

Malcolm Wiener Center for Social Policy

*Governmental Policies Promoting Management of Wildlife and
Wildlife-Based Recreation on American Indian Reservations*

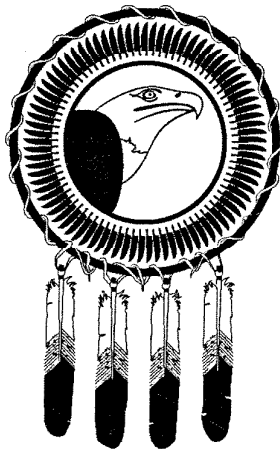
*A Report to the following tribes: Crow, Flathead, Hualapai,
Northern Cheyenne, Rosebud Sioux, San Carlos Apache,
White Mountain Apache, Yakima*

by

Timothy J Pearson

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Harvard Project on
American Indian Economic Development
John F. Kennedy School of Government
Harvard University

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EXECUTIVE SUMMARY

This Policy Analysis Exercise (PAE) is designed to assist the Harvard Project on American Indian Economic Development and affiliated Indian tribes think through the process of establishing wildlife management programs on American Indian reservations. Since 1983 when the U.S. Supreme Court ruled in New Mexico v. Mescalero Apache Tribe (103 S. Ct. 2378) that state fish and game regulations do not apply on tribally owned reservation land, American Indian tribes have wrestled with the decision of wildlife management. The fundamental decision of whether or not to exercise tribal authority over wildlife management rests with the Tribal Council. In the absence of tribal management the resource is open to depletion and abuse. Only in those rare instances where the abuse of wildlife resource damages the interests of other tribes sharing the same reservation is the Federal Government willing to exercise its own wildlife management authority.

The decision of whether or not to exercise wildlife management authority remains a significant issue for many Indian tribes. How to implement the management decision once it is made is also an issue. 180 American Indian tribes and communities possess fish, wildlife and outdoor recreation potential according to the BIA in 1986:

- o CODES: 54 tribes still need fish and game codes.
- o REGULATIONS: 57 tribes have not yet implemented tribal hunting regulations.
- o CONSERVATION ENFORCEMENT: 63 tribes still need conservation enforcement programs.
- o STAFF: There is only 1 full-time wildlife biologist for every 4 reservations that have fish and game codes. This means there are only 22 full-time tribal wildlife biologists nationwide. There are 74 full-time fish biologists, slightly less than 1 per tribe with a fish and game code.

- o EXPENDITURES: \$4.7 million dollars were spend nationally by tribes for tribal fish, wildlife and outdoor recreation programs or only \$51,359 per tribe with a fish and game code.

However, these statistics reveal only part of the picture. In 1988 two of the most successful tribes were able to generate net accounting revenues of \$221,454 on gross revenues of \$1,463,700, but many other tribes are far less successful. Conflict between two tribes and unchecked herd depletion led the Federal government to impose a temporary game code on the Wind River Reservation in 1984, a situation which still continues, but no one keeps record of the costs incurred by other instances of herd depletion and habitat damage.

This PAE presents two frameworks for making the decision whether or not a tribe should exercise its wildlife management authority. The first framework uses cost/benefit analysis to determine if the economic benefits exceeded the economic benefits. Costs would include: capital, operations and maintenance, salaries, advertising, dealer commissions and guide fees. Benefits would include: permit revenues from hunting, fishing and camping, the value of use in the future, the value of traditional subsistence use and religious values.

Since it is extremely difficult to quantify cultural and religious values in a cost/benefit framework, a second framework is proposed using four criteria:

Biologic:

- o Will the decision stabilize the wildlife population while protecting habitat?

Economic:

- o Will the decision permit the tribe to capture revenue that otherwise would be lost to the tribe?

Cultural:

- o Will the decision preserve tribal values, i.e. protect subsistence food resources and prevent the non-hunting of culturally valued species?

Political:

- o Will the decision further the political interests of the tribe as it deals with the Federal and State governments and special interest groups like environmentalists?

I recommend that tribes exercise tribal authority over wildlife

management since the advantages outweigh the disadvantages:

ADVANTAGES:

- o Biologic: Enforcement measures can prevent overharvesting of wildlife resources.
- o Economic: Revenues can be captured that would otherwise be lost.
- o Cultural: Tribal values can be preserved.
- o Political: Tribal autonomy will be enhanced.

DISADVANTAGES:

- o Economic: The tribe may have to subsidize wildlife management.
- o Cultural: The need to regulate hunting will restrict people's freedom to hunt what and when they please.

Implementing tribal wildlife management requires that the Tribal Council create two new institutions, a Fish and Game Commission and a Fish and Game Department. I recommend that the Tribal Council leave all policy decisions up to an elected/appointed Fish and Game Commission in order to shield sensitive fish and game regulations from Tribal Council politics.

Managing wildlife resources requires working through these points:

1. TRIBAL COUNCIL:

- o Raise the Issue
- o Gather Information
 - Select Staff/Consultant to write a Decision Paper
 - Part 1: Resource Inventory
 - Part 2: Feasibility Study
- o Make the Decision
 - Tribal Council Meeting(s)
- o Draft Legislation
 - Decide if the Tribal Council or a Fish & Game Commission should set Fish and Game Policy.
 - Tribal Council Subcommittee/Staff:
 - o Draft Wildlife & Recreation Code
 - o Propose Budget covering Start-up Costs
- o Pass the Wildlife & Recreation Code

Note: The Fish and Game Commission could draft the Wildlife and Recreation Code and budget, but this should still be passed by the Tribal Council since it should have the force of law.

- o Review and approve annual report and budget of the Fish and Game Commission

2. FISH AND GAME COMMISSION

- o Begin search for Director of the Fish and Game Department
- o Interview and hire the Director
- o Place Temporary Regulations on Hunting and Fishing
- o Review and submit Annual Report and Budget to the Tribal Council
- o Approve Hunting and Fishing Regulations on an Annual Basis
 - Bag Limits
 - Hunting and Fishing Seasons
 - Permit Fees
- o Approve Species-Specific Management Plans
- o Approve Comprehensive Management Plan

3. FISH AND GAME DEPARTMENT

- o Hire Staff
- o Conduct Wildlife Inventories
- o Train Conservation Officers
- o Develop Information for Management Plans: Hunting & Fishing
 - Species Specific Management Plan, i.e. Elk
 - Comprehensive Management Plan -- all species
- o Review Hunting and Fishing Regulations on an Annual Basis
- o Create a Marketing Strategy:
 - Target the Market: General/Upper Income
 - Set Prices
 - Develop Advertising
 - o Conventions
 - o Magazines/Newsletters
 - Use Value-Added options
 - o Package hunts
 - Train Guides

- o Foster Good Public Relations
 - Informal Contacts
 - Booth at Tribal Fair
 - Wildlife Week in Schools
 - Hunter Education Program
 - Summer Youth Camp Sessions

- o Resolve Jurisdictional Issues:
 - Intertribal - migrating herds
 - Tribal/State - Checkerboarding/Fee Lands

- o Discuss Cultural Questions

- o Explore Federal/Private Funding
 - Federal: 638 Contract Funds
 - Federal: Dingell-Johnson (Fishing)
Pittman-Robertson (Hunting)
 - Private: Big Game Foundations

- o Join Intertribal Organizations
 - Native American Fish and Wildlife Society

- o Submit Annual Report/Budget to the Fish and Game Commission

- o Develop a Comprehensive Management Plan

Finally, no matter what management goals a tribe sets for itself, three factors remain crucial to the success of tribal wildlife management:

o ENFORCEMENT OF WILDLIFE REGULATIONS:

First, regulations must be enforced just as strictly for tribal members as for nontribal members. Second, regulations passed by the Fish and Game Commission must be enforced by the Tribal Council. These points are crucial to efforts to develop a professional Fish and Game Department capable of protecting the resource from over-harvesting.

o EDUCATION OF TRIBAL MEMBERS AND INSTITUTIONS:

It is strategically important that the Tribal Council should be briefed on key and controversial policy decisions. The Director of the Fish and Game Department must also insure that Commission members are kept fully informed of the reasons for proposed regulations and policy decisions.

o EXPERTISE IN WILDLIFE MANAGEMENT:

The tribe needs a combination of professionally trained biologists, marketing savvy and experienced guides. These factors, together with a valuable natural resource, can enable a tribe to define its own market niche and establish a base of satisfied clients who will return year after year.

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1.0 INTRODUCTION

An estimated 180 Indian tribes and communities in the United States possess fish, wildlife and outdoor recreation potential. (1) Of these, 54 tribes need, but lack, fish and game codes and the status of 48 others is unknown. 63 need on-reservation conservation enforcement programs. (2) Even those tribes which do have fish and game codes and conservation programs have not always used their wildlife resources productively. Because the development of wildlife resources can protect wildlife from depletion or habitat destruction while also providing revenue and jobs, the Harvard Project on American Indian Economic Development is interested in assisting tribes think through the decision to manage their renewable wildlife resources. Because of the historical dependence of tribes on wildlife, this decision often has cultural implications as well.

The first part of the paper develops two frameworks for decisionmaking, since a sound decision is just as important as technical expertise, funding and political will. I propose two frameworks for decisionmaking. The first is a cost/benefit option based on cost/benefit analysis using net present value (NPV) as the deciding factor. The second option uses four decision factors: biologic, economic, political and cultural. Both frameworks are discussed. However, due to incomplete economic information, the second option is used to make the decision of whether a tribe should manage wildlife resources on the reservation.

The second part of the paper discusses implementation issues while outlining the process of establishing wildlife management. The process moves first through information gathering; second, decisionmaking by the Tribal Council; third, writing a Fish and Game Code; fourth, setting up a Fish and Game Commission, and fifth, creating a Fish and Game Department.

The final section of the paper discusses factors which are critical

to the success of tribal wildlife management. These include: enforcement of wildlife regulations, education of tribal members and institutions and expertise in wildlife management.

Of course, many tribes already possess wildlife management programs and these tribes possess a rich source of expertise that can guide tribes that deciding if they should begin management programs or that wish to improve existing programs. For this reason, I draw heavily on the experiences of eight tribes that have worked closely with the Harvard Project in the past:

CROW:	Crow Agency, Montana
FLATHEAD:	Pablo, Montana
HUALAPAI:	Peach Springs, Arizona
NORTHERN CHEYENNE:	Lamedeer, Montana
ROSEBUD SOUIX:	Rosebud, South Dakota
SAN CARLOS APACHE:	San Carlos, Arizona
WHITE MOUNTAIN APACHE:	Whiteriver, Arizona
YAKIMA:	Toppenish, Washington

Such a diverse data base permits one to present the results of decisions varying both according to the quality of wildlife resources and the tribe's management goals.

2.0 A BRIEF HISTORY OF WILDLIFE MANAGEMENT ON INDIAN RESERVATIONS:

Although wildlife have traditionally provided American Indians with food and shelter, not until 1934 did the Navajo Tribe become one of the first tribes to pass regulations protecting wildlife on their reservation. Still, modern fishery and wildlife management techniques did not develop until the mid-1950s. At that time the U.S. Fish and Wildlife Service (FWS) began a program to provide fisheries assistance to reservations. A smaller wildlife program was introduced by the FWS in 1968. The programs were free and the FWS was the primary agency responsible for program delivery.

