Native American Asset Watch:
Rethinking Asset-Building in Indian Country

Executive Summary, Findings and Policy & Practical Implications
Acknowledgements

This investigative research was funded by the Kendeda Sustainability Fund of the Tides Foundation. We thank them for their support but acknowledge that the findings and conclusions presented in this report are those of the authors alone, and do not necessarily reflect the opinions of the Foundation. This report was written by First Nations Development Institute staff, including Jerilyn DeCoteau, Director of Policy; Raymond Foxworth, Research Officer; Sarah Dewees, Director of Research; Catherine Bryan, Project Officer; and Michael E. Roberts, President. We wish to thank former staff, consultants, Dr. Catherine Vandemoer, who prepared the Wind River and Fort Berthold case studies, and Christina Aiello who did substantial early research for the project.

The authors wish to thank the following individuals for their assistance in preparing the case studies appended to this report: Ann Marie Chischilly (Gila River Legal Department), Brian Bennon (Gila River Office of Water Rights), Julie Fishel and Larson Bill (Western Shoshone Defense Project), Jim Wallis and Don Sampson (Confederated Tribes of the Umatilla Indian Reservation), and Jim Sizemore (Strategic Wealth Management, Inc.).

We also wish to thank our grantees/partners who opened up their processes and shared information that allowed First Nations to tell their stories in the case studies and carry out the research for this project: Gila River Indian Community’s Office of Water Rights, Three Affiliated Tribes of the Fort Berthold Reservation, Eastern Shoshone and Northern Arapaho Tribes of the Wind River Reservation, Confederated Tribes of the Umatilla Indian Reservation, Western Shoshone Defense Project. We wish to thank all of our Native American Asset Watch grantees, whose projects contributed in significant measure to the findings and lessons learned:

- Blackfeet Nation, Planning and Development Department
- Chief Dull Knife College Extension Service, “Dull Knife Saves” Individual Development Account (IDA) Program
- Confederated Tribes of the Umatilla Indian Reservation
- Confederated Tribes of the Umatilla Indian Reservation, Umatilla Tribal Community Foundation
- DNA-People’s Legal Services, Inc.
- Eastern Shoshone and Northern Arapaho Tribes of the Wind River Reservation
- Gila River Office of Water Rights (Gila River Indian Community)
- Three Affiliated Tribes of the Fort Berthold Reservation (Mandan, Hidatsa and Arikara Nation)
- Menominee Indian Tribe of Wisconsin, Menominee Tribal Enterprise
- Montana Indian Business Alliance
- National American Indian Housing Council
- Navajo Partnership for Housing
- Northern Arapaho Business Development Corporation
- Quileute Nation
- Running Strong for American Indian Youth – Oglala Sioux Water Protection Project
- Thunder Valley Community Development Corporation
- Turtle Mountain Allottee Association
Finally, we wish to acknowledge and thank First Nations Development Institute’s Board of Directors, whose stewardship guides all of First Nations’ work.

This work incorporates materials previously developed and authored by First Nations Development Institute staff, including Rebecca Adamson, founder and former director and officer of First Nations Development Institute, and Sherry Salway Black, former Vice-President of First Nations Development Institute.

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*Full Report Available July 2009

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Native American Asset Watch: Rethinking Asset-Building in Indian Country

Executive Summary, Findings and Policy & Practical Implications
I. Executive Summary

It may be that Americans will have to come face to face with the loathsome idea that their invasion of the New World was never a movement of moral courage at all; rather, it was a pseudo religious and corrupt socioeconomic movement for the possession of resources.

-Elizabeth Cook-Lynn, from *Why I Can't Read Wallace Stegner and Other Essays: A Tribal Voice*

At the start of the 21st century, the most fundamental questions confronting tribes are: Who controls Native American assets? How can Native Americans regain control of their assets? How will Native American tribes develop the essential organizational, political, legal and economic infrastructure, the required expertise and capabilities in government, technology and business and the needed skilled tribal workforce to control and manage their assets? These are fundamental questions that tribes and their citizens must address as they work toward social, political and economic security for their communities. These essential questions cannot be separated from tribal sovereignty; in fact, asset-building policies or programs are likely to succeed only when viewed and created through the lens and in the context of tribes’ sovereignty, cultures and traditions.

First Nations Development Institute’s (First Nations) Native American Asset Watch Initiative (Asset Watch Initiative) is a comprehensive strategy for systemic economic change, which seeks to provide a range of support for efforts by Native communities to reclaim direct control of their assets and re-establish sustainable approaches to the use of land and natural resources. Under the Asset Watch Initiative, First Nations, in partnership with tribes, has researched and mapped the allocation and control of assets, and monitored and exposed the mechanisms by which Native assets are valued and turned into revenue. This process has helped to provide credible and timely information for Native communities, organizations and government entities on the current status of Native assets—information that is essential to effectively advocate for greater tribal and community control and to return to more sustainable use of those assets. Thus, the Asset Watch Initiative can inform policy development and promote sustainable, culturally compatible economic development in Native communities.

