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**SUMMARY REPORT**

**ITMA LISTENING CONFERENCE**  
AT THE  
**Confederated Tribes of the Yakama Nation**

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**August 20-21, 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 on a variety of issues. Problems associated with fractionation was an overriding theme in the statements made and questions asked by many of the conference attendees.

The conference opened with remarks by Yakama General Council Chairman Moses Squeochs, which was followed by an invocation by Jerry Meninick and remarks from Yakama Tribal Council Chairman Ralph Sampson. Chairman Sampson said that the Listening Conference was “an excellent opportunity for the citizens ... of the Yakama Nation and our surrounding reservation” to voice their opinions to Washington, D.C. representatives. Chairman Sampson also acknowledged the attendance of Special Trustee Ross Swimmer and extended thanks to all of the government staff who attended.

Mary Zuni-Chalan, Executive Director of ITMA, provided an overview of ITMA including its mission and objectives and explained the process for individual testimony and the federal officials’ responses. Brian Gunn, who serves as ITMA’s Liaison with OST, provided an update on several developments, including the status of probate regulations, OST’s ongoing discussions to implement a recent federal court decision relating to DOI’s Indian preference policy, and the OST’s budget.

After Mr. Gunn’s remarks, Majel Russell, ITMA’s Legal Consultant, gave a presentation on the history of fractionation of Indian lands. Ms. Russell’s presentation discussed the genesis of fractionation from the 1887 General Allotment Act through

efforts to address the issue with Indian Land Consolidation Act and, most recently, the American Indian Probate Reform Act. To illustrate the impact that fractionation has on all Indian tribes, Ms. Russell noted that nearly half of the BIA's realty budget is devoted to managing a small number of highly fractionated interests. Ms. Russell noted that "while only 219 tribes underwent allotment, all tribes are impacted by management of these interests because ... the impact on the budget is so devastating."

Following Ms. Russell's presentation, 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. Swimmer noted that one of the first tasks OST undertook was to develop a new accounting system to replace the BIA accounting system. The old BIA accounting system, Swimmer said, was decentralized and difficult to work with. Swimmer described OST's accounting system as "one of the finest trust accounting systems that there is today" and noted that it collects \$700 to \$800 million for Indian beneficiaries annually, which represents approximately eight million separate transactions ranging from one penny to tens of millions of dollars.

The other major problem that OST sought to address after its creation was the lack of a records management system. Mr. Swimmer noted that records were being maintained "all over the place ... and some were stored in very, very poor conditions" such as "barns and houses and warehouses that were subject to ... water damage." In response, OST developed a records program to collect, document, index and store trust records. The storage facility ultimately became the National Archives and Records Administration facility in Lenexa, Kansas that today serves a central repository for many Indian trust records. Mr. Swimmer said that the Lenexa facility today holds 180,000 cubic feet of documents, representing three to four hundred million pages of records.

After Mr. Swimmer's presentation, Donna Erwin, Principal Deputy Trustee, introduced the OST staff in attendance and discussed, among other things, the role of OST's trust officers in resolving trust related issues at the agency level. Ms. Erwin stated one of the primary roles of trust officers is to provide a central source to address beneficiaries' questions about their trust property. "Instead of you having to go talk to Realty and then maybe talk to Probate, then maybe talk to the IIM clerk," Ms. Erwin told the attendees, the trust officers are the individuals who can get answers. Ms. Erwin noted that the addition of trust officers at the agency level frees up BIA agency staff to focus on other land management issues.

After the tribal officials, ITMA consultants, and federal officials gave their opening statements, the floor was opened to members of the audience who had signed up to make statements or ask questions.

Yakama Tribal Councilmember Richard George made the first statement and focused on problems fractionation has caused on the Yakama Reservation. Mr. George suggested that "Congress should address fractionization by funding 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.”

Mr. George also mentioned ongoing delays with the fee-to-trust process attributable to requirements for containment surveys, which are required for fee-to-trust applications. Mr. George explained that contaminant surveys are only acceptable for six months and that this period needs to be extended to at least 12 months because the “deed of trust process is so lengthy” that the surveys could expire prior to final acceptance. Mr. George also stated that because the qualifications for individuals who prepare the surveys are so stringent, “Indian tribes are, for practical purposes, being required to pay consultants to prepare the surveys.

Other speakers included the Land Services Program Manager for the Confederated Salish and Kootenai Tribes, who discussed fee-to-trust delays and staffing shortages for probates. Several individuals asked questions on specific issues related to payments, land consolidation and probate. Many individuals spoke of communication issues and delays associated with various land transactions and probate proceedings in which they had an interest. The federal attendees invited these individuals to speak with them privately during the breaks to discuss their issues in more detail and to record information for subsequent follow-up.

Many of the questions specific to the Yakama Nation were fielded by Gerald Ben, deputy director of the BIA’s Northwest Region. Ben noted that the existence of tribal inheritance codes and the prioritization by tribal governments of appraisals when a tribe contracts the appraisal function are all factors that affect the length of time needed to complete trust land transactions. In discussing the probate backlog, Ben repeatedly emphasized the importance for Indian landowners to make wills. “I just can't stress how important it is to decide up front what's going to happen with your property ... because you don't want to leave it to us. You don't want to leave it to the judge to say, ‘This is how it's going to happen’” Ben said.

In addition to the federal officials who fielded questions, the listening session was well attended by individual tribal members, tribal and agency employees, and other interested individuals. The Yakama Nation provided lunch featuring traditional Plateau foods to all attendees. A number of tribal officials and individuals who provided statements and asked questions during the listening session expressed appreciation that the OST and BIA officials travelled to the Yakama Reservation to attend the session.