In 1975 Congress passed the Indian Self-Determination and Education

Act and encouraged tribes to direct their own affairs. At the same time the Department of Interior (DOI) clarified the roles of the FWS and the BIA, stipulating that the responsibility and authority of management programs rested with the BIA. However, from 1971-1979 50 FWS fish and/or wildlife biologists continued to provide technical assistance to the tribes. During the 1970's the BIA placed fish and wildlife under the BIA Land and Water Division (once known as Land Operations).

1980 brought about a major change in wildlife management on Indian reservations. First, the BIA created a Division of Fish, Wildlife and Recreation within the Office of Trust Responsibilities which gave the BIA for the first time a Division with primary responsibility for fish and wildlife management. Second, the FWS adopted a policy statement clarifying that "it is the inherent right and responsibility of Indian tribes to make decisions on the use of these resources." (3) In 1981 the FWS adopted its "Guidelines for Implementing Service Policy for Fish and Wildlife Assistance to Indians" which stated that the role of FWS was to assist Indian tribes and the BIA by providing technical advice and support. The FWS then eliminated the wildlife assistance program and reduced the fisheries assistance program. (4)

Thus over time the Federal Government's role has gradually shifted from "guardian" to "mentor." This is due in part to efforts by tribes to expand tribal autonomy over fish and wildlife resources. Tribes filed numerous lawsuits to clarify points of law and several came before the U.S. Supreme Court. (Puyallup Tribe v. Wash. Department of Fish and Game, (1970); U.S. v. Jackson (1979); and New Mexico v. Mescalero Apache Tribe, 103 S. Ct. 2378 (1983).) Such cases have also halted most efforts of state game and fish departments to regulate wildlife on reservations.

The Bureau of Indian Affairs (BIA) retains administrative authority

over the reservations in keeping with its trust responsibility, but the BIA provides contract consulting and funding to the tribes. Specifically in the case of natural resources, Federal policy is:

Tribal governments have the responsibility to determine the extent and methods of developing the tribe's natural resources. The federal government's responsibility should not be used to hinder tribes from taking advantage of economic development opportunities. (5)

The BIA's Division of Fish, Wildlife and Recreation takes lead responsibility for the provision of contract consulting and funding. The Division's FY 1989 budget was \$26.7 million and its FY 1990 Budget Request is \$23.3 million.

It is important to note that the BIA does not manage wildlife in the absence of tribal management nor does any other Federal agency. The BIA provides contract consulting only at the request of a tribe and even then, subject to the availability of funds. The absence of tribal wildlife management means the absence of all management.

3.0 THE POLICY DECISION: SHOULD INDIAN TRIBES MANAGE THEIR WILDLIFE RESOURCES?

Since 1975, when the Federal Government announced a policy supporting Indian autonomy and particularly since the Mescalero decision in 1983, American Indian tribes have confronted a natural resource policy decision:

POLICY DECISION: Should Indian tribes assert authority over the management of wildlife resources on their reservations?

Of course, the decision raises issues of process:

- o How should the decision be made?
- o What are the criteria for deciding?
- o What are other relevant factors that should be considered?

Proposed answers raise issues of outcome:

1. ANSWER: YES. Tribes should assert authority over wildlife management.
 - o What are the benefits/costa to the tribe?
 - o What steps does a tribe need to take to implement such a decision successfully?
 - o What are the criteria for success?

2. ANSWER: NO. Tribes should not assert authority over wildlife management.
 - o Who then will manage the wildlife resources?
 - o What are the benefits/costa to the tribe?

Despite the passage of 14 years, this policy decision is still not resolved. In fact, it continues because the assertion of authority is not a single act, but the evolving result of numerous decisions on the part of the tribe and the Federal government. The U.S Congress passed the Indian Self-Determination and Educational Assistance Act of 1975 and aggressively independent tribes have fought Supreme Court battles such as New Mexico v. Mescalero Apache Tribe (1983). The result is a gradual broadening of the definition of autonomy for all tribes.

3.1 THE POLICY CONTEXT:

However, not all tribes have taken advantage of the autonomy legally available to them nor have all tribe sought aggressively to expand autonomy. A few relevant facts will help to illustrate the spectrum of tribal autonomy in wildlife management. In calendar year 1986, according preliminary data collected by the BIA's Fish, Wildlife and Recreation Program (7), 204 Indian reservations in the nation had:

CODES/REGULATIONS

- o 46% (93) of the tribes have fish and game codes.
- o 26% (54) of the tribes still need fish and game codes.
- o 28% (57) of the tribes need tribal hunting regulations.
- o 26% (54) of the tribes need public hunting regulations.

CONSERVATION ENFORCEMENT

- o 44% (90) of the tribes have on-reservation conservation enforcement (CE) programs.

- o 31% (63) of the tribes need conservation enforcement programs.
- o 285 full and part-time conservation enforcement officers work on the reservations or on average there are 3 full and part-time CE officers for each of the 90 reservations that have CE programs.
- o On average \$14,444 was spent for conservation enforcement by each of the tribes with CE programs. (See Appendix 1)

STAFF

- o 22 full-time wildlife biologists work on reservations or there is 1 full-time wildlife biologist for every 4 reservations that have fish and game codes.
- o 74 full-time fish biologists work on reservations or 1 full-time fish biologist for every 1.25 reservations that have fish and game codes. (See Appendix 2)

EXPENDITURES OF TRIBAL FUNDS FOR FISH, WILDLIFE AND RECREATION

- o \$4.7 million dollars were spend nationally by tribes for tribal fish, wildlife and outdoor recreation programs or only \$51,359 per tribe with a fish and game code. (See Appendix 3)

COMPREHENSIVE MANAGEMENT PLANS

- o In the absence of tribal initiative the BIA does not develop a comprehensive management plan as part of its trust responsibility.
- o A survey of 6 tribes participating in this project indicates that none have comprehensive management plans integrating the management of wildlife resources with other natural resources of the tribes.

SPECIES MANAGEMENT PLANS

- o In some instances, when tribes have notably valuable big game resources, the BIA has encouraged tribes to develop a management plan for that species. When the tribe lacks a staff biologist, the tribe must pay for a consultant to develop a plan.
- o Tribes usually develop game management plans for big game animals such as elk and Big Horn Sheep after they are heavily using the resource for sports hunting.
- o Tribes rarely have game management plans for game such as mule deer and antelope which they have historically used for food. Hunting regulations for such game, if they exist, are usually quite generous.

MARKETING PLANS

- o Marketing plans rarely exist and are generally ad hoc and unwritten. Prices for big game hunts are usually determined on the basis of historical practice.
- o In one instance, a tribe was able to increase big game fees in a single year from \$2000 to \$18,000 per hunt after hiring a game consultant familiar with the market.

Rarely does the absence of tribal wildlife management result in

Federal intervention. Wildlife can simply be used by tribal members when and as they see fit, even if stocks of game and fish are depleted.

However, in one case unique intertribal conflict in the absence of tribal

management led to the BIA's direct intervention.

ANECDOTE: In 1984, the BIA imposed a temporary game code on the Arapaho and Shoshone tribes which share the 2.2 million acre Wind River Indian Reservation. Rival tribal governments were unable to agree on a game code and unrestricted hunting severely affected the numbers of big game on the reservation. (NYT, 11/25/84)

As of March 1989, the dispute is still not resolved and the Federal Game Code remains in effect.

3.2 A POLITICAL QUESTION: CAN INDIAN TRIBES COMPETENTLY MANAGE WILDLIFE RESOURCES?

Not surprisingly, the issue of Indian management of wildlife has resulted in criticism from private hunting and fishing groups, environmentalists and the states, all of which have seen their perogatives curtailed.

ANECDOTE: In 1986, Sports Afield ran an article by Larry Van Goethem #1 Wisconsin entitled "Indian Rights: A Conservation Crisis." Van Goethem's case histories include Arizona where "The state says it has lost control of elk migrations as a result of a 1981 ruling that the state can't regulate hunting on Apache Reservation land." (Sports Afield, Nov. 1986, p. 59ff).

ANECDOTE: In 1974, The New York Times ran an editorial charging that the #2 hunting lobby was behind efforts to grant the Havasupai Indian tribe trust title to 185,000 acres of the Grand Canyon in an attempt to "virtually declare open season" on the area's Desert Bighorn sheep. (NYT, 12/18/74, p. 44.)

It is unnecessary to list all attacks on the competency of Indian tribes to manage wildlife resources, and it is quite impossible to verify their accuracy. In some cases, such as the Wind River Reservation the BIA itself found that the lack of management required intervention, but does that mean that tribes are incapable of managing their wildlife? In the case of these two anecdotes, there are answers which shed light on the management ability of tribes.

3.2.1 REPLY TO SPORTS AFIELD: THE WHITE MOUNTAIN APACHE TRIBE

While state wildlife managers may bemoan the loss of controlling elk migrations, they might also want to note the successes of Apache

wildlife managers. The State of Arizona distributes 1700 elk permits by lottery at a fee of \$60 per permit. However, the White Mountain Apache sell 46 trophy-only bull elk permits at a price of \$10,000 per hunter. Not only is there two year waiting list, but hunters have a 90% success rate and the average White Mountain elk scores over 340 on the "Boone and Crocket" scale as compared with 50-70 points for Colorado and 275 for the private Vermejo hunting ranch.

By biologic measures, White Mountain elk management is also impressive. The population growth has steadily increased; more and larger males are found in the herd than among publicly owned herds and pregnancy rates are higher. Overgrazing of the range has also been prevented.

Unlike public management, the private management incentives of the White Mountain Apaches result in an emphasis on quality and the preservation of elk habitat. Logging roads on the reservation are generally single track and ungraveled and must be reseeded at the end of logging activity. Unlike the policy in the National Forests, spring calving areas are protected from all travel.

The end result of private management incentives is not only to the benefit of the tribe, but also to consumers who value high quality outdoor recreation and are willing to pay for it. (8)

3.2.2 REPLY TO THE NEW YORK TIMES: THE HAVASUPAI AND HUALAPAI TRIBES

In its editorial, The New York Times assumed that the Havasupai tribe would be pawns in the hands of the "hunting lobby" seeking to declare open season on the Grand Canyon's Desert Bighorn sheep. Had the Times done further background research they would have found that not all Indians hold the same profit maximizing values as non-Indians. As a case in point, the Havasupai tribe considers Desert Bighorn Sheep to be sacred and so tribal members don't hunt the animals. They don't allow non-tribal

members to hunt them either.

But tribes are just as different among themselves as individuals are, and what if a tribal council made the policy decision that permitting hunting would be in the best interests of the tribe? Can it still be assumed that tribes would be pawns of the hunting lobby?

