



**INTERTRIBAL MONITORING ASSOCIATION** on Indian Trust  
Funds

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**ITMA FY 2008 ANNUAL REPORT**  
(October 1, 2007 – September 30, 2008)

Annual Conference

ITMA conducted its annual conference in Las Vegas, Nevada from October 22 – 26. During this conference, ITMA officers met with OST representatives to discuss FY 2008 initiatives and activities, and to share budgetary and programmatic concerns. The ITMA board members were particularly concerned with both OST's planned "across-the-board" budget reductions, and OST's simultaneous insistence that ITMA could not similarly apply any budget reductions "across-the-board" internally. In particular, OST was insisting that ITMA accept a budget reduction, but not reduce at all the amount OST wanted applied to a "liaison" function with OST itself. ITMA and OST eventually agreed to the terms of a FY 2008 budget for ITMA.

ITMA officers and board members also discussed the implications of impropriety within OST contained in reports of the Department of the Interior's Inspector General. The Principal Deputy Special Trustee discussed these reports with the ITMA board and advised that appropriate training was being arranged for OST employees, and that appropriate sanctions would be imposed where warranted by actual circumstances.

The public agenda for the annual conference was devoted to trust reform activities and pending trust-related litigation. Attention of tribal representatives was largely riveted on the *Cobell* litigation and the long-awaited trial on the issue of an accounting for the class of IIM-holder plaintiffs in October of 2007.

Annual Conference discussions also included a great deal of discussion of the tribal trust litigation, including the 37 tribal cases pending before the same judge who was presiding over *Cobell*, and the government's recent motion to dismiss most of those cases, or to remand them to the Department for administrative action on the common demand for an accounting.

Tribal representatives at the Annual Conference also discussed the proposed class action lawsuit filed by the Native American Rights Fund on behalf of certain named tribes, as well as on behalf of all tribes that do not have their

own individual cases pending with demands for an accounting of tribal trust funds. A NARF representative explained that NARF attorneys had concluded that the imposition on tribal sovereignty represented by such this lawsuit was outweighed by the importance of securing a judicial order for an accounting on behalf of those tribes who had not consented to being represented by NARF in the litigation.

### BIA Modernization

Fiscal Year 2008 was marked by several initiatives, some of which were sidelined, either by changes of direction by the Department of the Interior or by intervening events of higher priority that required a shift in focus of ITMA activities. The first such initiative was the “BIA Modernization” initiative announced by Assistant Secretary Carl Artman. On October 11, 2007, ITMA attended a meeting in Phoenix to discuss the trust reform aspects of the modernization initiative with tribes and Departmental personnel. This discussion revealed deep and continuing concern on the part of tribal officials that too many program responsibilities and too much authority were being taken from local BIA officials and lodged in Departmental offices far removed from tribes and their trust resources.

Tribal comments at the Phoenix modernization meeting indicated a high level of frustration that Departmental decisions of real consequence, such as the decision to remove program responsibility for energy and minerals matters from the BIA and place them in the Assistant Secretary’s office, were taken with little consultation and no notice to tribes. Other Departmental initiatives, such as the modernization initiative that bore no immediate import and responded to no apparent concern of tribes themselves were unveiled with considerable fanfare and widely publicized national “consultation” meetings. Tribal representatives questioned whether such “consultation” meetings were good faith efforts at transparency, or were designed simply to provide “cover” for Departmental decisions that were not adequately disclosed or candidly discussed.

Subsequent meetings on the modernization initiative focused attention on the “fractionation” issues and Departmental policies that seemed to tribal representatives counter-productive to effectively dealing with the issue. In particular, tribal representatives questioned the decision to eliminate both the Indian Land Consolidation Program and the office that provided evaluation of mineral interests in individual Indian trust estates. Tribal representatives were greatly encouraged, on the other hand, by Assistant Secretary Artman’s expressed willingness to “revisit” the Departmental decision to withhold any assistance in drafting wills for individual Indian landowners. The Assistant Secretary’s abrupt departure from the Department hard on the heels of this meeting led some among tribal leadership to believe that his efforts to focus the modernization initiative on real concerns of the tribes he invited to the discussion

were simply unacceptable to the current Administration and its Departmental leadership.

