



**INTERTRIBAL MONITORING ASSOCIATION on Indian Trust Funds**  
2309 Renard SE, Suite 212 - Albuquerque, NM 87106  
Phone: (505)247-1447 Fax: (505)247-1449 e-mail: [itma@itmatrustfunds.org](mailto:itma@itmatrustfunds.org)

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## **ITMA PROJECT STATUS REPORT ON THE BIA PROJECT FOR ESTATE PLANNING & CONSOLIDATION AGREEMENTS AT PROBATE**

The Intertribal Monitoring Association on Indian Trust Funds (ITMA) received official approval from the Bureau of Indian Affairs (BIA) on April 9, 2009 to proceed with implementation of the 'Proposal for Estate Planning and Consolidation Agreements at Probate for Individual Indian Trust Landowners in an Effort to Reduce Fractionated Land Ownership in Indian Country'.

ITMA selected the Elk River Law Office, under the direction of attorney Majel Russell was selected to participate in the project. On July 23, 2009 ITMA representatives met with BIA Deputy Director of Trust Vicki Forrest and Margaret Treadway, Project Contracting Officer to provide an update on the progress of the project. During the meeting ITMA and BIA discussed changes in the scope of the Estate Planning Project.

The proposal initially submitted by ITMA contained three components and ITMA prepared a request for funds that would be divided equally among the three objectives after administrative costs to ITMA. The three components included Consolidation Agreements at Probate, Consolidation Agreements among landowners prior to probate (Inter Vivos agreements) and Concentrated Will Drafting. The proposal provided that BIA would make referrals for the Inter Vivos Consolidation agreements and for concentrated will drafting and the Probate Judge would make referrals for consolidation agreements at probate.

On April 16, 2009 a planning meeting was held at the Rocky Mountain Regional BIA office with BIA and ITMA representatives and Probate Judge Jim Yellowtail. A consensus was reached that the project would proceed with Consolidation Agreements at Probate on an immediate basis. However, prior to proceeding with the Inter Vivos Consolidation Agreements and the Concentrated Will Drafting efforts, ITMA would develop educational brochures for landowners and schedule information meetings for the Rocky Mountain BIA agencies at which the brochures would be distributed and a presentation on consolidation tools in AIPRA would be conducted. This educational component was suggested by the BIA to garner landowner interest in the project and to avoid criticism of the BIA for determining which landowners should benefit from the project.

As a result, ITMA developed two landowner brochures with the input of Darryl LaCounte at the BIA and Judge Yellowtail. Other than formatting issues, the brochures are ready to print and substantive content has been approved by the BIA Deputy Director of Trust.

At last week's meeting, Majel Russell presented a detailed report on the status of the Consolidation Agreements at Probate component of the project. Basically, landowners expressed great interest in taking advantage of the opportunity for assistance to develop a consolidation agreement at probate and avoid distribution of the estate consistent with AIPRA. After the Probate Judge's referral of interested families, we have coordinated with the BIA Rocky Mountain Region to obtain estate information including maps, land values (based on revenue streams) and encumbrances on lands. With this information we have been able to educate landowners about the estate, value of estate and details of the individual interests in land within the estate. Consolidation agreement negotiations have been very lengthy, emotional and complicated. However, we have observed a great interest among heirs to reach agreement and avoid further fractionation of decedent's interest in land. We are now finalizing agreements for filing with the Court in 10 out of the 13 referrals and have meetings scheduled to complete negotiations in the other three cases.

Initial probate proceedings are scheduled over the next two months on three other Rocky Mountain Region Reservations and the Probate Judge has requested our presence to take referrals. Based on the overwhelming interest and success of this component of the pilot project, ITMA discussed a revision of the scope of work with Ms. Forrest and Ms. Treadway.

Ms. Forrest reiterated that the project was a 'pilot' and therefore, had flexibility in scope and deliverables. Based on a developed process for Consolidation Agreements at Probate and the actual success of the effort, an agreement was reached to continue with the Consolidation Agreements at Probate only and forego seeking BIA referrals for the Inter Vivos agreements in the pilot project. However, for those landowners successfully participating in the Consolidation Agreement at Probate negotiations that desired a will in conjunction with entering into the agreement, we would attempt to provide will drafting dependent on available funds and time. Further, the brochures will be finalized for distribution to Probate hearing participants and at landowner venues.

To summarize:

1. Original Scope of Work has been revised to proceed with Consolidation Agreements at Probate only.
2. Educational Brochures will be finalized and printed for distribution at initial probate hearings and at other landowner venues.
3. Concentrated Will drafting may be provided to Consolidation Agreements at Probate that desire will to accompany agreement to enter into consolidation agreement if funds and time allow.