Indian Affairs - Office of Public Affairs

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For Immediate Release: July 11, 1979
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Interior Assistant Secretary Forrest Gerard has issued guidelines to the BlA's Minneapolis Area Director for dealing with certain issues raised by recent actions of the Red Lake Tribal Council.

Referring to the Council's removal from office of the elected tribal treasurer, Stephanie Hanson, Gerard stressed that he regarded "the matter as one that should primarily be resolved within the framework of tribal governmental processes."

Emphasizing that the Department of the Interior and the Bureau of Indian Affairs were committed to the concept of tribal self-government and allowing the internal processes of tribal government to work, Gerard said the maximum degree of tribal self-government will be realized only if all parties understand the basis and circumstances under which the BIA, on behalf of the United States, has a legitimate reason for becoming involved in tribal government actions.

In the Red Lake, Minnesota situation, where civil unrest this spring following tribal council action in removing the treasurer resulted in more than $4 million in property damage and loss of life, Gerard said the Department considers the Red Lake Band's Constitution, like other tribal governing documents, to be a delegation of authority from the people to those elected to govern the band.

Because of the government-to-government relationship between the tribe and the United States, the approval by the Secretary of the Interior on behalf of the United States of the band's constitution represents an agreement between the band and the U.S. And Gerard pointed out that this includes a provision that the exercise of tribal government authority shall not conflict with the band's constitution or existing Federal laws.

One of the Federa11aws is the Indian Civil Rights Act of 1968 and in the Martinez decision the Supreme Court ruled the Federal courts do not have authority to pass on the validity of a tribe's ordinance. Under Martinez individuals alleging violations of the ICRA by tribal governments cannot look to the Federal courts for relief. And as a matter of policy, Gerard said, the BIA will not provide a forum for individuals who allege violations of the ICRA by tribal governments. He said the policy 'as based on the fact that the Congress considered and rejected a proposal to provide administrative relief by the Department of the Interior and the fact that the Supreme Court in Martinez said: "tribal forums are available to vindicate rights created by the ICRA."

Gerard said when the BIA or the Department of the Interior has reason to believe that the tribal government may be acting in violation of its constitution, a decision must be made whether to become involved, when to become involved, how to evaluate the tribal action, and what to do to correct violations.

Gerard told the Minneapolis Area Director Ed Demery that the questions about Red Lake must be answered initially by the Bureau officials on the site.

He said the government's relationship with the Red Lake Band has been affected by the tribal council

action in removing the treasurer, since the council has designated a new treasurer and asked the Bureau to recognize that person for the purpose of receiving tribal trust funds and for negotiating a P.L. 93-638 contract.

Gerard also instructed Demery to work with the Department's Field Solicitor to evaluate the action of the tribal council, to see if the governing body made a reasonable effort to comply with the terms of the constitution and whether the council action has a rational basis terms of the band's constitution.

If the BIA finds to its satisfaction that the tribal constitution has been violated by the council, Gerard said, as a matter of policy the Department and the Bureau are ready to impose whatever political and legal sanctions are at their command. He went on to say that it was not necessary to "exhaustively state what these sanctions are, but they include not recognizing the tribal governing body as being legitimately constituted."