The decision to allow Desert Bighorn sheep hunting was made by the Hualapai who are the next door neighbors of the Havasupai and who hold prime Desert Bighorn habitat along 108 miles of the Grand Canyon's south rim. The Hualapai point out that one tribe cannot be judged by the traditions of another tribe and that they inherit a tradition of values which permits hunting of Desert Bighorn sheep. The tribe sells 6 ram permits a year and is able to command a price of \$18,000 per hunter. Hunters are permitted only one hunt in a lifetime. By contrast, the State of Arizona sells resident permits for approximately \$180 and nonresident permits for \$850.

The largest curl taken on the Hualapai Reservation was 178, with 169 required to be entered in the Arizona State record book. Herd size remains constant and the tribe has put considerable effort into improving habitat by upgrading natural watering holes and catchment basins.

Once again, by investing property rights with the tribes, private management incentives have resulted in habitat protection and improvement. The population remains healthy and stable, and the fears of The New York Times notwithstanding, the Havasupai and Hualapai tribes both have proven to be competent protectors of the Desert Bighorn sheep while making differing decisions based on tribal values. (9)

4.0 METHODS OF DECISION-MAKING

So, how should a tribe should decide to assert authority over wildlife management? Furthermore, what are the criteria for evaluating

success and failure? Two decision-making options are possible candidates. One uses cost/benefit analysis and the other uses four decision criteria. Both options have appealing strengths.

4.1 DECISION OPTION ONE: COST/BENEFIT ANALYSIS

Cost/benefit analysis would permit tribal decision makers frame their decision in dollar terms. In other words, tribal authority should be asserted if there are discounted net profits from providing tribal wildlife management. When costs exceed benefits, tribal management should not be exercised:

Table 1. Costs/Benefit Analysis

<u>COSTS</u>	<u>BENEFITS</u>
o Capital: Land	o Hunting permit revenue
Buildings	o Fishing permit revenue
Vehicles	o Camping permit revenues
o Operations and Maintenance	o Future Use Value
o Salaries*	o Traditional Use Value*
o Advertising	o Religious value
o Dealer commissions	
o Guide Fees*	

Note: *Salaries and Guide fees would be considered economic costs unless there were no alternative employment for the tribal members employed, then these categories would be benefits. Traditional Use Value would be considered an economic benefit unless it led to herd depletion and habitat degradation, in which case it would be a cost.

However there are serious difficulties in applying such an framework to this decision:

Applying dollar values to all factors:

- o It is exceedingly difficult to put a dollar value on the cultural value derived by a tribe by not hunting Bighorn sheep because they are sacred.
- o It is also difficult to put a dollar value on the political value of tribal sovereignty, i.e. pride, self-respect, and respect of peers and other governmental agencies.

Implementing a cost/benefit analysis:

- o Even if a cost/benefit framework could be formulated, it would have to be varied according to the context of individual tribes and there is not enough information available to do so for the 8 tribes participating in this project.

These factors make it extremely difficult to use the cost/benefit model for this policy decision. However, this is not to suggest that tribes should not or cannot use cost/benefit analysis when making management decisions in such areas as habitat improvement or marketing.

4.2 DECISION OPTION #2: FOUR CRITERIA

This framework recognizes that the policy decision consists of a mix of criteria involving values that cannot always be measured in dollar terms. Only a tribal council can make the policy decision, but a recommendation can be made on the basis of the following points:

Biologic:

- o Will the decision stabilize the wildlife population while protecting habitat?

Economic:

- o Will the decision permit the tribe to capture revenue that otherwise would be lost to the tribe?

Cultural:

- o Will the decision preserve tribal values, i.e. protect subsistence food resources and prevent the non-hunting of culturally valued species?

Political:

- o Will the decision further the political interests of the tribe as it deals with the Federal and State governments and special interest groups like environmentalists?

5.0 PROPOSED ANSWERS:

5.1 THE BEST ANSWER: TRIBAL MANAGEMENT

I recommend that tribes manage wildlife resources found on their reservations. In my judgment, the advantages outweigh the disadvantages:

ADVANTAGES:

- o **Biologic:** Enforcement measures can prevent overharvesting of wildlife resources.
EVIDENCE: The presence of White Mountain Apache conservation officers permits the tribe to protect and keep its elk herd numbers stable.
- o **Economic:** Revenues can be captured that would otherwise be lost.
EVIDENCE: The Hualapai tribe now charges \$18,000 per

Bighorn sheep permit. The White Mountain Apache tribe charges \$10,000 per elk permit.

- o Cultural: Tribal values can be preserved.
EVIDENCE: The Yakima tribe restricts elk hunting because the tribe considers them to be culturally valuable.
- o Political: Tribal autonomy will be enhanced.
EVIDENCE: The U.S. Supreme Court relied heavily on the fact that the Mescalero Apache tribe had its own wildlife management program when it decided the case New Mexico v. Mescalero Apache Tribe (1983). The Court overturned state management of wildlife on Indian reservations and gave jurisdiction to the tribes.

DISADVANTAGES:

- o Economic: The tribe may have to subsidize wildlife management.
EVIDENCE: Although the White Mountain Recreation Enterprise is now profitable, from 1983 to 1985 the Enterprise operated at a loss.
- o Cultural: The need to regulate hunting will restrict people's freedom to hunt what and when they please.
EVIDENCE: In 1971 the Hualapai tribe decided not to regulate mule deer hunting because it would limit the members' traditional hunting freedom.

5.2 THE ALTERNATIVE: NON-MANAGEMENT

If the tribe chooses not to assert authority over the wildlife resources found on the reservation, this decision will also have consequences. Since the Federal government will not step in to manage the resource in the absence of tribal management, the resource will be left untapped and subject to exploitation by individual.

6.0 THE TRIBAL COUNCIL: IMPLEMENTING TRIBAL MANAGEMENT

If the tribe wishes to consider the exercising its right to assert tribal autonomy over wildlife resources, the following steps should be taken. The outline draws on the successes and failures of tribes which have had experience in the field of wildlife management. A rough timeline is provided to give a sense of the scale of the undertaking. (Appendix 5)

6.1 GATHERING INFORMATION

6.1.1 Select staff/consultant to write a Decision Paper TIME: 2-4 Months

Tribal wildlife management can serve the objectives of profit-making or the preservation of a lifestyle, but the decision of whether or not a tribe should manage wildlife resources on the reservation depends on the situation of the tribe. The tribal council will generally know what wildlife resources are present on the reservation, but the question of what options are available to use those resources is usually less clear. Answering the initial questions of "What resources are available?" and "How can we use them?" requires the collection of basic information.

Research can be conducted in-house if the tribe has a planner on staff or a consultant with a background in wildlife management could be contracted. The tribe will have to decide how detailed they can afford the information to be. Conducting counts of elk or other species, for example, will involve the expense of flight time.

6.1.2 Staff/Consultant: The content of the Decision Paper TIME: 2-6 months

The Decision Paper should include two parts: a resource inventory and a feasibility study.

Part 1: The resource inventory:

This should list the species and numbers of wildlife on the reservation. Not all species and numbers need to be listed, but rather attention should be paid to those animals which are economically and culturally valuable or endangered. The more detailed the information, the better the decision the tribe can make. The information, if available, should include:

- o species
- o male/female ratio
- o historical/projected population growth
- o habitat location

Part 2: The feasibility study:

This should indicate the specific advantages and disadvantages of wildlife management for the tribe:

Biologic:

- o Will the decision stabilize the wildlife population while protecting habitat?
- o Specifically, what species are or have been overharvested?
- o Are species damaging habitat if the tribe is not harvesting them?
- o If there are species that the tribe has overharvested, is it possible for replacement animals to be transplanted under tribal management?

Economic:

- o Will tribal management permit the tribe to capture revenue that otherwise would be lost to the tribe?
- o What are the projected discounted economic benefits derived from hunting and fishing permits, big game hunts, camping permits, and tribal use of the resources? Economic benefits are not the same as profit, but rather the dollar value of the benefits derived from use of the resource whether or not a person pays for it. Thus the true dollar benefit of tribal members who subsistence hunt for food should be estimated if possible. This should be discounted in order to conduct a cost/benefit analysis. The value of created jobs such as conservation officers should only be counted if these individuals would otherwise be unemployed.
- o What are the projected discounted economic costs? These are salaries of conservation officers, wildlife biologists or consultants and support staff. Capital costs, i.e. office space and vehicles, and operating costs, should also be estimated.
- o When conducting a cost/benefit analysis it should be remembered that this is only part of the information to be considered by the Tribal Council. Cultural values are extremely difficult to attach dollar figures to. The cost/benefit analysis should be performed using all factors that can be quantified, but this is only for informational purposes. Cultural values such as preserving a species that the tribe values, could well justify subsidizing a Fish and Game Department where there is a discounted net economic loss.

Cultural:

- o Will the decision preserve tribal values, i.e. protect subsistence food resources and prevent the non-hunting of culturally valued species?

Political:

- o Will the decision further the political interests of the tribe as it deals with the Federal and State governments and special interest groups like environmentalists?

Besides the dual options of management or no management, it may prove helpful if the feasibility study provides a range of staffing alternatives.

6.2 MAKING THE DECISION: Action by the Tribal Council
TIME: 1-2 months

Once the tribal council receives the completed Decision Paper, the Council should permit sufficient time for consideration of the document by tribal members. As discussed, the following criteria should be part of what will be a political decision:

Biologic:

- o Will the decision stabilize the wildlife population while protecting habitat?

Economic:

- o Will the decision permit the tribe to capture revenue that otherwise would be not be created?

Cultural:

- o Will the decision preserve tribal values, i.e. food resources, hunting/non-hunting of culturally significant species?

Political:

- o Will the decision further the political interests of the tribe?

If the Council decides against managing wildlife, the discussion ends, at least for the moment. However, if the decision is positive, successful implementation is the most difficult step.

6.3 IMPLEMENTING THE DECISION:

6.3.1 The Tribal Council: Establishing a Fish and Game Commission

At this point the Tribal Council must make a significant policy decision. Should the Tribal Council make policy decisions over wildlife management or should a Fish and Game Commission be established to make such decisions?

Option #1: Tribal Council management

If the Tribal Council makes all policy decisions, the Wildlife Director will be responsible for reporting directly to the Council. This option has two serious disadvantages. First, the Council will be tempted to play politics with the management of wildlife resources. Because Council members have more political objectives than just biologically sound management they are susceptible to political pressure from many sources. Second, Council members lack the time necessary to learn about wildlife management and thus the knowledge with which to

respond to constituent pressure. As a result, unrestricted hunting of wildlife could result.

ANECDOTE: In 1971, the Hualapai tribe had 4000 antelope on the reservation when the Tribal Council took over wildlife management. The wildlife director asked for permission to limit unrestricted tribal hunting, but the Council refused saying that tribal members had always hunted mule deer at will. In 1988, there were 27 mule deer on the reservation.

Option #2: Fish and Game Commission management

Creation of a Fish and Game Commission will not guarantee biologically sound wildlife management nor will it keep politics out of the decision-making process. However, a Commission separate from the Council and possessing the authority to make final decisions on the regulation of wildlife use will have fewer competing political interests and more time to learn management principles.

