



Indian Wills CLE – May 22, 2019

Kathryn Seaton, Montana Legal Services Association

Drafting Indian Wills

Kathryn Seaton, Staff Attorney
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Montana Legal Services Association
May 22, 2019

INDIAN LAND FOR SALE

GET A HOME

OF
YOUR OWN

EASY PAYMENTS



PERFECT TITLE

POSSESSION

WITHIN
THIRTY DAYS

FINE LANDS IN THE WEST

IRRIGATED GRAZING AGRICULTURAL
IRRIGABLE DRY FARMING

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

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

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: Hoopa. COLORADO: Ignacio. IDAHO: Lapwai. KANSAS: Horton. Nadeau.	MINNESOTA: Onigum. MONTANA: Crow Agency. NEBRASKA: Macy. Santee. Winnebago.	NORTH DAKOTA: Fort Totten. Fort Yates. OKLAHOMA: Anadarko. Cantonment. Colony. Darlington. Muskogee. Pawnee.	OKLAHOMA—Con. Sac and Fox Agency. Shawnee. Wyandotte. OREGON: Klamath Agency. Pendleton. Roseburg. Siletz.	SOUTH DAKOTA: Cheyenne Agency. Crow Creek. Greenwood. Lower Brule. Pine Ridge. Rosebud. Sisseton.	WASHINGTON: Fort Simcoe. Fort Spokane. Tulalip. WISCONSIN: Onida.
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WALTER L. FISHER,
Secretary of the Interior.

ROBERT G. VALENTINE,
Commissioner of Indian Affairs.

General Allotment or Dawes Act (1887)

- Parcel out communally-held land to individuals (40-160 acres apiece)
- Land held in trust for 25 years
- Communal reservations made private so as to civilize, assimilate
- Upon death of allottee, ownership passed according to state law of intestate succession

Library of Congress

Part 1: BACKGROUND
AND AIPRA

Part 2:
UNDERSTANDING
ITI REPORTS

Part 3: DRAFTING
INDIAN WILLS

Part 4: EXECUTION
AND STORAGE

Legacy of the General Allotment Act

- Unallotted land sold to non-Indians
 - Loss of 90 million acres from Indian ownership
- Fractionation
- Mismanagement of trust funds (*Cobell v. Salazar*)

Part 1: BACKGROUND
AND AIPRA

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Fractionation

- Hundreds or thousands of co-owners of undivided interests
- Impediment to land use
- Costly to Dep't of Interior
- Undivided interests not profitable to individual owners

Part 1: BACKGROUND
AND AIPRA

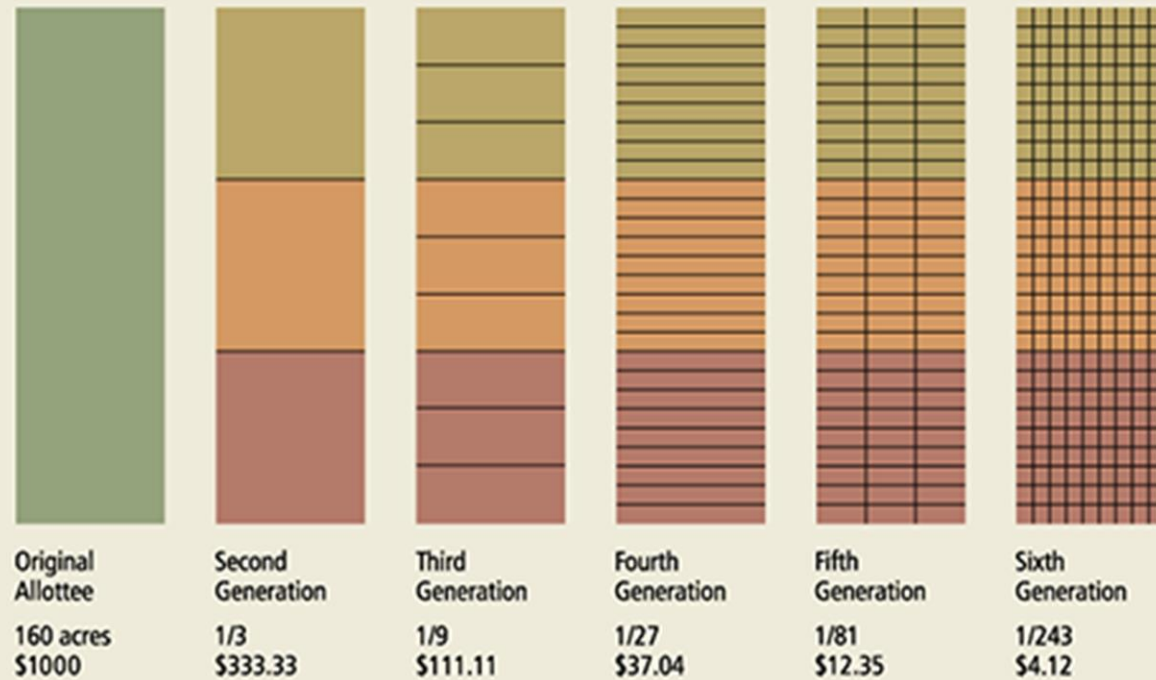
Part 2:
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ITI REPORTS

Part 3: DRAFTING
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A Simplified Six-Generation Example of Undivided Heirship

*Fractionated Values and Lease Payment Values of Undivided Interest**



**Presumes only three heirs per person per generation.*

Part 1: BACKGROUND
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AND STORAGE

American Indian Probate Reform Act (AIPRA)

- Enacted 2004, effective 2006
- Designed to slow/reduce fractionation
 - Single heir rule
 - Presumption of joint tenancy
 - Purchase without consent
- AIPRA is a will “friendly” law
- AIPRA and Intestacy

Part 1: BACKGROUND
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Who may inherit trust land (in trust status)?

- Any lineal descendant of the testator;
- Any co-owners of a trust interest in the same parcel;
- A Tribe with jurisdiction over the land;
- Any Indian from any tribe.

Part 1: BACKGROUND
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Who may inherit trust land (in fee status)?

- No one on most Reservations.
- Anyone on Crow or Fort Peck

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Who may inherit a life estate in trust land?

