



# ITMA Newsletter

April 2006

Volume 1, Number 1

## ITMA TRIBAL MEMBERSHIP (by Region)

### PACIFIC REGION:

Ewiiaapaayp Band of Kumeyaay Indians  
Fort Bidwell Indian Community  
Hoopa Valley Tribe  
Yurok Tribe  
Soboba Band of Luiseno Indians

### NORTHWEST REGION:

Coeur D'Alene Tribe  
Nez Perce Tribe  
\*Confederated Tribes of Warm Springs  
Confederated Tribes of Umatilla  
Chehalis Tribe  
\*Confederated Tribes of Colville  
Quinault Indian Tribe  
\*Shoshone-Bannock Tribes

### WESTERN REGION:

Hopi Tribe  
Salt River Pima Maricopa Tribe  
\*Tohono O'odham Nation  
Fallon Paiute-Shoshone Tribe  
Walker River Paiute Tribe

### ROCKY MOUNTAIN REGION:

\*Blackfeet Tribe  
\*Chippewa Cree Tribe of Rocky Boy  
Confederate Tribes of Salish & Kootenai  
\*Crow Tribe  
Fort Belknap Tribes  
Fort Peck Tribes  
Northern Cheyenne Tribe  
Eastern Shoshone Tribe  
Northern Arapaho Tribe

### SOUTHWEST REGION:

Southern Ute Tribe  
Jicarilla Apache Tribe  
Mescalero Apache Tribe  
Pueblo of Cochiti  
Pueblo of Laguna  
Pueblo of Picuris  
Pueblo of Sandia

### GREAT PLAINS:

\*Three Affiliated Tribes  
Turtle Mountain Band of Chippewa  
\*Cheyenne River Sioux Tribe  
Sisseton Wahapton Tribes  
\*Standing Rock Sioux Tribe  
Winnebago Tribe

### SOUTHERN PLAINS:

Absentee Shawnee Tribe  
Alabama Quassarte Tribe  
Cherokee Nation  
Iowa Tribe  
Kaw Nation  
Kiowa Nation  
Muscogee Nation  
\*Osage Nation  
Quapaw Tribe  
Thlopthlocco Tribe

### MIDWEST:

Grand Portage Tribe  
Leech Lake Band of Ojibwe  
Red Lake Band of Chippewa  
Forest County Potawatomi Tribe  
Oneida Nation  
Lac Vieux Desert Tribe  
Sault St. Marie Tribe of Chippewa

### EASTERN REGION:

Passamaquoddy Tribe of Pleasant Point  
Penobscot Nation  
\*Tlingit & Haida Tribes  
Kenaitze Tribe  
Metlakatla Tribe

### ASSOCIATION REPRESENTATIVE

\*Board Voting Member

*\*ITMA Board Member*

## ITMA HOSTS 16<sup>TH</sup> ANNUAL CONFERENCE

The **Intertribal Monitoring Association on Indian Trust Funds** hosted its 15<sup>th</sup> Annual Conference October 11-13, 2005 at the Palace Station & Casino, Las Vegas, NV. Detailed reports and updates presented to the audience included the following:

- An update of the **National BIA Budget Advisory Council Report** was provided by Co-Chairs Chief Jim Gray and Chairman Tex Hall regarding the Tribal Budget Committees activities and the status of current FY'06 budget and its implications on tribal governments. Discussion involved the funding implications of trust restructuring and FY'06 funding of the Bureau of Indian Affairs (BIA) and the Office of Special Trustee (OST), which included the transfer of funds from the BIA to OST.
- Chairman Tex Hall gave an overview of the activities of **National Congress of American Indians (NCAI)** activities, which was followed by a Question and Answer session. He focused on the OST budget and its implications on the tribal BIA budget cuts.
- **Special Trustee for American Indians Ross Swimmer and his staff**, which included Chuck Evans (Investments), Brandon Fryar (Director OTFM) and Jerry Chavez (Management Analyst), reported on the status of the OST Reorganizations, updates on the Agency and Regional Pilot Projects, the status of Trust Officers and their activities, the OST Advisory Committee and an overview of the OST budget.
- **ITMA Listening Conferences** were held on four Indian reservations and regions during the past year; Blackfeet Tribe of Montana, Shoshone Bannock Tribe of Idaho, Standing Rock Sioux Tribe of North Dakota and at the Navajo Nation.
- A report on the **National Trust Reform & Cobell Settlement Workgroup** formed to obtain input from Indian Country on S.1439 was provided by Co-Chair Chief Jim Gray. From this effort Indian Country presented to Congress 50 Principles which should be considered in the legislative effort. A summary of suggested Workgroup changes was presented to the audience for adoption.
- The **OST Monitoring Report** was provided by ITMA's Liaison to OST. This included a status report of the OST Call Center, the TAAMS project, the status of OST trust officers and regional trust administrators and a report of ITMA's Listening Conferences 'emerging trust issues'.
- The **Tribal Trust Fund Settlement Project** consisting of seven tribes is preparing to conduct its third session in conjunction with this conference. The project's objective, working with tribes and DOI/OHTA, is to, in Phase I, develop a trust fund settlement methodology and in Phase II, implement the methodology. The tribal membership emphasized that while ITMA is engaged with an entity other than OST on this project, it is directly related to the funds that OST is now responsible for and ITMA's mission of monitoring the trust-related reform of historical accounts.
- **InterTribal Trust Resources Organizations** such as the Council of