ANECDOTE: The San Carlos Apache tribe recently appointed new members to its Fish and Game Commission. The new Commission hired a director and biologists and created new regulations for the hunting seasons and bag limits. When tribal members complained to the Tribal Council about the new restrictions, and asked that the Council overturn the Commission's decision, the Tribal Council refused saying that only the Commission had the expertise to make such decisions.

If the Tribal Council decides to create a Fish and Game Commission, it can have the necessary legislation drafted by either staff members or a Subcommittee. A suggested option is to have a Subcommittee draft the legislation with the assistance of staff. A Subcommittee is likely to be sensitive to important political issues and will have greater political base from which to defend compromises and decisions made during the drafting process.

6.3.2 Drafting the Wildlife and Recreation Code
TIME: 2 months

The Wildlife and Recreation Code should address:

1. Commission membership: Commission members may be either elected

from districts or appointed by the Council. The term of office, such as three years, should also be designated.

2. Responsibilities: The responsibility of the Commission is broadly to oversee management of fish and game. This includes setting hunting and fishing regulations, seasons and bag limits; hiring the Director of the Fish and Game Department; investigating complaints concerning the destruction of wildlife; establishing game management units or refuges and overseeing fish hatcheries and game programs. The Commission should also draw up the the department's budget for submission to the Council and have the power to enter into agreements with the Federal and State governments and private organizations with the approval of the Council.

3. Authority: The autonomy of the Commission is a politically sensitive issue, but the document should make it clear that the Commission possesses final authority regarding hunting and fishing regulations, seasons and bag limits.

4. Licenses: The form and content of licenses should be indicated as well as standards of eligibility. Classes of licenses by species should be listed as well as penalties for the abuse of licenses.

5. The taking, transportation and disposition of game: This category covers issues of how animals shall be hunted or fished, unlawful hunting devices, the introduction of foreign wildlife and the removal of nuisance wildlife.

6. Recreation opportunities: Details regulations covering camping fees and day visits to the reservation.

7. Violations and Enforcement: Covers procedures and penalties for violations of the Wildlife and Recreation Code.

8. Wildlife Director: The responsibilities of the Director of the Fish and Game Department should be outlined. This individual should be

responsible for staffing decisions and accountable to the Fish and Game Commission.

9. Fiscal Provisions: Specifies that revenues generated from permits and hunts are placed in the General Fund. Expenditures are approved by the Council in the form of an annual budget submitted by the Fish and Game Commission.

Non-tribal Resource Users: The question of whether or not non-tribal members should be permitted to use tribal resources should be considered at this point. The Subcommittee's recommended legislation will be affected by this decision. Possible restrictions:

- o Placing a total ban on the use of tribal resources by non-members.
- o Permitting hunting and fishing only with a guide.
- o Restricting certain areas of the reservation to the use of tribal members only.

Such decisions could be made on the criteria of preserving cultural values or simply to provide tribal members uncongested areas to hunt and fish.

The Subcommittee and the Council may decide in the interest of time that this policy decision should be left up to the Fish and Game Commission.

Research sources: The San Carlos Apache tribe has drafted a Wildlife and Recreation Code that can be adapted to the specific needs of a tribe. The document is available on request.

Initial Budget: The Subcommittee should also draft and submit a proposed operating budget that will cover the Commission and Department's start-up expenses, i.e. personnel searches and office space. This is a key element of the decision since it involves making initial decision about how quickly and how many fish and game biologists, conservation officers and support staff will be hired.

6.3.3 The Tribal Council: Passing the Legislation
TIME: 1 month

Once the Subcommittee reports its proposed legislation, the Tribal Council must:

- o Pass the Wildlife and Recreation legislation creating the Fish and Game Commission.
TIME: 1 month
- o Pass initial operating budget for the Fish and Game Dept.
TIME: 1 month
- o Appoint or elect members to the Fish and Game Commission.
TIME: 2 months

7.0 THE FISH AND GAME COMMISSION: GETTING STARTED

7.1 Search for and hire Director of the Fish and Game Department:
TIMELINE: MONTHS 1-2+

This should be the first priority of the Commission, since the Director should make or be closely involved with all further staffing decisions. The Commission will also want to consider whether hiring an Indian or a non-Indian for this position is an issue. Such a decision will depend on the availability of qualified individuals and the needs of the tribe.

7.2. Place temporary regulations on all hunting and fishing
TIMELINE: MONTHS 1-2

In the absence of detailed biological information from the Fish and Game Department, the Commission will have to pass temporary hunting and fishing regulations on the recommendation of the Director. An argument can be made that all hunting and fishing should be halted until the Department is staffed and can assess the appropriate level of resource use. Halting all use would permit the Department to establish a baseline number of animals, but such decision is likely to run into political opposition. It may be advisable for the Commission to delay such political battles until such time as it has the staff and information to make the case for unpopular restrictions.

In the face of political opposition, an alternative is to place restrictions only on those animals which are not heavily used by the

tribe. Or in place of an outright ban, a reduced season and bag limit could be imposed.

8.0 THE FISH AND GAME DEPARTMENT: MANAGING FISH AND GAME

8.1 Hire staff:

TIMELINE: MONTHS 1-2+

The first issue facing a new Director is the hiring of staff. The initial operating budget passed by the tribal council will provide rough guidelines as to the number and types of positions to be filled. These include:

- o fish biologist(s)
- o game biologist(s)
- o conservation officers
- o technicians
- o secretaries

In some cases, limited funds may be available from the BIA Fish, Wildlife and Recreation Program office.

8.2 Conduct wildlife inventories

TIMELINE: Continuous

Once sufficient staff members are available, a wildlife inventory needs to be conducted, so that more permanent decisions regarding hunting and fishing regulations can be made. Priority should be placed on counting species that are economically or culturally valuable or endangered. Although inventory information from the feasibility study written for the Tribal Council will provide a starting point, it is unlikely to be specific enough for the purpose of writing regulations for season and bag limits. The information generated by the inventory should include:

- o numbers of animals
- o male/female ratio
- o age categories
- o pregnancy rates
- o comparison with available historical information
- o habitat boundaries

8.3 Develop Hunting and Fishing Regulations:

TIMELINE: During the first year and then on an annual basis.

Once the wildlife inventory is complete, the Department can make recommendations to the Commission regarding hunting and fishing regulations. This involves setting seasons and bag limits for both tribal and non-tribal members. Regulations should be clear, well-publicized and, in so far as possible, consistent from year to year.

Copies of tribal regulations should be mailed to all tribal members on an annual basis. Copies of public regulations should be available at all locations where public licenses are sold.

8.4 Train conservation officers:

TIMELINE: Continuous

Conservation officers are essential to preventing overharvesting and abuse of wildlife resource. The number of officers required will depend on the size of the reservation and the availability of funds.

Conservation officers should be given full law enforcement powers and tribes have traditionally sent officers to state law enforcement academies or the BIA Law enforcement academy for training. However, law enforcement academies generally do not offer training in conservation issues. Some tribes use the expertise of their wildlife biologists to train their officers in brief workshops. Since there is a growing need for the provision of conservation training, the Native American Fish and Wildlife Society is thinking of offering training sessions for interested tribes.

8.5 Develop information for management plans: game and fish species

TIMELINE: Continuous; annual review

A management plan is a document describing the history, goals and management practices of the Department for a specific species of wildlife. The document is useful because it contains all relevant management information for an individual species. It serves as a

reference document for Department personnel and can also justify funding requests made to governmental and private agencies. The document should contain:

- o management goals defined in terms of population and harvest levels
- o historical information on population changes
- o male/female ratios
- o age categories
- o pregnancy rates
- o harvest information by tribal and non-tribal members
- o comparisons with available historical information
- o habitat boundaries

Because of the tremendous amount of work that goes into creating such a document, priority should be given to species that possess high economic or cultural value to a tribe. Most tribes usually develop management plans after the species is being utilized. This is because management plans require so much time to develop. As long as there is sufficient information to avoid overharvesting or habitat damage, development of a management plan can be delayed until there is sufficient information or funding. Such plans may also be desired for endangered species.

8.6 Develop a Marketing Strategy:

TIMELINE: Continuous

The field of marketing includes pricing, advertising and value-added decisions.

8.6.1 Pricing Decisions:

The Department and Commission will be responsible for a variety of pricing decisions ranging from licenses to big game hunts. How to maximize the amount of revenue taken in by the tribe is one of the most difficult decisions confronted by the tribe.

ANECDOTE: The Hualapai tribe increased its revenue from Desert Bighorn sheep hunts from \$2,000 per hunt to \$18,000 per hunt after hiring an outfitter familiar with the market. The outfitter requested a 15% commission on all hunts. After learning from him for a year the tribe was able to end the contract and retain future commissions.

Important pricing criteria include:

- o What are the substitute markets? What do neighboring tribes and states charge for similar licenses, hunts and camping permits?
NOTE: Public auctions, such as for big game hunts may give an indication of demand, but such fees may only indicate what demand is after all other resources have been allocated.
- o How will the type of clients attracted by a certain price level affect future marketing?
EXAMPLE: The White Mountain Apache sell elk hunts at \$10,000 per hunt and when making their pricing decisions, carefully consider both the average age of the elk and the average age of the hunters. Elk hunting is quite strenuous and although it would be possible to charge more than \$10,000 a hunt, only older individuals are able to afford such fees. Older hunters have a lower success rate than younger hunters. A lower success rate affects the reputation and subsequently, the fees that a tribe's hunting program can command.

8.6.2 Develop Advertising Options:

Advertising options depend on the market niche a tribe is attempting to fill. Tribes focusing on the local public place great emphasis on local advertising in the media. Some tribes also market hunting and fishing licenses at local sporting goods stores located off the reservation.

Tribes which gear themselves to a national market or to a unique niche in the market advertise in a variety of locations including national hunting, fishing and recreation magazines. Tribes with big game animals also attend the national and regional conventions of such groups as the Desert Bighorn Foundation, the Rocky Mountain Elk Foundation and Safarai International. Repeat customers and word of mouth are also crucial to tribes marketing expensive hunts to wealthy clients.

8.6.3 Use Value-added Options:

Package hunts with guides, meals, transportation and lodging offer a significant means of increasing revenue from wildlife resources. It was the added value of package hunts that enabled the Hualapai to increase the Desert Bighorn sheep permits from \$2,000 to \$18,000 per hunt. It also increases the employment of tribal members. Members serving as guides

earn \$4,000 per hunt -- a major source of their annual income.

8.7 Foster Good Public Relations:

TIMELINE: Continuous

As soon as the Fish and Game Department is in operation, the Director and staff will have to concern themselves with the issue of public relations. The Department will first have to focus on educating tribal members as to why the Fish and Game Department was created. Second, time will also have to be spent informing people about specific fish and game regulations and justifying any controversial restrictions on wildlife that members have been accustomed to hunting as they wished.

