventually prevailed and the Chippewa, through a growing dependency on trade goods and alcohol, capitulated and began producing surplus goods.

As I've said, I'm impressed and I now wonder how much else don't I know about this thing called treaty rights and the Voigt decision.

Beyond a new appreciation for attorneys and professors and the legal process (hopefully not premature), the trial had added facets and stimulated a great deal of rethinking of the treaty rights struggles. Locally the trial brought together Indians and supporters from the Madison area. Law students came by in the midst of finals to witness the trial and to show support. The attorneys requested and got an hour song outside the court house prior to the trial. They said it will help them mentally prepare for the trial and remind them of who and what they are representing.

As I drove away from Madison, back up north, through capped territory—other things began to take on new meanings. I realized that the trial had the ultimate legal view is just one facet of the Voigt Decision. There are ongoing concerns, of sorts, in interim treaty harvesting; there are new resource management schemes being looked at and many non-Chippewa are confused and some very upset over this whole issue. It is an historic event which is lasting many quarters of this paper called Wisconsin.

The Voigt Decision raises questions some thought were resolved with Wisconsin statehood or so sure when the Reservations were established. Prior to this case the Chippewa were contentedly viewed as victims of broken homes and furniture, not people captive or essential enough to argue broken treaties. The Voigt Decision has helped shatter this false and myopic view, in the disloyalty of some, but for the Indian community.

This court case in another focal point of Chippewa resurgence in a legal acknowledgment of renewal and renewal that unfortunately somehow threatens others. Racism, as American as apple pie, is a generalization that has people regardful of fact or law or reasoning. It was here before Lester P. and it will be here long after we longer.

I'm renewed interest is to help view this situation in more than two dimensions: something that is not so easily reduced to our basic fears and other emotions; something of an opportunity to relax at our hands and to ask others.

The Voigt Decision then is truly an Indian problem or issue. It is indeed a series of legal questions but one of last tenure; it is also a review of history, it is an example of value differences and more legitimate is it a legitimate questioning of who and how natural resources are cared for in Wisconsin. It is also a situation which will ultimately measure how people know and treat each other.

The legal questions are ones of ownership and jurisdiction. Simply, what rights did the Chippewa reserve when we today entered and exercise these properties rights and did the state even get authority to regulate these rights? What has clouded the understanding of these legal rights and exacerbated social tensions is the failure of educators and media to inform the public of the importance of these issues.

The educational systems do not deal with treaties in discussing history nor do they deal with contemporary treaty government in the classroom. The news media, products of these systems, simply lack the depth of any commitment to accurate, fair and honest explanation of the treaty and legal historic and legal perspective.

The Chippewa area informed is that the Chippewa treaty rights are a partial of the larger Chippewa treaty rights. The Chippewa must continue to prove their rights, to show resource management capabilities, to develop effective enforcement and judicial systems, to frame a co-management attitude and to help procedures. They might not then they will eliminate this legal construct regardless of what the legal treaty states. The treaties are acknowledged of sovereignty.

If the Chippewa have a legal property interest in natural resources it follows that they can help protect the against threats. Some leaders have already said that there will be no more dumps in the ceded territory. Others are currently studying acid rain, ground water pollution, forest management practices, toxins in Lake Superior and other threats. It is due to view this treaty as an Indian problem or not to return it as a threat to the resources; ceded territory and northern Wisconsin.

It is a look at history that is not an easy one. The government and it's businesses, which is the primary threat to the Chippewa governments. It is an opportunity for the Chippewa to work at this issue, to address it.

And finally, it is a challenge for all people. Is it to look at themselves and say it someone's identity really disinterested in their own, and if so, why?
**Cross-Deputation Meets Stalemate**

Great Lakes Indian Fish and Wildlife Committee (GLIFWC) warden staff met with the Department of Natural Resource officials in Park Falls, Thursday, December 21 in an attempt to negotiate common ground regarding cross-deputation. The meeting was attended by GLIFWC Chief Warden Warden Maynard Whitebird from each mission, rec:~nvene

The issue became one of the major points of controver-

sion and the State would have no warden staff. Cardinal does not feel

the commission wants to force

over its waters for the sake of cross-deputation, or for instance, to allow the DNR to schedule GLIFWC warden. This would be a misuse of

The issue of training has been

resumed. Although the warden must take to the 320 hours of train-

ing, it would not have to be taken immediately, but rather could be spaced over a period of time.

Cardinal says that ques-

tions of jurisdiction also become complex. Uniliques, Tribal jurisdiction is over its additional waters if it is not in the

area as well, so any

area within state to state.