Energy Resources Tribes, the National Tribal Environmental Council, the Southwest Tribal Fisheries Commission and the Intertribal Agricultural Council and the Indian Land Working Group have a continued working relationship on trust issues. Presentations were made by some intertribal organization representatives on emerging trends and initiatives. The panel shared information on innovative and successful approaches of their respective groups.

- The **Senate Committee on Indian Affairs** staff were in attendance and provided an update on S.1439
- **The 1994 Indian Trust Fund Management Reform Act**, a detailed review of the provisions within the Act was presented. Title II Section 202 “Voluntary Withdrawal from Trust Funds Program” drew much discussion.
- **ITMA Board of Directors Elections** were conducted. Newly elected and reelected Tribal representatives to the Board are: Osage Tribe, Three Affiliated Tribes, Colville Tribe, Chippewa Cree Tribe Blackfoot Tribe and Associations Representative. Current tribal members include: Standing Rock Sioux Tribe, Tohono O’odham Nation, Central Council Tlingit & Haida, Shoshone Bannock Tribes, Warm Springs Tribes and the Crow Tribe.
- **ITMA Board of Directors Elects Officers for 2006**. Osage Chief Jim Gray was elected to serve as Chairman, Three Affiliated Tribes Vice Chairman Mervin Packineau was elected ITMA Vice Chairman, Tlingit & Haida Vice President Thomas Farquhar was elected Treasurer and Councilman Scott Russell of the Crow Tribe was elected ITMA Secretary.
- **Tribal Trust Litigation Reports** were provided on selected tribal trust funds and resources related lawsuits for information purposes. NARF attorneys presented an update on the *Cobell* lawsuit.
- **Fiduciary Trust Model** tribal representatives provided an update on the activities of the “to be” plan which suggested a plan of changes to the current way of conducting business. The final phase being the implementation of the plan, the “Fiduciary Trust Model”, an integrated trust business model to improve performance.
- The Navajo Nation presented a session on **Trust Reform and its Implications on Tribal Government** citing the impact of the current legal and administrative rulings and the proposed changes to laws.
- A draft bill to address the extension of the December 2006 **Statute of Limitations** for tribes to file claims was discussed by ITMA legal counsel. The implications of the upcoming deadline on tribal governments was discussed in detail
- **1994 Indian Trust Fund Management Reform Act**, a detailed review of the provisions within the Act was presented. Title II Section 202 “Voluntary Withdrawal from Trust Funds Program” drew much discussion.

#### **ITMA TRIBAL MEMBERSHIP ELECTS ITMA BOARD OF DIRECTORS**

**FOR 2006** During the October 2005 Annual Conference six positions on the Board of Directors term ended and nominations and elections were conducted by ITMA Secretary Scott Russell (Crow). The Board seats for the Osage Tribe, Three Affiliated Tribes, Colville Tribe, Chippewa Cree Tribe, Cheyenne River Sioux Tribe, Blackfoot Tribe and the Associations Representative were up for election. Maintaining their seats on the Board through the FY2007 ITMA Annual Conference are, Osage Tribe, Three Affiliated Tribes, Colville Tribe, Chippewa Cree Tribe and the Associations Representative. New Tribal members to the Board serving a two year term are the Nez Perce Tribe and Tlingit & Haida Tribes of Alaska.