Due to the ongoing effects of past federal Indian policies, external entities continue to control American Indian assets, with the predictable and evident result that the benefits derived from American Indian assets flow mainly away from reservations. The history of oppression has broken tribal systems and diminished capacity at the personal, institutional and tribal governmental levels. For tribes to move away from the effects of colonialism toward regaining control of their assets requires an understanding of the burdens history has placed on tribes. This understanding is necessary to allow tribes to reconnect with their cultures and reconstitute their traditional techniques for managing assets, building wealth, saving for the future, investing and passing on such knowledge to new generations. Understanding history is also essential to formulating responsive tribal policies to counteract and reformulate federal policy prescriptions.

In the face of enormous odds created by the history of asset stripping and attempted destruction of tribal societies, tribes must now do the hard work of regaining control of their assets and relearning how to manage them, especially their land and natural resources. The case studies in this report describe the strategies five tribes have used to define and regain control of their assets; they lay out the hard work each undertook to create institutions and systems to manage their resources; and they show the community involvement and planning that took place to be sure their assets grow, are protected, and will be used in ways that will create economic, social and political security for future generations.
This report explores the asset stripping purpose and effects of federal Indian law and policies, discusses existing mainstream asset-building models and then proposes a model for asset-building in Indian Country. This model recognizes and incorporates tribal sovereignty as the overarching asset for tribal communities. The model provides a broad definition of assets that takes into account tribal culture and traditions. It addresses the need for tribes to create strong government and economic infrastructure. It takes into account the range of problems created by nearly two and half centuries of oppression. Asset-building theories and models that address building only individual assets fail to take these foundational assets and critical needs into account.

**Key Findings**

First Nations’ research on asset-building strategies has been integrated with and supported by grants and technical assistance provided to grassroots community partners, and by case study analysis. Strategic grantmaking to more than 20 partner tribes and organizations has yielded perhaps as many questions as answers because of the complexities of Indian communities; however, several policy and practice implications have emerged.

**Tribal Institutional Restructuring and Civic Engagement**

Tribes must revise or create structure, organization and governing and regulatory systems that will eliminate government instability, build capacity to provide and maintain a healthy, predictable business environment and carry out the economic and social objectives and goals of the tribe. Tribes must create forms of government that reflect their cultures and which will increase civic participation by focusing on the obligations as well as the rights of tribal citizens. Tribes have no choice in these matters if they are to endure as tribal societies.

**Tribal Control of Assets**

Asset-building at the tribal level is necessary in order to create an economic environment in which tribal and individual asset-building can succeed and contribute to a healthy tribal community. Asset-building at the tribal level must be geared toward the development of governmental, business and technical capacity and provide education, training and apprenticeships for members. This means tribal and federal resources must be directed at strengthening tribal government institutions and building all the skills needed for a fully functioning society. Tribes must begin to identify, track and monitor their assets and work toward control of their assets so that tribes can responsibly steward their assets for future generations. Asset-building at the tribal level must also involve tribal governments, programs, organizations and community members all participating and working towards collective goals of asset control. As the case studies demonstrate, tribes have had to initiate major systemic changes in order to exercise their sovereign right to control and effectively manage their assets.

1 This is especially true for tribal governments that have had tribal structures and “boilerplate” constitutions adopted under the Indian Reorganization Act of 1934. These governing structures and constitutions typically require federal approval for many tribal actions. In general, all tribes should consider their historical ways of governing, which reflected their values and culture, and ensure that their current government structure reflects and fits these values and traditions. Tribal governments may look different for every tribe in the United States; tribes have the right to decide for themselves their own form and structure of government.
Mentoring & Peer Learning Institutes

Mentoring should be supported and formalized so that tribes may receive one-on-one training and guidance from other tribes with experience in things such as: constitution reform, legislative and regulatory processes, accounting, finance and budgeting systems, integrating cultural practices with economic development and long range planning. This is all akin to what tribes, operating as intact societies, always did: control, retain, increase and leverage their assets to insure strong communities. But after 517 years of oppression, tribes need assistance in applying what they have always known to recreate systems that will make their communities healthy and economically secure.

Those tribes who have successfully rebuilt their governments, regained control of their assets and created new assets have much to offer tribes who are just starting or struggling. Tribes can be role models and mentors for one another. They can help create models that are relevant to other tribes. Peer learning institutes should be developed and supported with tribal, federal and nonprofit funding and with the purposes of helping tribes 1) restructure their governments, 2) build capacity, 3) regain control and management of their assets, especially land, water and energy resources, 4) support individual asset-building, and 5) establish accountable and transparent governing, administrative and regulatory mechanisms. Tribal sovereignty, histories and cultural beliefs and practices should guide all of these important activities.

