MEMORANDUM

TO: Assistant Secretary - Policy, Budget and Administration
    Assistant Secretary - Energy and Minerals
    Assistant Secretary - Fish and Wildlife and Parks
    Assistant Secretary - Indian Affairs
    Assistant Secretary - Land and Water Resources

FROM: Secretary

SUBJECT: Preparation of Final Report required by the American Indian Religious Freedom Act, P.L. 95-341

In order to meet the requirements of the American Indian Religious Freedom Act, there will be a two-week intensive work period, extending from July 9-20, during which time a work group will assess all agency reports, review all consultation transcripts, and prepare the draft final report for clearance. Please make available during this period your religious freedom task force representative and/or a skilled writer for this work group. The Assistant Secretary for Indian Affairs should be notified by June 29 of the name of your representative who will report to the work group in Room 6343 at 10:00 a.m. on July 9.

Thank you for your cooperation.

[Signature]

[Page 137]
The Honorable Cecil Andrus  
Secretary of the Interior  
18th & C Street, N.W.  
Washington, D.C. 20240

Dear Cece:

I am transmitting to you a brief report summarizing self-assessments undertaken by various HEW agencies in compliance with your guidance on implementation of the American Indian Religious Freedom Act. As indicated in the report, the Indian Health Service is still evaluating its policies and procedures. We expect a comprehensive evaluation from the Service by mid-June.

As you will see, there appears to be some confusion regarding the practices and policies that are relevant to the Act. I understand that representatives of your Department, HEW and Indian Leaders are meeting to clarify the specific concerns with regard to HEW programs.

Sincerely,

Joseph A. Califano, Jr.

Enclosure
American Indian Religious Freedom Act

Summary of HEW Agencies
Self-Assessments

Administration on Aging

The Administration on Aging may provide social and nutritional services to the Indian elderly under Title III and Title VI of the Older Americans Act. Title III is a State administered formula grant program, while Title VI is a new program that provides direct funding to Indian tribes and organizations as defined by the Indian Self-Determination and Education Assistance Act (P.L. 93-638).

The Older Americans Act provides for the acquisition, alteration, renovation or construction of facilities for use as multipurpose senior centers. However, Section 307(a)(14)(A)(iv) requires that a multipurpose senior center funded under Title III "will not be used and is not intended to be used for sectarian instruction or as a place for religious worship." This provision does not apply to programs under Title VI. However, to date there has been no appropriation of funds for the Title VI programs, thus all services currently provided to elderly Indians are governed by the provisions of Title III.

Rehabilitation Services Administration

The Rehabilitation Services Administration (RSA) indicates that all of its policies and procedures are in compliance with the American Indian Religious Freedom Act. It is the policy of RSA to modify traditional rehabilitation services to accommodate the religious convictions and practices of its service clientele.

Education Division

The Assistant Secretary for Education indicates that the only agency which falls under the purview of the American Indian Religious Freedom Act is the Institute for Museum Services. The Institute currently is evaluating its policies and procedures to determine compliance with the Act.
Social Security Administration

The self-assessment conducted by the Social Security Administration did not reveal any policies or procedures which need to be addressed. However, the agency is willing to continue its review if Native American religious leaders wish to provide specific examples of areas which should be examined.

Indian Health Service

The Indian Health Service currently is evaluating its policies and procedures to determine compliance with the Act.
Memorandum

To: The Secretary of the Interior
Through: Assistant Secretary for Fish and Wildlife and Parks
From: Director, Fish and Wildlife Service
Subject: Review of the Fish and Wildlife Service Policy and Procedures for their Impact on American Indian's Religious Freedoms

The enactment of P. L. 95-341 (American Indian Religious Freedom) was motivated by the feeling that Congress, in passing laws such as the Endangered Species Act of 1973, the Bald and Golden Eagles Protection Act, and the Migratory Bird Treaty Act, may have failed to consider their impact on the religious practices of Native Americans and that the Fish and Wildlife Service, in implementing the laws, could have interfered with or denied Indian religious rights.

In compliance with section 2 of P. L. 95-341, the Fish and Wildlife Service has evaluated its policies and procedures in consultation with native traditional religious leaders in order to determine appropriate changes necessary to protect and preserve Native American religious cultural rights and practices.

Our efforts to comply with the Public Law included several meetings with special assistants (Susan Harjoe and Sue Hvalsoe) to the Assistant Secretary - Indian Affairs and corresponding and meeting with representatives from the Native American Rights Fund and the Advisory Board of Indian Leaders. Other efforts to identify conflicts include information gathered from our regional, area, and field offices. A copy of the questionnaire provided to the Regions is attached with the Regions' responses to the questions.

1. Eagle Regulations.
   a. Potential problems. As authorized by the Eagle Protection Act, 16 U.S.C. 668-668d, the Service has issued regulations that restrict the taking, possession, and transportation of bald and
golden eagles and any parts thereof. 50 C.F.R. 22.11. These regulations may have an impact on the use by Indians of feathers and other items in religious practices. However, this impact has been minimized by the regulations and policies discussed below.

b. Success stories.

(1) Indian religious permits. In accordance with the Eagle Protection Act, the Service's regulations authorize the issuance of permits to allow eagles to be taken, possessed, or transported for the religious purposes of Indians. 50 C.F.R. 22.22.

(2) Depository at Pocatello, Idaho. The Service has established a depository in Pocatello, Idaho, for storing eagles that are confiscated or accidentally killed. Upon request and through the religious permit system, eagles or parts of eagles are furnished to Indians for their religious ceremonies. The Service believes the eagle depository is a major success story involving our efforts to protect a resource and at the same time assist Native Americans in conducting their religious ceremonial activities.

The Advisory Board of Indian Religious Leaders made several comments on the Service's depository. Representatives from the Board were concerned that as individuals, any Indian could obtain eagle feathers from the Service. They recommend that feathers be issued to religious leaders within the tribe and individual Indians could acquire them through the religious leaders. Their rationale was that this would reduce the number of eagle permit applications, minimize issuance time, and help control illegally acquired feathers. Our present regulations require each applicant to attach a certification from a duly authorized official of the religious group that the applicant is authorized to participate in the tribal religious ceremonies. It is possible that permits are issued to deceptive applicants. However, the Service believes that under the First Amendment, eagle items should be available to any person who genuinely utilizes them for religious purposes, and for that reason is not willing to limit its distribution to religious leaders. To alleviate this problem it would seem appropriate for the tribal councils to provide the Service with the names and titles of certifying officials whom they think should represent their respective tribes in these matters.
The Advisory Board was also concerned that the heads and/or feet are removed from eagle skins which they receive after being processed in the National Wildlife Health Laboratory. Some Indian religious practices require the head and feet of the birds. A revised policy is being reviewed by the Service which will provide for maximum utilization of the carcasses for religious purposes and biological studies.