Michigan recognizes the Tribes as tribal enforcement as lawfull agencies. Cardinal ex-

presses his own view that recogni-

tion is not forthcoming in Wisconsin, he says. This is also related to the status of Wisconsin as a 280 state with its jurisdiction, whereas Michigan is not.

As a result, cross-

deputation would be a boon to the tribes in the field if they see probable cause has been established,

more warden staff and get sufficient infor-

mation without violating the per-

son's rights. However, if the in-

dividual turns out to not be a tribal member, the warden can go further and there is evidence of a violation. Currently the information regarding the violation is given to the DNR to deal with the infraction.

Although cross-deputation seems to be a stalemate, the GLIFWC warden staff will be working with DNR enforcement on a training session in the early part of 1989 to see if warden staff will be par-

ticipating in a session the week will cover the filing of court cases and general warden pro-

cedures. The session will hopefully be scheduled when the DNR staff is available.

**Fish Committee Endorses Management Plan**

The Fish Committee of the Great Lakes Indian Fish and Wildlife Commission (GLIFWC) met Friday, December 25 to discuss further involvement with the Great Lakes Fishery Commission, review fish stocking plans for Keweenaw Bay, and examine 96 budget priorities.

Following a report by Tom Buschian, GLIFWC Chief Biologist, the Joint Strategic Plan for Management of Great Lakes Fisheries, the Fish Committee voted to endorse the plan with the provision that the language in the plan is changed to recognize the proper status of GLIFWC as a manager.

The plan, as Buschian pointed out, was developed in cooperation with the other Great Lakes States, a group called the Committee of the Whole (CCOF) which includes a number of fishery administrators from each state, as well as a number of representatives who have spoken on behalf of the fishing public. The plan as developed was adopted without vital input.

The intent of the plan was to develop a common strategy for common problems in the management of the Great Lakes fishery. The plan gives some of the actions the states and Commission should take to implement the strategy.

CQWU has been cited as the vehicle for the strategy. The plan endorsement is to be sent to the Joint Great Lakes Fishery Commission, which includes a number of states and the GLIFWC as a manager.

CQWU is a "Fishery Management Action Plan" which refers to the Joint Great Lakes Fishery Commission's work on the Great Lakes Fishery Agreement. It is intended to provide a framework for managing fishery resources on a sustained yield basis. The plan endorsement is to be sent to the Joint Great Lakes Fishery Commission, which includes a number of states and the GLIFWC as a manager.

Although the Fish Com-

mittee voted to endorse the plan and to continue to seek a seat on the Lake Superior Committee, representatives have not yet been selected. Mark Eberle, DNR biologist, provided the Committee with a summary of the current status of the project. Rolf Hojplin has explained to the Assembly in their September 24 memo that all deer hunting on the reservation was allowed to continue.

The DNR has no interest in hunting any additional deer. This is consistent with the recommendation of the National Resources Board, and that such an issue be handled in the legislative process.

When in good faith (even-handedly), your Department followed the advice of Lewis Carroll's book, "Through the Looking Glass," and said: 'There are no rules, and no right, and no wrong."

The second example, which disturbs me deals with the extent to which DNR staff feels it has the right to conduct law enforcement activities outside of its boundaries. The Wisconsin Natural Resources Board containing tribal small game and trapping provide that the department may enter into an agreement with the Chippewa tribes for "big issuance" and "joint registra-

CQWU, mentioned the Board's actions as "administratively expedient" in the majority of cases but not in all cases.

The actions of your Department discussed in this letter may have questionable basis upon which to repose your same conclusion: your Department cares naught for what the Assembly in their September 24 memo that all deer hunting on the reservation was allowed to continue.

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An Interview with Representative Sharon Metz

On October 2, Representative Sharon Metz (D-Green Lake) and Jim Genthe, President of the Menominee Tribal Council, met with Erin Stetterdahl in her Capitol office to work on the logistics of the annual session of the Tribal Council and her role as committee chair. Except from that interview follow.

Q: Why do you think it is important for a state legislator to be involved in tribal affairs?

A: Because there are legislatures and American Indians on the Wisconsin side, I believe, and American Indians on the federal level. I think the committee is sort of a microcosm of the committee. I'd like to see more interaction. The committee should be understanding that there is a relationship that has to do with the state with the Indian tribes.

Q: What is the primary goal that the committee is doing with respect to Indian nations?

A: It's not like we are dealing with the village of Princeton, Wisconsin. It's more of an inter-agency relationship. I think the committee has more screening and more issues than just marriage licenses.

Q: What is your role as a state legislator and what is the role of the Tribal Council?

