

**SRP Sustainability Conference of American Legal Educators**  
**Panel Submission: *Native Nations in a Time of Energy Transition***

**Panel Abstract:**

Native American tribes have a long and complicated relationship with the federal government. Although sovereign nations in their own right, tribes have struggled to assert their independence over matters affecting their citizens and lands. This struggle is particularly evident for smaller, energy-producing tribes, which are weighing the poverty-alleviating benefit of petroleum production against the urgency to transition to renewable sources for environmental justice and climate benefits. These legal and policy issues related to tribal sovereignty over energy resource development decisions are rooted in the historical, and often strained, relationship between the United States and the tribes. Although tribes are sovereign, most tribal lands are trust lands, which are held in trust by the federal government for benefit of the tribe. The legal consequences of that inequity have ultimately defined the respective roles and authorities of these sovereign governments, resulting in a conflicted relationship.

In the context of energy development, the potential for an energy transition sits alongside histories of colonialism and colonialist federal attitudes toward energy development on tribal lands (Becker and Naumann 2017). In the 1970s, however, Indigenous activists began to challenge certain federal policies toward reservations. The Indigenous movement toward self-determination led to several changes in federal policy that enhanced the capacity of tribes to enter into independent contracts with energy interests and extractive industries.

Later in the decade, the emergence of the environmental justice movement contributed to Indigenous activists and scholars critiquing the presence of extractive industries on tribal lands not only because of their unfavorable terms in leases, but also for the damage they caused to the local environment. In North America, emerging challenges related to the energy transition are connected to decades of colonial policy, land theft, and resource pressures on Indigenous lands. For example, in British Columbia, (Sloan Morgan 2020), Alberta (McCreary and Milligan 2014), North Carolina (Emanuel 2019), and Arizona (Curley 2019), Indigenous land struggles have been directly linked to new energy projects.

Our panel focuses on the role of tribal sovereignty and self-governance in the Southern Ute Indian Tribe's and the Mandan, Hidatsa and Arikara's and/or Jicarilla Apache Nation's transition from petroleum to renewable energy with a focus on environmental justice. This presentation follows from our multidisciplinary project that was recently approved for funding by the Sloan Foundation on November 16, 2021 (hereinafter "Sloan Grant"). In that Sloan Grant, Principal Investigator Monika Ehrman, co-Principal Investigator Daniel Raimi, Collaborators Monte Mills and Pilar Thomas, and five other team members examine the wellbeing of the aforementioned tribes during a clean energy transition using both qualitative and quantitative research methods.

During this panel, panelists Ehrman, Mills, Raimi, and Thomas intend to discuss how a lack of true tribal sovereignty and self-governance affects tribal energy transition using an environmental justice lens.