(3) Exemption for old items. As provided in the Eagle Act, 16 U.S.C. 668(a), the Service has issued regulations which allow the possession and transportation without a permit of bald eagle items that were lawfully acquired before June 8, 1940, and of golden eagle items that were lawfully acquired before October 24, 1962. 50 C.F.R. 22.2(a).

(4) Limitations on investigation and prosecution. The Secretary of the Interior's Policy Statement on Indian Use of Bird Feathers, dated February 5, 1975, permits American Indians to engage in the following activities without fear of Federal prosecution, harassment, or other interference.

(a) American Indians may possess, carry, use, wear, give, loan, or exchange among other Indians, without compensation, all federally protected birds, as well as their parts or feathers.

(b) American Indians who wish to possess bird feathers or parts to be worked on by tribal craftsmen for eventual use in Indian religious or cultural activities may transfer such feathers or parts to tribal craftsmen without charge, but craftsmen may be compensated for their work.

In addition, the Solicitor's Office reviews and must approve all investigations and prosecutions of Indians which do occur, in order to insure that such actions are not contrary to the Secretary's Policy Statement.


a. Potential problems. As authorized by the Migratory Bird Treaty Act, 16 U.S.C. 703-712, the Service has issued regulations that restrict the taking, possession, and transportation of migratory birds and any parts thereof. 50 C.F.R. 21.11. As with the eagle regulations, the migratory bird restrictions may have an impact on the use by Indians of feathers and other items in religious practices. However, this impact has been significantly lessened by the regulations and policies discussed below.
b. Success stories.

(1) Authorized annual hunting. Subject to a number of Federal and State restrictions on methods, shooting hours and bag limits, designated species of migratory birds may be lawfully hunted during the open season each year. See 50 C.F.R. 20.11 - 20.26, 20.101 20.109. Also, subject to certain restrictions on time, custody, and marking, lawfully taken migratory game birds may be possessed and transported. 50 C.F.R. 20.31-20.44.

(2) Exemption for old items. As with eagles, the Service has issued regulations which allow the possession and transportation without a permit of migratory bird items that were lawfully acquired before the date their species became protected by the Migratory Bird Treaty Act. 50 C.F.R. 21.2(a).

(3) Limitations on investigation and prosecution. See paragraph b(4) of section entitled "Eagle Regulations."

c. Real problems. The Service's migratory bird regulations do not have any provision specifically authorizing permits for Indian religious purposes. However, the migratory bird treaties with Canada, Japan, and the Soviet Union allow taking of a number of species by Eskimos and Indians for subsistence purposes, and section 704 of the Migratory Bird Treaty Act allows the issuance of regulations that are compatible with the treaties. Convention for the Protection of Migratory Birds, August 16, 1916, United States-Great Britain (on behalf of Canada), art. II, paragraph 1, 39 Stat. 1702, T.S. No. 628; Convention for the Protection of Migratory Birds and Birds in Danger of Extinction, and their Environment, Mar. 4, 1972, United States-Japan, art. III, para. 1(e), 25 U.S.T. 3329, T.I.A.S. No. 7990; (Cite to Soviet Treaty).

To the extent that subsistence includes religion, section 704 appears to authorize regulations allowing permits for taking, possession, and transportation for Indian religious purposes.
3. **Endangered and Threatened Species Regulations.**

   a. **Potential problems.** In accordance with the Endangered Species Act, 16 U.S.C. 1531-1543, the Service has issued regulations which restrict the taking of endangered and threatened species in the United States, its territorial sea, and on the high seas. 50 C.F.R. 17.21(c), 17.31(a), 17.40-17.48. The Service's regulations also prohibit the possession or transportation of any endangered or threatened species that are taken unlawfully. 50 C.F.R. 17.21(d), 17.40(b)(1)(ii), 17.42(a)(1)(ii), 17.44(a)(1). A list of endangered and threatened species is found in 50 C.F.R. 17.11. In the case of certain species, the Service's restrictions may have an impact on Indian religious practices. However, this impact has been alleviated by the regulations and policies discussed below.

   b. **Success stories.**

      (1) Exception for taking by Alaska Natives. As provided in the Endangered Species Act, 16 U.S.C. 1539(a), the Service has issued regulations which allow the taking of endangered and threatened species by Indians, Aleuts, or Eskimos who are Alaska Natives residing in Alaska, if the taking is "primarily for subsistence purposes." 50 C.F.R. 17.5. To the extent that subsistence taking includes taking for religious purposes, the impact on Alaska Native religion of the Service's endangered and threatened species restrictions is mitigated by the native exemption.

      (2) Exception for old items. In accordance with the Endangered Species Act, 16 U.S.C. 1538(b), the Service has issued regulations which allow possession, transportation, and other non-commercial activities consistent with the Act's conservation purposes that involve endangered or threatened species "... held in captivity or in a controlled environment on December 28, 1973." 50 C.F.R. 17.4. This exemption covers items from wildlife removed from the wild on or before December 28, 1973. Since many items used in Indian religious practices are from animals killed long before December 28, 1973, the Service's exemption for old items significantly lessens the impact on Indian religion of its restrictions on endangered and threatened species.

      (3) Limitation on investigation and prosecution. See paragraph b(4) of section entitled "Eagle Regulations."
c. **Real problems.** With the possible exception of the authorization of subsistence taking by Alaska Natives, the Service's endangered and threatened species regulations do not allow taking by Indians for religious purposes. The reason for this is that the Endangered Species Act does not authorize any such regulation. However, since endangered and threatened species are, by definition, those which are presently or foreseeably in danger of extinction, 16 U.S.C. 1532(4), (15), 1533(a)(1), the Service does not recommend amendments to the Act to allow taking for religious purposes. The strain of this taking would only further jeopardize the existence of endangered and threatened species.

