



STATE OF KANSAS

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CURT T. SCHNEIDER  
*Attorney General*

July 14, 1975

ATTORNEY GENERAL OPINION NO. 75-290

Mr. John H. Morse, Regional Counsel  
United States Environmental Protection Agency  
Region VII  
1735 Baltimore  
Kansas City, Missouri 64108

Re: Indian Reservations--Jurisdiction--Certain Federal  
and State Agencies

Synopsis: State and federal agencies may impose solid waste  
disposal requirements on Indian reservations.

Dear Mr. Morse:

You inquire as to the applicability of state and federal solid  
waste laws and regulations to Indian reservations located in  
Kansas.

The laws of Kansas relating to solid waste disposal are applicable  
to Indian reservations through authority conferred by 25 U.S.C. 231  
which provides thusly:

"The Secretary of the Interior, under such  
rules and regulations as he may prescribe, shall  
permit the agents and employees of any State to  
enter upon Indian tribal lands, reservations, or  
allotments therein (1) for the purpose of making  
inspection of health and educational conditions  
and enforcing sanitation and quarantine regula-  
tions . . . " [Emphasis added.]

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There has been little litigation involving this particular statute even though it has been in existence since 1929. Justice Douglas makes passing reference to its usefulness in Snohomish County v. Seattle Disposal Co., 389 U.S. 1016 (1967). It is my conclusion that 25 U.S.C. 231 confers jurisdiction on the State of Kansas to enforce any laws and regulations of the Kansas Department of Health and Environment relating to solid waste disposal on Indian reservations, tribal lands and allotments. We do not presently have any information concerning any regulations prescribed by the Secretary of Interior under this section.

Regulations implementing the Kansas solid waste act are clearly regulations concerning sanitation. The legislative policy declaration found at the commencement of the act, K.S.A. 65-3401, while not, of course, conclusive, provides a very persuasive statement of the state interests sought to be served by the act and regulations adopted thereunder, and these interests clearly relate to sanitation. K.S.A. 65-3401 provides in pertinent part thus:

"It is hereby declared that protection of the health and welfare of the citizens of Kansas requires the sane and sanitary disposal of solid wastes. The legislature finds that the lack of adequate state regulations and control of solid waste and solid waste management systems has resulted in undesirable and inadequate solid waste management practices that are detrimental to the health of the citizens of the state . . . . For these reasons it is the policy of the state to:

\* \* \*

(c) Require a permit for the operation of solid waste processing and disposal systems."

In a phone communication with your office on June 24, 1975, an attorney asked if this statute conflicted with any treaty provisions relating to the Kickapoo Indians. In particular, he was concerned with the Indians' water rights. Without a specific dispute, I cannot offer an opinion since the variables that might arise are infinite in nature. However, if in the future, a particular problem arises in this area, I would be happy to assist you at that time.

In conclusion, it is my opinion that 25 U.S.C. 231 confers jurisdiction on the State of Kansas to enforce its laws and regulations relating to solid waste disposal on Indian reservations.

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If I can be of any further assistance in the future, please feel free to call.

Yours very truly,

A handwritten signature in cursive script, appearing to read "Curt T. Schneider".

CURT T. SCHNEIDER  
Attorney General

CTS/PAH/ksn