### **ITMA BOARD OF DIRECTORS ELECTS OFFICERS FOR 2006**

Immediately following the election of the Board of Directors for 2005 by the ITMA Tribal membership, the Board of Directors conducted elections for the officers of the Board. Osage Tribal Chief Jim Gray was elected Chairman, Three Affiliated Tribes Vice Chairman Mervin Packineau will serve as ITMA Vice Chairman, Vice President Thomas Farquhar was elected Treasurer, and Councilman Scott Russell was elected Secretary.

### **ITMA CONDUCTED FOUR LISTENING CONFERENCES ON TRUST ISSUES THROUGHOUT INDIAN COUNTRY IN 2005**

A panel of tribal representatives from each of the Regions where ITMA conducted Listening Conferences presented an overview of the recurring issues raised at the sessions. Special Trustee for American Indians Ross Swimmer and his Principal Deputy Special Trustee Donna Erwin attended most of the sessions and responded directly to issues presented by Tribal Leaders and Indian IIM Account holders. ITMA provided Summary Reports of each session and official transcripts to the OST officials as well as BIA regional representatives. Information obtained from the sessions are used to assist ITMA in developing policy initiatives for ITMA to present to the Congress and the Federal government. Tribal representatives providing overviews of each session included Councilwoman Betty Cooper of the Blackfeet Tribe of Montana, Chairperson Nancy Murrillo of the Shoshone Bannock Tribe of Idaho and Marcella Giles who presented the Standing Rock Sioux Tribe of North Dakota and the Navajo Nation in Arizona reports. All reports are available on the ITMA website at: [itma@itmatrustfunds.org](mailto:itma@itmatrustfunds.org).

### **COMANCHE NATION OF OKLAHOMA HOSTS FIRST ITMA LISTENING CONFERENCE OF 2006**

On March 21-22, 2006 ITMA traveled to the Comanche Tribe for its first session of 2006. The 27 individual Listening Conference presenters provided issues of concern regarding their individual accounts and resources directly to Special Trustee for American Indians Ross Swimmer and his staff. Bureau of Indian Affairs regional and local staff were also on hand to respond to questions.

ITMA conducted a listening conference in Anadarko, Oklahoma, where representatives of OST at the highest level participated and individual account holders from the region were permitted to interact with OST officials. This listening conference provided the Special Trustee and Principal Deputy Special Trustee, along with selected staff members, with a forum from which to address a large number of tribal officials and account holders with a first-person report on trust reform progress and FTM implementation. In addition, the listening conference provided OST at the highest level with an opportunity to hear first-hand the concerns, questions, and frustrations of account holders from a grass-roots level. The dialogue at this listening conference was more animated and somewhat less constructive than in several of the earlier conferences. This conference did, however, provide the Special Trustee with an opportunity to deliver a first-hand report to dozens of account holders regarding the development of OST's FTM, including appraisals, TAAMS implementation, probate backlogs, land fractionation, improvements in the federal cadastral survey program for Indian lands, and modernization of OST's beneficiary-centered customer services program such as development of the call center, institution of a lockbox for collections, and other improvements such as routine notice of lease payment due dates. As at all previous conferences, Indian individuals and tribal leaders expressed serious concern over the decision of the government to stop providing will-writing services to individuals, citing many can not afford the service.

### **ITMA CO-CHAIRS NATIONAL TRUST REFORM & COBELL SETTLEMENT WORKGROUP INITIATIVE**

At the request of the U.S. Congress Senate Indian Affairs Committee Co-Chairman John McCain, ITMA took a lead role in the formation and coordination of a National Workgroup established for the purpose of obtaining tribal and Indian individuals on the Indian Trust Reform Act of 2005 – S.1439 Chairman McCain and Vice Chairman Dorgan introduced S. 1439, the “Indian Trust Reform Act of 2005,” on July 20, 2005. Since introduction, there have been several hearings by the Senate Indian Affairs Committee and the House Resources Committee. At the hearing, Senator McCain stated that the legislation is a starting point for discussion and he wants consultation with and comments from tribal leadership with their suggested changes to improve the legislation. This Trust Workgroup has met on several occasions to discuss the specifics of the legislation and the following is a summary of suggested changes. This is intended only as a draft for further discussion and editing by the Workgroup. A brief overview of the major comments that received significant discussion.