Attention to the "BIA Modernization" initiative waned considerably with the departure of its architect. Other elements of the Department's trust reform activities, such as the regulatory initiative and the elimination of the Indian Land Consolidation Program, continued to occupy ITMA's attention throughout Fiscal Year 2008.

### Monitoring (Liaison)

ITMA selected Brian Gunn, a member of the Confederated Tribes of the Colville Reservation and an attorney with the firm of Drinker Biddle in Washington, D.C., to serve as a liaison between ITMA and OST for the purpose of providing monitoring services and reports on the activities of OST. Mr. Gunn made repeated visits to ITMA meetings and to OST offices to discuss the initiatives and trust reform activities of OST.

Mr. Gunn conferred with OST and provided reports to ITMA and to ITMA's meeting attendees. In his initial visit to OST, Mr. Gunn was provided a tour of OST's facilities in Albuquerque and met with Special Trustee Swimmer, Principal Deputy Special Trustee Donna Erwin, Investment Chief Charles Evans, Special Deputy Special Trustee for Field Operations Doug Lords, and Acting Special Deputy Trustee for Trust Services Jeff Lords, among others.

Mr. Gunn discussed with OST and reported to ITMA on a number of matters that arose in FY 2008, including a decision for the U.S. District Court for the District of Columbia regarding Indian preference in hiring for "all positions in the Interior Department that directly and primarily relate to the provision of services to Indians." This decision in the case of *Indian Educators Federation v. Kempthorne* prompted many inquiries to ITMA because of the announced policy of Special Trustee Swimmer that Indian preference did not apply to hiring in the Office of Special Trustee, although more than 80 per cent of the OST employees were, in fact, Indian. This policy also applied to the Office of Historical Accounting, the Office of Trust Funds Management, the Office of Appraisal Services, and the Office of Trust Records. Mr. Gunn advised ITMA that OST officials had assured him that the implications of this court decision for hiring in trust-related offices of the Department were being reviewed carefully and that ITMA would be advised of any resulting changes in the hiring policies of OST and other trust reform offices of the Department.

Mr. Gunn also advised ITMA that he had conferred with OST on the issue of leases of Indian land for consideration other than purely cash payments. ITMA had discussed this issue with a former Assistant Secretary regarding direct pay leases, crop share leases, and improvement leases. That official had advised that in light of developments in the Cobell litigation, he was inclined

simply to withhold Departmental approval of any such leases because they did not readily permit a paper trail for OST's accounting obligations. Upon further reflection after discussing the matter with ITMA, the Department had elected to permit direct pay leases, so long as a report of payment was made to OST. In FY 2008, the issue arose again, this time with respect to "crop share" leases.

The issue will almost certainly arise again with respect to "improvement" leases, in which lessees make some portion of their lease payments in the form of improvements to the leased property, such as fencing or cross fencing of pasture lands, the construction of barns or other improvements to the property, or the construction of water impoundments, etc. In FY 2008, however, the issue surfaced in the form of crop share leases in which lessees made some portion of their lease payments in the form of a share of the crops produced from the leased property. For accounting convenience, OST had insisted on prompt sale of crop shares even though common business practices often involved putting some or all of the crop in storage for later sale at higher prices. OST advised ITMA that it would review the matter and address the issue in the same spirit the Department previously addressed the direct pay issue.