Tribal Capacity Building

In order to have economically healthy tribal communities and support individual asset-building, tribal sovereignty must be exercised through strong tribal institutions and with laws and rules that reflect a tribe’s individual history, culture and relationships with other governments. Tribal leaders must be able to lead, govern and foster economic development. Tribes and individuals must learn the importance of budgeting and saving. A workforce must be developed; tribal members must have the skills and knowledge needed at all levels of tribal society. Community engagement and grass roots support are essential. The federal government can play a role, but it must be a support role, not a “do-it-for-them” role. The case studies in this report show that those tribes who have developed needed internal expertise have greater success in regaining control of their assets and managing them effectively. Tribes’ ability to administer and support asset-building programs will flow from this increased capacity.

Tribal Think Tanks to Promote Tribal Control of Assets through the Exercise of Tribal Sovereignty

The point has been made that sovereignty is tribes’ most important asset, but as with any asset, it must be used wisely and well. In order for tribal sovereign authority to be exercised effectively, and for tribes to endure as sovereign nations, critical knowledge and data are needed to make decisions about tribal assets and how to best use them. Analyses are needed on the economic, social and cultural value of tribal assets, the way in which non-Indians benefit from them and how to redirect the control and benefits to tribal communities. Tribal experts have experience with these questions and issues and can write about them and share their knowledge so that other tribes may benefit. As the case studies in this report demonstrate, research directed by tribes is needed on tribal assets and asset-building in Native communities in order for tribes and tribal communities to devise strategies to regain control of their assets.
The Role of Philanthropy in Asset-Building Must Be Expanded

The role of fundraising and philanthropy, including tribal philanthropy, in tribal asset-building must be addressed. Philanthropy must be considered as an asset that will help tribes grow and create more assets. Tribal philanthropy is emerging and will play a critical role in asset-building in Indian Country.

Federal Policy

Federal policy must be changed to respond to the asset-building demands and systemic change and capacity building that is critically needed in Indian Country. Federal asset-building policy is aimed at building individual wealth. Individual asset-building must continue but it is not enough. Entrepreneurship and asset-building at the individual and even community levels can go only so far. Such asset-building efforts will be limited by lack of institutional support at the tribal level. While individuals may build assets, without a strong tribal economic environment, the benefits from these assets may still flow away from the tribal community, as they typically have, into the surrounding non-Indian communities. That is where there are businesses, services, government institutions, regulatory and dispute resolution systems in place. Such infrastructure may not be found or well supported and developed in tribal communities.

Federal policy must support tribes’ control of their assets and use of tribal assets that will allow tribes to create a reservation environment in which individual assets can contribute to the tribal community. It is not enough to offer money and technical advice to tribes. The federal government needs to remove the obstacles created by past federal policy, and allow tribes to build the capacity they need to do it themselves. The federal government must find ways to support these efforts, without intrusiveness.

Conclusion

Today, despite a history of federal policy aimed at the transfer of tribal assets and wealth to mainstream America, many tribes are still asset rich. Yet, Native Americans continue to have the highest poverty rate and the highest unemployment rate in the nation. Clearly, something has been missing: distilled to its essence, the problem is that mainstream theories fail to acknowledge and address the biggest barrier to tribal asset-building— tribes do not control the use of their assets and therefore do not receive the benefits from them. Due to the history of federal Indian policy, tribes often lack the infrastructure needed to support asset management and growth. These debilitating problems must be addressed in any asset-building strategy intended to improve tribal communities.

The goal of First Nations’ Native American Asset Watch Initiative and this report is to broaden and deepen the dialog and expand the research concerning how tribes can regain control of their assets, become effective managers and finally receive the benefits from their assets. Tribes must be able to use their assets to create the economic security that will strengthen tribal sovereignty and allow all the aspects of tribal societies to flourish. To insure that happens, more research is needed and more of the tribes’ successes need to be shared with other tribes. This report has provided some of that research and shared some of the stories, and by doing so has tried to give direction and lay a better path to more effective asset-building in Indian Country.
II. Findings

A. Tribal Control of Assets is Essential to Building Assets and Achieving Long-Term Economic Stability.

In First Nations’ nearly three decades of work in Indian Country, it has been become increasingly evident that tribal control of resources is an essential building block to social, political and economic development. Under its Asset Watch Initiative, First Nations conducted research to determine the relationship of tribal control of resources and asset-building and to identify asset-building strategies that have worked for tribes. If the federal government, states and other outside entities continue to control tribes’ assets, tribes will continue to receive marginal or diminished benefits and have little authority over their assets.

