

Indian Country After 1st Year Of The Trump Administration

By **Larry Roberts and Charlie Galbraith**

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At this point in year one of the Obama administration, tribes were enjoying the progress made at the first ever White House Tribal Nations Conference where 566 federally recognized tribes were invited to engage directly with cabinet members, the president took questions from tribal leaders and signed a memorandum ordering all agencies to fully develop and implement tribal consultation policies. Thus far, there has been no Trump Tribal Nations Conference. However, the administration recently released “Promises Made, Promises Kept: Interior Releases Comprehensive List of Accomplishments under President Trump & Secretary Zinke” for 2017. Our year in review starts with this “Promises Made, Promises Kept” list, which is organized according to Secretary Ryan Zinke’s top 10 priorities for the U.S. Department of the Interior. Under the heading “Ensure Tribal sovereignty means something,” the Department of the Interior highlighted the following “accomplishments”:

“President Trump nominated the first Alaska Native woman to serve as the Assistant Secretary for Indian Affairs and issued the first-ever Presidential Emergency Declaration for a Tribe. Secretary Zinke signed the Pechanga water rights settlement, restored the rights of Alaska Natives to sell handicrafts, and asked Congress to formally designate Tribal co-management of Shash-Jaa area of Bears Ears National Monument.”



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These “accomplishments” deserve some context. President Barack Obama issued numerous disaster declarations for tribes (including passing a law to give the president authority to issue both disaster and emergency declarations) as well as signing into law the Pechanga water rights settlement (of which Zinke signed the implementation). Reflecting the bipartisan support that tribal issues can engender, Zinke finalized Secretary Sally Jewell’s proposed rule for the use of inedible bird parts in the sale of handicrafts. And it was Obama who ensured tribal co-management of Bears Ears National Monument in his proclamation, which Trump reduced the size of by about 85 percent, which tribal leaders say was made without tribal consultation and is being sued by a coalition of all tribes in the area.

With these “accomplishments,” combined with the rest of the Trump administration’s record on Indian affairs, tribes are coming to feel that they are on their own with no choice but to turn to the courts and Congress to uphold trust and treaty responsibilities.

The bookends for this administration's first year are telling. 2017 opened with Trump showing the world just how quickly the pendulum can shift in the nation-to-nation relationship by pushing forward both the Dakota Access pipeline (DAPL) and the Keystone XL pipeline. The first year closed with the Bears Ears reduction which will now be fought in the courts for years to come.

Between the bookends of DAPL and Bears Ears, the Trump administration's actions included:

- Proposing to cut the Department of the Interior's Indian Affairs budget by more than \$300 million,
- Disregarding Executive Order 13647 and failing to host the annual White House Tribal Nations Conference,
- Suggesting an "off-ramp" for tribal sovereignty,
- Supporting the goals of H.R. 215, which would provide that trust land could be conveyed into restricted fee status,
- Proposing substantial amendments to the fee-to-trust regulations which the National Congress of American Indians has strongly opposed and asked the Interior department to "immediately withdraw and cease any efforts to amend the land into trust regulations,"
- Revising the Land Buy Back program to exclude the participation of 50 tribes that were scheduled to participate in the program, and
- Supporting the State of Oklahoma's assertion that boundaries of the Muscogee (Creek) Nation's Reservation was disestablished.

So what will 2018 bring under the Trump administration? Perhaps the most positive new development for tribes during this administration was not even highlighted in "Promises Made, Promises Kept." Congress passed and Trump signed into law H.R. 228, the Indian Employment, Training and Related Services Consolidation Act. Uniformly supported by Indian Country and Congress, the Administration took the right step by signing this bill into law to proactively foster economic development for tribes. The jury remains out on whether this an outlier or something to build upon.

After the administration's first year, two things are clear: First, elections matter, and second, Indian Country is prepared to ensure that this administration doesn't move tribes backward from the progress they accomplished over the past eight years. The question for the administration is whether the Interior department and other departments will take proactive steps to work with Indian Country to build upon successes like H.R. 228 and the HEARTH Act or will proactive measures only come after Congress has acted? Will the administration take regulatory action to promote tribal energy and economic development or will it continue to push a regulatory agenda opposed by the National Congress of American Indians and tribes across the United States?

There is much to be done to promote safer communities and to ensure a brighter future for Native American youth. Tribes have proven that if an administration works with them, positive progress can be achieved nation-to-nation. However, tribes have also proven that they will invest in professionals if the courts and Congress are the only avenues to ensure that the United States upholds its treaty and trust responsibilities. As we open the new year, tribes will hope for the former but prepare for the latter.

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