In carrying out its monitoring function, ITMA also conferred with OST and reported to tribal members and meeting attendees on other trust reform initiatives and successes. In a periodic newsletter, ITMA reported on the success of Trust Officer Austin Gillette of the Fort Berthold Reservation in locating the previously "whereabouts unknown" owners of more than \$1 million of trust funds that had been kept for them, sometimes for many years by the BIA and later by the Office of Special Trustee. ITMA also shared with its audience the role of trust officers in the overall trust reform agenda. During FY 2008, all the trust officer positions throughout the country were finally filled, and reports of their activities and accomplishments were shared by ITMA throughout Indian country.

Likewise, ITMA shared reports on the evolution of the beneficiary call center and provided contact information to meeting attendees and through the ITMA web site and newsletters. ITMA was particularly pleased to report that some 89% of callers reported resolution of their issues with the first call, and that the remaining callers were contacted within four hours of their call by the individual who had been assigned to resolve their issues or provide a response. So far as is known, the security protocols deployed to prevent unauthorized disclosure of personal information by the call center have not been breached even once at the end of FY 2008.

ITMA also reported on the nationwide conversion to TAAMS, and the migration to TAAMS of all Indian trust lands in the country. ITMA reported the news from OST that by the end of the second quarter of FY 2008, any Indian trust beneficiary could visit any BIA office in the country and receive information about his trust assets, regardless of the location of those assets. ITMA made inquiry and was advised that the restoration to individual ownership of those land

titles wrongfully escheated to tribes under the Indian Land Consolidation Act is largely concluded, but that additional “Youpee” interests continue to be discovered as land title records are reviewed and revised in the probate process. As a result, this work will continue for an indefinite period.

ITMA also reported on OST’s continued accommodation of the direct pay leases, even with the lockbox arrangement with Bank of America, by requiring the lessee to submit a declaration of payment to the lockbox for an audit trail.

Other issues addressed by ITMA in its Monitoring function during Fiscal Year 2008 included re-opening of closed estate accounts, particularly the policies and procedures for handling mistakes, errors, omissions, or post-distribution receipts. In addition, ITMA discussed with OST a report from the *Cobell* litigation that as of June 30, 2008 there remained a backlog of 3,628 appraisals in pending probates throughout the BIA. ITMA also reported immediately Judge Robertson’s order of May 14, 2008 permitting the BIA and OST to reconnect to the internet. OST also agreed to cooperate with ITMA in approaching the Environmental Protection Agency to revisit the requirement of Subpart C of 40 CFR 312 regarding the 180-day time limit on completing contaminant surveys when cadastral surveys and appraisals do not permit compliance with the EPA regulation. ITMA also agreed to assist OST in broadcasting its efforts to amend the Privacy Act if necessary to facilitate OST’s ability to issue debit cards to account holders expeditiously.

## Outreach

Throughout FY 2008 ITMA continued its outreach activities to other tribal and Indian organizations, particularly those that deal with various trust resource issues. During FY 2008, ITMA conferred with the Council of Energy Resource Tribes; the Intertribal Timber Council; the Intertribal Agriculture Council; the Intertribal Bison Cooperative; the Affiliated Tribes of Northwest Indians; the National Congress of American Indians; the Council of Large Land-Based Tribes; and the Indian Land Working Group, as well as other organizations.

At the invitation of the Council of Large Land-Based Tribes, ITMA met with the organization and discussed trust reform initiatives at OST and the Department of Interior. ITMA shared with the tribal representatives present many of the accomplishments and projected timelines of DOI, including the nationwide implementation of TAAMS and the implications for improved real estate services. ITMA also explained the lockbox arrangement with Bank of America and the daily reconciliation and deposit of payments received there. ITMA and the meeting attendees also discussed the issue of fractionated ownership of Indian land, and the prospects of successfully addressing the matter in the current political and budgetary climate. Several tribal representatives suggested the problem was created by the federal government, and that tribes should not be saddled with the expense of its resolution. Others

indicated that the federal government's failure to address the problem satisfactorily might actually present an opportunity for tribal recommendations to receive serious consideration, especially because the cost of doing nothing is apparently becoming prohibitive.