- Anyone
- Remainder must go to an eligible heir
- Good option for non-Indian spouse
- Only two consecutive life estates permissible (§70-15-207, MCA)

Part 1: BACKGROUND
AND AIPRA

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First Steps for the Attorney or Advocate

Part 1: BACKGROUND
AND AIPRA

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1. Is your client an “Indian” for AIPRA purposes?

- Member of federally recognized Indian tribe
- Eligible to become a member
- Owned trust lands prior to October 27, 2004
- 25 U.S.C. § 2201(2)

2. Does your client's tribe have a tribal probate code?

- Is the Code approved by the DOI to supersede AIPRA?
 - Currently only Northern Cheyenne
 - Check the DOI website

Part 1: BACKGROUND
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3. What trust land is involved?

- ITI Reports
- Affects what laws will apply

Part 1: BACKGROUND
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ITI REPORTS

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4. IRA or non-IRA land?

- Fort Peck and Crow are the non-IRA tribes in MT
- Affects to whom trust land may be devised
- Based on the land, not your client's enrollment

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5. What laws will govern?

- Trust land and IIM accounts: AIPRA (unless approved probate code)
- Fee lands, personal property, etc. on Reservation: Tribal probate code
- Fee lands, personal property, etc. off Reservation: Montana Code Annotated

Part 1: BACKGROUND
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Individual Trust Inventory Record

BUREAU OF INDIAN AFFAIRS
INDIVIDUAL/ TRIBAL INTERESTS REPORT
ALL TITLE HOLDINGS
MULTIPLE INTERESTS ARE AGGREGATED

DATE: 2/26/2016
TIME: 16:04:11 CST

OWNER: TRB CL NUMBER
204 U 000000

BIRTHDATE: 01/01/1935 DEATHDATE:

TRIBE NAME
FORT BELKNAP INDIAN COMMUNITY

NAMES OR ALIASES

LAST NAME FIRST NAME MIDDLE NAME
DOE JANE ANN

TRACT ID: LAC PFX NUMBER SFX TITLE PLANT LAND AREA RESOURCES EXAM DATE VERIFY DATE
204 M 0000 -A BILLINGS, MT FORT BELKNAP Minerals Only 08/26/2015 08/26/2015

JOHN DOE
** ORIGINAL ALLOTTEE **

SEC	TOWNSHIP	RANGE	COUNTY	ST MERIDIAN	LEGAL DESCRIPTION	SECTION ACRES	CUMULATIVE ACRES
11	026.00N	022.00E	BLAINE	MT PRINCIPAL	E NW	80.000	80.000
					NE	160.000	240.000
25	027.00N	022.00E	BLAINE	MT PRINCIPAL	NE NE	40.000	280.000
TOTAL SECTION ACRES:						280.000	280.000

OWNER	DOCUMENT	NAME IN WHICH	FRACTION ACQUIRED	AGGREGATE SHARE	AGGREGATE
TYP OT INT	CLS TYO NUMBER	FIRST ACQUIRED		CONVERTED TO LCD	DECIMAL
T T A	11 TS	BI57A994 DOE JANE	1/336	1/336	.0029761905

Part 1: BACKGROUND
AND AIPRA

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Individual Trust Inventory Record (ITI)

- Request from Bureau of Indian Affairs or Office of the Special Trustee
- Contains record of all trust land held by your client nationwide
- Type of interest
- Percentage of interest

Part 1: BACKGROUND
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Individual Indian Money Accounts (IIM)

- Revenue generated by the trust land
- Settlement money

Part 1: BACKGROUND
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Reading an ITI Report

DATE: 2/26/2016
TIME: 16:04:11 CST

BUREAU OF INDIAN AFFAIRS
INDIVIDUAL/ TRIBAL INTERESTS REPORT
ALL TITLE HOLDINGS
MULTIPLE INTERESTS ARE AGGREGATED

----- OWNER -----
TRB CL NUMBER
204 U 000000

BIRTHDATE: 01/01/1935 DEATHDATE:
TRIBE NAME
FORT BELKNAP INDIAN COMMUNITY

----- NAMES OR ALIASES -----
LAST NAME FIRST NAME MIDDLE NAME
DOE JANE ANN

----- TRACT ID -----
LAC PFX NUMBER SFX TITLE PLANT LAND AREA RESOURCES EXAM DATE VERIFY DATE
204 M 0000 -A BILLINGS, MT FORT BELKNAP Minerals Only 08/26/2015 08/26/2015

JOHN DOE
** ORIGINAL ALLOTTEE **

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11	026.00N	022.00E	BLAINE	MT PRINCIPAL	E NW	80.000	80.000
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TOTAL SECTION ACRES:						280.000	280.000

OWNER	DOCUMENT	NAME IN WHICH	FRACTION ACQUIRED	AGGREGATE SHARE	AGGREGATE
TYP OT INT CLS TYO NUMBER	BI 57A994	DOE JANE		CONVERTED TO LCD	DECIMAL
1 1 A 11 TS	BI 57A994	DOE JANE	1/336	1/336	.0029761905

Part 1: BACKGROUND
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*The three codes under “Owner”
make up the BIA ID number.*

→

----- OWNER -----			BIRTHDATE: 01/01/1935		DEATHDATE:	
TRB	CL	NUMBER	TRIBE NAME			
204	U	000000	FORT BELKNAP INDIAN COMMUNITY			
-----			NAMES OR ALIASES -----			
LAST NAME			FIRST NAME		MIDDLE NAME	
DOE			JANE		ANN	

----- TRACT ID -----				TITLE		----- DATE OF LAST -----		
LAC	PFX	NUMBER	SFX	PLANT	LAND AREA	RESOURCES	EXAM DATE	VERIFY DATE
204	M	0000	-A	BILLINGS, MT	FORT BELKNAP	Minerals Only	08/26/2015	08/26/2015

JOHN DOE
** ORIGINAL ALLOTTEE **


SEC	TOWNSHIP	RANGE	COUNTY	ST MERIDIAN	LEGAL DESCRIPTION	SECTION ACRES	CUMULATIVE ACRES
11	026.00N	022.00E	BLAINE	MT PRINCIPAL	E NW	80.000	80.000
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TOTAL SECTION ACRES:						280.000	280.000

