

TESTIMONY OF MAJEL M. RUSSELL
MEMBER OF CROW TRIBE OF INDIANS AND INDIVIDUAL LANDOWNER
ON S. 1439 INDIAN TRUST REFORM ACT OF 2005
Before the Senate Indian Affairs Committee
March 28, 2006

Greetings, Honorable Chairman McCain, Vice-Chairman Dorgan and members of the Committee. My name is Majel Russell. I am an enrolled member of the Crow Tribe of Indians and own trust lands on the Crow Indian Reservation in Southeastern Montana. I thank you for the invitation to provide testimony today and am honored to participate with the other prestigious members of today's panels. Trust reform has dominated the list of critical Indian issues for several years to the detriment of individual Indians, landowners and others, who rely on the services of the Bureau of Indian Affairs. I commend Senator McCain and the Committee for this sincere effort to resolve trust land and asset management issues that will allow Indian Country to focus on the many other critical needs of Indian people, including health care, economic development, education and protection of Tribal sovereignty.

I am an attorney and have represented Indian Tribes, primarily the Crow Tribe, for most of my legal career and have been familiar with various efforts over the last five years to reform trust administration by the Department of Interior (DOI). However, my comments today are from my personal viewpoint as an owner of trust land within the exterior boundaries of the Crow Indian Reservation. I own interests in 46 tracts of trust land. Tracts of land that I own with less than four other owners, my mother and aunts, are managed by us as competent landowners in accordance with the Crow Competency Act of 1948. We decide who will utilize our land, what it will be used for, negotiate leases of our land at rates we determine fair, and collect payments directly from the lessees. For the lands we self-manage, the Bureau of Indian Affairs (BIA) provides two critical services; to insure that the land remains in trust and to record our leases.

I have interests in other tracts of trust land with varying numbers of owners and one tract with 41 other owners. All lands with more than five owners are managed by the Crow Agency BIA, including advertisement of the lands for lease, accepting bids from lessees, negotiating and approving leases, collecting rental payments, distribution of payments to owners, and recording of lease documents.

With my family members, like many other Crow people who own land in competency status, we strive to be active landowners, to know where our lands are located, what the lands are worth and how best to utilize and protect the lands. I endorse efforts that will allow other Indian landowners to become active, engaged landowners as the best means of protecting Indian reservation lands.

Policy Review and Restructuring

Recent restructuring of the Department of Interior to reform trust administration has been driven by the on-going, contentious *Cobell* litigation rather than by Indian Tribes and the users of the beneficiary services of the BIA. Thus, the Department has been forced to restructure in a manner that is focused on avoiding liability rather than on a more effective, efficient delivery of services to individual Indians and Tribes. Settlement of *Cobell* must occur to prevent continued restructuring in a manner that diminishes the United States' veil of protection over trust assets.

Further, restructuring of the Department of Interior for trust administration must occur in a manner that strengthens the government to government relationship between the United States and Tribes. Restructuring should not shift the long-standing, hard fought standard of government to government relationships to a government to individual Indian standard. Although the General Allotment Act and other allotment acts altered the relationship between Tribes and their members, trust reform efforts should not follow suit.

I believe strong, effective Tribal governments will insure that Indian people remain distinct political groups in this country rather than becoming another of the many racial groups in the United States. Only through my Tribal membership do I have rights as an individual Indian, including the right to own trust land. I believe that my Tribal Government is the best advocate to protect my interests as a trust landowner. Tribe's must be actively engaged and in the "driver's seat" on developing policy and reviewing regulations for trust asset management. The proposed Policy Review Commission must be formed and focused to insure that Tribal desires for reform are paramount.

As an individual utilizing the BIA for land services, I remain interested in the "one-stop shopping" concept. Services to assist landowners with various land transactions must be accessible, streamlined and with one entity at the local level. The current framework of various entities for different beneficiary services is confusing and often counterproductive when the roles for the various entities are not clearly defined. Presently, confusion exists as to the decision making authority of the various entities available to trust beneficiaries. Over the years, my family and I and my grandparents before me (who were original allottees) were served at the BIA by people we knew and were related to. These Crow people had no desire or intent to steal, lie or cheat to deprive landowners of revenue. Their services were simply subjected to an extreme lack of funding, resources and training. Today, the problem remains the same – the local agency BIA simply needs sufficient funding to best deliver services rather than the creation of new and different entities.

Information access, specifically access to title records is of critical importance both to Tribes and individual Indians. Thus, I support the efforts to improve title records and believe a national title system must be completed to insure the orderly and expeditious disposition of lands to heirs and devisees, to properly distribute revenues and to access landownership information.

In the last several years, incredible amounts of limited DOI resources have been spent on trust accounting. While I understand that system flaws must be addressed, resources must also be applied to services that assist landowners with the beneficial use of their lands including access to title information, timely processing of land exchanges, partition applications, completion of appraisals, and approvals of rights-of-ways. In addition, DOI resources should be available to assist landowners with accessing trust lands and to address trespass issues. Presently, without efforts to improve and streamline these services within the available budget, DOI is proposing that fees be assessed for many of these services. I support a reprioritization in budgeting that accommodates land related services.

Indian Trust Asset Management Project

The Indian Trust Asset Management Project in S. 1439 will allow a Tribe greater control over the management of trust assets on each particular reservation and facilitate a unified management approach for Tribal and individual trust assets. Allowing Tribes to establish particularized trust management plans enhances the long-standing policies of self-determination and self-government. However, this effort to endorse Tribal control must be sincere and not derailed by broad discretionary authority of the Secretary of Interior to disapprove a Tribal asset management plan based upon yet to be developed overall standards. Tribes should be empowered to develop applicable standards for trust administration on their particular reservations.

Land Consolidation Efforts

Owning fractionated lands defeats the goals of land ownership. Fractionated lands usually cannot be actively managed or utilized by the owners. The proposed amendment to the Indian Land Consolidation Act to purchase fractionated interests at more than fair market value would likely be most attractive to owners of fractional interests. The Crow Tribe has been surveyed three times, once in the 1960's, again in the mid-80's and finally in 2003 about the willingness of individuals to sell their fractional interests in land. All three surveys overwhelmingly indicated that Crow Indians who owned small fractional interests of lands preferred to sell the lands and in some cases to even donate the interests to the Tribe.

As an individual landowner, I propose expanding land consolidation efforts to include financing for individuals to purchase fractionated interests. Developing mechanisms for individuals to consolidate lands, invest capital and practice good stewardship of land would most effectively protect trust land while also benefiting Tribes through stabilizing and protecting the reservation land base. However, to promote the efforts of individuals, the current DOI proposal to deny fee to trust applications by individuals must be revisited.

Conclusion

In summary, true reform of trust administration involves the daunting task of balancing competing interests and will likely be an evolving process. S. 1439 illustrates this Committee's commitment to take on this task and provides a positive starting point. Thank you.