ITMA also discussed with the Council of Energy Resource Tribes trust reform initiatives and legislative developments that affect the administration of energy and mineral trust resources. ITMA inquired whether the implementation of Title V (Indian Energy) of the Energy Policy Act of 2005 (Public Law 109-58) will be coordinated with OST and the accounting requirements of the American Indian Trust Fund Management Reform Act of 1994. At the time of this discussion, final regulations for approving Tribal Energy Resource Agreements (TERA's) had not been promulgated. The final rule was published, however, during FY 2008 (see, 73 FR 19094, April 8, 2008). ITMA and CERT will continue to discuss the interplay between the 2005 Energy Act and the 1994 trust funds management reform Act. As of the close of FY 2008, it appears to ITMA that little or no thought has been given to coordinating the authorities of the energy Act with the requirements of the trust funds reform Act.

ITMA shared with CERT the observations gleaned from its monitoring activities, including the nationwide implementation of TAAMS, the IG reports and OST responses, the AIRR in Kansas, and the lockbox arrangement with Bank of American in Prescott, Arizona. ITMA and CERT also discussed DOI's proposed plans to close the Indian Land Consolidation and Office of Mineral Evaluation Offices.

For its part, CERT shared with ITMA its plans to provide the 111<sup>th</sup> Congress with a detailed proposal for legislation to enhance the prospects for significant development of energy resources on Indian lands. If these legislative proposals are adopted, and if they achieve the intended results, both Indian landowners' and OST's activities will be considerably expanded with the advent of previously unknown uses of Indian lands and the accounting and enforcement activities. If such activities are undertaken under Tribal Energy Resource plans approved by the Secretary, OST will likely be required to modify its activities and the duties of Trust Officers to accommodate the new tribal authorities under the 2005 Energy Policy Act.

ITMA participated in a meeting of the Affiliated Tribes of Northwest Indians on trust reform activities. Discussions with ATNI involved tribal responses to the NARF effort to secure judicial certification of a plaintiff class in litigation demanding an accounting of trust funds for all tribes not otherwise prosecuting individual tribal claims for an accounting. ATNI adopted a public position questioning the propriety of the intrusion on tribal sovereignty of such a strategy without consultation with tribes who will remain absent from the litigation. ATNI also provided ITMA with a forum to conduct an afternoon-long discussion with representatives of ATNI tribes to discuss the land fractionation issue and ITMA's

cooperative initiative with OST to provide recommendations for dealing with the issue.

ITMA was invited as well to participate in two national meetings of the National Congress of American Indians during FY 2008. NCAI has taken a particular interest in the land fractionation issue, and has adopted positions in opposition to the Department's plans to close the Indian Land Consolidation Program Office as well as the Office of Mineral Evaluation. ITMA and NCAI agreed to work cooperatively in addressing the land fractionation issue. ITMA reported to NCAI on the development and execution of the OST budget, and pointed out that most of the money contained in OST budget requests is not for OST operations, but is passed through to other agencies and offices of the Department charged with Indian trust duties.

ITMA also participated in panel discussions at NCAI's meetings on trust reform, on Indian trust litigation, and on land fractionation. NCAI advised that it will be providing the new Congress and the new Administration early in calendar year 2009 with recommendations for addressing trust reform activities within the Department of the Interior. These recommendations will likely include means or policies to resolve all pending trust litigation, including the *Cobell* case. ITMA and NCAI also discussed the advisability of separating trust reform from resolution of pending lawsuits in presenting recommendations to the government.

During FY 2008 ITMA also conferred with and invited to participate in ITMA meetings and deliberations representatives from other tribal and Indian organizations, including the Intertribal Bison Cooperative, the Intertribal Timber Council, and Intertribal Agriculture Council, and the Indian Land Working Group. Representatives of all of these organizations agreed to work cooperatively with ITMA on trust reform issues of particular concern to their organizations.

