

Heirship and Fractionated Land Titles

Atlanta FRB

Cris Stainbrook

Indian Land Tenure Foundation

June 14, 2017



Indian Land Tenure
FOUNDATION™

Our Mission



Land within the original boundaries of every *reservation* and other areas of high significance where *tribes* retain *aboriginal interest* are in *Indian* ownership and management.

NATIVE LAND LAW

Can Native American People Find **Justice** in the U.S. Legal System?

Since the first Europeans arrived in North America, Native American people have had to protect and defend their rights to their land and its natural resources. Early treaties provided an alternative to constant war over territorial boundaries, and they acknowledged the inherent sovereignty of Native nations and the European nations; similar treaty making continued with the newly formed United States. Yet, as the U.S. expanded into the continent and the new immigrants became increasingly hungry for land, many treaties with Indian nations were disregarded, illegally altered or came to be renegotiated under circumstances unfavorable to Native nations. As the U.S. courts gained power and influence, legal actions and Supreme Court decisions began to frame the legal and political relationship between the U.S. and Native nations, often overriding the original treaty agreements both in practice and in spirit.

Historically, laws are shaped by the times and by the reigning ideologies of those in power. During the 19th century, when much of the federal law governing non-Native interactions with Native nations and concerning Native land and resources was established, the majority of Americans still believed that Indian people would eventually disappear and that those few who remained would gradually assimilate into American religious and social society. The “discovery doctrine” was used and often misconstrued in a number of early court cases to argue against the validity of Native American claims to the lands they had called home since time immemorial. These Christian-based and ethnocentric concepts, indicative of 19th century American political and popular thought, found their way into the nascent legal precedents being set during this period. As a result, many



At the base of U.S. law concerning Native lands and resources are historical elements of fairness and justice. As the principles and case law have been applied in the U.S., however, they have evolved to become unfair and unjust.



“Manifest Destiny”

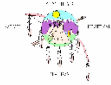
(John Gast, 1872)

General Allotment Act of 1887

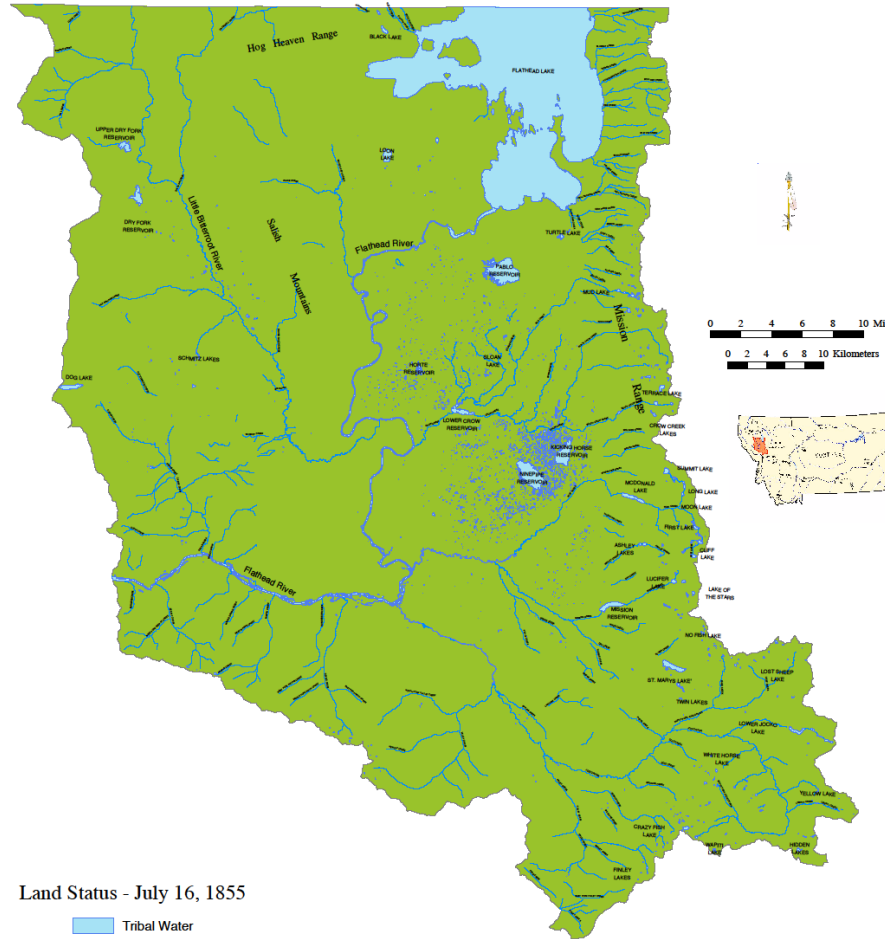
- The “Dawes” Act
 - February 12, 1887
 - Broad application— specific acts for specific tribes
- Communal to Individual
- Continued land losses
- Introduces “Trust”

