

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ELOUISE PEPION COBELL, et al.,)
)
Plaintiffs,)
)
v.)
)
GALE A. NORTON, Secretary of the)
Interior, et al.,)
)
Defendants.)
_____)

Case No. 1:96CV01285
(Judge Lamberth)

**NOTICE OF FILING OF INTERIOR DEFENDANTS'
SIXTEENTH STATUS REPORT**

Interior Defendants hereby give notice of the filing of their sixteenth report due in accordance with the Order of December 21, 1999.

A copy of the report is attached hereto.

Dated: February 2, 2004

Respectfully submitted,
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CERTIFICATE OF SERVICE

I hereby certify that, on February 2, 2004 the foregoing *Notice of Filing of Interior Defendants' Sixteenth Status Report* was served by Electronic Case Filing, and on the following who is not registered for Electronic Case Filing, by facsimile:

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THE SECRETARY OF THE INTERIOR
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February 2, 2004

Sandra P. Spooner
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Re: Cobell v. Norton – *Status Report to the Court Number Sixteen*

Dear Ms. Spooner:

Enclosed is the Department of the Interior's *Status Report to the Court Number Sixteen (For the Period October 1, 2003 through December 31, 2003)*. Please forward a copy to the Court.

This is the ninth report in the revised Report format. My signature on this Report reflects my belief that my personal observations are true and correct, and that the information provided to me by others for inclusion in my observations, as well as accompanying sections of the Report are correct to the best of my knowledge.

Thank you for your assistance.

Sincerely,



Gale A. Norton

Enclosure

Status Report to the Court Number Sixteen

**For the Period
October 1, 2003 through December 31, 2003**



February 2, 2004

February 2, 2004

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I. INTRODUCTION

This *Status Report to the Court Number Sixteen* (Report) represents the period from October 1, 2003 through December 31, 2003. The Report is presented for the purpose of informing the Court on the progress of trust reform activities and the historical accounting of individual Indian beneficiary funds managed by the Department of the Interior (Interior).^a

This Report is prepared in a manner consistent with previous reports to the Court. Each manager of a trust function is required to explain in detail the progress made toward meeting the objectives of his or her particular trust area, as well as provide the Court with information regarding obstacles to performing the required work. As explained in the Workforce Planning section, future status reports to the Court will not include a separate Workforce Planning section.

During this reporting period, a contract was entered into for an expanded audit of trust funds for FY2004. The expanded audit for FY2004 is expected to include a review of cash management and collection procedures at BIA, OST and MMS for the period of time prior to the deposit of funds into the individual trust fund accounts. Future audits beginning for FY2005 are planned to include a review of other operational trust asset management functions.

Informational sessions on the draft "To-Be" Model with Tribes and Interior agencies began during this reporting period. As a result of tribal requests, an additional sixty days, through March 31, 2004, was provided for receipt of comments on the draft "To-Be" Model. As a result, the time for completing a final model was extended to May 31, 2004. An implementation plan is expected to be completed by June 30, 2004.

As requested by Interior, Congress committed to a major expansion of the Indian land consolidation project in FY2004 by providing more than three times the funding over FY2003 levels to purchase fractionated land interests. This support helps to address one of the most pressing problems in Indian country, and enables Tribes to make land much more productive than when held in fractionated status.

Implementation of the reorganization is continuing. A schedule for hiring of trust officers and BIA deputy superintendents for CY2004 has been developed. Five of six OST trust administrator candidates have accepted offers and expect to begin work during the first half of CY2004. At least 20 trust officers and support staff should be hired by the end of the first quarter of CY2004.

Progress also is being reported for the reengineering effort of trust business processes. Together with new technology, this effort should transform Interior into a more effective and efficient manager of trust properties held in trust for individual Indians and Tribes.

^a This report contains information on the broad trust reform efforts underway at Interior. Accordingly, it may include information on reform efforts that are not within the scope of the *Cobell* litigation.

II. SECRETARY GALE NORTON'S OBSERVATIONS

Introduction

The trust managers' reports indicate that continued progress toward trust reform was made during this reporting period. However, many challenges of trust reform remain as difficult as ever, including the continued fractionating ownership of the Indian land base, the difficulty of implementing new technology to meet the demand of tracking thousands of very small land and financial interests and the increasing demand for greater appropriations to meet the management responsibilities of the trust and fulfill orders of the Court. My observations highlight a few of the events during this reporting period.