4. **Marine Mammal Regulations.**

a. **Potential problems.** In accordance with the Marine Mammal Protection Act, 16 U.S.C. 1371(a), 1372(a), the Service has issued regulations that restrict the taking of marine mammals. 50 C.F.R. 18.11. The Service has also issued regulations which prohibit the possession and transportation of marine mammals that are taken unlawfully. 50 C.F.R. 18.13(b). The marine mammals subject to the Service's regulations are polar bears, sea otters, walruses, dugongs, and manatees. 50 C.F.R. 18.3. Polar bears and walruses may be of religious significance to Alaska Natives. However, the U.S. populations of these species occur only in Alaska and adjacent waters, and any adverse impact the Service's restrictions may have on Alaska Native religion appear to be minimized by the exceptions described below.

b. **Success stories.**

(1) The native exemption. As provided by the Marine Mammal Act, the Service has issued regulations allowing Alaskan Indians, Aleuts, and Eskimos to take non-depleted species in a non-wasteful manner for subsistence purposes. 50 C.F.R. 18.23. The scope of this native exemption is presently the subject of litigation. See **People of Togiak v. United States, No. 77-0264 (D. D.C. Apr. 3, 1979).** However, to the extent that subsistence taking includes taking for religious purposes, the impact on Alaska Native religion of the Service's marine mammal restrictions is mitigated by the native exemption.
(2) Exception for old items. In accordance with the Marine Mammal Act, 16 U.S.C. 1372(e), the Service has also issued regulations which provide that the above restrictions do not apply to any marine mammal taken before December 21, 1972. 50 C.F.R. 18.14. As was pointed out with respect to endangered and threatened species, since many marine mammal items used in Alaska Native religion are from animals killed long before December 21, 1972, the Service's exemption for old items significantly lessens the religious impact of its marine mammal restrictions.

5. Regulations Restricting Access and Activities on Lands Administered by the Service.

a. Potential problems. In accordance with the National Wildlife Refuge System Administration Act and other statutory authority, 16 U.S.C. 460k, 668dd(c), the Service has issued regulations which restrict public entry into fish hatchery areas and areas included within the National Wildlife Refuge System. 50 C.F.R. 26.21(a), 70.4(a). The Service's regulations also generally prohibit any disturbing of animals or plants within these areas. 50 C.F.R. 27.51, 70.4.

These restrictions may have an impact on Indian religious practices. For example, historical and archaeological surveys during refuge master planning have revealed that many areas contain Indian burial sites as well as cemeteries still in use. Also, the Advisory Board of Indian Leaders pointed out that vegetation used for ceremonial purposes is often located on lands administered by the Service.

b. Success stories. For areas within the Refuge System, the Refuge System Administration Act authorizes the Service to issue regulations that "... permit the use of any area within the System for any purpose . . . and (also) access whenever (the Director) determines that such uses are compatible with the major purposes...." for which the area was established. 16 U.S.C. 668dd(d)(1)(A).

Pursuant to this authority, the Service has issued regulations authorizing permits for access to refuge areas and for collection of plants thereon. 50 C.F.R. 26.22(b), 27.51.

6. Indian Fishing Regulations.

a. Potential problem and success story. Another conflict identified by the Service involves the Service's enforcement of the Department's fishing regulations for the Klamath River in California and the use
of salmon for ceremonial purposes by the local Indians. However, this problem appears to be solved, since the Department has recently published a revision of the regulations (March 20, 1979) that provides, among other things, the latitude for Native Americans to catch fish for religious ceremonial activities.

Attachments

[Signature]

118
In Reply Refer To:
File 74/44-1191

Memorandum

To: Regional Directors, Regions 1, 2, 3, 4, 5, 6, and Alaska Area Director

From: Associate Director, Fish and Wildlife Service

Subject: Compliance with Public Law 93-341 (American Indian Religious Freedom)

The purpose of P. L. 93-341—American Indian Religious Freedom—is to ensure that agencies' policies and practices are brought into compliance with the constitutional injunction against abridging the free exercise of religion.

The Act was motivated by the feeling that Congress, in passing such laws as the Wilderness Act, the Endangered Species Act, the Bald and Golden Eagle Protection Act, and the Migratory Bird Treaty Act had neglected their impact and that the executive agencies in carrying out the responsibilities had interfered with or denied the religious rights of native Americans.

Attached for your information is a copy of the Public Law and a press release from the White House.

In order that we may comply with this legislation, it is important to identify any real conflicts between our fish and wildlife laws, regulations, or policies and the requirements for American Indians to practice their religious freedom.

To insure that we meet a very tight deadline on this matter, it is essential to receive comments by December 1, 1978. Please distribute this information request to the Area Offices and SAC Districts and urge their prompt response. The Office of Wildlife Assistance is responsible for developing the lead in this assignment and if you have any questions contact John Bardwell (433-2201).
1. List specific situations where a controversy has occurred regarding native American religious practices and Service involvement.

   a. Were Service restrictions required for the management of the natural resource?

   b. Was the impediment a result of a law, regulation, or policy? Briefly discuss including the scope of the specific conflict.

2. List religious ceremonial places or structures which exist on Service controlled lands and the tribe or tribes (religious groups) affected.

3. List tribes in your area with which you have had contact and the species which were the religious subject of your contact.

4. List any other tribes in your area which you are aware of but have not had contact with.

5. Identify communication problems, if any, with native American religious leaders. Were the problems resolved? If so, how? If not, explain.

6. List any specific "success" stories in respect to Service cooperation with native American religious practices. Include any measures undertaken to provide flexibility within Service legal or policy grounds to be responsive to requirements of native American religious needs.

(Sgd.) HARVEY K. NELSON

Attachments

If you are unsure of whether the practices are "religious" or otherwise "cultural" identify them and note your questions.

DO-Dir. reading file
DD-Chron. File
QFA

FMS:EA:Hardwall/1bb 12/2/78
TO: Director, FWS, Washington, D.C. (RF)  
FROM: Regional Director, FWS, Region 2 (RF)  
DATE: November 27, 1978  

SUBJECT: Compliance with Public Law 95-341 (American Indian Religious Freedom)

In response to Harvey Nelson's November 3 request, we are providing the following information for this Region.

1. We are not aware of any situation where a controversy has occurred.

2. There are no ceremonial places or structures on Service controlled lands in Region 2.

3. We (LE) have been in contact with all tribes in this Region re eagles.

4. We are not aware of any tribes in this Region that have not had contact.

5. There are no known communications problems.

6. Our enforcement officers probably distribute more eagle parts (from central depository in Idaho) for religious ceremonial purposes than any other Region. Needs are filled on an "as available" basis.

[Signature]
We have not identified any real conflicts between our fish and wildlife laws, regulations, or policies and the requirements for American Indians to practice their religious freedom.

Historical and archaeological surveys during refuge master planning have indicated that most areas contain Indian burial sites including an active cemetery. However, there are no apparent conflicts over any of these sites.

We have issued 41 eagle feather loan agreements within this region. No other restrictions have been imposed.