### **TRIBAL TRUST FUND SETTLEMENTS PROJECT**

ITMA has invested significant time and resources working with its member Tribes and the Departments of Interior and Justice in developing the Tribal Trust Fund Settlement Project (TTFSP) to formulate a methodology and process for settling tribal trust fund claims for determining agreed-upon balances of tribal trust funds accounts which Tribes and DOI can use in reaching timely settlements of, and payments to, tribal trust fund accounts for the period of 1972 to 1992, based upon the Arthur Andersen & Company work. The participating tribes are: Coeur d’Alene Tribe, Confederated Tribes of Colville, Confederated Tribes of Yakama Reservation, Fort Belknap Tribes, Nez Perce Tribe, Picuris Pueblo, and the Sac and Fox Tribe.

The tribes have discussed the work and findings each participating tribe performed on the Arthur Andersen work and other data received. The consolidated list of findings will be used for ongoing discussions in developing the methodology and obtaining tribal consensus of the scope of the project for account and transaction types and to develop a consensus scope of the project for testing “completeness” of receipts (fill the gap). Using the information, an outline of methods or approaches for each identified account or transaction will be performed.

It is ITMA’s objective that this project will result not only in producing methodologies for achieving some measure of settlement of account balances, but that it also will result in the seven volunteer participating tribes’ receiving finally the treatment that would have long ago been expected of any other financial trustee, namely, that known losses will be made good with appropriate interest, that spurious and stale claims upon the accounts will be stricken from the books, and that the cooperative effort by participating tribes and the government will result in the achievement of settlements even broader in scope than those expressly contemplated in the Cooperative Agreement, with appropriate adjustments to their account balances.

It was reiterated that the ITMA tribal membership takes a strong position that the DOJ Judgment Fund be utilized for any settlements of mismanaged funds. An overview of the judgment fund, to include its basis, purpose and what government agency would oversee this fund was provided.

**ITMA TRIBAL MEMBERSHIP DIRECTS ITMA TO PURSUE AN EXTENSION TO THE STATUTE OF LIMITATIONS FOR FILING TRUST CLAIMS**

Current law provides that Indian tribes are deemed to have received from the federal government their respective tribal trust fund reconciliation project report pursuant to section 304 of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. §4044) on December 31, 2000, which would provide a deadline of December 31, 2006 for Tribes to file lawsuits challenging these reports.

At the directive of ITMA tribal membership, proposed legislative language has been drafted to have the statute of limitations extended by Congress. ITMA has been in contact with key officials from the Department of Interior's Office of the Solicitor, and the Department of Justice regarding this issue.

ITMA is greatly concerned about the possibility of a rush to file lawsuits by many tribes before the end of this year to preserve their statute of limitations and is striving to continue providing information and assistance to tribes with issues involving their tribal trust accounts and the Federal Government. On March 19, 2002, there was statutory language passed in Public Law 107-153 that may have started the statute of limitations for tribes to file law suits against the Federal Government regarding tribal trust accounts. If the Arthur Anderson Reports that were tendered to the tribes are considered the "reconciliation reports" for the tribal trust accounts, as stated in Public Law 107-153, then the reconciliation reports are deemed to have been received by the tribes on December 31, 1999, and the statute of limitations would expire on December 31, 2005.

On behalf of ITMA tribes, there is speculation that the Arthur Anderson Reports do not constitute a "reconciliation report" due to the lack of complete records, etc. On the other hand, the Federal Government is considering the Arthur Anderson Reports that were tendered to the tribes as the "reconciliation reports" mentioned in Public Law 107-153, thus creating the statute of limitations deadline of December 31, 2005 to file lawsuits.

***--SAVE THE DATES--***

**ITMA AND INTERTRIBAL ORGANIZATIONS TO HOST TRIBAL LEADERS AND REPRESENTATIVES MEETING AT DENVER.**

The national trust-related Intertribal organizations will cosponsor a meeting for tribes on June 8 and 9, 2006 at Denver, Colorado. Please visit ITMA's website for details: [itma@itmatrustfunds.org](mailto:itma@itmatrustfunds.org).