

**FY'03 RESOLUTION #4**

**Requesting the plaintiffs in the *Cobell v. Norton* class action case to withdraw opposition to ITMA's amicus brief regarding the appointment of a receiver.**

**WHEREAS**, the Intertribal Monitoring Association on Indian Trust Funds (ITMA) is a representative organization of fifty-seven (57) federally recognized Indian tribes, including the nation's largest tribal trust fund account holders;

**WHEREAS**, for the past 12 years, ITMA has been the premier Indian organization that was formed and dedicated for the sole purpose of monitoring the Federal Government's trust asset and management activities as they relate to Indian trust funds;

**WHEREAS**, on July 21, 2001, the ITMA Board of Directors (Board) approved the filing of an amicus brief in the case of *Cobell v. Norton, Civ. No. 96-1285*, the class action case filed on behalf of Individual Indian Money (IIM) account holders against the United States involving the government's mismanagement of the IIM accounts;

**WHEREAS**, pursuant to earlier Board action, ITMA prepared an amicus brief in the *Cobell v. Norton* case to inform the Court of potential ramifications that an appointment of an outside receiver of IIM account would have on tribal governance and federal funding for Indian programs;

**WHEREAS**, the Board approved the filing of the amicus brief in the *Cobell v. Norton* case neither supporting the appointment of a receiver over IIM accounts, as pled by the plaintiffs, nor opposing the appointment of a receiver, as argued by the defendants;

**WHEREAS**, the plaintiffs opposed ITMA's motion to file its amicus brief, while the defendants did not oppose said motion;

**WHEREAS**, ITMA's motion for leave to file the amicus brief was filed on September 23, 2002;

**WHEREAS**, counsel for plaintiffs explained that its opposition was based on the view that ITMA's motion to file the amicus brief was not timely;

**WHEREAS**, on September 17, 2002, Judge Lamberth issued a ruling in the *Cobell* case holding Secretary Norton and Assistant Secretary McCaleb in civil contempt of court for failing to adhere to the court's order and for a variety of fraud and misconduct committed in this case, and declining to grant plaintiffs motion to appoint a receiver;

**WHEREAS**, Judge Lamberth's September 17, 2002 opinion set forth the legal analysis supporting the Court's authority to appoint a receiver, and further raised the possibility that the Court would grant such relief should the defendants continue to disobey the orders of the Court;

**WHEREAS**, the applicable legal standards governing the ability of ITMA to participate amicus (or friend of the court), is whether such participation is both timely and useful to the Court;

**WHEREAS**, ITMA's amicus brief is timely because the Court will continue to consider remedies, including the possible appointment of a receiver and the brief is useful to the Court because it raises significant issues involving tribal governance as well as important consideration regarding federal funding of Indian programs nationally;

**WHEREAS**, ITMA supports the efforts of the plaintiffs to hold the government accountable for its mismanagement, and in its amicus brief, does not oppose the plaintiffs' motion for a receiver over IIM accounts;

**NOW, THEREFORE, BE IT RESOLVED BY THE INTERTRIBAL MONITORING ASSOCIATION ON INDIAN TRUST FUNDS**, that ITMA requests the plaintiffs in the *Cobell v. Norton* case to withdraw their opposition to ITMA motion for leave to file an amicus brief regarding the appointment of a receiver.

#### **CERTIFICATION**

The foregoing ITMA FY03 Resolution #4 was duly adopted at an official meeting of the Board of Directors of the Intertribal Monitoring Association on Indian Trust Funds held in Las Vegas, Nevada on the 14th day of October, 2002 at which time a quorum was present with 7 voting for; 0 voting against, and 0 abstaining.

*A T T E S T:*

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(Governor) Harry Early  
ITMA Secretary

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*/s/*  
(1<sup>st</sup> Vice President) William Martin  
ITMA Chairman