A: My role as a state legislator is to represent the citizens of Jefferson County. I have a problem, and you can't label it anything, it's racism. There's a reason. Some people have made up their minds that it's not an issue. It's not racism. I think they never really understand or name you 12 examples of bad Indians. And we know about some of these.

Q: Other people, I think, sort of lump it all into it, and it's just because of the council, they're not learning. They are not educational, and our school systems do not teach, run, convey, job of educating in the Indian culture, in the American Indian cultural system.

Q: And they have a general minority mentality, and they don't understand that, as a matter of fact, there is a minority category with hard, first 10, and secondly, it's the Indian System. It's getting to be that the melting pot came. And it's not to change to keep their own culture, and they had a good society and a good way of life. The government today is trying to make them think that it is arrogant to us to change that.

Q: What aims do you have for a leadership conference for the American Indian legislators?

A: Well, actually, there is another group of first nations. First of all, because there are legislative and American Indians on the Wisconsin side of the line, and there are American Indians who are tribal council members who are not Indians. The committee is sort of a microcosm of the committee of the committee. It's not isolation, that has to do with the state with the Indian tribes.

Q: Where do you stand on the issue of the primary goal that the committee is doing with respect to Indian nations here?

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A: My role as a state legislator is to represent the citizens of Jefferson County. I have a problem, and you can't label it anything, it's racism. There's a reason. Some people have made up their minds that it's not an issue. It's not racism. I think they never really understand or name you 12 examples of bad Indians. And we know about some of these.

Q: Other people, I think, sort of lump it all into it, and it's just because of the council, they're not learning. They are not educational, and our school systems do not teach, run, convey, job of educating in the Indian culture, in the American Indian cultural system.

Q: And they have a general minority mentality, and they don't understand that, as a matter of fact, there is a minority category with hard, first 10, and secondly, it's the Indian System. It's getting to be that the melting pot came. And it's not to change to keep their own culture, and they had a good society and a good way of life. The government today is trying to make them think that it is arrogant to us to change that.

Q: What aims do you have for a leadership conference for the American Indian legislators?

A: Well, actually, there is another group of first nations. First of all, because there are legislative and American Indians on the Wisconsin side of the line, and there are American Indians who are tribal council members who are not Indians. The committee is sort of a microcosm of the committee of the committee. It's not isolation, that has to do with the state with the Indian tribes.

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Native American Rights Fund

The Native American Rights Fund (NARF) is a nonprofit organization specializing in the protection of Indian rights. The priorities of NARF are (1) the protection of tribal sovereignty; (2) the protection of tribal natural resources; (3) the promotion of tribal economic development; (4) the protection of Native American; and (5) the development of Indian law. Native American Nations across the country is supported in large part by your generous contributions. Your participation makes a big difference in their ability to continue to meet the ever-increasing needs of impoverished Indian tribes, groups, and individuals. The funds you contribute will help to sustain the programs of the Native American Rights Fund which includes the following:

- Financial assistance to Indian tribes and individuals
- Legal representation
- Program development
- An educational component that focuses on the history, culture, and law of Native Americans

NARF is a unique in the nation's Indian law bar, which is composed of well-trained Indian attorneys and Native American paralegals.

Legal Updates

SCOTUS RULES AGAINST CATAHAWA LAND CLAIM

The U.S. Supreme Court recently declined to hear the Catahawa Indian Tribe's appeal of its land claim, which upheld the right of the Catahawa Tribe to private air and water rights in South Carolina. The Court's decision is significant because it means that the land claim was extinguished by a federal administrative action which ended the government-to-government relationship between the Catahawas and the federal government, and is not bound by the state's statute of limitations. South Carolina had argued that the Supreme Court should review the Fourth Circuit's decision, and the Court agreed to do so for an argument on June 3, 1985. In the case, Catahawas v. State of South Carolina, the Supreme Court reversed the lower court, stating that the claim was not timely filed, and that the federal government's decision to extinguish the Catahawas' land claim was not a matter of a Formidable Clause. The decision sets a precedent for federal government actions that could have a significant impact on Native American rights and sovereignty.

In the modern day, Native American rights and sovereignty are under constant threat, and the decision sets a precedent for federal government actions that could have a significant impact on Native American rights and sovereignty. The decision sets a precedent for federal government actions that could have a significant impact on Native American rights and sovereignty.
The Crystalline Waste Project Office (CPD) was established in 1982. The CPD's mission is "to identify and license sites for the second and subsequent repository in crystalline formations." Crystaline is one of several forms of rock being considered for an underground repository.