Tribes that have successfully regained control of their assets are reaping the benefits from those assets. An example from the case studies demonstrates this. The Confederated Tribes of the Umatilla Indian Reservation have used income from their gaming operation to invest in government services, tribal businesses, support entrepreneurship, help individuals save to buy a house and diversify their economy in many other ways. The CTUIR restructured its budgeting and financial system to take care of current needs and to allow for investment and growth of assets. The other case studies provide other examples of tribes’ work to regain control of their assets.

B. The Legacy of Past Federal Indian Policy Continues to Hamper Tribes’ Ability to Control and Manage Their Assets; History Must Be Considered When Formulating Strategies to Regain Control of Tribal Assets.

Due to the ongoing effects of past federal Indian policies, external entities continue to control American Indian assets with the predictable and evident result that the benefits derived from American Indian assets flow away from reservations. The history of oppression has broken tribal systems and diminished capacity at the personal, institutional and tribal governmental levels. For tribes to move from the effects of colonialism to control requires an understanding of the burdens history has placed on tribes. Understanding the history of federal Indian policy and their own tribe’s history is necessary to allow tribes to reconnect with their cultures and reconstitute their traditional techniques for managing assets, building wealth, saving for the future, investing and passing on such knowledge. History is also key to formulating responsive tribal and federal policies to counteract federal policy prescriptions.

C. Modernization and Other Mainstream Theories of Asset Development Have Failed to Protect, Preserve and Grow Indian Assets.

Prior research in Indian Country, emphasizing economic theories of modernization and neo-classical economics, which reflect a “one size fits all” approach to solving the economic problems in tribal communities, may be viewed with skepticism, and with good reason. These theories tend to dismiss tribal histories as inconvenient and unessential to the current state of tribal underdevelopment. To effectively get to the heart of American Indian underdevelopment, tribal histories must play a key role in the identification of the barriers to tribes’ exercise of sovereignty and control over their assets.

Assimilation/acculturation models may provide some near-term advantages and wins, but they are aimed at building individual assets, not on building tribal communities or strengthening tribal sovereignty.
Over the long-term, such models may feel like more variations of the oppressive models of colonization that have already failed tribes. Tribes must consciously evaluate modernization theory, or any theory they themselves did not devise, and weigh the appropriateness for tribal communities and reservation economies.

**D. Tribes’ Most Important Asset is Their Sovereignty.**

Tribes must exercise their inherent authority or be faced with the likelihood that federal and state governments, the courts and other bureaucracies will continue to diminish the sovereign rights of Indian nations. In order to have economically healthy tribal communities and support individual asset-building, tribal sovereignty must be exercised through strong tribal institutions, with laws and rules that reflect a tribe’s individual history, culture and its relationships with other governments. The case studies show that some tribes have had to initiate major systemic changes in order to effectively exercise their sovereign right to control and effectively manage their assets.

**E. Treaties are Assets that Protect Tribes’ Sovereignty and Other Assets.**

Treaties and sovereignty are fundamental tribal assets that go hand-in-hand. Enforcing treaties is vital to tribes’ ability to exercise control over their assets. Because the federal government has abrogated most treaties with tribes, tribes are forced to continue to fight for their rights and assets, even those clearly documented in treaties. As the Western Shoshone Defense Project case study demonstrates, treaties are active documents that are essential to formulating legal and political strategies and for cultural revitalization and community engagement. Treaties remain foundational for tribes as they continue to fight for their sovereign rights and control of assets; this is a fight tribes must win in order to continue as governments with the right to define their own societies.

**F. Historically, Monetization of Tribes’ Assets Has Undermined Tribal Stability and Tribal Authority.**

History has taught tribes that assets that can be monetized have been and will continue to be, even when tribes do not want their assets converted to money. Loss of the underlying assets has had far reaching effects that money cannot replace. As a result of monetization of major physical assets other critical tribal assets have been suppressed or destroyed including: sovereign authority over tribal land and people, tribal government, societal institutions, culture, language, education systems, religious and cultural sites, food sources, medicinal plants, animals, forests, fish, archeological sites, sacred and cultural uses of water and other natural resources.

When the Confederated Tribes of the Umatilla Indian Reservation, like so many tribes, received monetary compensation for the taking of their assets, their land and fishing rights, they distributed all of the money per capita. Soon, not only their assets were gone, but the money was gone as well. The money provided only temporary benefits to tribal members. The Tribes received nothing that would help it to carry out its duties as a government or take measures to insure long term tribal community stability. It can well be expected that many tribes would rather have kept their property and would have if circumstances had afforded the choice.

The refusal of the Western Shoshone to accept payment for sacred lands is but one of many examples in Indian Country in which a tribe has decided not to assign a monetary value to an asset. While many in
mainstream America may not understand the reasoning behind such decisions, these decisions must be respected and supported by the federal government and other entities and funding agencies.

