Heirship and Fractionated Land Titles

Atlanta FRB

Cris Stainbrook

Indian Land Tenure Foundation

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Land within the original boundaries of every reservation and other areas of high significance where tribes retain aboriginal interest are in Indian ownership and management.
NATIVE LAND LAW
Can Native American People Find Justice in the U.S. Legal System?

Since the first Europeans arrived in North America, Native American people have had to protect and defend their rights to their land and its natural resources. Early treaties provided an alternative to constant war over territorial boundaries, and they acknowledged the inherent sovereignty of Native nations and the European nations; similar treaty making continued with the newly formed United States. Yet, as the U.S. expanded into the continent and the new immigrants became increasingly hungry for land, many treaties with Indian nations were disregarded, illegally altered or came to be renegotiated under circumstances unfavorable to Native nations. As the U.S. courts gained power and influence, legal actions and Supreme Court decisions began to frame the legal and political relationship between the U.S. and Native nations, often overriding the original treaty agreements both in practice and in spirit.

Historically, laws are shaped by the times and by the reigning ideologies of those in power. During the 19th century, when much of the federal law governing non-Native interactions with Native nations and concerning Native land and resources was established, the majority of Americans still believed that Indian people would eventually disappear and that those few who remained would gradually assimilate into American religious and social society. The “discovery doctrine” was used and often misconstrued in a number of early court cases to argue against the validity of Native American claims to the lands they had called home since time immemorial. These Christian-based and ethnocentric concepts, indicative of 19th century American political and popular thought, found their way into the nascent legal precedents being set during this period. As a result, many
“Manifest Destiny”
(John Gast, 1872)
General Allotment Act of 1887

• The “Dawes” Act
  – February 12, 1887
  – Broad application—specific acts for specific tribes

• Communal to Individual

• Continued land losses

• Introduces “Trust”
“In my judgment the time has arrived when we should definitely make up our minds to recognize the Indian as an individual and not as a member of a tribe. The General Allotment Act is a mighty pulverizing engine to break up the tribal mass. It acts directly upon the family and the individual.”

President Theodore Roosevelt, 1901
INDIAN LAND FOR SALE

GET A HOME
OF
YOUR OWN

EASY PAYMENTS

PERFECT TITLE

POSSSESSION
WITHIN
THIRTY DAYS

FINE LANDS IN THE WEST
IRRIGATED
IRRIGABLE
GRAZING
AGRICULTURAL
DRY FARMING

IN 1910 THE DEPARTMENT OF THE INTERIOR SOLD UNDER SEALED BIDS ALLOTTED INDIAN LAND AS FOLLOWS:

<table>
<thead>
<tr>
<th>Location</th>
<th>Acres</th>
<th>Average Price per Acre</th>
<th>Location</th>
<th>Acres</th>
<th>Average Price per Acre</th>
</tr>
</thead>
<tbody>
<tr>
<td>Colorado</td>
<td>5,211.21</td>
<td>$7.27</td>
<td>Oklahoma</td>
<td>34,664.00</td>
<td>$19.14</td>
</tr>
<tr>
<td>Idaho</td>
<td>17,013.00</td>
<td>24.85</td>
<td>Oregon</td>
<td>1,020.00</td>
<td>15.43</td>
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<tr>
<td>Kansas</td>
<td>1,684.50</td>
<td>33.45</td>
<td>South Dakota</td>
<td>120,445.00</td>
<td>16.53</td>
</tr>
<tr>
<td>Montana</td>
<td>11,034.00</td>
<td>9.86</td>
<td>Washington</td>
<td>4,879.00</td>
<td>41.37</td>
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<tr>
<td>Nebraska</td>
<td>5,641.00</td>
<td>36.65</td>
<td>Wisconsin</td>
<td>1,069.00</td>
<td>17.00</td>
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<tr>
<td>North Dakota</td>
<td>22,610.70</td>
<td>9.93</td>
<td>Wyoming</td>
<td>865.00</td>
<td>20.64</td>
</tr>
</tbody>
</table>

FOR THE YEAR 1911 IT IS ESTIMATED THAT 350,000 ACRES WILL BE OFFERED FOR SALE

For information as to the character of the land write for booklet, "INDIAN LANDS FOR SALE," to the Superintendent U. S. Indian School at any one of the following places:

CALIFORNIA: Fort Sill, Oklahoma City, Wynnewood.
COLORADO: Forts Riley, Cheyenne, Crow Agency.
IDAHO: Forts rose, Lewistown, Saddle River.
KANSAS: Forts Shawnee, Reno, Fort Hays.
MONTANA: Forts Hays, Forts Lincoln, Forts Randall.
NEBRASKA: Forts Meade, Forts Crook, Forts Robinson.
Oklahoma: Forts Lawton, Forts Totten, Forts Steele.
OREGON: Forts Crook, Forts Clark, Forts Philo.
WASHINGTON: Forts Spokane, Forts Walla Walla, Forts pin.

WALTER L. FISHER,
Secretary of the Interior.

ROBERT G. VALENTINE,
Commissioner of Indian Affairs.
Gitchikwe Allotment

- 80 acres at Lac Courte Oreilles
- 2,285 undivided interests
- 9 escheated probates to post
Selection Criteria

Gitchikwe Allotment 159
Administrative Costs associated with Gitchikwe Allotment

Dollars (x1000) at Current Cost Levels

Year

New Property Management Options

Co-Owner Allotment Management

- Allotted Parcel
  - Allotment Management Entity
    - Tribal Member
    - Non-Tribal Member

- You and fellow allotment co-owners create a unified structure to manage your land
- A single voice of 50.01% or more = Control
- Agree on goals, plans and land use
- Define future membership in the management/ownership structure

Family and Co-Owner Trusts, Multiple Allotments

- Reservation Lands
  - Basic Trust
    - Tribal Member
    - Non-Tribal Member
    - Allotments

- A trust is a legal entity that uses rules for operation that you create as a group
- A trust can help you preserve your family’s connection to the land
- A trust can cover some or all of your interests in allotments
- Your family may decide to combine resources so that more land is consolidated

Private Consolidation Corporation

- Consolidated Allotments
  - Consolidation Corporation
    - Tribal Member
    - Non-Tribal Member
    - Allotments

- Co-owners can consolidate undivided interests in one or more allotments under group management
- A single voice of 50.01% or more = Control
- Potential to aggregate larger acreage for efficient management or new and better uses
- Can be used to develop “active” economic projects and generate revenue

Other management options might include:

- Power of Attorney
- Landowner Association
- Cooperative
- Your own idea

For more information contact:
Jim Webindato, Program Officer
651-766-8999
jwabindato@litf.org
Flexible Tools for Indian Land Owners

- Power of Attorney
- Association
- Cooperative
- Trust

- Tribal Charter Corporation
- Federal Charter Corporation
- Modified Section 17 Charter
- Other
Control of an Allotment

• 90 percent of the ownership, if there are five or fewer owners

• 80 percent of the ownership, if there are between six and ten owners

• 60 percent of the ownership, if there are between eleven and nineteen owners

• A simple majority (more than 50 percent of the ownership), if there are twenty or more owners
Iltf.org

651-766-8999

cstainbrook@iltf.org