W. Ellin Klett
TO: Director (WA), WDC,

FROM: Acting Area Director, Alaska, Anchorage, Alaska

SUBJECT: Problems with Public Law 95-341 in Alaska

To date we have not had any conflicts here in Alaska between the Service and Native groups over the use of wildlife for religious purposes. We can only recall three requests from Natives for eagle feathers. Two of these were filled and one is a recent request that has not been processed at this time.

The State has already had problems; the moose taken out of season for a potlatch. We believe this case is before the State Supreme Court. In light of P. L. 95-341, and depending on what happens in the State case, serious problems could develop in the future.

[Signature]

[Handwritten Signature]
TO: Director, FWS, Washington, D.C. (AFW) (EA)
FROM: Regional Director, FWS, Region 5
SUBJECT: Compliance with Public Law 95-341 (American Indian Religious Freedom)

Please find attached copies of Delmarva and Harrisburg Area Office replies.

L.E. Districts 12 and 13 indicated there had been no contacts or controversies involving American Indian Religious Freedom. L.E. Districts 11’s response is included in John Green’s response from the Delmarva Area Office.

[Signature]

Attachment
This is in response to Mr. Harvey K. Nelson's memo of November 3, 1978. We have reviewed the programs in the Delmarva Area and we are not aware of any conflicts or controversy between fish and wildlife laws, policy, or regulations and American Indian religious freedom.

We have three Indian Tribes in our area all in Virginia. These are the Pamunkey Tribe, Mattaponi Tribe, and the Chickahominy Tribe. The Pamunkey and Mattaponi are located on reservations (estimated at 200 acres and 50 acres in size, respectively) near West Point, Virginia. The Chickahominy is not an organized Tribe, evidently it is just a recognized group living along the Chickahominy River southeast of Richmond. None of the Tribes fall under the jurisdiction of the BIA.

Our Fishery Assistance Office at Gloucester Point, Virginia has participated with members of the Mattaponi Tribe and Ichthyology Associates in gathering shad eggs for planting in the Susquehanna River. I understand the Tribe also takes shad spawn and replants them on the reservation.

Other FWS involvement with the Pamunkey Tribe has been by our LE people. The Pamunkey Chief has a valid Endangered Species Permit, renewed annually, to maintain a quantity of Eagle feathers used in their religious ceremonies. These feathers are on loan to him under permit. No problems have been encountered with the Tribe over the permit. LE conducted an audit 2 years ago in regards to the permit and found everything in order.

Both the Pamunkey and the Mattaponi Tribes are exempt from Virginia State hunting laws. They are required to purchase federal migratory duck stamps and do so. The Pamunkey's also operate a commercial waterfowl day hunt on the Pamunkey River. The Pamunkey chief is required to pay rent to the Governor of Virginia amounting to one male horned whitetailed deer annually. (A little bit of trivia there.)

This is the extent of our involvement with Indian Tribes in this Area. I have discussed the above with SAC Kensinger and SRA Davenport. It was agreed that I would include the data relative to LE involvement in my report.

John O. Green
DATE: November 13, 1978

REPLY TO: SAC, L.E., District 12, Lawrence, N.Y. 11559

ATTN OF: FWS/WA-11181

SUBJECT: Compliance with Public Law 95-341 (American Indian Religious Freedom)

TO: Regional Director, Region 5, Boston, Mass.

District 12 reports no controversy occurring involving the Service's law enforcement activities and native American religious practices.

[Signature]

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan
November 22, 1978

Regional Director, FWS, Atlanta, Ga.

Compliance with Public Law 95-341 (American Indian Religious Freedom)

Associate Director, Fish and Wildlife Resources, Washington, D.C.

In response to your memorandum (FWS/WA-11181) dated November 3, 1978, no Area Office or SAC District within Region 4 reports any conflicts between fish and wildlife laws, regulations, etc. and the religious freedom of American Indians.

SAC, District 8, did, however, refer to technical assistance offered the Choctaws in establishing a Wildlife Law Enforcement Program on their reservation. Also, SAC, District 9, pointed to assistance given in the locating of eagle feathers and parts to be used in religious ceremonies (copies of these two responses attached).

Attachment
MEMORANDUM

DATE: November 14, 1978

REPLY TO: SAC Graham, L.E. District 9, Atlanta, Georgia

SUBJECT: Compliance with Public Law 95-341 (American Indian Religious Freedom)

TO: Public Affairs Officer, Atlanta, Georgia

The following information is submitted in response to the Acting Regional Director’s memorandum dated November 6.

Questions listed on page 2 of Mr. Nelson’s November 3 memorandum are addressed in order.

1. No knowledge of such situations occurring in L.E. District 9.
3. Lower Creeks. Assisted tribal members to obtain eagle feathers for religious purposes.
4. Not aware of any.
5. None.
6. Assistance with recovery and distribution of eagle parts.

Charles E. Graham
November 9, 1978

SAC, District 8, L.E. New Orleans, La.

Compliance with Public Law 95-341 (American Indian Religious Freedom)

Regional Director, FWS, Atlanta, Georgia

In response to Mr. Lankford's memo of November 6, 1978 and Mr. Nelson's memo of November 3, 1978 the following are answers to questions concerning this subject:

1. None.
2. None.
3. None.
4. None.
5. None.
6. The only Indian Reservation (Choctaw) in LE District 8 is located near Philadelphia, Mississippi. The SAC Office was contacted by the tribe to assist them in establishing a Wildlife Law Enforcement Program on the Reservation. We corresponded and met with the Choctaws in assisting them with this project. Their "Religious" or "Cultural" customs have never conflicted with the laws enforced by the service in this district.

I have also reviewed Public Law 95-341 and report no problems with compliance in this district.

DAVID L. HALL
Memorandum

TO: Associate Director - Fisheries -
   Washington, D.C.

FROM: Regional Director

DATE: November 24, 1978

SUBJECT: Response to Inquiry Regarding Compliance with Public Law 95-341 (American Indian Religious Freedom)

Listed below is a summation of the responses received on the above subject:

HAWAII

1. No known controversy has occurred in Hawaii with respect to aboriginal religious practices or rights.

2. Hawaiian Islands National Refuge. Nihoa Island - Island was inhabited 1200 to 1300 A.D. Many stone structures (house foundations and ceremonial sites) are still visible.

   Necker Island - Several stone images and statues were collected by early exploring parties. Several are on display in the Bishop Museum in Honolulu. Also, numerous temple sites and low terraces are still discernable. There is interest in these islands for expansion of the commercial fishery and it is conceivable that certain individuals might use ancestral religious rights as a vehicle to gain access to these islands for ulterior purposes. If necessary refuge regulations could be adjusted to provide for religious visits as long as the endangered species and other renewable resources are adequately protected. Under any circumstances the number of people who would want to visit these islands for legitimate religious/cultural purposes would be few if any since there is no recent (700 years) tradition for this.

