

***INHERITING INDIAN LAND
INDIAN LAND TENURE IN THE WAKE OF
THE AMERICAN INDIAN PROBATE REFORM ACT***

*an Indian Issues Symposium at Montana State University
Hager Auditorium, Museum of the Rockies*

April 12th & 13th, 2007

SPEAKERS' BIO'S (alphabetical):

DONALD ADDY has served as extension agent for the Fort Belknap tribes for over 30 years. During that time he has worked closely with the tribe to help develop a long-range planning process. Mr. Addy has received various awards such as the Silver Buffalo award as the outstanding extension worker of the year in 1990, and a regional small business award for assisting reservation businesses. He was Agent of the year in 2002 and was given the coveted award of being adopted into the Assiniboine tribe as an honorary member in 1988. During the past 30 years, Mr. Addy has worked with agriculture producers and helped develop a marketing facility to weigh and market cattle on the local level. He also helped develop a tourism center on the reservation and has developed a Junior Agriculture Loan program that allows youngsters between 9-18 years of age to establish small cattle operations. Over \$1,000,000 in loans have been provided to young cattle producers. He has strong collaboration with local and state agencies. Mr. Addy works closely with the tribal revolving credit programs and has provided ranch and farm management training to more than 60 agricultural loan clients.

CARRIE ARCHDALE (Assiniboine-Sioux) is the Director of the Agriculture Department at Fort Peck Community College. She has been in this position for the past three years. Prior to that, she was a project coordinator for the department. Currently, she is responsible for the submission of grant proposal writing and the successful administration of six grants, totaling approximately \$600,000. The Agriculture Department provides extensive training opportunities in the areas of: animal identification, equine management, risk management in livestock and rangeland production, livestock marketing, cropping systems and specialty crops, bio-fuels production, horticulture, reforestation, oil seed marketing, and AIPRA.

CECELIA E. BURKE is Deputy Director of the Institute for Indian Estate Planning and Probate at Seattle University School of Law. Ms. Burke teaches an Indian Estate Planning Clinical Course at Seattle University School of Law. She is the author of Indian will and estate planning documents, templates, and charts illustrating intestate succession under the new Act, and provides estate planning training to Legal Services attorneys and the private bar nationwide. She worked under the University of Idaho Estate Planning Project, providing estate planning services to tribal members on the Upper Skagit and Swinomish Reservations in Washington State. She received her B.A. summa cum laude from the University of Washington, and her J.D. cum laude from Seattle University School of Law.

THERESA CARMODY (Seneca) is a founder and Director of the Indian Land Working Group. She earned a B.A. degree in Sociology at the State University of New York at Buffalo, graduating Cum Laude in June of 1973. She has more than 25 years experience in the areas of Indian legislative policy analysis, economic development, and Indian land tenure issues. As Director of the Indian Land Working Group, Ms. Carmody is responsible for the planning and organization of the annual Indian Land Consolidation Symposia. She is also the author of the most extensive educational materials available for Indian landowners on the topics of estate planning and probate, Indian land leasing, land acquisition and financing, land exchange and consolidation, and land data. She has helped complete and produce a series of videos with two goals in mind: to keep Indian land in Indian ownership and to assist Indian landowners with the management of land resources. Her work with the ILWG has resulted in the development of Indian land legislation that addresses barriers related to estate planning, access to land data, real estate transactions, land acquisition financing, and Indian inheritance. Ms. Carmody also conducts workshops and meetings related to Indian land issues throughout the country. She has worked for organizations such as the First Nations Development Institute, the Native American Rights Fund, and the National Congress of American Indians. Her work with these organizations involved research, legislative analysis, formulation of policy positions, tracking, reviewing and analyzing Indian land legislation, developing and conducting workshops and training in the areas of Indian land ownership, use and control. She is the author of “Trust: A Matter of Control”, which explains options that tribes have for the management and investment of their trust funds. She also authored “The First Nations Development Institute Indian Land Consolidation Manual”, which provides an overview of the allotment era and its impacts, describes tribal models that address land restoration and multiple ownership, and includes recommendations and strategies for Indian land ownership, use, and control of the land-base.

