

# INDIAN TRUST COMMISSION

September 2012

Bismarck, North Dakota

I am Helen Sanders, representing the Indian Lands Working Group, and speaking on behalf of individual Allottees.

I appreciate the opportunity to provide my perspectives and suggestions about the management of non-monetary trust assets. I will comment about timber, water, agriculture, and oil & gas in relationship to the reservations in the Washington and Oregon areas.

**Timber management:** this trust resource differs from other non-monetary assets like coal, grazing, easements, and other leases. Timber is a renewable resource for many individual allottee land owners. The timber management and the environment have a delicate balance that needs careful consideration. Specifically, the current RMZ, (Riparian Management Zones) needs a new look at the 200 foot leave area along rivers or other water areas, lakes, and ocean. A 'leave area' too often ends with a blow down of the timber left standing, where if trees were taken carefully, it would protect the soil and could be replanted. To counter the economic impacts to individual allottee land owners, they should be compensated for unharvested timber in the RMZ's, similar to the Land Trusts established in the states of Washington and Oregon. An additional recommendation is to schedule time every two weeks for a few allotment owners to view their property when their lands are in the same area with available road access. The Bureau needs to involve the land owners.

Looking to the future, the potential for oil & gas development in the state of Washington is likely to happen. When this occurs, some activity could involve individual allottee land owners. The DOI should begin to establish staff to deal with this as the federal trustee.

*What are the pros and cons of a public versus private trustee for your non-monetary assets?*

The Federal Government is the trustee and we will not accept private trustee. See *U.S. v. Mitchell*, 445 U.S. 535... 'clearly give the Federal Government full responsibility to manage Indian resources and land for the Indians' benefit. Moreover, a fiduciary relationship necessarily arises when the Government assumes such elaborate control over forests and property belonging to Indians. All of the necessary elements of a common-law trust are present: a trustee (the United States), a beneficiary (the Indian Allottees), and a trust corpus (Indian timber, lands, and funds.) Because the statutes and regulations at issue clearly establish a fiduciary obligation of the Government in the management and

**operation of Indian lands and resources, they can fairly be interpreted as mandating compensation by the Government for damages sustained.'**

*Oversight of tribal trust non-monetary assets.*

**There really needs to be a separation of thoughts between allotment and tribal assets. Deal only with allotments through BIA advisors for individuals. Tribes should be involved in tribal assets. Contract or Compact tribes could have a regional advisory board. A quarterly coordination meeting of the two is recommended.**

*What are your top three recommendations that would improve or strengthen trust management and/or administration for the Commission to consider?*

- 1. The Secretary deals with Allottees – Secretary deals with tribes separately. The Secretary should communicate this to all agencies and departments to follow the Secretarial Order.**
- 2. The trust management and/or administration would improve through an open and transparent process.**
- 3. There should be an oversight review of bureaucracy by the Secretary and the Commission every five years.**
- 4. Sec. 207, Indian Land Consolidation Act. (c) Application and Effect. Provide language in the proposed Rules such as in 162.15 (c). Specific to Individual Allotted lands. 'Any permanent improvements on the leased land shall be subject to 25 CFR 1.4 and, in addition, shall not be subject to any fee, tax, assessment, levy, or other such charge imposed by any State or political subdivision of a State, without regard to ownership of those improvements. Improvements may be subject to taxation by the Indian tribe with jurisdiction.'**

**Thank you for the opportunity to share these perspectives and recommendations.**

**Helen Sanders**

**Vice-Chairman**

**Indian Land Working Group**