3. None

4. None

5. None

6. There has been no FWS interaction with ethnic Hawaiians in this area.
There are no known serious conflicts in regards to the above subject. However, conflicts could arise in the future on the Klamath River in regard to enforcing fishing regulations. This past fishing season, an in-season regulation adjustment, closing all fishing below Highway 101 bridge was put into effect. Some Indians said this interfered with their right to take fish for ceremonial purposes. Future regulations should probably be written to provide for this need.

In addition, at Pyramid Lake, the Endangered Species Act may conflict with the religious needs of cui-ui and Lahontan Cutthroat trout by Indians. We have not discussed this with the Tribe nor have they expressed to us their religious beliefs in regard to cui-ui and/or Lahontan Cutthroat trout.

The taking of bald eagles without permits by Indians in Northwest Washington is a continual problem. A definite success story is the distribution of eagles, eagle parts, and other raptor feathers to Indians throughout the United States for religious purposes. During FY 1978, 528 shipments were forwarded and permits issued to Indians by the Pocatello Supply Depot, under contract to Law Enforcement. The shipments included 221 whole golden and bald eagles, and 1,023 parts of eagles and raptors (tails, wings, claws etc.). Similar shipments have been made during the previous four years.

1. There have been no controversies regarding Native American Indian religious practices.
2. No religious ceremonial places or structures are present.
3. Have not contacted or been contacted by any Tribe.
4. Colville Tribe and Kalispell Tribe
5. Have had no reason to contact local Tribes regarding religious matters.
6. None
NISQUALLY NWR

1. Local tribes have expressed no concern about religious freedom being inhibited by FWS.

2. The Medicine Creek Treaty Tree is located adjacent to refuge lands. We plan a Medicine Creek Treaty Tree interpretive exhibit on refuge dike trail.

3. Have had contact with the Nisqually Tribe, but nothing on religious practices was discussed.

4. Puyallups, Steilacooms and Squaxin

5. No problems

6. NA

COLUMBIA NWR

1. No known controversies have occurred involving Native American religious practices and FWS involvement.

2. No known religious ceremonial places or structures exist on the refuge.

3. The Yakima, Spokane and Colville Indian Reservations are located within 150 miles of the refuge, but no contact has been made with any leaders of the Reservations.

OLYMPIA AREA OFFICE

This office has no fishery problem regarding Indian ceremonial fishing since most Tribes require the Indians to personally catch ceremonial salmon.

BOISE AREA OFFICE

Negative report

William H. Meyer
In response to your faxform dated December 12, 1978, we are providing the following:

1. List specific situations where a controversy has occurred regarding native American religious practices and Service involvement.
   a. Were Service restrictions required for the management of the natural resource?
   b. Was the impediment a result of a law, regulation, or policy? Briefly discuss including the scope of the specific conflict.

Numerous investigations and prosecutions have been conducted in Region 6 involving the illegal taking and sale of eagle feathers and migratory bird feathers which have religious significance to many American Indians. In none of these cases was the issue of religious freedom raised by the subject of the investigation. Nor have we been able to identify specific or general situations in Region 6 where a controversy has occurred regarding native American religious practices and Service involvement.

2. List religious ceremonial places or structures which exist on Service controlled lands and the tribe or tribes (religious groups) affected.

No religious ceremonial places or structures exist on Service controlled lands in Region 6.

3. List tribes in your area with which you have had contact and the species which were the religious subject of your contact.

We have had no contact with any tribes involving religious subjects, except for the issuance of permits to possess eagle parts shipped from the Pocatello, Idaho depot. These contacts involved individual Indians rather than tribal entities.

Faxform 1 of 2
4. List any other tribes in your area which you are aware of but have not had contact with.

Montana
- Blackfeet
- Crow
- Salish
- Kootenai
- Gros Ventre-Assinibone
- Assinibone
- Sioux
- Northern Cheyenne
- Chippewa
- Cree

Wyoming
- Arapaho
- Shoshone

North Dakota
- Mandan-Hidatsa
- Arikara
- Devils Lake Sioux
- Chippewa
- Iowa
- Potawatomi
- Sac
- Fox
- Mesquakie
- Nebraska
- Omaha
- Santa Sioux
- Winnebago

South Dakota
- Sioux
- Santa Sioux
- Oglala Sioux
- Sisseton Sioux
- Wahpeton Sioux
- Yankton Sioux

Colorado
- Mouvache Ute
- Capote Ute
- Weminuche Ute
- Utah
- Goshuti
- Ute

5. Identify communication problems, if any, with native American religious leaders. Were the problems resolved? If so, how? If not, explain.

We have had no communication problems with American Indian religious leaders.

6. List any specific "success" stories in respect to Service cooperation with Native American religious practices. Include any measures undertaken to provide flexibility within Service legal or policy grounds to be responsive to requirements of Native American religious needs.

The only "success" story we can provide in respect to Service cooperation with Native American religious practices is that we do not have nor have we had any complaints, controversies or problems in this area.

Faxform 2 of 2
TO: Associate Director, Fish and Wildlife Resources, FWS, Washington, DC

FROM: Acting Assistant Regional Director
Federal Assistance, FWS, Newton Corner, MA

DATE: December 1, 1978

SUBJECT: Compliance with Public Law 95-341 (American Indian Religious Freedom)

In response to the above subject matter, Federal Assistance has had no conflicts or involvement with the American Indians and, therefore, submit no comments.
Memorandum

TO: Regional Director, Newton Corner (ARW)

FROM: Area Manager, Harrisburg Area Office

DATE: November 28, 1978

SUBJECT: Compliance with P.L. 95-341 (American Indian Religious Freedom) (Associate Director Nelson's memo of November 3, 1978)

This memo serves as a confirmation of the telephone conservation of November 27, 1978, with John Peterson and Dick St. Pierre of my staff. Our response is for Area II only and conforms to the six points raised in Mr. Nelson's memo.

1. List specific situations where a controversy occurred regarding native American religious practices and Service involvement.

   The Cayugas of the Seneca Nation have named Montezuma NWR and other Federal lands in central New York as historic hunting and fishing grounds which they wish to acquire to satisfy questionable treaty commitments. DOI Solicitors have advised us that the claim is groundless, but may end up in a financial settlement.

2. List religious ceremonial places or structures which exist on Service controlled lands and the tribe or tribes (religious groups) affected.

