

MEMORANDUM

Menominee Tribal Enterprises Forestry Center
Bureau of Indian Affairs
P.O. Box 670
Keshena, Wi. 54135

TO: Jay West
FROM: David Congos
DATE: January 31, 2005
RE: Contract Non-Compliance and the OIG Investigation

The BIA provided evidence of fraud, waste and abuse (FWA) within the Forest Management Contract by Menominee Tribal Enterprises (MTE) to the OIG for investigation. This investigation has been on-going for almost three years, is still active and remains unresolved.

Recently, the Midwest Regional Director notified the Menominee Indian Tribe of Wisconsin (MITW) that they were non-compliant with the Forest Management Contract, placing trust assets at risk as well as endangering the contract itself. A meeting between the Regional Director and the MITW to identify the reasons for non-compliance was inconclusive pending an explanation for the failure by MTE (the sub-contractor) to the MITW (the primary contractor). Essentially, the MITW had no idea why MTE failed to perform the Forest Management Contract work satisfactorily.

It is my conclusion that the underlying causes leading to the OIG investigation and the recent contract non-compliance findings are the same. In both cases MTE disregarded the contract statement of work and instead chose to use contract funds primarily for the purpose of supporting MTE sawmill operations, not providing services to the beneficial owners. I believe that if the OIG investigation had been completed and their findings reported to the MITW, the MITW would have exercised immediate control over MTE's subcontracting performance. Consequently, non-compliance within the Forest Management Contract statement of work would never have occurred. Unfortunately, the pattern of contractual FWA by MTE continues unabated and potential federal liability grows.

It is my recommendation that the Regional Director consult with the OIG and U.S. Attorney to expedite the on-going investigation to final conclusion, expose past practices of fraud, waste and abuse by MTE and subsequently enjoin the Menominee Tribal Legislature to exercise its governmental authorities, ensuring the satisfactory delivery of trust services to the tribal membership.