Informal personal contacts with members of the public by departmental staff are key since older tribal members are unlikely to be persuaded by impersonal mailings or media advertisements. In at least one case where the Director was a member of the tribe and spoke the language, personal lobbying of influential members by the Director in their own language helped to build respect for the efforts of the Department.

Other means of building public awareness include:

- o Sponsoring a booth at the annual Tribal Fair.
- o Making presentations during Wildlife Week at local schools.
- o Offering a one week hunter education program in the evening for ages Junior High through Adult. Topics include hunter ethics and firearm safety.
- o Discussing wildlife issues during the summer Youth Camps.

The Department may also want to include an anti-poaching program as part of its public awareness efforts. A program like that recently implemented by the Navajos and various states would highlight the detrimental affects of poaching on game populations and also provide a hotline number for people to provide anonymous tips. A reward ranging from \$50 to a few hundred dollars could be paid on the arrest of a poacher. Such an program would broaden the enforcement capabilities of the department and also give tribal members a sense of personal

involvement in protecting the tribe's resources.

8.8 Jurisdictional Issues
TIMELINE: MONTHS 6-?

If the reservation contains fee lands, land that is owned by non-members or allotted lands, land that can be sold to non-Indians, the Department may confront difficult issues of jurisdiction. In some states, such as Montana, the state enforces the state's hunting and fishing regulations on fee land and these regulations may vary considerably from the tribe's regulations. This problem is called checkerboarding and efforts to address the issue have almost inevitably resulted in legal battles.

The 1987 Nead and Toussaint Spring Exercise for the Crow Tribe made several recommendations for handling the checkerboarding issue. First, joint State-Tribe jurisdiction was not recommended since it could weaken the Tribe's position in any future court battles. Second, allotted lands should be covered by the tribe's fish and game code, but a resolution should be passed by the Council regulating the sale of all allotted lands to non-members. The resolution should require that hunting and fishing rights on allotted lands remain with the tribe even if they are sold to non-members. (10)

Besides the Crow, the Flathead and Rosebud Souix also face the problem of checkerboarding and no easy solutions are apparent. It appears that the legal battles will continue for at least the next several years.

The issue of cross-deputization of conservation officers is also one for consideration by the Department. This often occurs when the Tribe wishes to enforce off-reservation hunting and fishing rights; however, this must typically be exchanged for increased State enforcement rights on

the reservation. The decision of whether or not this is in the best interest of the tribe can not simply be left to the Department, but requires Commission and probably Council action.

8.9 Cultural questions

TIMELINE: MONTHS 3-?

The process of revising the temporary hunting and fishing regulations will require consideration of cultural values. These cover three categories:

o Wildlife use/non-use:

1. Are there species which the tribe has traditionally used? The Department must be sensitive to past patterns of use. Heavy use of antelope as a food source may mean that the tribe will oppose restrictions on use. Gradual season, bag or technology restrictions may be needed or the Department and the commission could decide that the issue is too sensitive for an immediate decision. Traditional non-use patterns may also protect a valuable species.
ANECDOTE: Wildlife managers for both Hualapai and White Mountain Apache tribes credit their ability to develop valuable elk herds in part to the fact that tribal members have not traditionally eaten elk meat.
2. Are there species which should not be hunted because of cultural values? The Havasupai believe on the basis of cultural tradition that Desert Bighorn Sheep should not be hunted. This is an alternative use to economic development of the resource and the Department and Commission must decide through hearings and other public input which goals will have priority.

o Land use:

1. Are there areas of the reservation which should be set aside for tribal members only? Reasons could be cultural or simply a desire to make uncongested recreation areas available to tribal members.

o Non-member use of wildlife:

1. Under what conditions can non-tribal members use tribal wildlife resources? Can they use the reservation at all? Should they only be required to purchase permits or should they be accompanied by tribal guides? This could bring cultural wishes into tension with economic necessity. A political decision will ultimately have to be made.

8.10 Federal/Private Funding:

TIMELINE: Continuous

Private and governmental financial resources are available to the Department if certain criteria are met. In some cases money for habitat improvement can be obtained from private foundations that serve big game hunters. For example, the Hualapai tribe has improved Desert Bighorn sheep watering holes using funds from the Desert Bighorn Sheep Foundation.

Tribes can also submit funding requests to the BIA's Fish Wildlife and Recreation Program under P.L. 93-638. Funds are limited, so priority is given to projects which increase the long-term self-sufficiency of the tribe. The effectiveness of the proposal can be increased if the tribe lobbies its Congressional Delegation for support and presents testimony before the House Interior Committee which approves funding requests.

In the long-term the tribe may want to lobby Congress to expand the Dingell-Johnson Act, 16 U.S.C. 777 (fishing) and the Pittman-Robertson Act, 16 U.S.C. 669 (hunting), so that not only states but also tribes would be eligible for federal matching funds. PR-DJ funds are generated through excise taxes on guns, ammunition and other sporting equipment and allocated by the U.S. Fish and Wildlife Service using a formula that considers the number of licenses sold and the number of acres in a state. Many states receive a substantial portion of their wildlife management budget from these programs. Tribes may receive PR-DJ funds from the states, but usually only if they grant states jurisdiction over wildlife management. Proponents of direct tribal eligibility argue first, that Indian hunters and fishermen pay the same tax on hunting and fishing equipment as non-Indian hunters and fishermen. However, the tax monies raised are never channeled back to the reservations where tribal members hunt and fish. Second, significant numbers of non-Indians use reservations for recreation and relieve pressure on state and federal resources, but the taxes they pay for sporting equipment is not channeled

to the tribes to maintain tribal lands.

The Native American Fish and Wildlife Society is examining the potential of such legislation and proposes that at least initially, up to 3 percent of such PR-DJ funds be allocated to the tribes. The Office of Management and Budget (OMB) just recently decided that tribes would be eligible for 1% of the Dingell-Johnson (fish management) funds, but tribes are still not eligible for Pittman-Robertson (wildlife management) funds. However OMB's decision may be overturned since OMB also decided to cap disbursement of DJ funds at \$100 million and return the other \$93 million generated by DJ excise taxes to the federal budget. States oppose the reduction and are already sending signals that they do not want to share the Federal funds. Congress is also likely to challenge OMB's arbitrary decision.

8.11 Join Intertribal organizations
TIME: MONTH 1

The Native American Fish and Wildlife Society, 730 Burbank Street, Broomfield, CO 80020 (303/466-4725) is a national association of tribes and staff members who are active in wildlife management. The Society meets annually to discuss issues of relevance to tribal wildlife management. For example, the Society is currently exploring ways to provide conservation officers with wildlife training to supplement their law enforcement background.

9.0 SUMMARY: FACTORS ESSENTIAL FOR SUCCESSFUL WILDLIFE MANAGEMENT

Success is a tricky word. One tribe's vision of success may be economic profit while another's is preservation of traditional cultural values. The two goals may not be exclusive, but they underscore that tribes, as sovereign bodies, must define success for themselves. Still,

no matter how the management goals tribes set for themselves may differ, three factors remain crucial to the success of tribal wildlife management: (See Exhibit 1)

9.1 ENFORCEMENT OF WILDLIFE REGULATIONS:

Successful enforcement of tribal wildlife regulations depends on more than simply having the necessary number of conservation enforcement officers. Tribes which are successful in generating economic profit or maintaining cultural traditions typically have made two key enforcement decisions:

First, regulations are enforced just as strictly for tribal members as for nontribal members. This applies particularly to economically valuable game animals. For example, according to Monroe Beecher, Director of the Hualapai Fish and Game Department, tribal members wanting to hunt Desert Bighorn Sheep must pay the same amount (\$18,000) as non-tribal members. The White Mountain Apache tribe follows the same practice. This ensures that the tribe derives full value for its resources and prevents excessively subsidizing the hunting of tribal members.

Second, regulations passed by the Fish and Game Commission are enforced by the Tribal Council. For example, the San Carlos Apache Tribal Council declined to overturn fish and game commission regulations that were unpopular with some tribal members. The council's support of the commission was crucial to efforts to develop a professional Fish and Game Department capable of protecting the resource from over-harvesting.

WHAT CAN GO WRONG: The tribe can decide to permit tribal members to hunt trophy animals without paying the same fees as non-tribal members. The rationale for such a decision is that tribal members are entitled to traditional hunting privileges, but it ignores the hidden but substantial

cost to the tribe in lost revenue.

If the Tribal Council overturns Fish and Game Commission decisions on the policy questions like bag limits and the length of hunting and fishing seasons professional wildlife management will be lost. Political interference in decisions made on biological grounds could even result in the loss of over-used wildlife species.

9.2 EDUCATION OF TRIBAL MEMBERS AND INSTITUTIONS

The education of tribal members includes not only individuals, but also the institutions of the Tribal Council, the Fish and Game Commission and the Fish and Game Department. Occasions for educating tribal members have already been described: tribal fairs, evening seminars and school presentations, but close attention must also be paid to the educational relationships between institutions.

The first key institutional relationship is that between the Tribal Council and the Fish and Game Commission. While the Fish and Game Commission should have sole policymaking authority over wildlife management, it is strategically important that the Tribal Council should be briefed on key and controversial policy decisions. At least two mechanisms are available to pass information between the Council and the Commission without jeopardizing the independence of the Fish and Game Commission. First, some tribes arrange for a representative of the Council to serve on the Commission. For example, the Vice-Chair of the San Carlos tribe serves on both the Tribal Council and the Fish and Game Commission. This permits a continuous relationship between the two bodies and ensures that the Commission has access to the highest levels of tribal leadership.

Second, the annual report of the Fish and Game Commission to the Tribal Council provides at minimum an annual opportunity for discussion of

the Commission's goals and activities. Such a report could be presented at a joint session of the Council and Commission in order to permit a discussion of matters of mutual concern. However, since the Council is charged with funding the Commission's annual budget, and since both the Council and the Commission will need to define and enforce the goals set forth in regulations, species management plans and the comprehensive management plan, the Commission must make an active effort to keep all channels of communication between the two institutions open. Commission hearings on management goals and regulations should be well advertised and the Commission should actively encourage Council participation in order to generate Council support for regulatory decisions that may be controversial.

A second key institutional relationship exists between the Commission and the Fish and Game Department. This working relationship is closer than that between the Commission and the Council, but concern must also be taken with the process of educating both institutions about the needs and concerns of the other. The Director of the Fish and Game Department must insure that Commission members are kept fully informed of the reasons for proposed regulations and policy decisions. Commission meetings should be regularly scheduled and the Department Director should always be in attendance. Commission members should be given free access to Department biologists and staff without having to report to the Director. A policy of openness is the best means for winning the support of Commission members.

WHAT CAN GO WRONG: Failure to keep the Council informed and supportive of Commission management policies could lead to Council action overturning wildlife regulations and budget cuts. Once taken, such actions are politically difficult to reverse and may end professional

wildlife management and preservation of the resource by the tribe. Open lines of communication are essential.