   None

3. List tribes with which we have had contact and the species which were the religious subject of your contact.

   Fishery Assistance in Warren, Pennsylvania, and Wildlife Assistance in Albany, New York, have had contact with the Seneca Nation - but not on matters of religious importance. Several years ago the Seneca Nation asked about the legality of keeping eagle feathers for ceremonial purposes.
4. List any other tribes in your area which you are aware of but have not had contact with.

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| Algonquin     |             |                     |
| Poospatuck    | Poospatuck  | Suffolk Co., NY     |
| Shinnecock    | Shinnecock  | Suffolk Co., NY     |

5. Identify communication problems. . .

None


None

Please let us know if additional information is needed.
1. List specific situations where a controversy has occurred regarding native American religious practices and Service involvement.
   a. Were Service restrictions required for the management of the natural resource?
   b. Was the impediment a result of a law, regulation, or policy? Briefly discuss including the scope of the specific conflict.

2. List religious ceremonial places or structures which exist on Service controlled lands and the tribe or tribes (religious groups) affected.

3. List tribes in your area with which you have had contact and the species which were the religious subject of your contact.

4. List any other tribes in your area which you are aware of but have not had contact with.

5. Identify communication problems, if any, with native American religious leaders. Were the problems resolved? If so, how? If not, explain.

6. List any specific "success" stories in respect to Service cooperation with native American religious practices. Include any measures undertaken to provide flexibility within Service legal or policy grounds to be responsive to requirements of native American religious needs.

Attachments

* If you are unsure of whether the practices are "religious" or otherwise "cultural" identify them and note your questions.

cc:
Directorate reading file
DD-Chron. File
OFA

FWS:WA:JBardwell/ihb 11/2/78
Honorable Forrest J. Gerard  
Assistant Secretary of Interior  
Washington, D.C. 20240

May 10, 1979

Dear Mr. Gerard:

This is in response to Secretary Andrus' January 26, 1979, letter regarding Agency action on evaluating policies and procedures in order to determine appropriate changes necessary to protect and preserve Native American religious cultural rights and practices.

The Forest Service has had a continuing policy to seek out and involve individuals and groups in the development of management direction. Over the years local managers have worked closely with representatives of Indian groups in the planning and decision-making process. This input has been given full consideration in the formation of policies and procedures, both on a national and a local basis. With the passage of the American Indian Religious Freedom Act a new awareness of the needs of the Native American is occurring within the Agency.

As a result of the Act, this Agency has taken the following actions:

September 13, 1978 - An informal task group began developing Agency policy. Coordination on key issues began with the Department representative for Indian Affairs.

November 14, 1978 - A task force composed of representatives of Civil Rights, Recreation, Lands and Land Management Planning Staffs was established to implement the Native American Religious Freedom Act. The objectives of this group, chaired by a member of the Civil Rights Staff, were to recommend policies and procedures for decisions and to assist Washington Office Staffs, Regional Foresters, Station Directors and Area Directors in reviewing their policies, directives and procedures as required by the Act.
November 14, 1978 - A letter was sent to the field establishing interim policy for implementation of the American Indian Religious Freedom Act. Line management officials, at all levels, were informed that until further direction is available, the following direction will apply. "In the preparatory stage of land management planning, native traditional religious leaders will be notified of all public involvement activities and invited to provide input. If an issue concerning Indian religious freedom is identified, the cultural resource overview for the forest plan should provide substantive background on the traditional Indian religious practices within the planning area. When examination and consultation determine a need to protect or preserve certain lands or sites, this will be accomplished in and through the land management plan.

Each application by traditional Native Americans to use National Forest System lands for religious purposes shall be carefully considered. The careful consideration shall include those instances where a request involves an area under restrictions which would normally preclude the activity. A typical example of this situation would be a request to enter an area subject to fire closure. To the extent the proposed use or activity is considered consistent with existing laws and regulations, a special use permit may be issued."

February 15, 1979 - To assist in complying with the Act, Forest Service task force members met with representatives of the American Indian Law Center and the Native American Rights Fund Committee to have a background briefing, to share ideas, make suggestions, and to gain awareness of the Native Americans' religious issues. As a result of this meeting, it was determined that the Native American Rights Fund Committee will be available to provide awareness sessions at the request of the Regional Foresters. The Native American Rights Fund Committee indicated its interest in bringing local traditional religious leaders to these sessions to assist in providing local perspective.

March 12, 1979 - A letter was sent to Regional Foresters, Station Directors and Area Directors informing them of the availability of the Committee to participate in awareness sessions, and requesting that they make their own arrangement, if sessions are desired.
April 2, 1979 - A meeting was held at the Department of the Interior with members of the Bureau of Indian Affairs, other Agencies' and Departments' Task Force members. The purpose of this meeting was to discuss preparation of the American Indian Religious Freedom Act Implementation Report and to meet with the Native American traditional religious leaders. As a result of the above meeting, the Forest Service is seeking to meet with the Native American Rights Fund Committee to further discuss issues and opportunities that may be encountered in implementing the Act.

April 23, 1979 - The Forest Service task force met to compile field reports on the affects of Forest Service policies and procedures on the American Indian Religious Freedom Act. This review revealed that the agency has not identified any policies or procedures which have a negative affect on or will result in any abridgement of the religious freedom of the Native Americans. In our consultation with representatives of the Native American Rights Fund, they were of the opinion that some of our permit requirements, closure orders, cultural resource management program as well as other areas may infringe upon Indian Religious Freedom.

We are planning to continue the Agency review of these potential conflict areas in close cooperation with traditional religious leaders or their representatives to assure the protection and preservation of Native American religious rights and practices.

If you have any question concerning the information provided, we will be happy to respond. Our Agency representative, John Leasure can be reached at 447-8618.

Sincerely,

Jerome A. Miles
Deputy Chief
Memorandum

To: Assistant Secretary, Indian Affairs
Through: Assistant Secretary, Land and Water Resources
From: Director, Bureau of Land Management

Subject: Preliminary Evaluation of Issues Related to Compliance With the American Indian Religious Freedom Act, P.L. 95-341

I. INTRODUCTION. The American Indian Religious Freedom Act (P.L. 95-341) requires all Federal Agencies to evaluate their policies and procedures in order to determine possible impacts upon the traditional religious practices and beliefs of Native Americans. Those policies and procedures which appear to infringe upon such religious practices and beliefs must be identified, and recommendations regarding the need for either internal adjustments or changes in legislation must be made.