The Intertribal Bison Cooperative indicated its interest in securing a federal charter to facilitate its work in restoring buffalo to the nation's Indian grasslands and buffalo to America's diet. The Indian Land Working Group continues its efforts to protect individual Indian landowners, to prevent trespass, to encourage and facilitate land consolidation, and to enforce the terms of leases and other agreements for third-party uses of Indian land. The Intertribal Agriculture Council reported on the provisions of the 2007 Farm Bill that provide opportunities for greater and more diverse use of Indian agricultural resources.

The 2007 Farm Bill had actually turned into the 2008 Farm Bill when it reached the President's desk in mid-Fiscal Year 2008. The President vetoed the measure on May 21, 2008, but on May 22, the House of Representatives overrode the President's veto, and on May 23, the Senate completed the override process by voting 83 to 12 to override the President's veto. There was some confusion regarding just what version of the measure would become law since the legislation actually presented to the President omitted certain trade

policy provisions that had actually been passed by the Congress. The House Parliamentarian advised that the measure that would become law was the measure that was actually before the President when he vetoed it, notwithstanding the omitted provisions which he said would be taken up as a separate measure at a later date.

At all these meetings ITMA shared with other tribal and Indian organizations the results of its monitoring activities the results of its monitoring activities. These reports included discussions of the implementation of TAAMS, the lockbox arrangement, the restoration of *Youpee* interests, the duties and accomplishments of Trust Officers, the continued development of the AIRR in Lenexa, the IG reports and OST responses, the BIA modernization initiative, the elimination of the Indian Land Consolidation Program and the Office of Mineral Evaluation, and new efforts to address the land fractionation issue, as well as ITMA's activities in each of these areas.

The Intertribal Timber Council, the Intertribal Agriculture Council, the Intertribal Bison Cooperative, and the Indian Land Working Group were all invited to participate at ITMA's 2008 Annual Conference, which would actually be held early in Fiscal Year 2009 in Las Vegas, Nevada. ITMA conferred with all of these and other Indian organizations regarding a meeting of trust-related organizations early in FY 2009 to confer on coordinated responses to a new Administration and Congress on trust reform issues.

### Fractionation

In January 2008, the Special Trustee's Advisory recommended that the Special Trustee seek a "solution" to the problem of the fractionation of Indian land ownership. From press reports it appeared to many that the Advisory Board had further recommended the Rosebud Sioux Tribe's Rosebud Land Enterprise as a national model for addressing the issue. ITMA was besieged by inquiries whether ITMA had endorsed the Rosebud experience as a national model.

Later in FY 2008, Special Trustee Swimmer was provided an opportunity to discuss this recommendation of his Advisory board, as well as his decision to "zero out" funding for both the Indian Land Consolidation Program and the Office of Mineral Evaluation for FY 2009 and subsequent years. He explained that programmatic review had concluded that the land consolidation program was simply not making sufficient headway in addressing the underlying problem, that land was being fractionated through inheritance faster than it was being consolidated through purchase by the ILCP. At Special Trustee Swimmer's invitation, ITMA agreed to undertake an outreach program to solicit recommendations from Indian country for his consideration in fashioning a

response to the growing budgetary, administrative, and potential liability issues presented by the increasing fractionation of Indian land ownership.

Throughout the remainder of FY 2008, ITMA continued to meet with tribes, national and regional organizations, and officials of the Department of the Interior to discuss the issues of land fractionation, to study the approaches that Rosebud and other tribes have taken to address the issue themselves, to confer with the Department regarding other initiatives to stem the rate of increase in fractionated ownership, and to consult with landowners and tribal officials regarding ways to address the issue.

Courts, government officials, Congressional staff who have drafted legislation on the subject, tribal representatives, and even the *Cobell* plaintiffs often ascribe the origin of the land fractionation problem to the General Allotment Act of 1887. ITMA has consistently sought to advise all parties dealing with the matter that the issue actually goes back far before 1887. In fact, the federal government's actual practice of providing individually owned land to Indians is at least 180 years old.