“In my judgment the time has arrived when we should definitely make up our minds to recognize the Indian as an individual and not as a member of a tribe. **The General Allotment Act is a mighty pulverizing engine to break up the tribal mass.** It acts directly upon the family and the individual.”

President Theodore Roosevelt, 1901



THE CONFEDERATED SALISH & KOOTENAI TRIBES OF THE FLATHEAD NATION



Land Status - July 16, 1855

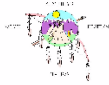
- Tribal Water
- Tribal Lands

**CS&K TRIBES
NATURAL RESOURCES DEPARTMENT
GIS PROGRAM**

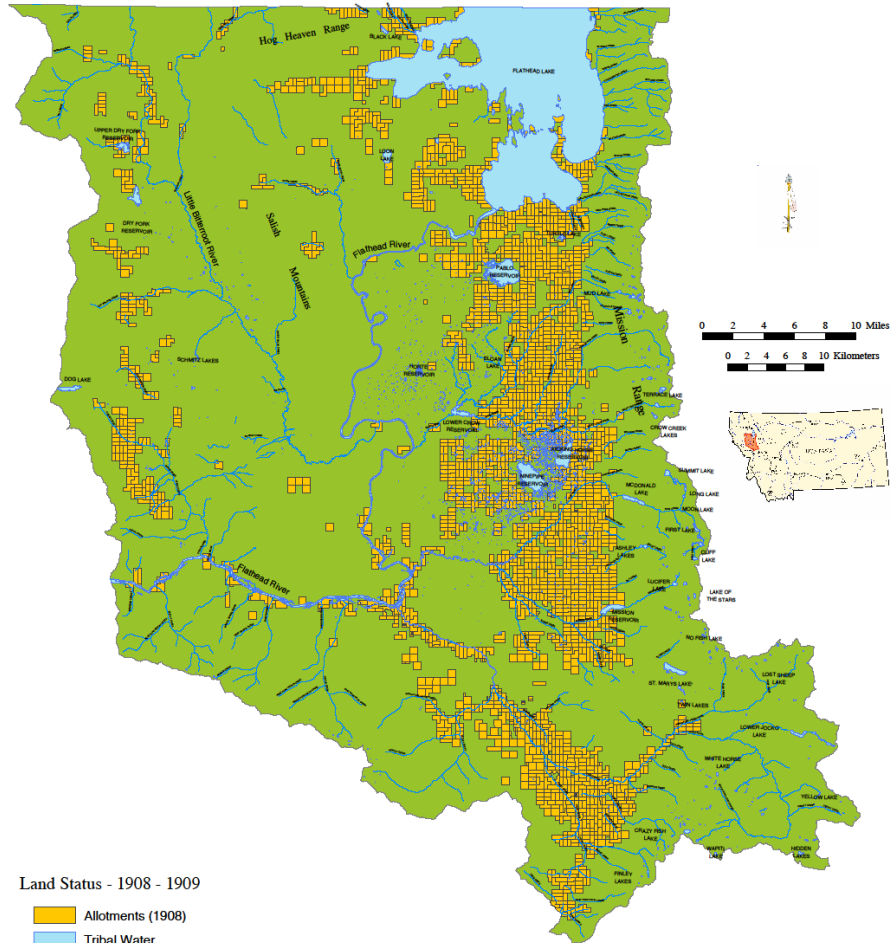
This map is intended for informational purposes only and does not affect current land status. This map is a representation of the physical features, infrastructure, and land ownership boundaries. The map should not be relied upon to establish legal title, boundary lines or location of easements.