The Cultural Resource Program within the Bureau of Land Management's (BLM's) Division of Recreation is coordinating the BLM's efforts in complying with the requirements of P.L. 95-341. In order to assess the requirements necessary for the Bureau to comply with P.L. 95-341, the following steps are currently being carried out:

1. Review of relevant BLM policies and procedures for impact on Native American religious freedoms.

2. Field level review of present or potential conflicts with Bureau policies, procedures, and operational practices, and the intent of P.L. 95-341.

3. Development of recommendations for resolving conflicts between Bureau policies and procedures and the protection of Native American religious rights.

4. Consultation with Native traditional religious leaders and Native American groups and organizations.

Based on initial comments submitted by the various BLM Divisions and from the BLM State Offices, it is possible to identify some general issues and concerns, several specific present or potential conflicts, and general recommendations relevant to the intent of P.L. 95-341.
The following represents a preliminary evaluation only. The purpose is to isolate the major areas of concern in order that the BLM can better approach the responsibility of identifying the critical issues and of determining what specific changes are necessary to ensure that Native Americans are guaranteed the right of religious expression.

The issues raised below point out that any evaluation of matters relevant to P.L. 95-341 must take into account the extreme and unquestionable complexity of the situation. There is no such thing as one Native American religion; there are hundreds of Native American "religions" (i.e., systems of belief and practices), each with its own dynamic and often unique character. Any attempt to make generalizations regarding Native American religions or to use such generalizations with respect to conducting evaluations of Federal policies and procedures is to reduce this situation to a meaningless simplicity. In order to be useful and meaningful, an evaluation of the relationship between Federal policies and procedures and the intent of P.L. 95-341 must be an ongoing process and must be coupled with the identification, by traditional Native American religious leaders, of specific areas of concern. Only through a continuing program of evaluation can sound recommendations be made regarding changes which may be necessary to ensure Native American religious freedoms.

II. GENERAL ISSUES AND RECOMMENDATIONS.

A. Issues.

1. A common theme throughout many of the comments received has been the difficulty in evaluating BLM policies and procedures in light of P.L. 95-341 without a clear knowledge of the nature of Native American religions at each local level and the explicit concerns of specific Native American groups who may have religious interests related to public lands. It is impossible to identify conflicts and critical issues without direct input from Native American leaders and groups.

2. The Native American community does not necessarily view their concerns as a series of isolated conflicts (also see No. 3 below). The various specific concerns often relate to such central matters as the consideration of Native American views in the BLM's inventory, evaluation, and planning systems.

3. Defining and setting parameters on what constitutes Native American religion or defining such terms as "sacred" and "ceremonial" may prove difficult. With most Euro-American culture groups, it is often quite easy to separate what might be considered "religious" activities from other more "secular" behaviors. With many Native American groups, it
is difficult to isolate religious or sacred concerns from other cultural activities. They are often inextricably linked together and form a single system of belief and practice. In addition, there are problems of tribal differences in belief and organizational differences in belief and practice. Defining, integrating, and establishing parameters on these beliefs and practices will be an extensive, ongoing, and controversial process.

4. Related to No. 3, it may, in some cases, be an infringement upon religious belief for certain Native Americans to divulge the tenets of their religion. In such cases, it will be difficult to identify sacred sites and areas, since the act of doing so would be an infringement itself.

5. The BLM presently lacks the capability needed to conduct a comprehensive and ongoing evaluation of matters relevant to Native Americans.

B. Recommendations. Related to some of the issues presented above, the following general recommendations are offered:

1. Develop an ongoing Federal program to evaluate the relationship between Native American religious beliefs and practices and Federal policies and procedures.

2. Identify all Native American groups who have a direct religious interest in lands administered by the Federal land managing agencies. Identify the tribal and/or religious leaders of each group, so as to facilitate direct communication and consultation with them.

3. Fully integrate the consideration of socio-cultural values into all Federal land managing agencies' inventory, evaluation, and planning systems and encourage participation at the local level by Native Americans, as well as other ethnic and public interest groups, so as to provide direct input regarding their interests and concerns.

4. Develop an educational program in order to provide information to Federal Agencies regarding Native American concerns.

5. Establish and maintain cooperation between Federal Agencies regarding matters dealing with Native Americans.
III. SPECIFIC ISSUES AND RECOMMENDATIONS. The following presents some specific issues and recommendations which have been identified as relevant to P.L. 95-341.

1. Native Americans are often reluctant to identify and make public information related to sacred sites, areas, or objects, or to the set of beliefs and practices related to them. An explicit exemption from the Freedom of Information Act (5 U.S.C. 552) is needed for data related to sacred areas in order to allow the BLM and other Federal Agencies to offer Native Americans some assurance that such information will remain confidential.

2. The Endangered Species Act of 1973 (16 U.S.C. 1531; P.L. 93-205) provides for the conservation of endangered and threatened species of fish, wildlife, and plants. The use of such endangered resources by Native Americans for religious purposes may conflict with the requirements of this legislation. To date, no requests have been reported within the BLM for use of endangered species. This does not rule out that such requests may be made in the future.

While eagle feathers can presently be obtained, through a permitting system from the Fish and Wildlife Service, requests by Native Americans for use of other animals, plants, or fish may present basic conflicts with the Endangered Species Act and other conservation legislation. If the conflicts cannot be resolved through regulatory changes, legislative modifications may become necessary.

3. Native Americans may consider as sacred any areas which furnish subsistence resources for their group. The request for access to traditional collecting areas (e.g., fishing, acorn and pinenut areas) may present conflicts with existing BLM land use designations and local management goals. Such stress could be identified during the Bureau's Class I inventory (existing data compilation) studies and the information considered during the planning process.

4. Requests by Native Americans for possession and/or use of archeological materials (artifacts) recovered from BLM administered land, which are normally stored and occasionally displayed in museums having curatorial capabilities, present an extremely complex situation. There appears to be much variation between native groups regarding attitude toward such artifacts. Some groups consider such artifacts sacred and desire to use them for religious purposes. Some groups wish to be present during the excavation of archeological materials in order to perform certain rituals, and want artifacts returned to the soil after analysis. A few Native Americans are involved in conducting archeological investigations themselves.
It is difficult to fully assess the situation, since there is no consensus among Native American individual groups regarding archeological materials. The BLM's California State Office is currently working with California's Native American Heritage Commission to develop procedures for loan of heritage objects (artifacts) to Native American groups. After further evaluation and consultation with Native American groups regarding these concerns, the BLM will be in a better position to make recommendations. Legislative clarification regarding the ownership of archeological materials may become necessary.

5. Conflicts pertaining to the possession and use of archeological materials may relate to a more basic concern which focuses on the attitudes and beliefs of Native Americans toward archeological and anthropological research. While attitudes vary, many Native Americans oppose such studies of their culture. The BLM will need to address this situation and take a policy position.