**G. Tribes Have Had to Undergo Systemic Change and Rebuild Institutional Capacity in Order to Take Control of Their Assets.**

The lesson from each of the five case studies and in every grant First Nations has made under its Asset Watch Initiative is that tribes must have or develop the internal capacity to curb asset depletion and gain control of their assets. Tribes must have the essential organizational, political, legal and economic infrastructure in order to remove the barriers and foster asset-building within their communities.

The case studies in this report show that those tribes who have developed needed internal capacity and expertise have greater success in regaining control of their assets and managing them effectively. Tribes’ ability to administer and support asset-building programs will flow from this increased capacity. The CTUIR created a better finance and accounting system which has allowed planning, investment and diversification, and is creating a more stable tribal economy. The Three Affiliated Tribes created a tribal natural resource department and are hiring in-house technical experts on oil and gas and water to better manage their assets. The Gila River Indian Community established a water department and created long-term plans for use of water in ways that will make the Community healthier. The Eastern Shoshone and Northern Arapaho have created an office of the Water Engineer and adopted a water code to define acceptable uses of their water and to provide rules for management.

These tribes have undertaken the long, hard, but ultimately satisfying task of making their governments stronger, building capacity and infrastructure. They have made the investment of time and money needed to build economic security for their communities.

**H. Community Engagement and Grassroots Support are Essential to Asset-Building in Native Communities.**

Community engagement and grassroots support are common themes through all of the case studies. Individual development must be connected to the development of the tribe and to the exercise and preservation of tribal sovereignty.

Long-term growth and sustainability may be difficult if tribal governments do not create and foster an environment that facilitates community involvement. Tribal governments and their members must share long-term vision, values and goals for effective management and use of assets, future orientation and building personal and tribal efficacy. Grassroots organizations and tribal nonprofits, such as the Western Shoshone Defense Project, can play important roles in promoting and protecting tribal sovereignty and developing strategies to utilize and control assets. When these organizations are partners in developing and implementing asset strategies, tribal and individual capacity are significantly increased.

When tribal governments work with tribal communities, communities are informed and empowered. Civic participation helps to make tribal government processes more transparent and provides a mechanism to make tribal government more accountable to their members. These community building experiences can provide important examples for other tribes wishing to engage their communities.
I. Peer Learning and Mentoring are Effective Ways to Assist Tribes in Gaining Control of Their Assets.

First Nations’ investigative research has revealed that an effective way to assist tribes is to build relationships between them so that they can share their best practices through peer learning and mentoring. This way no one is telling tribes what they should do or what will work; no one is imposing a foreign culture or way of doing things that could undermine tribal institutions. Instead, relevant examples of success are demonstrated and shared. It is not the ideal, because the ideal would be the intergenerational passing of knowledge within a tribe, but it may be as close to ideal as is possible.

Many tribes have developed sophisticated methods of passing on knowledge and experience for asset control. For instance, many of the 33 tribal colleges and universities have developed and shared models and methods that promote language and culture revitalization and teaching in culturally relevant ways. Peer learning can extend the benefits of experience beyond the reservation to other tribes. Though the same mechanisms may not be directly transported, sharing and learning from other tribes with similar (though never the same) experiences can help in formulating tribal specific strategies and tools for asset control and management.
III. Policy and Practical Implications for Asset-Building in Indian Country

Tribal Sovereignty today finds at least as much meaningful definition in the growth, development and day to day functioning of effective tribal governments as it finds in volumes of the law library. Far from being relics of a bygone era, Indian tribal powers bear the burnish of everyday use.

-Senior Judge Bruce S. Jenkins, *MacArthur v. San Juan County*

First Nations’ research on asset-building strategies has been integrated with, and supported by, grants and technical assistance provided to grassroots community partners and by case study analysis. Strategic grantmaking to more than 20 partner tribes and organizations has yielded perhaps as many questions as answers because of the complexities of Indian communities; however several policy and practice implications have emerged.

A. Tribal Institutional Restructuring May Be Needed.

Tribes must evaluate their governing structures and reform their governments as necessary to eliminate government instability and create a government that reflects the tribes’ culture. Tribes must revise or create structure, government and regulatory systems that will build their capacity to provide and maintain a healthy tribal environment and provide processes that will carry out the economic and social objectives and goals of the tribal communities.

Top down models for tribal governments and asset-building may only mimic oppressive non-Indian governments and models that have not worked for tribes. The best feature of such models may be that the federal government approves of them; at worst, such imposed government structures ignore tribes’ traditional ways of governing and disempower tribes and their citizens.

B. Tribes Must Encourage and Support Civic and Political Engagement.

Tribal citizens look to tribes to provide programs and services; conversely, there should be more conversation at the tribal and community levels about the role and responsibility of citizens to the tribe and their communities; there should be focus on the obligations as well as the rights of tribal citizens. Civic and political engagement are essential and must be encouraged, even insisted upon. Tribal members must be involved in tribal affairs at all levels, serving in office, on committees and boards and engaging in community events and activities. Tribal government can create structures to allow for citizen participation or citizens can create ad hoc groups or coalitions to present their issues and provide input; a combination of efforts will likely be required.