Failure to win Commission support for the Department's proposed policies will cripple the Department's activities. Commission members are the Department's natural allies for convincing the tribe of the necessity of conservation measures for wildlife resources. If the Commission is unwilling to support needed hunting regulations, it is unlikely the tribe will support them. Thus, the Department Director must actively build a relationship of confidence with the Commission.

9.3 EXPERTISE IN WILDLIFE MANAGEMENT:

The most distinguishing characteristic of tribes which are successful in wildlife management is the expertise with which they approach their work. For example, the White Mountain Apache Recreation Enterprise fields a combination of professionally trained biologists, marketing savvy and experienced guides. These factors, together with a world-class trophy elk herd, enables the White Mountain Apache Enterprise to define its own market niche and establish a base of satisfied clients who return year after year.

The Enterprise hired two full-time professional biologists, one for fish and one for game, who concentrate on monitoring the biological well-being of wildlife on the reservation. The full-time presence of professional staff permits the documentation of habitat and long-term research on population growth and harvest patterns. Such information is essential for determining optimum harvest levels and thus maintaining a stable revenue base.

The Enterprise's marketing strategy is equally sophisticated. It actively targeted its marketing on the upper end of the income scale. It attended Rocky Mountain Elk Foundation conventions and advertised with

wealthy hunting clubs like Safari International. But its most successful marketing was done by word of mouth as satisfied clients spread the word that the hunts were high quality and the animals trophy size. Today the Enterprise places little emphasis on marketing. It doesn't have to -- there is a two year waiting list and the same satisfied clients return year after year, eager to pay \$10,000 for a trophy elk hunt.

Of course, successful marketing requires a product. In big game hunting, that means a trophy. Since a successful hunt heavily depends on the guide, the guide must be experienced, familiar with the terrain and compatible with the client. The Hualapai tribe sends its guides out into the field prior to hunting season in order to scout out potential trophies. Guides are given bonuses if the hunt results in a trophy and with more guides than hunts, competition for employment results.

A tribe which lacks trained guides of its own often contracts the hunts out to professional sporting guides, particularly when the tribe is just beginning to develop a management and hunting program of its own. This works for a limited time, but it is in the tribe's interest to make the arrangement conditional on the training of tribal members as guides.

WHAT CAN GO WRONG:

- o If the tribe lacks a full-time biologist and contracts out for biological assistance such as in the writing of a species management plan, the management plan may not be updated frequently enough to reflect changes in habitat and herd size. This could result in overharvesting and depletion of the herd or underharvesting and loss of revenue.

- o Marketing efforts may be targeted to the wrong clientele. Determining what market niche to focus on can be complicated. Directing efforts at the wrong market can result in lost revenues either due to over-advertising or due to lost opportunities. When just beginning a new

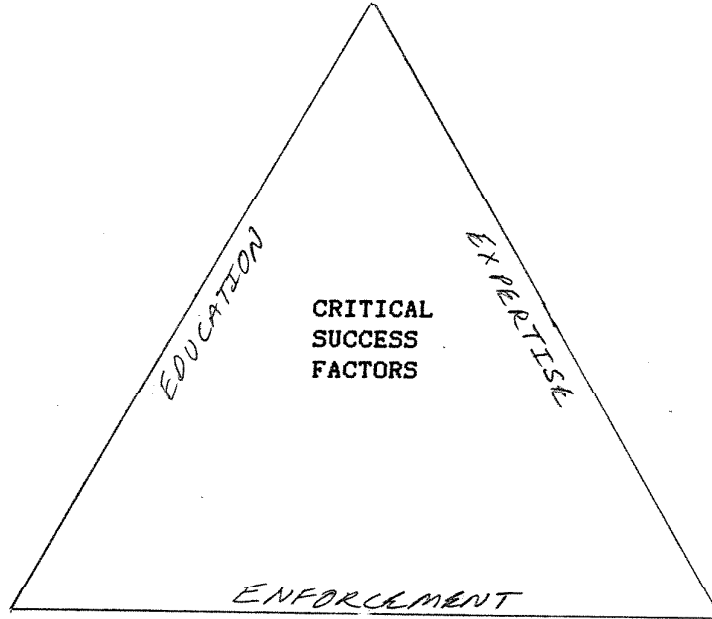
marketing venture, it is also possible to raise expectations that prove impossible to meet regarding trophy size or the quality of the hunt. This can seriously damage future marketing efforts, particularly when one is dealing with a sophisticated and wealthy clientele.

o If the tribe is just beginning to market trophy hunts and the guides are relatively inexperienced, the tribe runs the risk that the hunters will have an unpleasant experience. This threatens future revenues since the high-end hunting market is extremely sensitive to word of mouth advertising and customer satisfaction. When a tribe sells a \$10,000 hunt, it sells an experience not just a trophy. Repeat business depends on the quality of that experience. In the case of exotic big game ranches, the closest counterpart to tribes offering big game hunting, repeat business accounts for 57% of the clientele. (11)

10.0 CONCLUDING REMARKS

Wildlife management offers Native American Indian tribes an opportunity to exercise self-determination in an arena that carries cultural and historical significance. Not all tribes will be able to generate a economic profits from their wildlife resources. Not all tribes will want to, because of differing cultural values and resource allotments. However, working through the issues of resource inventory, tribal goals and institutional management gives tribes experience in the exercise of sovereignty. There are risks since success cannot be guaranteed, but the management process outlined in this paper illustrates for tribes the incentives to develop wise economic and management policies. Ultimately of course, the decision of exercising management authority over tribal wildlife resources is up to individual tribes and their leaders; that, after all, is the essence of sovereignty.

Exhibit 1. Critical Success Factors



ENFORCEMENT

- o Tribal vs. Non-tribal members
- o Tribal Council vs. Fish & Game Commission

EDUCATION

- o Tribal members
- o Tribal Council
- o Fish & Game Commission

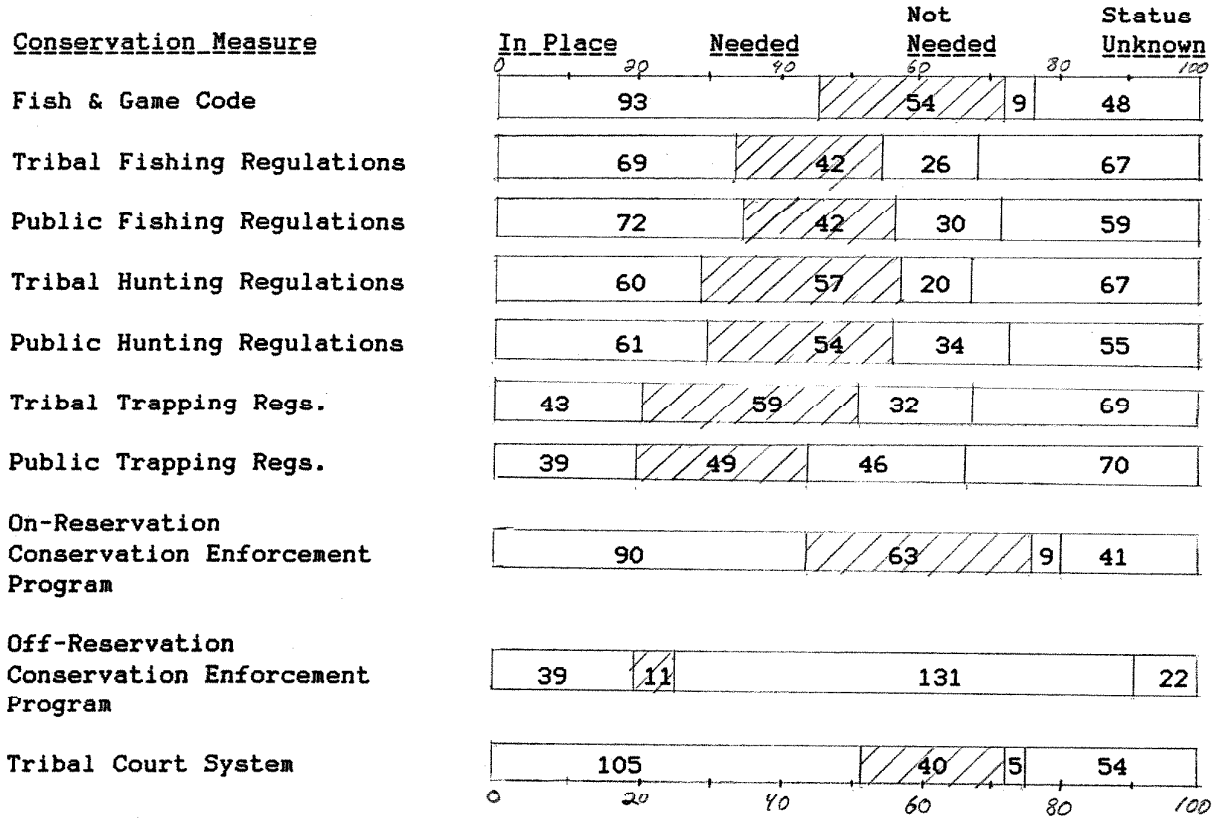
EXPERTISE

- o Biologists
- o Marketing
- o Guides

ENDNOTES

1. Phone Conversation with Rick Lemaire, Program Management Specialist, Bureau of Indian Affairs: Fish, Wildlife and Recreation Program, March 3, 1989.
2. Tribal Fish, Wildlife and Outdoor Recreation Resource Programs - 1986, (Bureau of Indian Affairs: Fish, Wildlife & Recreation Program, Sept. 1988), Appendix D.
3. Report of the National Taskforce for Fish and Wildlife Resources on Indian Lands, Bureau of Indian Affairs: Washington, D.C., October 1, 1982, Appendix No. 3: Policy - Fish and Wildlife Assistance to Indians, U.S. Fish and Wildlife Service, Lynn Greenwalt, Director, May 30, 1980.
4. Report of the National Taskforce for Fish and Wildlife Resources on Indian Lands, Bureau of Indian Affairs: Washington, D.C., October 1, 1982, p. 12 & 13.
5. U.S. President (Ronald Reagan), American Indian Policy, Bureau of Indian Affairs, January 24, 1983.
6. U.S. Department of Interior, Budget Justification, F.Y. 1990, Bureau of Indian Affairs, p. BIA-119.
7. Tribal Fish, Wildlife and Outdoor Recreation Resource Programs-1986, Bureau of Indian Affairs, Fish, Wildlife and Recreation Program, Sept. 1988), Appendixes A, B and D.
8. Joseph P. Kalt, "The Redefinition of Property Rights on American Indian Reservations," Kennedy School of Government, Harvard University: Energy and Environmental Policy Center, May 1987, #E-87-05, p. 43ff.
9. Personal Interview with Monroe Beecher, Director, Hualapai Game and Fish Department, January 1989.
10. Kim Nead and Denise Toussaint, "Developing a Management Plan for Crow Tribal Wildlife Resources," Kennedy School of Government, Harvard University: Harvard Project on American Indian Economic Development, May 1987, p. 26ff.
11. Ronald White, Big Game Ranching in the United States, (Mesilla, New Mexico: Wildsheep and Goat International, 1987), p. 279.