-- OWNER --		--- DOCUMENT ---		NAME IN WHICH		AGGREGATE SHARE		AGGREGATE	
TYP	OT	INT	CLS	TYO	NUMBER	FIRST ACQUIRED	FRACTION ACQUIRED	CONVERTED TO LCD	DECIMAL
T	T	A	11	TS	BI57A994	DOE JANE	1	1	
							336	336	.0029761905

DATE: 2/26/2016
TIME: 16:04:11 CST

BUREAU OF INDIAN AFFAIRS
INDIVIDUAL/ TRIBAL INTERESTS REPORT
ALL TITLE HOLDINGS
MULTIPLE INTERESTS ARE AGGREGATED

This section of the report explains the tract details



TRACT ID				TITLE	DATE OF LAST	
LAC	PFX	NUMBER	SFX	PLANT	EXAM DATE	VERIFY DATE
204	M	0000	-A	BILLINGS, MT	08/26/2015	08/26/2015
JOHN DOE						
** ORIGINAL ALLOTTEE **						
SEC	TOWNSHIP	RANGE	COUNTY	ST MERIDIAN	LEGAL DESCRIPTION	CUMULATIVE ACRES
11	026.00N	022.00E	BLAINE	MT PRINCIPAL	E NW	80.000
					NE	160.000
25	027.00N	022.00E	BLAINE	MT PRINCIPAL	NE NE	40.000
TOTAL SECTION ACRES:						280.000
OWNER		DOCUMENT		NAME IN WHICH		AGGREGATE SHARE
TYP	INT	CLS	TYO	FIRST	ACQUIRED	CONVERTED TO LCD
T	A	11	TS	BI57A994	DOE JANE	1
					336	336 .0029761905

Example Individual Trust Inventory(ITI) Report

DATE: 2/26/2016
TIME: 16:04:11 CST

BUREAU OF INDIAN AFFAIRS
INDIVIDUAL/ TRIBAL INTERESTS REPORT
ALL TITLE HOLDINGS
MULTIPLE INTERESTS ARE AGGREGATED

“LAC” stands for Land Area Code and specifies where the interest is located

→		TRACT ID			TITLE		DATE OF LAST	
LAC	PFX	NUMBER	SFX	PLANT	LAND AREA	RESOURCES	EXAM DATE	VERIFY DATE
204	M	0000	-A	BILLINGS, MT	FORT BELKNAP	Mineral s Only	08/26/2015	08/26/2015
JOHN DOE								
** ORIGINAL ALLOTTEE **								
SEC	TOWNSHIP	RANGE	COUNTY	ST MERIDIAN	LEGAL DESCRIPTION	SECTION ACRES	CUMULATIVE ACRES	
11	026.00N	022.00E	BLAINE	MT PRINCIPAL	E NW	80.000	80.000	
					NE	160.000	240.000	
25	027.00N	022.00E	BLAINE	MT PRINCIPAL	NE NE	40.000	280.000	
TOTAL SECTION ACRES:						280.000	280.000	
-- OWNER --		--- DOCUMENT ---		NAME IN WHICH		AGGREGATE SHARE	AGGREGATE	
TYP	OT INT	CLS	TYO	NUMBER	FIRST ACQUIRED	FRACTION ACQUIRED	CONVERTED TO LCD	DECIMAL
T	T	A	11	TS	BI57A994	DOE JANE	1	1
						336	336	.0029761905

Example Individual Trust Inventory(ITI) Report

DATE: 2/26/2016
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BUREAU OF INDIAN AFFAIRS
INDIVIDUAL/ TRIBAL INTERESTS REPORT
ALL TITLE HOLDINGS
MULTIPLE INTERESTS ARE AGGREGATED

“PFX” stands for Prefix and provides additional information about the allotment

----- TRACT ID -----		TITLE		----- DATE OF LAST -----	
LAC	PFX	NUMBER	SFX	PLANT	EXAM DATE
204	M	0000	-A	BILLINGS, MT	08/26/2015
FORT BELKNAP					
Mineral s Only					
VERI FY DATE					
08/26/2015					
JOHN DOE					
** ORIGINAL ALLOTTEE **					
SEC	TOWNSHIP	RANGE	COUNTY	ST MERIDIAN	LEGAL DESCRIPTION
11	026.00N	022.00E	BLAINE	MT PRINCIPAL	E NW
25	027.00N	022.00E	BLAINE	MT PRINCIPAL	NE
TOTAL SECTION ACRES:					NE NE
					80.000
					160.000
					40.000
					280.000
					280.000
					280.000
-- OWNER --		--- DOCUMENT ---		NAME IN WHICH	
TYP	OT	INT	CLS	TYO	NUMBER
T	T	A	11	TS	BI57A994
					DOE JANE
					FIRST ACQUIRED
					FRACTION ACQUIRED
					1
					336
					AGGREGATE SHARE
					CONVERTED TO LCD
					1
					336
					AGGREGATE
					DECIMAL
					.0029761905

Example Individual Trust Inventory(ITI) Report

DATE: 2/26/2016
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BUREAU OF INDIAN AFFAIRS
INDIVIDUAL/ TRIBAL INTERESTS REPORT
ALL TITLE HOLDINGS
MULTIPLE INTERESTS ARE AGGREGATED

“NUMBER” here refers to the allotment number assigned by the BIA

LAC		TRACT I D		TITLE		LAND AREA		RESOURCES		DATE OF LAST	
204	M	NUMBER	SFX	PLANT		FORT BELKNAP		Mineral s Only	EXAM DATE	VERI FY DATE	
JOHN DOE											
** ORIGINAL ALLOTTEE **											
SEC	TOWNSHIP	RANGE	COUNTY	ST	MERIDIAN	LEGAL	DESCRIPTION	SECTION	CUMULATIVE	ACRES	ACRES
11	026.00N	022.00E	BLAINE	MT	PRINCIPAL		E NW	80.000	80.000		
							NE	160.000	240.000		
25	027.00N	022.00E	BLAINE	MT	PRINCIPAL		NE NE	40.000	280.000		
TOTAL SECTION ACRES:								280.000	280.000		
-- OWNER --		--- DOCUMENT ---		NAME IN WHICH		AGGREGATE SHARE		AGGREGATE			
TYP	OT	INT	CLS	TYO	NUMBER	FIRST ACQUIRED	FRACTION ACQUIRED	CONVERTED TO LCD	DECI MAL		
T	T	A	11	TS	BI 57A994	DOE JANE	1	1			
							336				
								336	.0029761905		