ROBERT T. COULTER (Citizen Potawatomi) is an attorney who focuses on Indian law and international human rights. He is the founder and Executive Director of the Indian Law Resource Center in Helena, Montana and Washington, DC. The Center provides legal assistance for indigenous peoples throughout the Americas. He is an enrolled member of the Citizen Potawatomi Nation. Coulter is a past chairperson of the American Bar Association Committee on Problems of the American Indian, Section of Individual Rights and Responsibilities (1982-1984) and was a Ralph E. Shikes Visiting Fellow, Harvard Law School, November 1985. He has published numerous articles and essays. He was awarded the Lawrence A. Wien Prize for Social Responsibility by Columbia Law School in 2001 and the Bicentennial Medal by Williams College in 2002. He is a longstanding member of the American Society of International Law. He was a member of the Board of Directors of River Network, a national environmental organization, from 1998-2003. In 2004, he was elected to the Supreme Court of the Citizen Potawatomi Nation.

HON. PATRICIA MCDONALD-DAN graduated from the University of New Mexico Law School in 1973. For almost 4 years, she worked for the Navajo DNA – People’s Legal Services at the Navajo Nation in Window Rock, Arizona, and for 2

years had a private law practice in Albuquerque, NM. In March, 1978, she began her present employment as an Administrative Law Judge for the Office of Hearings & Appeals in the Department of Interior in Albuquerque.

MARSHA A. GOETTING is a Professor and Extension Family Economics Specialist with Montana State University Extension. She received her PhD from Iowa State University. In 2000 she developed an educational packet “Planning for the Passing of Fort Belknap Land to Future Generations.” The 300 packets were utilized during the farm management series for agriculture producers during 2000-2003. “Planning for the Passing of Fort Peck Agriculture Reservation Land to Future Generations” was begun in October 2004. Five educational newspaper feature stories about the need for tribal members to plan their estates appeared during in the *Wotanin Wowapi*, the weekly tribal newspaper with a circulation of 7,000. Packets were also made available at two public meetings that explained how Montana law would distribute property at the passing of an individual. In 2005 a new project was initiated with funding from the Community Outreach and Assistance Partnership program of the Risk Management Agency USDA to explain the provisions of the American Indian Probate Reform Act of 2004 (AIPRA) for distribution on the Fort Hall reservation in Idaho and the Blackfeet, Fort Belknap, and Fort Peck Reservations in Montana.

DANIELLE GUNN grew up in Bear Lake, Idaho with a ranching background. She graduated from Utah State University in 1998 with a B.S. in Agricultural Education. She earned an M.S. in Animal Science at the University of Idaho. She has been the agricultural extension educator on the Fort Hall Indian Reservation, Idaho, for seven years.

HENRIETTA MANN (Cheyenne) was the first person to occupy the Katz Endowed Chair in Native American Studies at Montana State University, Bozeman. She taught at the University of Montana, Missoula for twenty-eight years where she was a Professor of Native American Studies. She also has taught at the University of California, Berkeley; Harvard University; and Haskell Indian Nations University located in Lawrence, Kansas. Dr. Mann has served as the Director of the Office of Indian Education Programs and Deputy to the Assistant Secretary for the Bureau of Indian Affairs. She also was the National Coordinator of the American Indian Religious Freedom Act Coalition for the Association of American Indian Affairs. In 1991, Rolling Stone Magazine named her one of the ten leading professors in the nation. She has been an interviewee and consultant for several television and movie productions and has lectured throughout the United States and in Mexico, Canada, Germany, Italy, and New Zealand. She currently serves as Special Assistant to the President of Montana State University.

JONATHAN MORGAN works with Montana Legal Services Association (MTLSA) on its Indian Wills Project to provide a much-needed service to Montana's low-income Indian population. At present, there is no consistent resource within Montana to prepare wills for low-income tribal members, leaving them at risk of losing their family lands. Jon works to recruit and train law student volunteers as well as

members of Montana's *pro bono* community. He also develops community education and pro se materials and provides direct representation to low-income clients of MTLISA. This year marks the 40th anniversary of MTLISA, a federally and privately funded program that provides free legal assistance in civil cases to low-income people. MTLISA provides assistance and information in a variety of civil matters, including landlord/tenant law, Social Security disability and other public benefits, family law, domestic violence, bankruptcy, Indian law, migrant workers' legal issues, consumer matters, housing discrimination and other civil rights. Through the hard work and dedication of its staff, MTLISA provides much needed services to protect and enhance the civil rights of, and promote systemic change for, Montanans living in poverty. Much of Jon's focus during law school centered on Indian and environmental law. Jon earned his certificate in environmental and natural resources law, and also had the good fortune of serving as an editor for the University of Montana's Public Land and Resources Law Review.

