

# **INTERTRIBAL MONITORING ASSOCIATION ON INDIAN TRUST**



**SUPPLEMENT TO**  
Final Report  
Estate Planning Pilot Project:  
Consolidation Agreements at Probate  
for Individual Indian Trust landowners  
in an effort to Reduce Fractionated Land Ownership in Indian Country

*submitted to*  
the Department of Interior  
Bureau of Indian Affairs

July, 2010

## **I. Introduction**

Elk River Law Office, P.L.L.P. in conjunction with Inter Tribal Monitoring Association conducted an Estate Planning Pilot Project from June 1, 2009 through April 1, 2010. At the conclusion of the Pilot Project, Elk River Law Office continued assisting several families to finalize consolidation agreements utilizing the limited funds remaining from the Pilot Project.

Before the Pilot Project ended, Elk River Law Office contacted Sanderson Stewart to provide surveying services in order to assist five families who requested their consolidation agreements include partitions of 1/1 tracts in order to avoid fractionation of a 100% owned interest. Sanderson Stewart completed a preliminary field study of one Crow allotment before the end of the Pilot Project. When the Pilot Project neared completion, Elk River Law Office requested Sanderson Stewart provide an estimate to complete all remaining surveying work for the five families requesting partitions. Sanderson Stewart provided an estimate of \$121,000 to complete all survey work. Given the limited funding remaining for the Pilot Project, and the uncertainty of future funding to continue the Project, Elk River declined to proceed further with Sanderson Stewart's services.

In an effort to seek out a less costly alternative for completing the surveys, Elk River obtained an estimate from Archambault and Company, an Indian-owned engineering firm. Archambault and Company returned an estimate of \$25,000 to complete all necessary surveying work. However, with all Pilot Project funds expended, additional funding is needed in order to complete surveying work and finalize consolidation agreements for these families.

## **II. Final Pilot Project Overview**

After Elk River Law Office submitted the March 18, 2010 Final Report on the Pilot Project to the Bureau, the Office of Hearings and Appeals referred two additional estates to Elk River Law Office. One family reached an agreement; however, Elk River Law Office has not received signatures from all heirs. The other family was unable to reach an agreement. Additionally, two families finalized consolidation agreements since the Final Report. Thus, from June 1, 2009 to the date of this Report, 34 of the 37 families referred participated in mediation. Out of the 34 mediations held, 27 families (or 79%) were successful in

executing consolidation agreements. As of June 2010, the Office of Hearings and Appeals issued 13 final decisions approving consolidation agreement and directional disclaimers, and 14 were pending approval and final decision.

### III. Final Pilot Project Statistics

As shown below, a review of project efforts as of July 2010 reveals that absent consolidation agreements, 3,246 undivided interests would have been created in 27 estates, including interests created under AIPRA's intestacy rules and interests created as a result of an estate's will devises. However, as a result of project efforts, only 937 new interests were created. This means that a total of 2,309 new undivided interests were *avoided* as a result of 27 consolidation agreements.