Organizational Changes

In December 2003, the United States Senate unanimously voted to confirm Mr. David Anderson as Assistant Secretary-Indian Affairs. He is expected to be sworn in and take office in February 2004. Mr. Anderson, as previously reported, comes to Interior with a strong private sector background in business. He is an entrepreneur and member of the Chippewa and Choctaw Tribes. His background and work with Tribes makes him an ideal candidate to carry forward the reorganization effort of the Bureau of Indian Affairs and to join with the Special Trustee for American Indians in partnership to advance the fiduciary trust reform efforts of Interior.

Business Process Reengineering

During this reporting period, informational meetings among Tribes, Interior agencies and other stakeholders continued on the "To-Be" reengineering of the fiduciary trust business processes. The meetings were held to discuss and refine the draft model in order to develop a final model. As reported by the Special Trustee, Interior agreed, at the request of Tribes, to extend the comment period on the draft model for 60 days. The final model will represent nearly two years' worth of work. When implemented it is expected to result in notable improvements in the delivery of fiduciary trust services.

Reorganization

We continued moving forward on improving our organizational structure to strengthen Interior's emphasis on trust responsibilities. As previously described, the reorganization will segregate the fiduciary trust duties of the Bureau of Indian Affairs from the other responsibilities of the Bureau. Trust officers from the Office of the Special Trustee will work with BIA staff across the nation to give Interior the kind of organization necessary to implement the new trust business model.

Implementation of the reorganization is continuing. Throughout 2004, both BIA and the Office of the Special Trustee will be hiring new employees and moving others to staff trust operations, oversight, and beneficiary service functions. Implementation of new policies, procedures and regulations, and the training necessary to perform the required trust activities, are expected to continue for several years.

Information Technology

I continue to be encouraged by the progress being made to secure Interior systems from unauthorized access through the Internet. The Chief Information Officer reports that scanning results indicate a greatly reduced number of potential vulnerabilities that could be candidates for Internet-based exploitation attempts. Separately, Interior's Inspector General has evaluated Interior's information technology systems and also noted improvements. Substantial investments of time, effort and money have been expended to improve the perimeter security of our trust bureaus and offices, but several have remained "disconnected" from the Internet for over two years, thus hampering fiduciary trust operations.

Congressional Action

Congress significantly increased funding for many trust functions for FY2004. The enacted appropriation for Interior included much-needed funding for the Indian land consolidation project. It also included funding to support the reorganization effort and to address some of our backlog problems such as probate.

Although the judicial direction contained in the Structural Injunction has been stayed by the Court of Appeals, Interior continued historical accounting activities under the provisions of the FY2004 appropriations bill. Our FY2004 funding request to Congress was for \$130 million; Congress provided \$45 million, an amount that is more than double that provided in FY2003. Congress specified that the funds be used for "records collection and indexing, imaging and coding, accounting for per capita and judgment accounts, accounting for tribal accounts, reviewing and distributing funds from special deposit accounts and program management of the Office of Historical Trust Accounting, including litigation support." At the end of the reporting period, Interior was still determining whether additional changes should be made in historical accounting priorities to best utilize the available funding.

Conclusion

Trust reform continues as a high priority within Interior. Implementation of new software systems, employment of people in newly-created trust positions and implementation of the "To-Be" Model should provide Interior with additional capability to manage its trust administrative activities with a higher degree of confidence. These initiatives, together with the continued historical accounting activities authorized by Congress, should allow Interior to continue improving its services to trust beneficiaries.

A. INFORMATION TECHNOLOGY

Introduction

This section describes the status of the Department of the Interior (Interior) Information Technology (IT) systems, particularly the systems that house or provide access to Individual Indian Trust Data (IITD) or provide various computing capabilities, including functions critical to the proper administration of the individual Indian trust responsibilities within Interior. In addition, this section discusses the various efforts being made to improve IITD security, the status of Internet connectivity, steps being taken to move towards the Office of Management and Budget (OMB) Circular A-130 Appendix III (A-130) compliance, and other related IT topics.