Please observe all tribal, local, and agency regulations/restrictions. This map was created from records and existing map sources, not from field surveys. Actual land status is maintained by the Confederated Salish & Kootenai Tribes, Treaty and Records, Pella, Montana.

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THE CONFEDERATED SALISH & KOOTENAI TRIBES OF THE FLATHEAD NATION



Land Status - 1908 - 1909

- Allotments (1908)
- Tribal Water
- Tribal Lands

CS&K TRIBES NATURAL RESOURCES DEPARTMENT GIS PROGRAM

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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

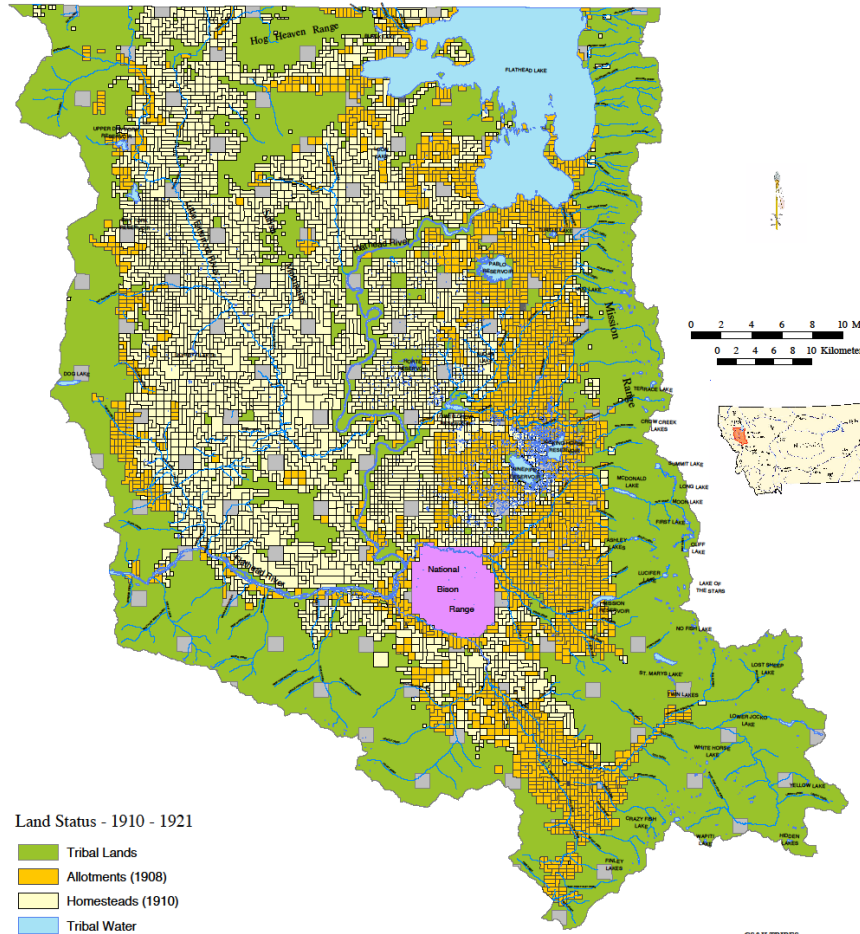
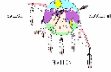
For information as to the character of the land write for booklet, "INDIAN LANDS FOR SALE," to the Superintendent U. S. Indian School at any one of the following places:

CALIFORNIA: Hoopa.	MINNESOTA: Onigum.	NORTH DAKOTA: Fort Totten. Fort Yates.	OKLAHOMA—Con. Sac and Fox Agency. Shawnee. Wyandotte.	SOUTH DAKOTA: Cheyenne Agency. Crow Creek. Greenwood. Lower Brule. Pine Ridge.	WASHINGTON: Fort Simcoe. Fort Spokane. Tekoa. Tulalip.
COLORADO: Ignacio.	MONTANA: Crow Agency.	OKLAHOMA: Anadarko. Cantonment. Colony. Darlington.	OREGON: Klamath Agency. Pendleton. Roseburg. Siletz.	WISCONSIN: Rosebud. Sisseton.	ONEIDA.
IDAHO: Laywai.	NEBRASKA: Macy. Santee. Winnebago.	MUSKOGEE, MISSISSIPPI: Pawnee.			
KANSAS: Horton. Nadeau.					