Example Individual Trust Inventory(ITI) Report

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BUREAU OF INDIAN AFFAIRS
INDIVIDUAL/ TRIBAL INTERESTS REPORT
ALL TITLE HOLDINGS
MULTIPLE INTERESTS ARE AGGREGATED

“SFX” stands for Suffix and usually specifies whether an allotment has been subdivided

→

TRACT ID			TITLE		LAND AREA		RESOURCES		DATE OF LAST	
LAC	PFX	NUMBER	SFX	PLANT					EXAM DATE	VERIFY DATE
204	M	0000	-A	BILLINGS, MT	FORT BELKNAP		Mineral s Only		08/26/2015	08/26/2015
JOHN DOE										
** ORIGINAL ALLOTTEE **										
SEC	TOWNSHIP	RANGE	COUNTY	ST	MERIDIAN	LEGAL	DESCRIPTION	SECTION ACRES	CUMULATIVE ACRES	
11	026.00N	022.00E	BLAINE	MT	PRINCIPAL		ENEW	80.000	80.000	
							NE	160.000	240.000	
25	027.00N	022.00E	BLAINE	MT	PRINCIPAL		NE NE	40.000	280.000	
TOTAL SECTION ACRES:								280.000	280.000	
-- OWNER --		--- DOCUMENT ---		NAME IN WHICH		FRACTION ACQUIRED		AGGREGATE SHARE	AGGREGATE	
TYP	OT	INT	CLS	TYO	NUMBER	FIRST	ACQUIRED	CONVERTED TO LCD	DECIMAL	
T	T	A	11	TS	BI57A994	DOE	JANE	1	1	
								336	336	.0029761905

Example Individual Trust Inventory(ITI) Report

BUREAU OF INDIAN AFFAIRS
 INDIVIDUAL/ TRIBAL INTERESTS REPORT
 ALL TITLE HOLDINGS
 MULTIPLE INTERESTS ARE AGGREGATED
 DATE: 2/26/2016
 TIME: 16:04:11 CST
 ----- OWNER -----
 TDR CI NUMBER BIRTHDATE: 01/01/1935 DEATHDATE:
 TDR NAME

This is the complete legal description of the allotment – acreage information is also provided to the right of the legal description

SEC	TOWNSHIP	RANGE	COUNTY	ST MERIDIAN	LEGAL DESCRIPTION	SECTION ACRES	CUMULATIVE ACRES
11	026.00N	022.00E	BLAINE	MT PRINCIPAL	E NW	80.000	80.000
					NE	160.000	240.000
25	027.00N	022.00E	BLAINE	MT PRINCIPAL	NE NE	40.000	280.000
TOTAL SECTION ACRES:						280.000	280.000

-- OWNER --	---	DOCUMENT	---	NAME IN WHICH	FRACTION ACQUIRED	AGGREGATE SHARE	AGGREGATE
TYP	OT	INT	CLS	TYO	NUMBER	FIRST ACQUIRED	CONVERTED TO LCD
T	T	A	11	TS	BI 57A994	DOE JANE	336 .0029761905


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BUREAU OF INDIAN AFFAIRS
INDIVIDUAL/ TRIBAL INTERESTS REPORT
ALL TITLE HOLDINGS
MULTIPLE INTERESTS ARE AGGREGATED

----- OWNER -----
TRB CL NUMBER BIRTHDATE: 01/01/1935 DEATHDATE:
204 U 000000 TRI BE NAME
FORT BELKNAP INDIAN COMMUNITY
----- NAMES OR ALIASES -----

“FRACTION ACQUIRED” represents the actual undivided interest acquired by the owner – on this report, the owner acquired a 1/336 interest in the allotment

-- OWNER --		--- DOCUMENT ---		NAME IN WHICH		TOTAL SECTION ACRES:		AGGREGATE SHARE	
TYP	OT	INT	CLS	TYO	NUMBER	FIRST ACQUIRED	FRACTION ACQUIRED	CONVERTED TO LCD	AGGREGATE DECIMAL
T	T	A	11	TS	BI 57A994	DOE JANE	 1 336	1 336	.0029761905


Example Individual Trust Inventory(ITI) Report

DATE: 2/26/2016

BUREAU OF INDIAN AFFAIRS
INDIVIDUAL/ TRIBAL INTERESTS REPORT

In some cases, an individual will own multiple undivided interests in the same allotment. If this is the case, the interests are totaled under “AGGREGATE SHARE CONVERTED TO LCD”. In this example, the individual only owns one interest in this allotment

-- OWNER --			--- DOCUMENT ---			NAME IN WHICH			AGGREGATE SHARE	AGGREGATE
TYP	OT	INT	CLS	TYO	NUMBER	FIRST	ACQUIRED	FRACTION ACQUIRED	CONVERTED TO LCD	DECIMAL
T	T	A	11	TS	BI 57A994	DOE	JANE	1 336	1 336	.0029761905



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BUREAU OF INDIAN AFFAIRS
INDIVIDUAL/ TRIBAL INTERESTS REPORT
ALL TITLE HOLDINGS
MULTIPLE INTERESTS ARE AGGREGATED

----- OWNER -----
TRB CL NUMBER BIRTHDATE: 01/01/1935 DEATHDATE:
204 U 000000


LAST NAME FIRST NAME MIDDLE NAME
DOE JANE ANN

----- TRACT ID ----- TITLE
LAC PFX NUMBER SFX PLANT LAND AREA RESOURCES EXAM DATE VERIFY DATE
204 M 0000 -A BILLINGS, MT FORT BELKNAP Minerals Only 08/26/2015 08/26/2015

JOHN DOE

“AGGREGATE DECIMAL” is the total
interest owned expressed as a decimal

-- OWNER --		--- DOCUMENT ---		NAME IN WHICH		FRACTION ACQUIRED		AGGREGATE SHARE	AGGREGATE
TYP	OT	INT	CLS	TYO	NUMBER	FIRST	ACQUIRED	CONVERTED TO LCD	DECIMAL
T	T	A	11	TS	BI57A994	DOE JANE	1	1	.0029761905
							336	336	



Now, how should you include allotment information on a will?