Accomplishments and Completions

Computer Security (Interior-wide):

Beginning with an initial Temporary Restraining Order (TRO) on December 5, 2001, and, most recently, another TRO that was followed shortly thereafter by the July 28, 2003, Preliminary Injunction, the Court ordered Interior to take certain actions to protect IITD. Generally, the Court orders sought to reduce a potential risk to IITD that could result from unauthorized Internet access by ordering Interior IT systems to be disconnected from the Internet. Beginning with the December 17, 2001, Consent Order the Court provided means to reconnect adequately secured systems housing or providing access to IITD. The recent Preliminary Injunction permitted reconnected systems to remain connected to the Internet under certain conditions.

Over the past two years, Interior evaluated its various computer systems to identify which computers house or could provide access to IITD. The evaluation indicates that Interior uses approximately 109,000 computers in implementing its various missions. The evaluation process indicates that approximately 94% of these computers are used for tasks that do not involve IITD. Of the computers that may or do house IITD, most (about 5% of all of Interior's computers) have not been authorized to have Internet access since December 5, 2001. The security measures protecting the remaining approximately 1% of Interior's computers, those that house IITD and are hosted on networks with Internet connectivity, were evaluated by the Court (in most cases, by the Special Master) and found acceptable insofar as Internet connectivity was permitted.

During the past two years, Interior has installed additional firewalls and intrusion detection systems, reconfigured systems, updated security patches, scanned networks for vulnerabilities, updated password procedures and provided computer security training in an effort to reduce further the potential risk to IITD associated with the potential threat of unauthorized access from the Internet.

Systems vulnerability scanning has been used to demonstrate relative perimeter security. Interior has a number of communications networks that include an interface with the Internet. Each network perimeter is bounded by the external interface between Interior's internal networks and the Internet. This external interface is the point at which unauthorized Internet-based access would begin and is configured to prevent such access. The security tools used in scanning the

external interface look for anomalies that potentially could represent a system's vulnerability. The effectiveness of the preventive measures, as determined by monthly scanning efforts, is evaluated by an independent contractor.

- **Network Assurance (Perimeter Scanning)**
 - Interior continued scanning Interior's wide area networks (WAN) against an operational security profile based on the "SysAdmin, Audit, Network and Security (SANS) Top 20" vulnerability list.
 - The scanning involved testing IT equipment at the perimeter of Interior's networks where Internet interface occurs. Interior's scanning efforts are designed to identify potential vulnerabilities that may be exploited in a manner that could result in unauthorized access to other computer equipment on the host network. Other scanning efforts may be employed to identify and evaluate potential vulnerabilities on computers hosted on the internal network of each agency.
 - The number of computer hosts with potential high risk vulnerabilities continued to be reduced during this reporting period. From an initial baseline of 953 potential Department vulnerabilities (December 2002), the most recent scanning report found 7 potential vulnerabilities after the elimination of false positives, for an overall reduction of 99.3%.
 - Monthly results were distributed to the Chief Information Officer (CIO) of each bureau to take appropriate remedial actions.
 - Some entities, such as the Bureau of Indian Affairs (BIA), Office of the Special Trustee for American Indians (OST), Office of Hearings and Appeals (OHA) and Office of the Solicitor (SOL) have no unapproved Internet connectivity, so their potential vulnerabilities remain typically at zero.
 - New procedures were adopted to account for false positives. False positives are potential vulnerabilities reported by the scanning software that, after further evaluation, do not represent actual vulnerabilities in the scanned computer.

Computer Security (Bureau-Specific):

- **BIA**
 - As of December 31, 2003, the number of BIA employees listed in Interior records as trained in computer security is 8,408. This total includes 831 employees of contractors.
 - Twenty-eight systems and several associated subsystems have undergone initial Certification and Accreditation (C&A) reviews and have received an Interim Approval to Operate (IATO).
- **Bureau of Land Management (BLM)**
 - IT security training was conducted for all State and National Information Resources Management (IRM) Center IT security managers.
 - An IT security patch management policy was issued and an automated distribution process (for distribution of IT security patches) was developed and implemented.