Appendix 1. National Summary of Tribal Conservation Measures

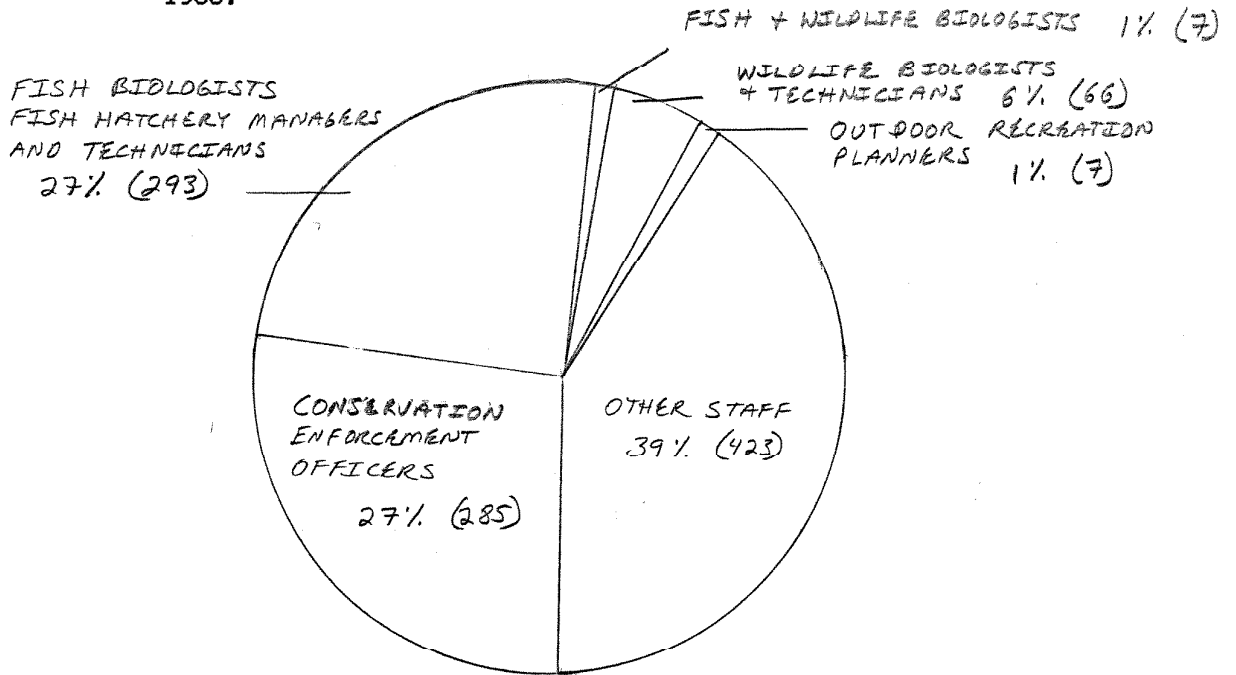


Total Number of Tribes Surveyed: 204

Needed:

Source: Tribal Fish, Wildlife & Outdoor Recreation Resource Programs - 1986, (BIA: Fish, Wildlife & Recreation Program, Sept. 1988), Appendix D.
 (According to the BIA report, the numbers are preliminary and incomplete.)

Appendix 2. National Summary of Fish, Wildlife & Recreation Staffing In 1986.



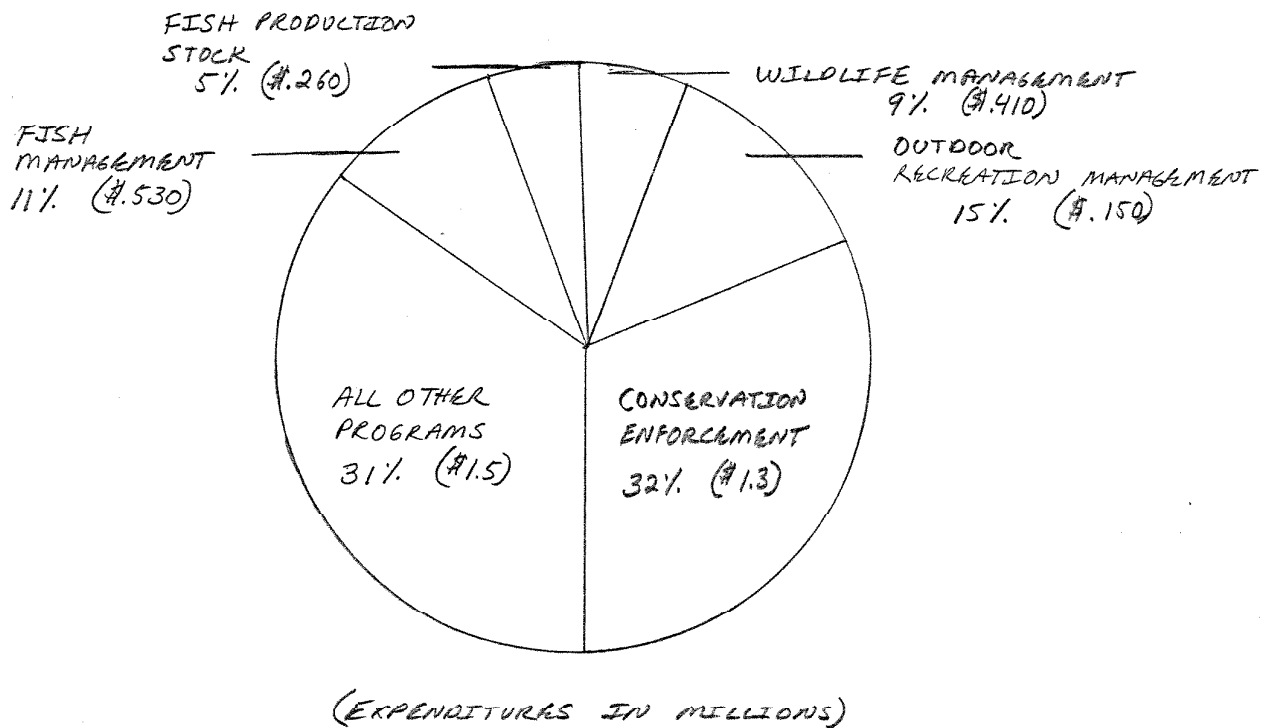
Total Full and Part Time Positions: 1074

National Summary of Tribal Fish, Wildlife & Recreation Staffing in 1986

	<u>FTE</u>	<u>PTE</u>	<u>Total</u>
Fish Biologists	74	12	86
Fish Technicians	74	41	115
Fish Hatchery Manager	22	3	25
Fish Hatchery Technician	26	3	34
Fish & Wildlife Biologist	6	1	7
Wildlife Biologist	15	3	18
Wildlife Technician	52	22	74
Outdoor Recreation Planner - spec.	5	2	7
Other Staff	238	47	285
Conservation Enforcement Officers	<u>249</u>	<u>174</u>	<u>423</u>
Total Positions	761	313	1074

Source: Tribal Fish, Wildlife & Outdoor Recreation Resource Programs - 1986, (BIA: Fish, Wildlife & Recreation Program, Sept. 1988), Appendix A.
(According to the BIA report, the numbers are preliminary and incomplete.)

Appendix 3. National Summary of Tribal Fish, Wildlife & Recreation Expenditures In 1986.



Total Expenditures: \$4.7 million

<u>Categories</u>	<u>Amount (\$)</u>	<u>%</u>
Fish Management	539,325	11%
Fish Production Stock	260,063	5%
Wildlife Management	410,002	9%
Outdoor Recreation Management	718,950	15%
Conservation Enforcement	1,325,140	28%
All Other Programs	<u>1,522,915</u>	<u>32%</u>
Totals	\$4,776,395	100%

Source: Tribal Fish, Wildlife and Outdoor Recreation Resource Programs - 1986, (BIA: Fish, Wildlife and Recreation Program, Sept. 1989), Appendix B.

(According to the BIA report, the numbers are preliminary and incomplete.)

Appendix 4. Typical Tribal Fish and Game Department Budget:

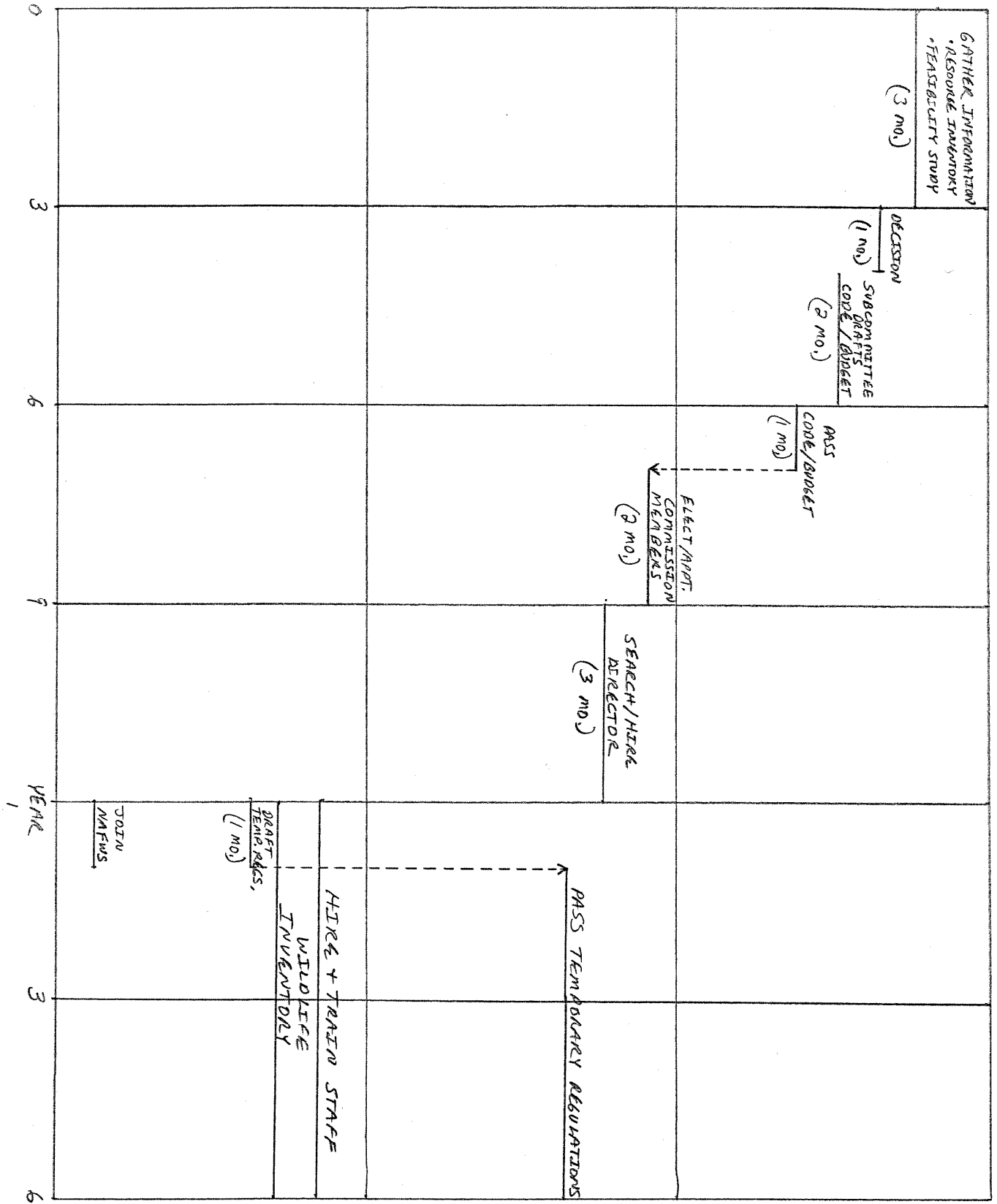
<u>ACCOUNT</u>	<u>DESCRIPTION</u>	<u>PERCENTAGE OF BUDGET</u>
1.0	PERSONNEL: SALARIES	21.0
1.1	PERSONNEL: FRINGE BENEFITS	5.0
1.2	PERSONNEL: TEMPORARY EMPLOYEES	6.0
2.0	OFFICE: RENT	8.0
2.1	OFFICE: UTILITIES	1.0
2.2	OFFICE: PHONE	0.5
2.3	OFFICE: OFFICE SUPPLIES	1.5
2.4	OFFICE: POSTAGE/FREIGHT	0.1
2.5	OFFICE: INSURANCE	1.5
2.6	OFFICE: LEGAL FEES	1.5
2.7	OFFICE: PROFESSIONAL DUES AND SUBSCRIPTIONS	0.1
3.0	OPERATIONS: BUILDING REPAIR & MAINTENANCE	1.0
3.1	OPERATIONS: VEHICLE MAINTENANCE	1.0
3.2	OPERATIONS: CAMPGROUND MAINTENANCE	3.0
3.3	OPERATIONS: GAS, OIL, ETC	3.0
3.4	OPERATIONS: HUNTING CAMP EXPENSES	3.0
3.5	OPERATIONS: GUIDE FEES (1)	34.0
3.6	OPERATIONS: TRAVEL-PER DIEM & MILEAGE	3.0
4.0	MARKETING: CONVENTION BOOTHS	1.0
4.1	MARKETING: ADVERTISING AND PROMOTION	0.5
4.2	MARKETING: DEALER COMMISSIONS (2)	2.3
TOTAL		100.0