WALTER L. FISHER,
Secretary of the Interior.

ROBERT G. VALENTINE,
Commissioner of Indian Affairs.

THE CONFEDERATED SALISH & KOOTENAI TRIBES OF THE FLATHEAD NATION



Land Status - 1910 - 1921

- Tribal Lands
- Allotments (1908)
- Homesteads (1910)
- Tribal Water
- State
- National Bison Range
- Townsite

**CS&K TRIBES
NATURAL RESOURCES DEPARTMENT
GIS PROGRAM**

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This map was created from records and existing maps, aerial
photos, and other data provided to the
Confederated Salish & Kootenai Tribes and is based
on the best available information.



Selection Criteria



Gitchikwe Allotment

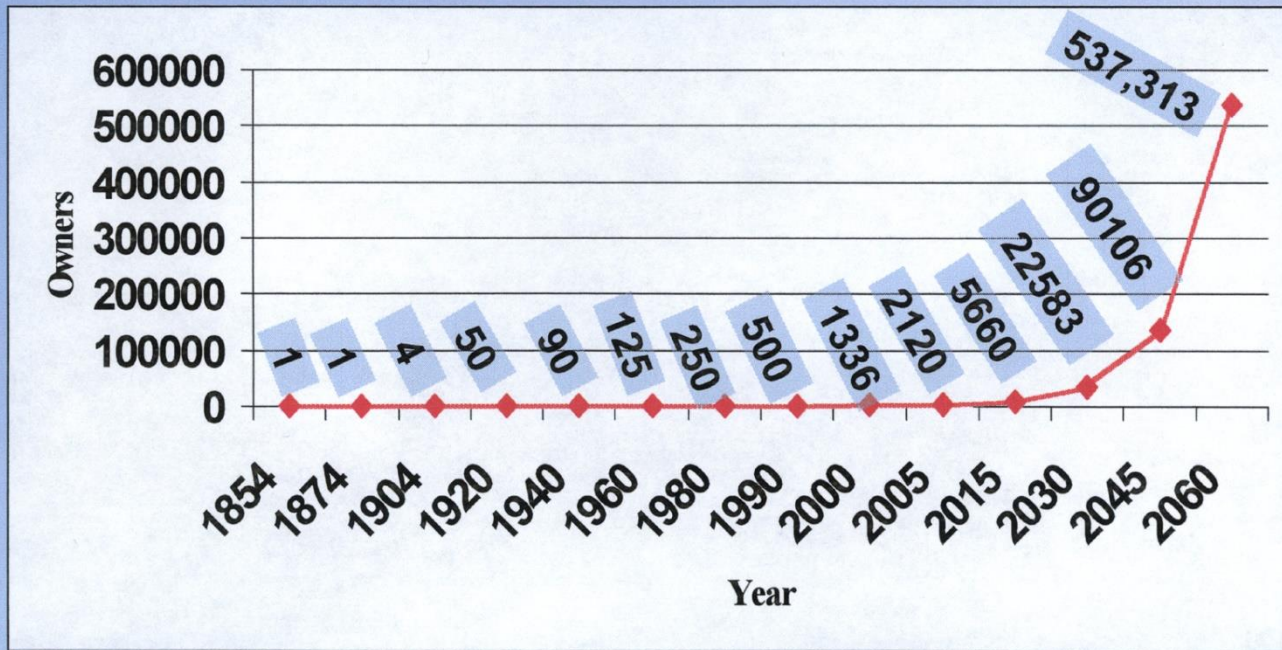
- 80 acres at Lac Courte Oreilles
- 2,285 undivided interests
- 9 escheated probates to post