6. The excavation of burial sites associated with Native Americans raises a sensitive issue. The BLM will have to establish a policy regarding such excavation. The policy should establish a consultation process that would be put into effect should aboriginal burials be encountered on BLM administered land. Such a process may include contacting all interested parties, including local Native American leaders, the State Historic Preservation Officer, and the county coroner, if appropriate. Recommendations covering how best to proceed would be based on this consultation process.

7. Antiquities Act permits are required for conducting archeological and paleontological work on Federal lands. Item 8(g) of the permit does address the exploration or excavation of burials on Indian lands and reservations.

There may be problems on other Federal, non-Indian lands if the potential effects of actions under the authority of an Antiquities Act permit on such things as Native American sacred sites or areas are not taken into account.

To ensure that Native American concerns are considered, a pre-permit consultation could be required between the applicant and the appropriate local Native leaders. In addition, special stipulations covering Native American concerns could be added to the permit.

8. The Bureau has only received a few requests from Native Americans for access to sacred sites for religious purposes. In those instances where such requests have been made, there have been no problems accommodating them. The potential for conflict does exist, though, between requests for use of land by Native Americans and the designation of the land for a specific use by the Bureau. Such conflicts could be resolved by considering Native American concerns early in the Bureau planning process (see No. 9 below).

9. Many separate potential conflicts revolve around the Bureau's land use management decisions. Such decisions involve both land use allocations and designations of sites or areas to special systems. Examples of such land use decisions includes the following:


   d. Allocating an area for:

      1. Recreation use.
      2. Livestock grazing.
      4. Timber harvesting.
      5. Habitat protection.
      6. Floodplain management.
      7. Other uses.
In developing its land use plans, the Bureau is guided by the principle of multiple-use management, as set forth in the Federal Land Policy and Management Act of 1976. During the Bureau's planning process, all resources and land use alternatives are considered in formulating a management plan for a given area. By fully integrating Native American and other socio-cultural concerns into the Bureau's planning process, many potential conflicts could be avoided. It is possible that many land use decisions are and can be extremely compatible with Native American concerns. For example, designating an area for wilderness or as an ACEC may serve to protect and preserve those same areas that carry religious significance for Native Americans. Input by Native Americans during the inventory and planning processes will ensure that their concerns are considered.

10. Potential conflicts could occur in land transfer, permit, withdrawal, and other actions which convey a degree of land use control to an entity other than the Bureau. The conflict would occur where lands having unknown (to BLM) religious significance or importance to Native Americans were sold or a land use authorized to an entity other than BLM. In those cases where Native Americans are restricted from access to areas of religious significance, a conflict could occur.

There is no information to indicate such conflicts have, in fact, occurred in the past. However, to insure that such conflicts do not occur in the future, the Bureau's Division of Lands and Realty intends to require contact with Native Americans, in the vicinity of any lands where lands or realty actions are proposed, to determine whether or not the lands under consideration have religious significance. This requirement will be included in Land Reports, which are prepared as a part of Lands and Realty actions.

11. The Bureau's Division of Rangeland Management has identified a potential conflict with some land treatment practices, such as chaining of pinon pine areas. However, these potential conflicts could be identified through the Bureau's planning system and the environmental assessment procedures.

12. The use of herbicides for controlling plants that are poisonous to cattle and for controlling over-domination of a plant species in an area may inadvertently affect plants having religious importance to Native Americans. Prior consultation and proper planning could avoid these conflicts.
13. In Alaska, the Alaska Native Claims Settlement Act provides opportunity for Alaska Natives to identify and select such lands as burial grounds and traditional fishing camps. This has taken place over the past several years with the assistance of the Bureau of Indian Affairs and the National Park Service. If situations arise in the future involving BLM-administered areas, satisfactory solutions could be achieved with the aid of such organizations as the joint Federal-State-Native councils, subsistence councils, and so forth.

14. The BLM depends heavily on Native American firefighting crews in its fire suppression program. The Bureau is aware of the impacts this could have on Native American religious practices. Therefore, it has been and will continue to be a policy to allow crews to return to their homes for any recognized religious purpose.

IV. SUMMARY. The Bureau, in the development and revision of land use plans, observes the principle of multiple use and utilizes a systematic, interdisciplinary approach to achieve an integrated consideration of the various resources and values associated with the public lands.

Relying on the inventory of the resources and values, the Bureau, through its planning process, considers the present and potential uses of the land and formulates management plans based upon these uses. The Bureau, therefore, has the overall policy and direction to incorporate socio-cultural values, such as Native American religious concerns, into its land use planning and management systems. Many of the potential conflicts identified above could be avoided through use of these systems. The BLM's Cultural Resource Program will be working toward providing specific guidelines for full consideration of socio-cultural values in the inventory and planning system.

The purpose of the preceding discussion has been to present a preliminary evaluation of matters relevant to P.L. 95-341. The Bureau will continue to gather information dealing with Native American religious concerns and identify any conflicts that may result from Bureau policy and procedures. Additional information and reports will be forwarded to the Task Force for use in preparing the report to Congress on implementation of P.L. 95-341.

[Signature]
Acting Associate
Memorandum

To: Secretary of the Interior
   Attention: Assistant Secretary for Indian Affairs

Through: Assistant Secretary for Fish and Wildlife and Parks

From: Director, National Park Service


The attached document, "Assessment of Compliance Requirements of P.L. 95-341 for the National Park Service," details the major issues of concern to the Service and to Native Americans in relating to Religious Freedom and Park Preservation and Management. It also includes our recommendations as to how these issues should be addressed. We plan to prepare a more detailed report that will contain background data for Park Service use. That report, when completed, will be shared with the Task Force.

We have appreciated the assistance of Suzan Harjo of the BIA in arranging meetings with appropriate Native American Organizations. The Native American Rights Fund, the American Indian Law Center, the California Indian Heritage Commission and the advisory group of Indian religious leaders were helpful in reviewing our draft material and assisting us to appreciate their concerns. Sharon Allender of the Office of the Solicitor, also assisted significantly in interpreting the legal ramifications of the various legislation.

The Service has a mandate that includes significant responsibilities for the care, preservation and interpretation of sites related to historic and prehistoric Native American cultures. We therefore have a special interest in the preservation of Native American traditions. We stand ready to assist in the Department's Task Force and request an opportunity to review and contribute to the work of that Task Force as it develops its material. We also believe that involvement directly
with those most affected by our performance is essential, and request an opportunity to participate in the public involvement process mandated by the Act and to be conducted by the Department.