Tribes and their members must engage in a sustained effort at all levels to create the form of government and institutions that will allow them to do it for themselves. To gain outside support for their efforts, tribes must continue to educate broader society, lawmakers, courts, funders, lenders, schools, states and just about anyone with whom they interact on any level, about their status and responsibilities as governments, about tribal sovereignty and the right of sovereigns to determine the rules and laws that regulate their societies.

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2 These points have also been emphasized by others who have studied tribal economic development, such as the Harvard Project on American Indian Economic Development, John F. Kennedy School of Government, Harvard University, founded in 1987, and Native Nations Institute for Leadership, Management and Policy, Udall Center for Studies in Public Policy, University of Arizona, founded in 2001.
C. Tribes Must Take Active Control of Their Assets.

Tribes must take an active approach to decisions concerning their assets and how to use them. Tribes need to map their assets, including land, energy and water, to have a full picture of their assets, their importance to the tribe, their potential uses and how to manage them effectively for the benefit of the tribe. Tribes must complete inventories of such things as leases and royalty agreements and must monitor leases and enforce compliance. Tribes must actively manage their assets in every respect and be fully involved in decisions about their assets. Tribes must do their own assessment of fair market value of leases and agreements. In fact, tribes should keep their own or duplicate sets of records, if possible.

Where tribes do not have full control of leases for trust property and resources, tribes must be at the table to influence such things as negotiation of escalation clauses, royalty sharing and buy-out terms. Tribes must refuse to be the passive recipients of BIA negotiated and controlled payments for use and extraction of tribal assets.

Tribes must take control by developing their own theories and strategies for asset-building. Modernization and other mainstream theories of development have fallen short when it comes to protecting, preserving and growing tribal assets; thus, alternative or traditional stewardship models, defined by tribes themselves, must be found. Tribes must be highly and directly involved in individual and tribal asset-building programs in order to ensure cultural fit and consistency with tribal policies.

Tribal economic development departments may wish to draw on historical strengths and traditions, including the tribes’ history of commerce and asset management, to guide the development of strategies for building wealth at the tribal, community and individual levels. Development should be consistent with culture and tradition, but tribes must define what development means and requires, and closely monitor development at all stages to insure consistency with tribes’ views and policies, as well as compliance with tribal laws and regulations. The tribal definition of development should be reflected in tribal laws and rules that govern and regulate such development. Community development, as well as individual development, must be connected to the development of the tribe/nation and to the preservation and exercise of tribal sovereignty.

Tribes must actively control commerce within their territories or continue to abdicate tribal authority to states, which at worst may be unfriendly and at best may not understand the tribal policies that drive tribal commercial rules and decisions. Implicit in controlling commerce is the requirement of a tribal commercial code and any other codes needed to regulate commercial activities, whether they involve building houses, disposing of sewage, regulating food preparation, transportation, zoning or any activity. The United States Supreme Court has said that tribes retain authority to regulate activity, including non-Indian activity, that “threatens or has a direct effect on the political integrity, the economic security, or the health or welfare of the tribe” *Montana v. United States*, 450 U.S 544 (1981). Tribes must give this authority meaning through strong government.

Tribes must work to make self-determination more than just the “policy du jour”; tribes must use this federal policy to revitalize their governments and create tribal economies that will be sound into the future, and thereby regain control over their own political and economic destinies.
D. Peer Learning Institutes Should Be Established and Mentoring Should Happen on a Broad Scale.

Peer Learning and mentoring should be supported and formalized so that tribes may receive one-on-one training and guidance from tribes with experience in things such as constitution reform, legislative and regulatory processes, accounting, finance and budgeting systems, integrating cultural practices with economic development and long range planning. This is all akin to what tribes, operating as intact societies, always did – control, retain, increase and leverage their assets in order to build strong tribal communities; but after 517 years of oppression, tribes need assistance in applying what they have always known to recreate systems that will make their communities healthy and economically secure.

Peer learning should be adopted as official tribal and federal policy. Successful tribes can serve as role models and mentors and provide technical assistance providers to tribes who might be just beginning to take more active control of their assets. The recent mentoring relationship between the Southern Ute Tribe and Three Affiliated Tribes concerning energy resources provides a good model to which other tribes may look. Until tribes build sufficient internal capacity, they must seek out and acquire such “just in time” technical assistance.

Tribes can even help other tribes create individualized models and help train other tribes’ technical staff. Peer learning institutes should be developed and supported with tribal and federal funding with the purposes of helping tribes 1) restructure their governments, 2) build capacity, 3) regain control and management of their assets, especially land, water and energy resources, 4) support individual asset-building, and 5) become more accountable.