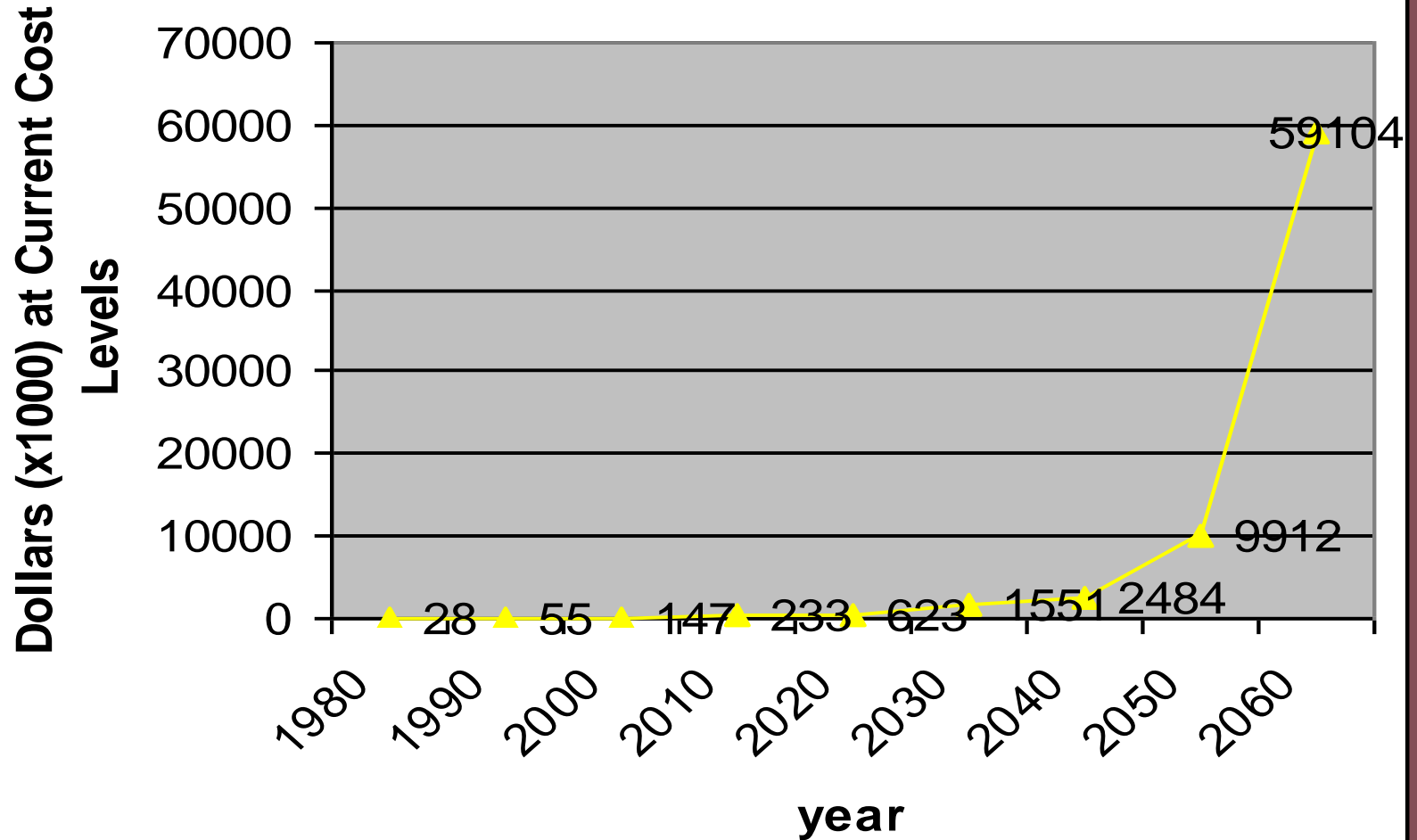
Selection Criteria



Gitchikwe Allotment 159



Administrative Costs associated with Gitchikwe Allotment



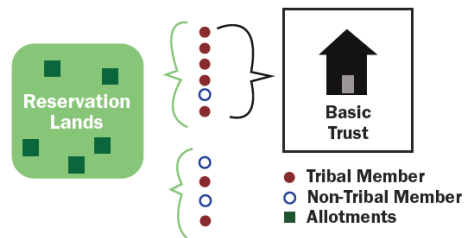
New Property Management Options

Co-Owner Allotment Management



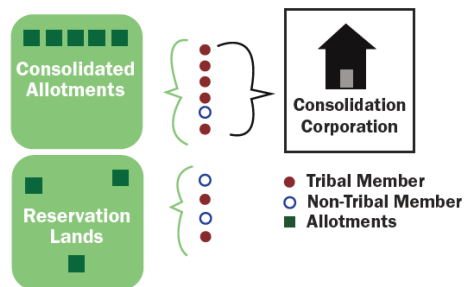
- You and fellow allotment co-owners create a unified structure to manage your land
- A single voice of 50.01% or more = Control
- Agree on goals, plans and land use
- Define future membership in the management/ownership structure

Family and Co-Owner Trusts, Multiple Allotments



- A trust is a legal entity that uses rules for operation that you create as a group
- A trust can help you preserve your family's connection to the land
- A trust can cover some or all of your interests in allotments
- Your family may decide to combine resources so that more land is consolidated

Private Consolidation Corporation



- Co-owners can consolidate undivided interests in one or more allotments under group management
- A single voice of 50.01% or more = Control