Fort Belknap Allotment 204 M 0000-A, located in Blaine County, Montana

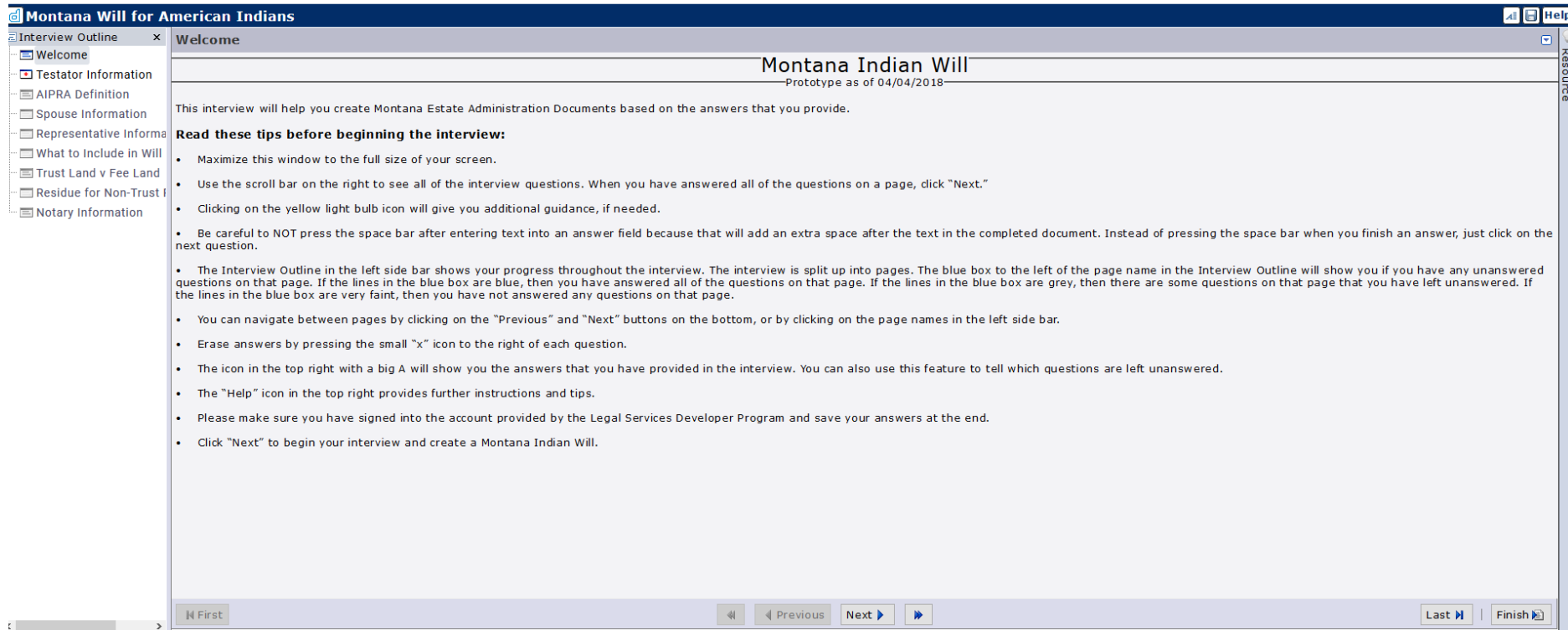
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INDIAN WILLS

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AND STORAGE

Automated Wills Form



Montana Will for American Indians

Welcome

Montana Indian Will

Prototype as of 04/04/2018

This interview will help you create Montana Estate Administration Documents based on the answers that you provide.

Read these tips before beginning the interview:

- Maximize this window to the full size of your screen.
- Use the scroll bar on the right to see all of the interview questions. When you have answered all of the questions on a page, click "Next."
- Clicking on the yellow light bulb icon will give you additional guidance, if needed.
- Be careful to NOT press the space bar after entering text into an answer field because that will add an extra space after the text in the completed document. Instead of pressing the space bar when you finish an answer, just click on the next question.
- The Interview Outline in the left side bar shows your progress throughout the interview. The interview is split up into pages. The blue box to the left of the page name in the Interview Outline will show you if you have any unanswered questions on that page. If the lines in the blue box are blue, then you have answered all of the questions on that page. If the lines in the blue box are grey, then there are some questions on that page that you have left unanswered. If the lines in the blue box are very faint, then you have not answered any questions on that page.
- You can navigate between pages by clicking on the "Previous" and "Next" buttons on the bottom, or by clicking on the page names in the left side bar.
- Erase answers by pressing the small "x" icon to the right of each question.
- The icon in the top right with a big A will show you the answers that you have provided in the interview. You can also use this feature to tell which questions are left unanswered.
- The "Help" icon in the top right provides further instructions and tips.
- Please make sure you have signed into the account provided by the Legal Services Developer Program and save your answers at the end.
- Click "Next" to begin your interview and create a Montana Indian Will.

First Previous Next Last Finish

Part 1: BACKGROUND
AND AIPRA

Part 2:
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ITI REPORTS

Part 3: DRAFTING
INDIAN WILLS

Part 4: EXECUTION
AND STORAGE



Testator/ix Information

Testator Information

First name John	Middle David	Last Campbell
Date of birth 6/19/1945	Gender <input checked="" type="radio"/> Male <input type="radio"/> Female	
Tribe (Choose a Montana Tribe from the drop down menu. You will need to type in the name of the Tribe if its Reservation is located outside of Montana instead of using the drop-down. Also, if entering a non-Montana tribe, you may need to manually edit the document to add reservation information, as ONLY the tribe name will be inserted into the document.) Confederated Salish & Kootenai Tribes of the Flathead Nation		
B.I.A. identification number 203-U005689		
Which of the following apply to Testator? (Be sure to include Testator's living natural and adopted children and any living grandchildren from any of Testator's now deceased children)		
<input checked="" type="checkbox"/> Testator has living child(ren) <input checked="" type="checkbox"/> Testator has predeceased child(ren) <input type="checkbox"/> Testator considers one or more persons to be his/her child, although not a natural or adopted child <input type="checkbox"/> Testator is the legal guardian of one or more persons whom he/she considers to be part of his/her immediate family <input checked="" type="checkbox"/> Testator is leaving one or more bequests to a grandchild <input type="checkbox"/> Testator has no children (this option should only be chosen if all other options are false)		
Different screens will be provided after this to fill in information for each classification of child/grandchild selected		
Will anyone other than spouse, children (putative or natural), grandchildren and ward(s) of the client be named in the will? <input type="radio"/> Yes <input checked="" type="radio"/> No		

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Marital Status

Spouse Information

What is Testator's marital status?