Article IV of the Treaty with the Chippewa at Prairie du Chien of 1829 (7 Stat. 320), provided for tracts ranging from one-quarter section to one section for named individuals, which "shall never be leased or conveyed by the grantees, or their heirs, without the permission of the President of the United States (*emphasis added*). Article 2, paragraph 7<sup>th</sup>, of the Treaty with the Chippewa at La Pointe of 1854 (10 Stat. 1109), provided for assigning eighty acres to each head of family and single adult. Article 6 of Treaty with the Omaha of 1854 (10 Stat. 1043) authorized the President to subdivide the treaty lands and "allotments" to individuals at his discretion. Article 6 of the Treaty with the Quinaielt of 1855 (12 Stat. 971) authorized the President to award allotments on the Quinault Reservation on the same terms as provided in the Omaha treaty. Clearly, the practice was widespread across Indian country long before it was adopted as a national policy by the General Allotment Act of 1887.

The more than 150 years that have elapsed since allotting Indian lands became a widespread practice make it much easier to understand the extent of the resulting problems today. Although the Congress ended the practice of allotment by statute with the Indian Reorganization Act of 1934, the problem already set in motion has continued to metastasize, with the result that as of August 2008 the BIA reported that more than 4 million individual ownership interests were held by individual Indians in trust status.

The government has actively sought to address the problem for more than a generation, with very mixed results. At least two legislative efforts have been ruled unconstitutional by the U.S. Supreme Court. See, *Hodel v. Irving*, 481 U.S. 704 (1984); *Babbitt v. Youpee*, 519 U.S. 234 (1997). The Senate Committee that considered the Indian Land Consolidation Act of 1984 reported

that “common denominators have reached 54 trillion, billions are not uncommon, and millions [are becoming the norm].” S. REP. NO. 98-632, pp. 82-83 (1984). One scholar has reported a December 5, 1996 interview with the BIA’s Director of the Division of Land Titles and Records in which he advised that the lowest common denominator for expressing some fractionated ownership interests had reached a number containing 101 digits. Guzman, K., “*Give or Take an Acre*,” 85 Iowa L. Rev. 595, 598, n. 9 (Jan. 2000).

Administrative efforts to address the issue have not been regarded as much more successful than legislative ones. On May 7, 2003, the BIA’s witness before the Senate Committee on Indian Affairs testified that since 1999 the Bureau had purchased over 40,000 ownership interests on three reservations and, due to “the runaway growth of fractionation we still have the same number of outstanding interests as when the projects began.” Statement of Wayne Nordwall, BIA Western Regional Director, on S.550, p. 4. As noted above, the Special Trustee has similarly concluded that the current Indian Land Consolidation Program is not sufficiently successful in redressing the problem to justify its continued funding.

ITMA concluded Fiscal Year 2008 with the observation and report to OST that significant portions of Indian country disagree strongly with the Special Trustee’s conclusions regarding the effectiveness of the ILCP. NCAI has gone on record urging the continued funding of ILCP. ITMA has requested the President and the Special Trustee to reconsider the Administration’s budget decision regarding ILCP and OME for Fiscal Year 2009.

In the meantime, ITMA continues to meet and confer, to consult with tribes and tribal organizations regarding possible means of addressing and reversing the effects of ‘the allotment Era,’ and a report is due from ITMA to OST in the first quarter of FY 2009 on the subject. In the meantime, other organizations are preparing to advise a new Congress and a new Administration early in calendar year 2009 to reverse the present Administration’s budget decisions for ILCP and OME.

At the close of Fiscal Year 2008, ITMA had conducted consultation meetings with tribes of the Pacific Northwest at ATNI’s Annual Conference; with Rocky Mountain Region tribes meeting in Montana; and planned additional meetings on the Coeur d’Alene Reservation, the Osage Reservation, and in the Great Plains Region.