DOUGLAS R. NASH (Nez Perce) serves as the Director of the Institute for Indian Estate Planning and Probate at Seattle University School of Law. He is a member of the Nez Perce Tribe and has practiced Indian law for some 34 years in numerous capacities including 14 years in private practice during which time he did estate planning and probate work, Chief Counsel for the Nez Perce Tribe for 10 years and for the past two years he was a professor of law at the University of Idaho College of Law. During his time at the College of Law, he developed the proposal for the Indian Estate Planning Project, which he operated until July 31, 2005. Among other things, he has served on the ILTF Board from its inception until May 2005, when he resigned to assume the position of Director of the Institute.

ROSS R. RACINE (Blackfeet) Executive Director, Intertribal Agriculture Council, has extensive experience in all phases of Indian agriculture. This experience includes conservation of resources, production of raw product, processing of raw product into a marketable commodity, and marketing products both nationally and internationally. Born and raised on the Blackfeet Reservation, and a veteran of the US Marine Corps, Ross has a BS degree in Animal Science/Agriculture from Montana State University Bozeman, MT. Ross was one of the initial members of the North West Area Foundation planning team that put Indian Land Tenure Foundation in place and has served on the Board of Directors of Indian Land Tenure Foundation since its inception. He presently serves as the Secretary/Treasurer of the Indian Land Tenure Foundation's board.

GAIL SMALL (Northern Cheyenne) is from Lame Deer, Montana and is the mother of four children. Her Cheyenne name is "Head Chief Woman". Ms. Small graduated from the University of Montana in 1978 and from the University of Oregon School of Law in 1982 with a Juris Doctorate Degree and a Certificate of Completion in Environmental & Natural Resource Law. She was recognized in 1995 by Montana Magazine as one of Montana's most influential leaders in the past 25 years. After graduating from law school, Ms. Small returned to the Reservation and founded Native Action as one of the first non-profit organizations on an Indian Reservation. Twenty-one years later, Native Action's work has led to national precedents in

environmental law, federal banking law, Indian voter discrimination, and youth law. Native Action's work has led to practical every-day results as well, in establishing the first local bank, the first public high school and the first Chamber of Commerce on the Reservation. Cutting-edge tribal laws have been drafted by Native Action and successfully enacted, including: a tribal burial law; a tribal sexual assault law; a domestic violence code; and a tribal Uniform Commercial Code. Many of Native Action's work products have become national models that are being replicated in other States and regions, particularly in those communities that are culturally and linguistically based.

Nurturing long-term alliances with philanthropy, tribal colleges and universities, conservationists, labor unions, non-partisan political leaders, city leaders, and Indian Tribes is the hallmark of Native Action's success. Ms. Small has served as an elected member of the Northern Cheyenne Tribal Council and she has testified before Congressional and international forums. She has taught Natural Resource Law and Federal Indian Law at the University of California at Humboldt, Chief Dull Knife Memorial College, and Little Big Horn Community College. She was appointed and served three years on the Federal Reserve Board's Consumer Advisory Council.

Ms. Small was honored as Ms. Magazine's 1995 Gloria Steinem Women of Vision Award and A Territory Resource Foundation's 1997 Jeanette Rankin Award. She is also a Kellogg National Fellow and Rockefeller Leadership Fellow. She was featured in a special profile in the Sierra Club Magazine, Jan-Feb. 2004. She has served on the boards of various organizations and foundations, including: The Social Justice Fund of the Northwest; the Northern Plains Resource Council; Native Americans in Philanthropy; the Federal Reserve Board's Consumer Advisory Council; and the Katahdin Foundation.

JOHN C. SLEDD is Of Counsel with the Indian law firm of Kanji & Katzen, PLLC, in Seattle. He received his B.S. in Natural Resources Conservation, with Honors, from the University of Montana, and his J.D. from the University of California, Berkeley (Boalt Hall). He has spent most of his career providing free legal services to low-income Native Americans and tribes. He was Staff Attorney and Director of Litigation for DNA-People's Legal Services in the Four Corners region, Director of the Native American Project of Columbia Legal Services, and Senior Attorney with the Native American Unit of Northwest Justice Project. He is also the former Tribal Attorney for the Suquamish Tribe, former Chair of the Indian Law section of the Washington State Bar Association, and an Associate Justice on the Court of Appeals of the Tulalip Tribes. Mr. Sledd was the 2004 recipient of the Pierce-Hickerson award from the National Legal Aid and Defenders Association, for outstanding contributions to the protection of Native American rights. He represented individual Indian landowners during the development of AIPRA.