According to Richard Schraube, Chief, Institutional Relations Branch, CPD, the Janus release of the DARR will contain an introduction, description of regional and site screening process and the results of the region to area screen process.

Tribe representatives met recently in Duluth to discuss the most effective use of the monitoring wells as part of the CPD's review of the DARR. Tribe representatives met with DOE officials to discuss the potential involvement in the process of determining a second site for the storage of highly radioactive waste.

Varying in the price of life are also "the Bad River Indian Reservation, a treaty-recognized, recognized as (being) entitled to the right to participate in the survey, which would be able to have better protection.

According to the Wisconsin Department of Natural Resources, the Bad River Indian Reservation, a treaty-recognized, would be entitled to participate in the survey, which would be able to have better protection.

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BACKGROUND TO THE INTERNATIONAL SALMON TREATY

In 1949, the United States and Canada reached an agreement, now known as the 1949 Pacific Salmon Treaty, outlining sharing of salmon resources. This treaty was extended in 1964 and has been in effect ever since. It is considered a model international agreement. The treaty was signed in 1941, with final implementation in 1971. The treaty was implemented with the intention of maintaining salmon populations at levels that would ensure a sustainable fishery for both nations. The treaty established a joint commission to manage and regulate the fishery, and it has been renewed periodically since its inception.

In the 1970s, the United States and Canada agreed to implement the treaty's provisions more comprehensively. This led to the establishment of the Columbia River Treaty, which was signed in 1964 and entered into force in 1975. The treaty was designed to address issues related to the Columbia River, including salmon conservation, water supply, and flood control.

TROUBLE IN THE TREATY

The Columbia River Treaty, signed in 1964, was intended to address issues related to the Columbia River, including salmon conservation, water supply, and flood control. However, in recent years, there have been significant challenges and disputes over the implementation of the treaty.

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LFP Supports Treaty Rights

A Call for Coalitions

Dear Fellow:

I am an old-time champion of peace in Wisconsin. In my view the values of fairness and self-determination are fostered because of the Native Americans' tradition of working together on an administration and legislative level that possesses an open-people's communication.

Treaty rights held, won in Wisconsin will show the intent of this political shift. The nation makes the Native Americans' rights and the legislature's positive action on hunting rules proves the goodwill of the treaty.

And if you are not alone in being attacked by the forces of greed, the rights of many people are under attack by a corporate interest devoted to the return of the好象 Eagle.

Because of the connection of the Tosa People to the traditions of this State, and because of tribal nations' conurbations of our representatives, I call upon you to initiate a discussion on your potential political shift to positive actions. addresses the present crisis situation.

I would like to suggest that it is necessary and proper that you exercise leadership in building a coalition that defends your rights and resistance while also promoting peace and stability. I believe that you could understand and respect the environmental and religious people's coalition that could foster a vision of harmony and sustainability.

I would like to suggest that you seriously consider the potential political shift to the rights of Wisconsin tribal and other peoples to build a genuinely independent vehicle to represent the aforementioned.

Please consider this an invitation to further dialogue.

Yours in Peace and Justice,
Kathy Christensen, Chair
LWP Farm-Lake Michigan
Wisconsin's Party of the Rainbow and the Green

Defoe Completes Training

Gene Defoe, GLIFWC warden, completed the National Rifle Association's Firearms Instructor School last month. Defoe is now a certified firearm's instructor following the one week course.

Use of and knowledge about all types of firearms, including revolvers, pistols and shotguns, are part of the course which requires passing both written and practical tests in order to be certified.

GLIFWC Chief Warden, Mike Cardinal, says he put Defoe to work immediately during one of the Commission's semi-annual firearm qualifications held in Odanah in October.

Maintaining deer regulation stations on reservations has been an important part of the successful deer hunt on ceded territories. Above, staff at Lac du Flambeau have been kept busy by their active hunters. They have an efficient registration station throughout the season.

GLIFWC is located in old Odanah, Red River Reservation.

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P.O. Box 9 • Odanah, WI 54861 • 715/682-6619

NOEL

The defense of treaty rights can be found in the Wisconsin Commonwealth the newspaper of the Labor-Farm Party (LFP). The paper's coverage of the September 19th Treaty Rally in Madison indicated that steadily on the issue of treaty rights was evident from a wide array of people.

According to the article, the participants of the rally saw themselves as the Chippewa's treaty rights from various perspectives: fighting corporate efforts to despoil the land, shifting racism, and defending alternative ways of life.

At the Madison rally, LFP Chair Kathy Christensen also made a call for the formation of a coalition of the various interest groups in attendance. They included environmentalists, environmentalists, and human rights groups. Her follow-up letter to that call for coalitions is also reported in this issue of Masinaigan.