E. Tribes Must Continue to Build Institutional Capacity in Order to Effectively Control Their Assets.

Tribal leaders must be able to lead, govern and create an environment that fosters economic development. Self-actualization for tribes and their members cannot be achieved until basic human needs are met, including housing, healthy diet, health care, education and jobs, in ways that fit the culture and traditions of the tribal community.

Tribal, federal and other resources must be directed at strengthening tribal government institutions and building all the skills needed for a fully functioning society. In order to build capacity tribes must invest in their human capital to close the education and skill gaps, or continue to suffer with the federal asset stewardship and management that is so often misaligned with tribal cultural values. A workforce must be developed; tribal members must have the skills and knowledge needed at all levels of tribal society. The federal government can play a role, but it must be a support role, not a “do-it-for-them” role.

Tribes and individuals must learn the importance and experience the benefits of budgeting and saving. Tribes must take advantage of every opportunity to help their communities get stronger. For example one barrier to individual and community asset-building is lack of capital and access to loans to buy a house, get training or start a business. Tribes could investigate the feasibility of institutions such as Community Development Financial Institutions (CDFIs), which can provide alternative banking services and products, including loans to help build an entrepreneurial/for-profit sector in reservation economies.
Tribes should invest resources and use their regulatory authority to foster entrepreneurial development in order to give economic and political power to tribal citizens. Individual asset-building will make tribal members less dependent on government services, which will in turn free up tribal resources for other important activities.

F. Tribes Must Decide Themselves Whether to Monetize Their Assets and Monitor the Monetization Process Closely.

Tribes need to be the decision-makers and control whether and which assets are monetized. Tribes must refuse to be the passive recipients of BIA negotiated and controlled payments for use and extraction of tribal assets. Inaction must be a conscious decision, not a default action. Waiting for the BIA to act or find the right opportunity has not worked well for tribes. Where assets have been monetized, tribes should actively monitor the use and income from the asset. Tribes must know what their assets are; they must map their assets so they know who is using, controlling, managing and benefiting from the assets. Tribes must know what laws, regulations and conditions apply to the use and management of their assets.

Tribes, their governments and economic development departments must have a complete inventory of leases and royalty agreements, know what these agreements say and know their rights under these agreements. Tribes must do their own assessment of fair market value of leases and agreements and be familiar with all their terms and requirements. Tribes should define permissible uses and the value of their assets, whether in monetary, cultural or other terms. Tribes should adopt codes to manage and regulate use of assets. If there are barriers in their constitutions to creating needed laws and codes, then those barriers should be removed. There are many tribal codes that can serve as models.

G. Tribal Think Tanks Are Needed to Promote Tribal Control of Assets Through the Exercise of Tribal Sovereignty.

The point has been made that sovereignty is tribes’ most important asset, but as with any asset, it must be used wisely and well. In order for tribal authority to be exercised effectively, and for tribes to endure as sovereign nations, critical knowledge and data are needed to make decisions about tribal assets and how to best use them on grand and small scales. Analyses are needed of the economic, social and cultural value of tribal assets, the ways in which non-Indians benefit from them and how to redirect the benefits to tribal communities. Tribal experts have experience with these questions and issues and can write about these issues, talk about their experiences, as well as share their knowledge and experiences through peer learning and mentoring so that other tribes may benefit.

H. Philanthropy Should Play a Larger Role in Tribal Asset-Building.

The roles of fundraising and philanthropy, including tribal philanthropy, in tribal asset-building must be addressed. Philanthropy should be considered as an asset that will help tribes grow and create more assets. Tribal philanthropy is emerging and will play a critical role in asset-building in Indian Country.

The nonprofit sector can be a competent partner to tribal governments, assisting in performing assessment and oversight functions that that the tribes cannot do for themselves. They do not need to control every detail, but can exercise their regulatory authority over such partnerships in order to preserve tribal sovereignty. Tribes should enact their own nonprofit codes, so they do not remain at the mercy of states’ nonprofit laws, which currently may exclude tribes from achieving nonprofit status. One way for tribes to

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3 The HoChunk Nation, which has enjoyed economic gains, for example, has a code with ten titles, with as many as 20 sections in each title. http://ho-chunknation.com/?PageId=254 (last accessed March 20, 2009).
do this is by establishing tribal nonprofits under the existing Internal Revenue Code § 7871, which allows tribes to form their own charitable organizations. Forming a nonprofit organization can be a good way for tribes to protect an important aspect of their tribal sovereignty by exercising choices as to which organizations and activities to fund and promote through nonprofit giving, based on tribal policies.4

Tribes can also work effectively with local, regional and national nonprofits such as the Indian Land Working Group, Council of Energy Resource Tribes, Native American Rights Fund and First Nations Development Institute. Such partners can assist tribes in their efforts to inventory, develop, manage and protect their assets and to maximize the benefits from them.

