Planning for the Passing of Agricultural Reservation Land To Avoid Further Fractionation under the American Indian Probate Reform Act (AIPRA)

Identification of Issue: Early treaties, the General Allotment Act of 1887, and other legislation gave the Bureau of Indian Affairs authority to distribute the allotted land of deceased Indians to their heirs based on state law. However, the land was not partitioned or physically divided among the heirs; instead each heir received only “undivided interests” in the original tract on the reservation. With the passing of each generation the number of owners per allotment rapidly began to grow. Today, tribal members on some reservations find themselves co-owners with hundreds of others within fractionated tracts that were originally owned by just one individual. Decision-making among many owners regarding the “best” use of the land becomes almost impossible. This Extension program was designed meet a pressing need for education about the probate sections of a new federal law (AIPRA) to address the issue of fractionation. The target audience was Indian landowners and their heirs who have inherited fractionated interests in reservation allotments in ID (Fort Hall) and MT (Fort Belknap, Fort Peck and Blackfeet).

Program Accomplishments: Educational materials that were developed included: 14 fact sheets, 13 media articles, eight PowerPoint presentations, a marketing brochure, a display for group meetings, and a Web Site that included all materials.

The Fort Hall (Idaho) Indian Reservation Extension Agent and undergraduate Indian intern made 14 presentations reaching over 135 Fort Hall tribal members (126 requested AIPRA packets). As a result of the publication of nine articles in the Fort Hall Sho-Ban News, 170 packets were mailed to interested tribal members.

The Montana Extension Indian Reservation Agents and undergraduate Indian interns also had successful efforts: 15 presentations reached close to 250 tribal members on the Blackfeet, Fort Belknap, and Fort Peck reservations. Packets of the fact sheets were distributed to over 400 individuals as a result of presentations and articles in the Fort Peck Journal, Wotanin-Wowapi (Fort Peck) and Fort Belknap News.

Several organizations have linked the 14 fact sheets on their Web sites: Institute for Indian Estate Planning and Probate, Seattle University School of Law; Indian Land Tenure Foundation; Wyoming Bar Association; Indian Country Extension; and MontanaLawHelp. WebTrends reveals that during the January there were over 1,376 hits on the Web site with 67 who visited more than once. http://www.montana.edu/indianland/index.html

A two-day symposium, “Inheriting Indian Land: Indian Land Tenure in the Wake of the American Indian Probate Reform Act of 2004,” was held in April 2007. The event attracted 75 participants from the regional area (North Dakota, Wyoming, Idaho, Washington, and Montana). Featured were 22 speakers and panel presentations from a variety of Indian organizations and federal agencies: Office of Special Trustee; Administrative Law Judges from the Department of Interior; Indian Land Tenure Foundation; Indian Land Working Group; and the Seattle and Montana Schools of Law. Co-sponsors of the symposium included: Community and Assistance Partnership Program, Risk Management Agency, USDA; State Bar of Montana and the Montana Justice Foundation; MSU College of Letters and Science; Office of the President; Museum of the Rockies; the MSU Department of Native American Studies; and MSU Department of Agricultural Economics and Economics; and MSU Extension.