Spouse Information

What is Testator's marital status?

Information about Testator's spouse

First name

Middle

Last

Date of birth

Spouse gender

☐ Male
☒ Female

Is Testator's spouse an Indian?

☒ Yes ☐ No

Tribe (Choose a Montana Tribe from the drop down menu. You will need to type in the name of the Tribe if its Reservation is located outside of Montana instead of using the drop-down. Also, if entering a non-Montana tribe, you may need to manually edit the document to add reservation information, as ONLY the tribe name will be inserted into the document.)

B.I.A. identification number

Spouse Information

What is Testator's marital status?

Information about the deceased spouse

Full name of deceased spouse

Date of birth

Date of death

Tribe, if any (Choose a Montana Tribe from the drop down menu. You will need to type in the name of the Tribe if its Reservation is located outside of Montana instead of using the drop-down. Also, if entering a non-Montana tribe, you may need to manually edit the document to add reservation information, as ONLY the tribe name will be inserted into the document.)

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Children

1: Child Information

First name: Georgia Middle: Beth Last: Smith

Date of birth: 3/21/1970 Gender: ☐ Male ☒ Female

What is this child's tribal membership status?

☒ Enrolled
☐ Eligible, but un-enrolled
☐ Not eligible to be an enrolled member of any tribe

Tribes (Choose a Montana Tribe from the drop down menu. You will need to type in the name of the Tribe if its Reservation is located outside of Montana instead of using the drop-down. Also, if entering a non-Montana tribe, you may need to manually edit the document to add reservation information, as ONLY the tribe name will be inserted into the document.)

Blackfeet Indian

B.I.A. identification number: 201-U017986

[Add Another Child](#)

Montana Will for American Indians

Interview Outline x

- Welcome
- Testator Information
- AIPRA Definition
- Spouse Information
- Child Information
 - 1: Child Information
 - 2: Child Information
 - 3: Child Information
- Deceased Child Inform:
 - 1: Deceased Child In
- Grandchild Information
- New: Grandchild Inf
- Representative Informa
- What to Include in Will
- Trust Land v Fee Land
- Residue for Non-Trust f
- Notary Information

1: Deceased Child Information

First name: Gary Middle: John Last: Smith

Date of birth: 1/25/1966 Date of death: 5/12/1988

Tribes, if any (Choose a Montana Tribe from the drop down menu. You will need to type in the name of the Tribe if its Reservation is located outside of Montana instead of using the drop-down. Also, if entering a non-Montana tribe, you may need to manually edit the document to add reservation information, as ONLY the tribe name will be inserted into the document.)

Confederated Salish & Kootenai Tribes of the Flathead Nation

[Add Another Deceased Child](#)

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Grandchildren

1: Grandchild Information

First name Katherine	Middle Ray	Last Smith
Date of birth 10/8/1995	Gender <input type="radio"/> Male <input checked="" type="radio"/> Female	
What is this child's tribal membership status? <input checked="" type="radio"/> Enrolled <input type="radio"/> Eligible, but un-enrolled <input type="radio"/> Not eligible to be an enrolled member of any tribe		
Tribe (Choose a Montana Tribe from the drop down menu. You will need to type in the name of the Tribe if its Reservation is located outside of Montana instead of using the drop-down. Also, if entering a non-Montana tribe, you may need to manually edit the document to add reservation information, as ONLY the tribe name will be inserted into the document.) Blackfeet Indian		
B.I.A. identification number 201-U010589		
Add Another Grandchild		

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Personal Representative

Representative Information

☐ Appoint Spouse as Personal Representative

Full name of appointed Personal Representative (choose)

Georgia Beth Smith

Full name of appointed alternative or successor Personal Representative (choose)

Harold James Campbell

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What to Include in Will

What to Include in Will

Will there be any Life Estates given?

☐ Yes ☒ No

Is there a trust or restricted land bequest? (other than any possible Life Estates)

☒ Yes ☐ No

Is there an Individual Indian Money (IIM) Account bequest?

☒ Yes ☐ No

Are there any specific bequests of non-trust real property to be included in the will?

☒ Yes ☐ No

Does Testator wish to list any personal property bequests?

☒ Yes ☐ No

Does Testator wish to nominate a guardian for any of his/her children or grandchildren?

☐ Yes ☒ No

Does Testator have any special requests for burial and/or funeral arrangements?

☐ Yes ☒ No

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Trust Land Bequests

1: Trust Lands Bequests

You will now enter Beneficiaries and Alternates (if only one primary beneficiary) for the first Trust Lands Bequest (to add additional properties, click on the button labeled "Add Another Trust Lands Bequest")

Beneficiaries of Trust or Restricted Lands (choose)	Relationship	
1 Harold James Campbell	son	
2		

Alternate beneficiaries (choose)	Relationship	
1 Georgia Beth Smith	daughter	
2 Violet Mary Smith	daughter	
3		

How will the lands be held by the ALTERNATE beneficiaries?

☐ Joint tenants with rights of survivorship
☒ Tenants in common

Enter each allotment on a separate row below (use Tab key to add an allotment)

Allotment number	County (choose a Montana county or type in a county for a different state)	State	
1 203 197 -B	Lake County	Montana	
2			

Add Another Trust Lands Bequest

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“Per Stirpes” vs. “Per Capita at each Generation”

- Unfortunately it is extremely complicated.
- Federal law, state law, and tribal law are often in conflict.