### Listening Conferences

ITMA conducted two Listening Conferences on widely separated reservations in Fiscal Year 2008. The Confederated Tribes of the Yakama Nation hosted an ITMA listening conference on August 20 and 21 at the Yakama

Cultural Heritage Theater Center in Toppenish, Washington. Representatives from the Office of the Special Trustee and the central, regional and agency offices of the Bureau of Indian Affairs gave presentations and answered questions. In addition to hearing about trust reform related issues, ITMA staff presented the history of fractionation of Indian lands through efforts to address the issue with Indian Land Consolidation Act and, most recently, the American Indian Probate Reform Act. It was noted that nearly half of the BIA's realty budget is devoted to managing a small number of highly fractionated interests.

Special Trustee Ross Swimmer provided an overview of the circumstances leading to passage of the 1994 American Indian Trust Reform Act and the creation of the Office of the Special Trustee. Mr. Swimmer reported on the new accounting system that replaces the BIA accounting system, the new files storage facility, and the National Archives and Records Administration facility in Lenexa, Kansas. Today NARA serves a central repository for many Indian trust records holding 180,000 cubic feet of documents, representing three to four hundred million pages of records.

Yakama Nation focused on fractionation stating the government should fund low-interest loans to tribal members to consolidate their interests and then institute a process which would allow for timely partitionment of the allotments." This process would "include funding for staffing, surveys, appraisals, and allow forced partitionments upon applicants of the majority shareholder." Other issues presented were on-going delays with the fee-to-trust process attributable to requirements for containant surveys which are required for fee-to-trust application; qualifications for individuals who prepare the surveys are so stringent tribes are being required to pay consultants to prepare the surveys; fee-to-trust delays and staffing shortages for probates, issues related to payments; land consolidation and probate matters, communication issues and delays associated with various land transactions and probate proceedings.

The Osage Tribe hosted the 17<sup>th</sup> ITMA "Listening Conference" at Pawhuska, Oklahoma on September 9, 2008. Chief of the Osage Tribe raised numerous issues critical to the Osage Nation including: the fee to trust process, the necessity of developing solutions to fractionated land ownership to rebuild tribal land bases decimated by the federal allotment policy, and, the proper management of the tribal trust assets, particularly the Osage Mineral Estate. He also also requested the federal representatives clarify whether they recognize the new Osage Constitution or conflicting federal regulations relating to Osage membership, and expressed concern about the Osage Agency's recent decision to discontinue paying property taxes owed by individual Indians out of individual trust funds.

Osage Tribal members provided testimony and discussed a variety of issues including:

- Concerns about individual Tribal members losing 'headrights' if the tribal administration assumes management of IIM accounts;
- Preservation of the Nation to Nation relationship;
- Clarification of which agency actually serves as the fiduciary trustee of the Osage Minerals Trust and who are the proper beneficiaries of the federally created Osage Minerals Trust;
- Concerns about the accuracy of Osage land records due to instances where restricted lands were not included in land inventories;
- Concerns that BIA records did not have accurate addresses despite persons being easily locatable in the local community;
- Concerns that the non-payment of taxes on restricted lands out of individual trust funds could result in a loss of lands for some individuals;
- Concern that BIA provides little assistance to landowners to negotiate beneficial leases for grazing;
- Concerns about BIA's failure to consult with Tribal members prior key decisions impacting landowners;
- Concerns that the BIA Superintendent and the Tribal Chief need to develop a better working relationship;
- Concerns that funds paid into DOI by lessees do not go into interest-bearing accounts during prior to approval of the lease;
- Concerns that the Osage Agency realty office is inadequately funded and has a shortage in staff;
- Concerns with backlog of appraisal requests;
- Concerned that only property on the individual landowner's land inventory is income generating property;
- Questions about the definition of a 'competent' Osage member and who makes the determination;

### Conclusion

ITMA had a very busy, constructive, and productive Fiscal Year 2008 and looks forward to working cooperatively with OST and the Department of the Interior in Fiscal Year 2009.