Mainstream philanthropy also serves a role in tribal asset-building. Mainstream philanthropy should support tribal efforts to control tribal assets by supporting the development and implementation of appropriate tribal asset-building models. Mainstream philanthropy should also support tribal nonprofits and tribal charitable organizations. Mainstream philanthropic organizations can also serve a role in supporting the development of projects that model best practices in tribal asset-building. These kinds of support will help to remove barriers and allow tribes to develop strategies and tools for successful tribal asset-building.

I. Tribes’ Success Stories Should Be Shared Broadly.

Tribes’ successes need to be detailed and widely shared with each other, federal agencies and funding sources. Any mystery surrounding some tribes’ asset-building successes needs to be revealed; success may come from no more than tribes rolling up their sleeves to do the step by step work of rebuilding tribal institutions and infrastructure needed to effectively manage their assets. Sharing the details of tribes’ stories will demonstrate that tribes can do it for themselves and will show the internal and external processes tribes engaged in to regain control of their assets. Knowing how tribes worked through the maze of federal laws and regulations, how they dealt with administrative agencies, and how they wended their way through the courts may assist other tribes going through the process. Seeing how the other tribes worked to strengthen their own governments and build capacity seems far more useful than having someone tell tribes what they should do. Tribes’ success stories need to see the light of day so that other tribes may learn and apply the lessons from them and create their own building blocks of success.

Tribes’ stories should be shared with law and policy makers at tribal, state and federal levels to help educate them and help them formulate or reformulate policies to support effective asset-building strategies for tribes. Funders too need to know these stories so that they can make informed decisions about where the investment of their money can have the most impact for tribes.

Tribes’ success stories may not rewrite history to make it more accurate and fair, but it will write tribe’s stories going forward, from the perspective of tribes who once again are directing their own destinies.

J. Federal Law and Policy Must Be Changed to Support Tribal Asset-Building and to Give Full Meaning to Tribal Self-Determination.

Federal policy must be changed to respond to the asset-building demands and systemic change

4 See www.firstnations.org for information and materials on First Nations’ project researching tribal charities organized under § 7871 and for its work to amend § 7871 of the Internal Revenue Code to clarify tribal charities’ status as public charities.
critically needed in Indian Country. Federal asset-building policy is focused mostly on building individual wealth. Individual asset-building must continue but it is not enough. Entrepreneurship and asset-building at the individual and even community levels can go only so far. Such asset-building efforts will be limited by lack of institutional support at the tribal level. While individuals may build assets, without a strong tribal economic environment the benefits from these assets may still flow away from the tribal community (as they typically have) into the surrounding non-Indian communities. That is where there are businesses, services, government institutions, regulatory and dispute resolution systems in place. Such infrastructure may not be found or well supported and developed in tribal communities.

Tribes must continue to insist that the United States as trustee follow the strict fiduciary standards that apply when a trustee manages assets for the benefit of another party. Tribes should also have their own fiduciary standards enacted into law. These may not bind the federal trustee, but they would send a clear message that fiduciary conduct in dealings with the tribe should not fall below a certain standard.

Federal policy must support tribes’ control of their assets and use of tribal assets to strengthen tribal sovereignty and allow tribes to create a reservation environment in which individual assets can contribute to the tribal community. It is not enough to offer money and technical advice to tribes; the federal government needs to remove the obstacles created by past federal policy and allow tribes to build the capacity they need in order to do it themselves. The federal government must find ways to support these efforts, without intrusiveness.

**Conclusion**

Today, despite a history of federal policy aimed at the transfer of tribal assets and wealth to mainstream America, many tribes are still asset rich. Yet, tribes continue to have the highest poverty rate and the highest unemployment rate in the nation. Clearly something has been missing; distilled to its essence, the problem is that mainstream theories fail to acknowledge and address the biggest barrier to tribal asset-building—*tribes do not control the use of their assets and therefore do not receive the benefits from them.* Due to the history of federal Indian policy, tribes often lack the infrastructure needed to support asset management and growth. These debilitating problems must be addressed in any asset-building strategy intended to strengthen tribal communities.

The goal of First Nations’ Native Asset Watch Initiative and this report is to broaden and deepen the dialog and expand the research concerning how tribes can regain control of their assets, become effective managers and finally receive the benefits from their assets. Tribes must be able to use their assets to create the economic security that will strengthen tribal sovereignty and allow all the aspects of tribal societies to flourish. To insure that happens, more research is needed and more of the tribes’ successes need to be shared with other tribes. This report has provided some of that research and shared some of the stories, and by doing so, has tried to give direction and lay a better path to more effective asset-building in Indian Country.