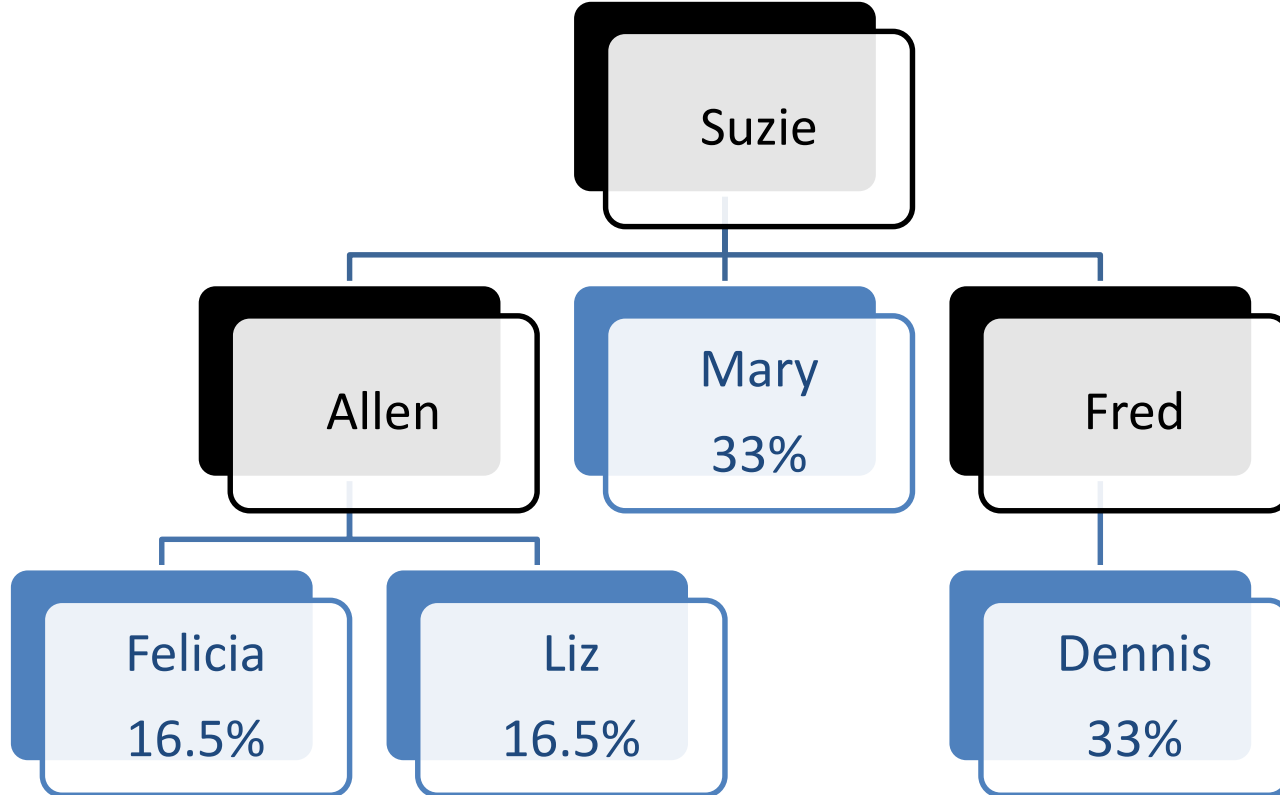
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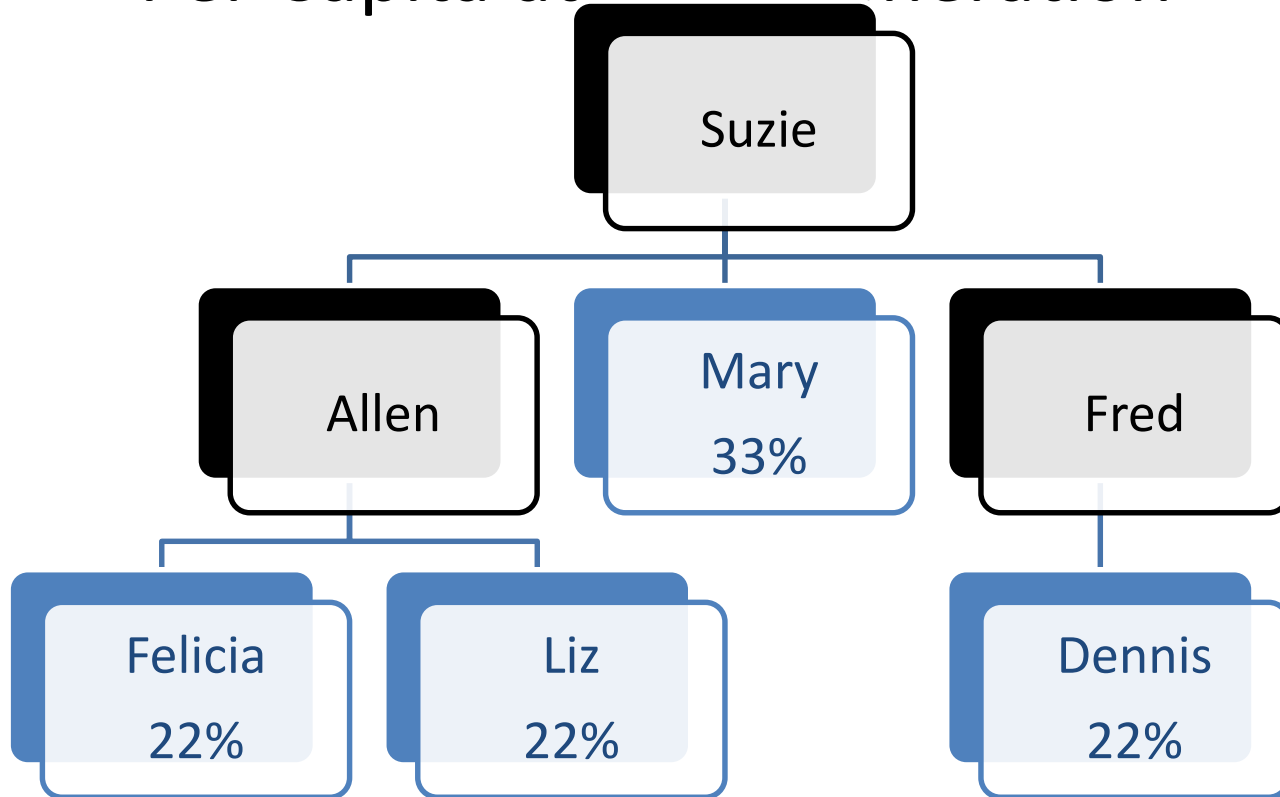
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“Per Stirpes”



“Per Capita at each Generation”



Trust Land Bequests (cont.)

