

OUTLINE OF MENOMINEE TRIBAL ENTERPRISES'
OPENING APPELLATE BRIEF TO IBIA

I. Background

- A. Termination and Restoration of the Menominee Indian Tribe of Wisconsin**
- B. MTE Was Created by and Is Governed by the Management Plan of Menominee Enterprises, a Tribal Enterprise of the Menominee Indian Tribe of Wisconsin, Dated April 22, 1975, Which Incorporates the Trust and Management Agreement Between the Menominee Indian Tribe of Wisconsin and the United States, Dated April 22, 1975**
- C. The Menominee People Mandated Reaffirmation of the Management Plan and MTE's Pre-Constitutional Form**
- D. MTE Is Not a Corporation**
- E. MTL Has Never Created a Successor Business**
- F. Articles XIII and XIV of the Tribal Constitution**
- G. MTE Has Always Submitted the Forest Management Plans on the Tribe's Behalf**
- H. MTL and BIA Have Repeatedly Admitted that MTE Has the Authority to Manage the Menominee Forest Lands**
- I. The Forest Management Plans at Issue and the Regional Director's Decision**

II. Argument

- A. Standard of Review**
- B. The Regional Director Improperly Disapproved of MTE's Forest Management Plan**
 - 1. The Tribe's Organic Documents Invest MTE with the Exclusive Authority to Manage and Operate the Menominee Forest
 - 2. The Historical Practices of MTE, MTL, and the BIA Confirm the Plain Meaning of the Organic Documents
 - 3. Neither the BIA nor MTL Has the Authority to Amend the Trust and Management Agreement Without the Tribe's and the United States' Approval

4. Even Assuming MTL Still Has Authority to Terminate MTE or the Management Plan, It Must First Create a Successor Business by Ordinance
- C. In the Alternative, the Board Has No Authority to Resolve This Dispute in MTL's Favor**
- D. The Regional Director's Decision Was Based on an Incomplete and Inadequate Administrative Record**
- E. The IBIA Should Not Render a Decision Based on an Incomplete and Inadequate Administrative Record**
- F. The Regional Director's Decision Should Be Overruled Due to the BIA's Bias Against MTE**
- G. Request for Additional Relief: Extension of Existing FMP**