

Aboriginal Rights, Ancestral and Traditional lands, and Time Immemorial: The tribalism Train Wreck Coming Straight At Us

By Elaine Willman



Imagine standing by a railroad track on a dark night and seeing a huge bright light coming down the track. There is no way to see how many cars are behind the engine....

The terms discussed in this article are the ‘bright lights’ of an oncoming train, with 574 cars roaring behind it.

The bright light terms are ***aboriginal rights***, ***ancestral*** and ***traditional lands***, and ***time immemorial***.

On Indigenous Peoples Day, new ideas for American Indian land rights

“American Indian land rights are our country’s oldest policy arena and one that has remained potent since Christopher Columbus landed in the Americas 527 years ago this week. Historically, American Indian tribes have been relegated to the bottom rung of power between governments, corporations, and tribes. However, in recent years, issues of tribal sovereignty have come to the fore of public discussion. Recent policy proposals by members of the Democratic Party are pushing contemporary discourse about indigenous land rights into uncharted terrain. Some politicians are calling for free, prior, informed consent (FPIC) of American Indian tribes over decisions that affect their people and land. Though FPIC is far from becoming law, its entrance into the American policy discussion marks an increasing mainstreaming of policy issues related to our country’s indigenous peoples.”

SINCE TIME IMMEMORIAL: TRIBAL SOVEREIGNTY IN WASHINGTON STATE

“Tribal people gave up large parts of their original homelands in the agreements, but they wanted to continue to fish, hunt and gather their foods on the original homelands given to them by The Creator. Everyone agreed that tribes could continue their traditional fishing, hunting and gathering on their original homelands, even if it was off their newly created reservations. Everyone accepted that tribes could continue the traditions they had kept since time immemorial, or since the beginning of time.”

The United Nations Permanent Forum on Indigenous Issues

“Regional human rights mechanisms in Africa and the Americas have also affirmed indigenous peoples’ collective rights to lands, territories and resources.”

Priority Date: Date of Reservation or Time Immemorial

“Federal Indian reserved water rights generally have one of two priority dates: date of reservation or time immemorial. Where the reserved rights are necessary to fulfill purposes created by the establishing document, the priority date is the date of establishment of the reservation. If, however, water is reserved so a tribe can continue its aboriginal uses, such water may have a time immemorial priority date.

S. 3019 - Montana Water Rights Protection Act - Sec. 13. NATIONAL BISON RANGE RESORATION. (E) since ***time immemorial*** until the establishment of the National Bison Range, the Tribes had used the land described in subparagraph (C) for— hunting, fishing, and gathering; and cultural and many other purposes;

So, what is the problem with these terms? The answer is that they are increasingly popping up in federal regulations, state legislation and liberal judicial rulings. All of these terms imply a **superiority** to the very existence of the United States, and since they are intended and designed to pre-date the formation of this country and its constitutional government of 1789, they aim to make our nation irrelevant. These terms insinuate that the tribes are superior to any rule of law in the United States.

These antiquated terms have been given new life in a huge way since the enormous financial and political power of 574 tribes has taken its toll on elected officials at every level of government. Washington State has now fully acquiesced to view tribal sovereign authority as superior to the sovereign authority of the State of Washington. In Olympia the Washington State Legislature very nearly gave all of their states’ waters to tribes claiming “*aboriginal lands*” in their state. Hmm... That would encompass the **entire** State of Washington, but elected officials’ well-funded 31 tribes found no problem giving state waters to the 31 tribes. Fortunately, the bill narrowly stayed in committee and did not pass...yet.

Montana’s two federal senators, Steve Daines and Jon Tester, have packaged up a federal bill, [S. 3019](#), deceptively named the *Montana Water Protection Act*. The title is a complete and intentionally misleading lie. The bill gives all Montana state waters in the Western part of Montana to a single tribe, the Confederated Salish and Kootenai tribe (CSKT), for control of all access to water. The agricultural economy of multiple counties will be 100% beholdng to a tribal government for any access to water. No better way to obliterate the economic life forces supporting towns, counties, farmers, cattlemen, irrigators. If S. 3091 passes, full access to Montana state waters will transfer to the United States for sole management by a single tribe. Never mind that 95% of Montana’s population is non-tribal and currently answer to only state, county and local elected officials.

Senators Daines and Tester have also packaged up \$1.9 Billion in the bill for this excessively wealthy tribe, and given the tribe our country's very first national wildlife refuge, the National Bison Range.

When one combines the horrific terms of *aboriginal lands*, etc., with tribal governments' unique ability to directly fund our elected representatives, these elected servants quickly walk away from their Oath of Office to protect the people who elected them, and become beholding to tribal governments as superior to their state.

Readers should constantly be on the lookout for any one of these unlawful terms and push back immediately. To let these terms continue uncontested is to concede that our country is irrelevant when it comes to all things tribal.

Think about this: a country is a geographically bounded area with a governing system free of all intrusion or interference from any other country. France, Germany and many other countries are good examples of nations with no internal sub-systems (like Indian reservations) within them.

The United States is a geographically bounded area with one government. Tribes have never ever owned their land. The United States created Indian reservations for tribes, for their beneficial use and occupancy only. The U.S. has always held title to their lands, and the BIA has always been the governing authority on tribal reservations until 1934. Even when the Indian Reorganization Act of 1934 allowed tribes governance over their federal "trust" lands, title to those lands remains with the United States.

Lands and waters ceded to states upon statehood are free-standing from the federal government. Remember, it is our first thirteen states that created the federal government. It is not possible to have land ceded to a state and "aboriginal" land on the same soil. Powerful tribal gaming money lining pockets of elected officials is now allowing "aboriginal lands, ancestral and traditional lands", to not just co-exist, but supplant land ceded to the respective states.

The sovereign authority of Washington State government is almost gone completely, and Montana, thanks to Senators Daines and Tester, is following close behind.

The Constitutional right of citizens to be served and protected by their states is being handed off to tribal governments who have absolutely no duty whatsoever to non-tribal members.

I beseech you to have educational conversations with your elected officials at every level, and

push back hard on all terms that render our country irrelevant - or secondary to the horrific spread of tribalism across this country. If we remain silent and do nothing, the glaringly bright lights of an oncoming 574 tribal train wreck is coming right at us - fast!