2: Trust Lands Bequests

You will now enter Beneficiaries and Alternates (if only one primary beneficiary) for the second Trust Lands Bequest (to add additional properties, click on the button labeled "Add Another Trust Lands Bequest")

Beneficiaries of Trust or Restricted Lands (choose)	Relationship
1 Georgia Beth Smith	daughter
2 Harold James Campbell	son
3 Violet Mary Smith	daughter
4	

How will the lands be held by the beneficiaries?

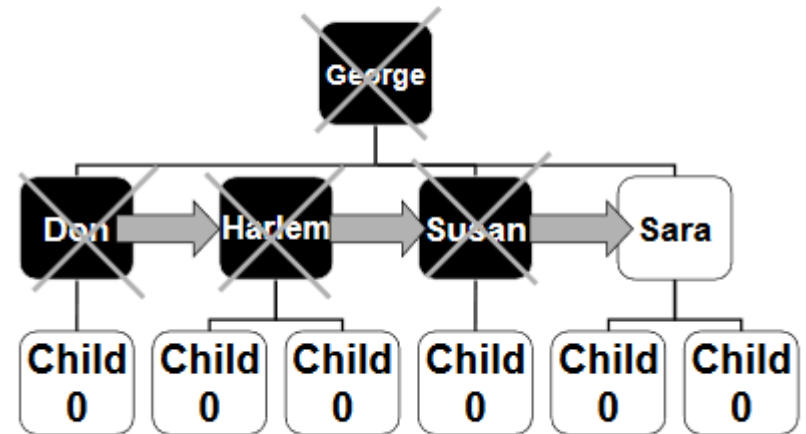
☒ Joint tenants with rights of survivorship
☐ Tenants in common

Enter each allotment on a separate row below (use Tab key to add an allotment)

Allotment number	County (choose a Montana county or type in a county for a different state)
1 203 M 578	Lake
2	

[Add Another Trust Lands Bequest](#)

Figure 3: Joint tenancy with right of survivorship among siblings



<http://www.montana.edu/indianland/documents/factsheets/factsheet12.pdf>

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Life Estate in Trust Land

1: Life Estate Information

Please choose from ONE of the sentences below:

- ☒ I hereby give a Life Estate to _____ in the following allotment(s) with the remainder going to _____.
☐ I hereby give a Life Estate to _____ in the following allotment(s), with a Life Estate to _____ at the end of _____'s life, with the remainder going to _____.

Life estate primary beneficiary (choose)

Dorene Ann Campbell


Beneficiary of remainder (choose)

Harold James Campbell

Enter each allotment on a separate row below (use Tab key to add an allotment)

Allotment number for life estate	County (choose a Montana county or type in a county for a different state)	State	
1 203 560	Lake	Montana	
2			

<

 Add Another

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IIM Account

Individual Indian Money (IIM) Account

	Individual Indian Money (IIM) Account beneficiaries (choose)	Relationship	
▶ 1	Violet Mary Smith	daughter	
2			

	Alternate beneficiaries (choose)	Relationship	
1	Katherine Ray Smith	granddaughter	
2	Brandon Todd Smith	grandson	
▶ 3			
4			



Personal property

Personal Property Bequests

	Beneficiaries of non-trust personal property (choose)	Personal property to be bequeathed	Relationship of beneficiary	
1	Dorene Ann Campbell	everything in my home	spouse	
2	Violet Mary Smith	my 2014 Ford Explorer, VIN 09575844993	daughter	
3				



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Non-Trust Real Property

1: Specific Non-Trust Real Property Bequests

You will now enter Beneficiaries and Alternates (if only one primary beneficiary) for the first non-trust real property being bequeathed (to add additional properties, click on the button labeled "Add Another Non-Trust Real Property Bequest")

Beneficiaries of non-trust real property (choose)	Relationship	
1 Dorene Ann Campbell	spouse	
2		

Alternate beneficiaries (choose)	Relationship	
1 Harold James Campbell	son	
2		

List the non-trust real property to be bequeathed, just as it should appear in the will. Make sure to include a legal description of the property.
my home, located at 98 River Road, Pablo, MT 59855, at (insert legal description)

[Add Another Non-Trust Property Bequest](#)

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Trust Residue Clause

Residue for Trust or Restricted Land and Trust Personality

	Beneficiaries of the residue of Trust or Restricted Land and Trust Personality (choose)	Relationship	
▶ 1	Violet Mary Smith	daughter	
2			

	Alternate beneficiaries (choose)	Relationship	
1	Katherine Ray Smith	granddaughter	
▶ 2	Brandon Todd Smith	grandson	
3			

How will the lands be held by the alternate beneficiaries?

- ☐ Joint tenants with rights of survivorship
☒ Tenants in common

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Non-Trust Property Residue

Residue for Non-Trust Property		
	Beneficiaries of the Residue of Non-Trust property (choose)	Relationship
1	Dorene Ann Campbell	spouse
2		
<		
	Alternate beneficiaries (choose)	Relationship
1	Harold James Campbell	son
2		
<		

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After the Will is Complete

- Review contents with client
- Execution
 - Show testator's competency
 - Two disinterested witnesses
 - Notary
 - Self proving affidavit

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Storing the Will

- BIA does not store wills anymore
- MLSA will not store wills
- Importance of original
- Let someone know where original is
- Revoking or amending an Indian will

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Further Resources

- MSU Extension Fact Sheets:
<http://www.montana.edu/indianland/factsheets.html>
- Indian Land Tenure Foundation:
<https://iltf.org/land-issues/issues/>

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Questions?

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