MAYLINN SMITH (Southern Ute) is Clinical Supervisor and Director of the Indian Law Clinic at the University of Montana School of Law. Working under her guidance, law student interns in the Indian Law Clinic assist tribal governments and organizations dealing with Indian law issues. Activities include: drafting model

codes; working on civil rights cases; practicing in tribal court; mediations; training on Indian law issues; and natural resource issues. Professor Smith's previous service as Chief Judge of the Southern Ute Indian Tribal Court, as Appellate Judge of the Southwest Intertribal Court of Appeals, as well as her experience as legal counsel for the Salish & Kootenai Tribal Court benefit not only the tribes served by the Indian Law Clinic, but also the law students enrolled in the clinical program.

LYNNETTE T. VERLANIC, CTFA, CIFTS (Cherokee) was born in Helena, MT, and is a graduate of Carroll College with a BA in Business Administration and Finance. She joined the Office of the Special Trustee in July 2004 as a Fiduciary Trust Officer at the Northern Cheyenne Agency. Prior to accepting that position she worked eleven years in the private trust industry.

ERNESTINE WERELUS (Shoshone-Bannock) grew up raising cattle and quarter horses along the Snake River west of Pocatello, Idaho. She left the Fort Hall Indian Reservation for 30 years to work as a dental therapist, educator and administrator with the Indian Health Service. She and her husband Steve returned to Fort Hall in the early 1990s to enjoy their retirement years. Instead, they found that while an acre of prime potato land off the reservation was going for \$150 to \$200 per year, the BIA was brokering leases of Indian land for as low as \$50 per year. Mrs. Werelus pulled together volunteers to run a nonprofit called the Fort Hall Landowners Alliance, with a mission to teach people how to gain control of their land. With the permission of the landowners, she bypassed the Bureau officials who had been negotiating the leases, and started negotiating directly with farmers who rent land on the reservation. She and her team appealed leases they thought unfair, and brought lawsuits that have helped to change the landscape of federal Indian law. She and her husband continue their volunteer work out of a small office donated by the Tribes, and their home.

HON. SALLY WILLETT (Cherokee) served from 1977 – 1996 as an Administrative Law Judge for the U.S. Department of the Interior, Office of Hearings and Appeals, Indian Probate/Public Lands. Her responsibilities included until 1995 serving as the probate judge for 60 Indian tribes and communities in Arizona (except for Navajo), Southern California and later Nevada. In 1995, public lands cases were added to her load. The thousands of Indian probate proceedings she presided over involved not only the adjudication of rights in allotted lands but also served as a vehicle for explaining the structure of Indian land title and ownership and Indian estate planning to avoid fractionation. She assumed responsibilities for developing and presenting programs and materials on these subjects. Judge Willett currently serves as Administrative Law Judge for the U.S. Social Security Administration, Office of Hearings and Appeals in Phoenix, Arizona.

HON. JAMES YELLOWTAIL (Crow) was raised near Wyola, Montana and graduated from Drake University Law School in 1981. Judge Yellowtail has practiced in governmental law, criminal defense, and real estate, and served as legal counsel for the Office of Hearings & Appeals of the United States Department of the Interior in Billings, Montana. Mr. He has also served as Assistant Attorney General for the States of Colorado and Montana, County Attorney of Big Horn County,

Montana, Deputy City Attorney for the City of Hardin, Montana, and Special Judge of the Crow Tribal Court. In April 2006, Judge Yellowtail was appointed Indian Probate Judge in the Billings Office of Hearings & Appeals.

WILLIAM YELLOWTAIL (Crow) grew up on the family ranch in Wyola, Montana. He has served as the executive director of the Montana Inter-Tribal Policy Board and director of human resources development and education for the Crow Tribe. He also served three terms as a Montana Senator, representing Big Horn, Rosebud and Powder River Counties. In 1993 former U.S. President Bill Clinton appointed him as Regional Administrator for the EPA's Region 8 office, headquartered in Denver. He has also worked as a consultant on western issues. He currently serves on the board of directors for the Burton K. Wheeler Center for Public Policy, based at MSU, as well as the National Audubon Society. He has served extensively on the boards of national, regional and state organizations, and is the current Katz Endowed Chair in Native American Studies at MSU.