- Potential to aggregate larger acreage for efficient management or new and better uses
- Can be used to develop "active" economic projects and generate revenue

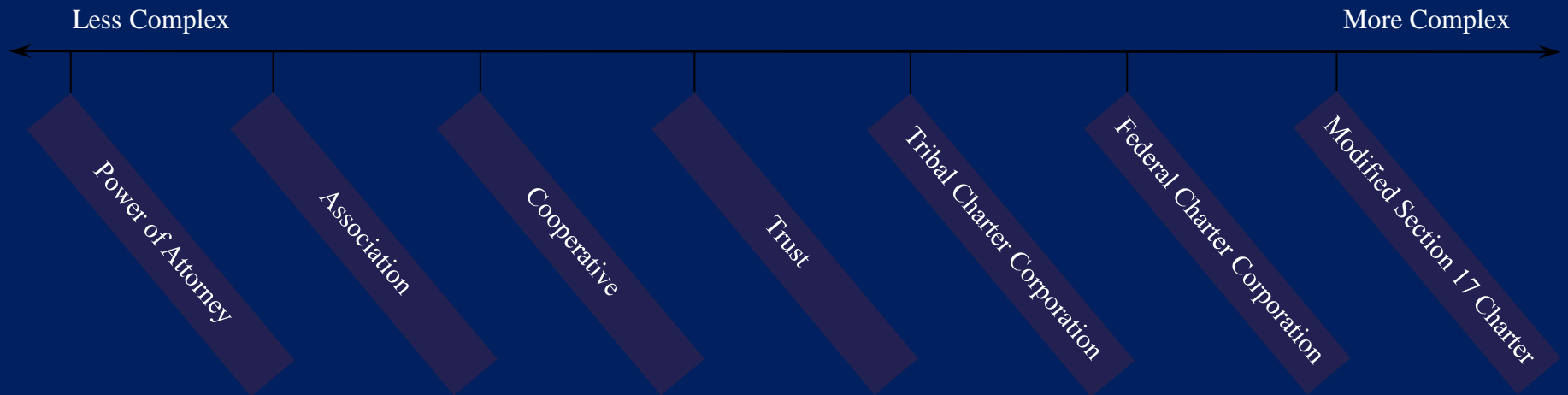
Other management options might include:

- Power of Attorney
- Landowner Association
- Cooperative
- Your own idea

For more information contact:
 Jim Wabindato, Program Officer
 651-766-8999
jwabindato@iltf.org

Flexible Tools for Indian Land Owners

- Power of Attorney
- Association
- Cooperative
- Trust
- Tribal Charter Corporation
- Federal Charter Corporation
- Modified Section 17 Charter
- Other



Control of an Allotment

- 90 percent of the ownership, if there are five or fewer owners
- 80 percent of the ownership, if there are between six and ten owners
- 60 percent of the ownership, if there are between eleven and nineteen owners
- A simple majority (more than 50 percent of the ownership), if there are twenty or more owners



C. Halloran '14



iltf.org

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