(1) Guide fees are paid to tribal members for guiding big game hunters in the field.

(2) Dealer commissions are paid to sporting goods stores and outfitters for marketing tribal hunting and fishing licenses.

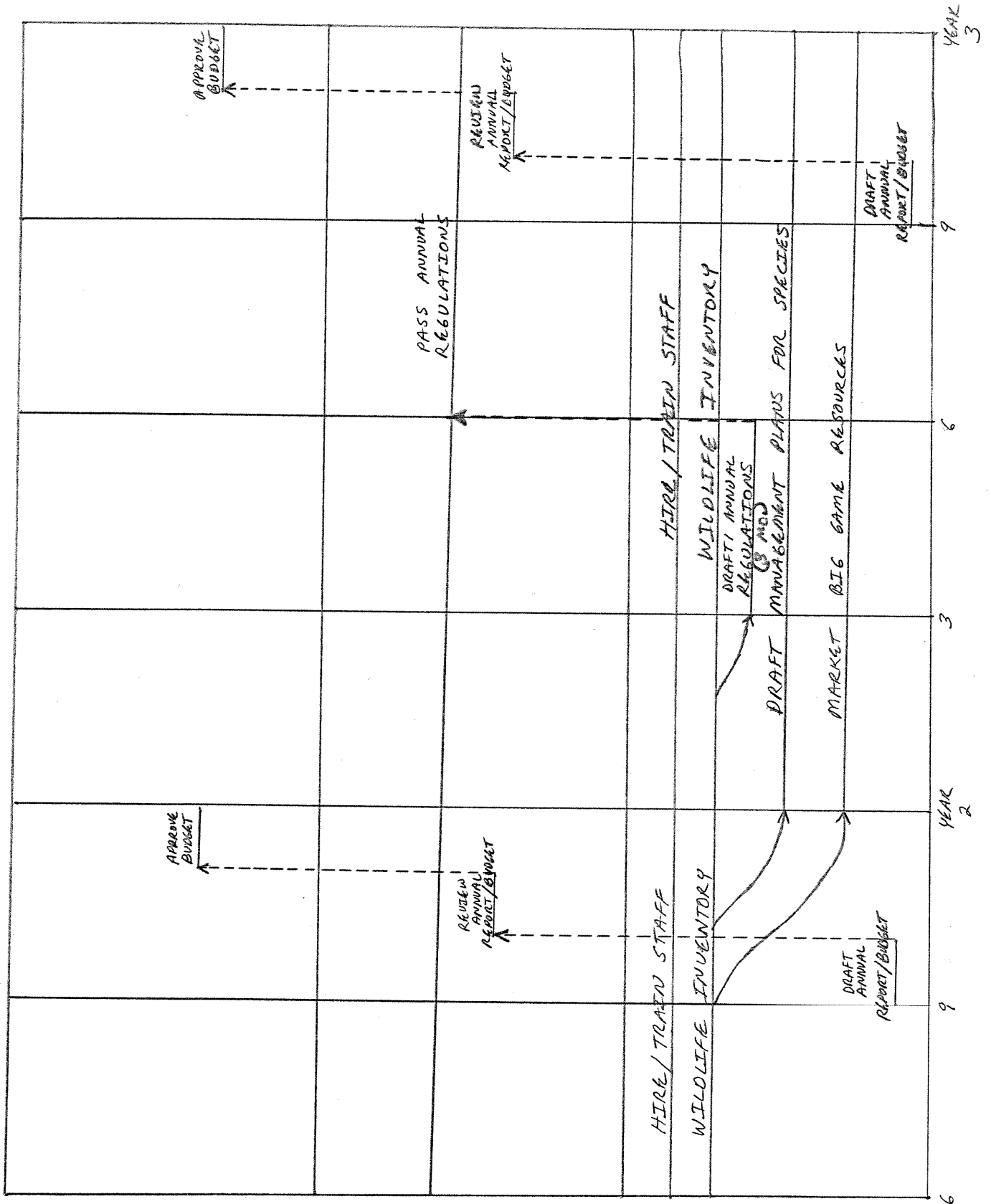
NOTE: This budget assumes that the tribe is engaged in marketing big game hunts.

Appendix 5. Timeline for Implementation of Wildlife Management--Tribal Council, Fish & Game Commission and Fish & Game Department. (Page 1)



C O M M I S S I O N
F I S H & G A M E
D E P A R T M E N T

Appendix 5. Timeline for Implementation of Wildlife Management--Tribal Council, Fish & Game Commission and Fish & Game Department. (Page 2)



COUNCIL

COMMISSION

DEPARTMENT

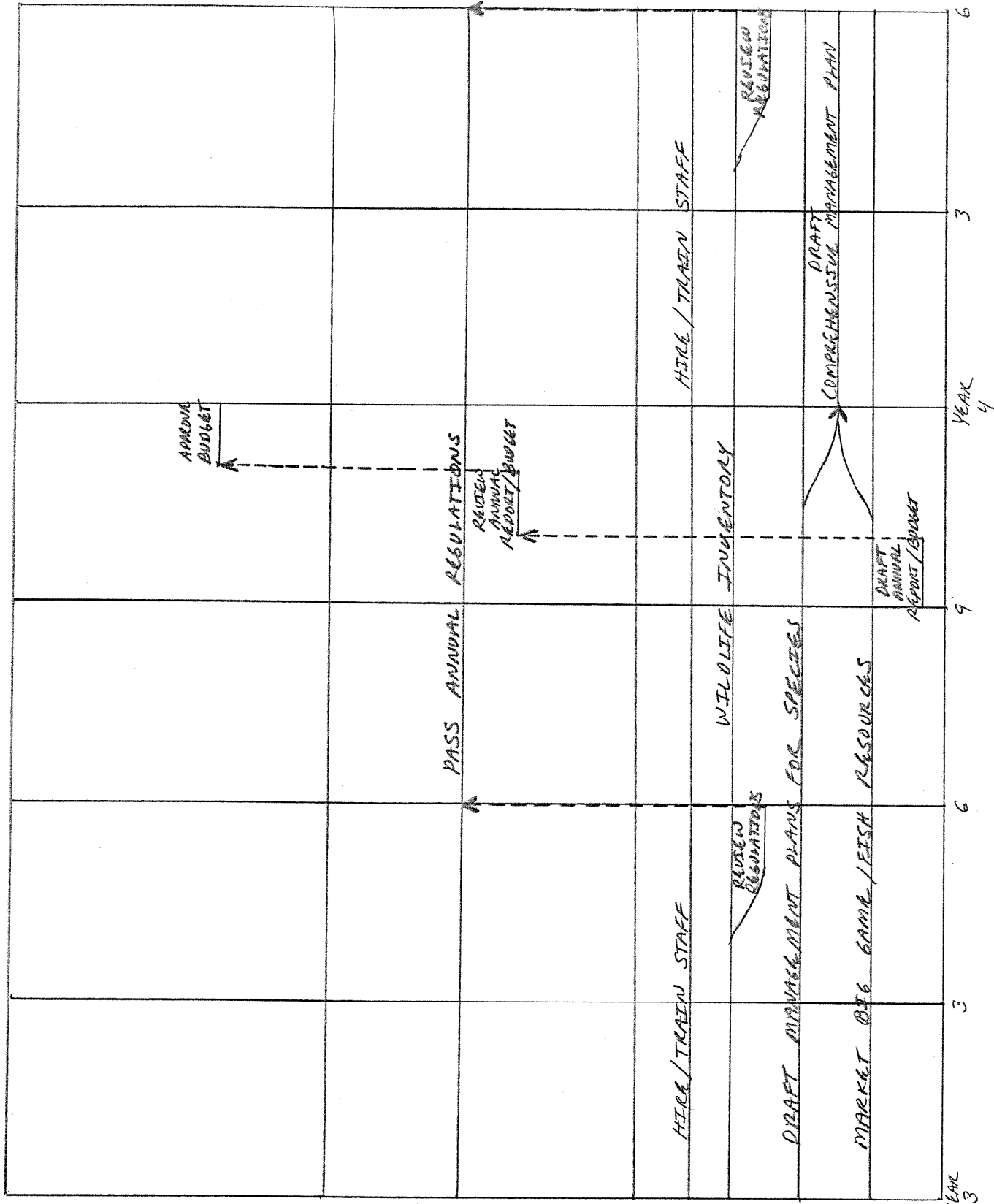
YEAR 3

YEAR 2

YEAR 1

6

Appendix 5. Timeline for Implementation of Wildlife Management--Tribal Council, Fish & Game Commission and Fish & Game Department. (Page 3)



COUNCIL

COMMISSION

DEPARTMENT

YEAR 3

YEAR 4

YEAR 5

YEAR 6