Anyone interested in the coalition or more information regarding the Labor-Farm Party write P.O. Box 122 Madison, WI 53701 or call Kathy Christensen at (608) 244 4526.

Snow layers trees in front of commission

Getting in the spirit Commission staff decorate the tree brought in by Tom Busahan, GLIFWC Chief biologist.
Merry Christmas and a Happy New Year

from

The Great Lakes Indian Fish and Wildlife Commission
The Great Lakes Indian Fish and Wildlife Commission (GLIFWC) was formed as a result of a common consent of Ojibwa tribes in the Great Lakes region for their right to use and responsibility to manage the lake and inland resources to maintain benefits to their members while practicing proper conservation methods.

The GLIFWC is dedicated to the protection of treaty rights. It is the product of a federal recognition of the Great Lakes Indian Fishermen’s Commission (GLIFC) and the Voigt Inter-Tribal Task Force. The common goal is to seek support from affected tribes to the Treaty of 1836. The GLIFWC established the International Great Lakes Indian Fish and Wildlife Commission (GLIFC) and the Voigt Inter-Tribal Task Force. The common goal is to seek support from affected tribes to the Treaty of 1836.

One of the precipitating factors leading towards the formation of the GLIFWC was an agreement signed between the Red Cliff Band and the State of Wisconsin in September 1981. The tribe was in need of a system of regulation for Indian fishing. In order to fulfill the agreement with the State to manage their commercial fisheries. Red Cliff, along with the five other Great Lakes tribes that practice traditional fishery, it was imperative to seek support for the development and management of the fishing industry. A second member Tribe. The Ojibwe Tribe of St. Croix, Lac du Flambeau, and the Mille Lacs Band, Minnesota, with their representatives, were invited to participate in this process.

The GLIFWC was formed as a result of the Treaty of 1836, which established the rights of the Ojibwa tribes to hunt, fish, and gather on ceded territories. The Task Force was formed with the responsibility of providing resource management and enforcement systems to affected Ojibwa Tribes in order to fulfill the provisions of those treaty rights. In recognition of the common goals of the Voigt Inter-Tribal Task Force and the GLIFWC, the organization had to address issues in terms of development and management of the internal fisheries. The GLIFWC has increased its technical staff to provide expertise in terms of wildlife management and internal fisheries. The GLIFWC provides a central body for the tribes to operate with.

The GLIFWC currently operates as a non-profit organization to promote the provisions of the Treaty of 1836, and it is largely dependent on the financial support of its members and the public. The GLIFWC has a board of commissioners who are concerned with the issues of hunting and fishing in the Great Lakes region. The GLIFWC is dedicated to the protection of treaty rights, and it is a valuable resource for the tribes and their environments.
With the right to use the reSourc-es on off-reservation, ceded lands comes also the responsibility to insure that the resources are protected through regulation and enforcement of those regulations. because of this responsibility, GLIFWC maintains a staff of wardens who patrol the ceded areas during hunting, fishing, or gathering seasons.

Wardens assist with the monitoring of commercial catches in the Great Lakes as well as the harvest of resources inland. Most infractions of regulations are cited into tribal courts.

The warden staff are all fully trained and certified officers—having passed training courses required by the State and counties. In several counties GLIFWC wardens are cross-deputized with the county sheriff's department, so they can assist with emergencies or problems in their vicinity. They also coordinate their efforts with tribal enforcement personnel.

**PUBLIC INFORMATION**

Public information is concerned both with the education of Tribal members and general public on issues relating to treaty rights and the Tribal use and management of the resources.

Public information publishes the Masinaigan on a monthly basis as one means to disseminate current information to the public. They also produce the GLIFWC Annual Report as well as brochures and fliers regarding the Commission. They maintain contact with the press, coordinate coverage of events and issue press statements. Workshops, forums, seminars at public schools, colleges and universities, or on reservations are also offered by public information staff. who are available either to speak or help coordinate a panel for those who are interested.

**POLICY ANALYSIS**

Policy Analyst David Siegler assists the member Tribes in the negotiating processes as they establish either inter-tribal agreements for hunting and fishing seasons or agreements with the State. Much of the work in drafting both agreements and ordinances for the Tribes, as well as preparation for negotiations, comes from this office.

The Policy Analyst also keeps current with both state and national legislative activities, thus keeping the Tribes informed of changes in legislation or policy which may somehow affect them. The office contributes significantly in the areas of resource management negotiations—judicial, administrative and legislative reviews—tribal consultation, and administrative services.