SUSTAINABLE DEVELOPMENT AND SUSTAINABLE ENERGY
SUTTON SYMPOSIUM,
STURM COLLEGE OF LAW

“SUSTAINABLE ENERGY FOR ALL”

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Carla F. Fredericks
Tribal Natural Resource Development

- The path from IMLA to FPIC
- IMLA
- IMDA
- TERA
- UNDRIP/FPIC
The Trust Responsibility?

Trust  Sovereignty
Irreconcilable Tensions

- Conflicts of interest
- No remedies
- Lack of tribal buy-in to model
- Trust and sovereignty are inversely proportional under law
"the federal government has failed time and again to discharge its fiduciary duties," resulting in a serious injustice that has persisted for over a century and that cries out for redress. Cobell VI, 240 F.3d at 1086

“It is well established that the directors owe their fiduciary obligations to the corporation and its shareholders.”

North American Catholic Educational Programming Foundation, Inc. v. Gheewalla, 930 A.2d 92, 99 (Del. 2007)
Operations and Corporations

- Passive landlord issues
Opportunity for FPIC to be realized with legal consent

No “gray areas”

Codification of FPIC

Liability protection for tribe

Can tribes have it both ways?

FPIC obligations as vacillating and continuous
From a “ward/trust” model to a fiduciary model

Conflicts of interest to best interest
Risk and Operations

- Risk to shareholders
- How to leverage without ownership
- Role of tribes as investors for indigenous peoples worldwide
Thank you

- Questions