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Information Technology

- The System Security Manager (SSM) and Project Manager (Certification and Accreditation Project) positions on the BLM IT security team were filled.
- A scan of the external network was completed in December 2003 and the potential vulnerabilities identified were determined to be false positives.
- The BLM Computer Security Incident Response Team (CSIRT) was established under the leadership of the SSM.
- An internal network scan for the BLM Denver Data Center, which supports the Automated Fluid Mineral Support System (AFMSS) application, was completed.

- **Minerals Management Service (MMS)**
 - Established agency policy requiring a minimum of eight hours of IT security training annually for IT professionals.
 - Implemented Microsoft System Update Server (SUS) to deploy critical security patches to servers and desktops.
 - Developed an IT Security Awareness Brochure.
 - Distributed quarterly Security Awareness Bulletin.
 - Implemented monthly network vulnerability scan on internal servers and network devices.

- **OHA**
 - Implemented monthly network vulnerability scanning on internal servers and network devices.

- **OST**
 - An Information Security Assessment (ISA) was conducted by an independent contractor retained by the Interior Office of the Chief Information Officer (OCIO). This ISA included network mapping/enumeration, SANS Top 20 vulnerability comparison, an overall vulnerability assessment, network penetration testing and security document/configuration review. The results of this ISA revealed that, "No major vulnerability was found from the external vulnerability testing and the network penetration testing effort. All attempts to establish connections were unsuccessful for ports and services. This is a result of the restrictive nature of the perimeter controls."
 - OST formally established an IT security manager position and initiated recruitment.

- **SOL**
 - SOL completed training of regional/field security coordinators.
 - The SOL communications network underwent a third-party security assessment consisting of penetration testing. Security defenses successfully blocked all attempts to breach the perimeter security of the network.

A-130 Status (Interior-Wide):

OMB Circular A-130, Appendix III provides guidance for federal IT security programs. OMB A-130 divides IT systems into two types: General Support Systems (GSS) and Major

Applications (MA). For each GSS, IT security guidance addresses the following: assignment of responsibility for security; a current National Institute of Standards and Technology (NIST)-compliant System Security Plan (SSP), which includes rules of behavior, appropriate security training, personnel security controls, incident response capability, continuity of support, technical security, and system interconnection; a review of IT security controls; and a current management authorization to operate for the GSS. For each MA, the guidance addresses the following: assignment of responsibility for security; a current NIST-compliant application SSP that includes application-level rules of behavior, specialized security training for the application, personnel security controls, contingency planning, technical security, information sharing, and public access controls; a review of application security controls; and a current management authorization to operate for the application (e.g., IATO, C&A).

Pursuant to OMB guidance, Interior is engaged in a variety of efforts designed to obtain C&A for key systems. While most computer systems within Interior support other (non-Indian) Interior missions, some systems provide computing services involving individual Indian trust data. Quarterly status information on Interior's C&A activities may no longer be relevant to the Court given the provision in the July 28, 2003, Preliminary Injunction that stayed the December 17, 2001, Consent Order. Nonetheless, the following information is provided in this report to the Court:

- **Certification and Accreditation**

- To ensure continued progress in accrediting systems, Interior issued a Request for Proposal (RFP) which is part of the process to develop a Blanket Purchase Agreement (BPA). The BPA is expected to be used to retain qualified vendors to assist bureaus with C&A activities.
- The Interior Security Test and Evaluation (ST&E) Guide was completed.
- The Interior System Development Life Cycle (SDLC) Security Integration Guide was completed.

A-130 Status (Bureau-Specific):

- **BIA**

- The Office of Information Security and Privacy is now fully operational under an approved Bureau IT Security Plan. Functions include C&A, security awareness training, incident response, cyber security, critical infrastructure protection, and continuity of operations.
- The Project Management Support Office (PMSO) provided project management support to Indian Affairs IT project managers and teams. During this reporting period, each major project being tracked under the Integrated Project Management schedule had a PMSO staff person supporting it on project management matters. The PMSO continued its monitoring and reporting of project progress through formal weekly reports delivered to the CIO. Finally, three additional project management classes have been added to the overall Project Management curriculum.

- **BLM**
 - BLM's General Support System (which includes bureau processors, network and general office application tools) was granted an IATO in December 2003.
- **MMS**
 - MMS established an A-130 Program Office.
- **OST**
 - OST appointed an A-130 Program Manager.
 - OST staff received NIST-based C&A training.
- **SOL**
 - SOL assessed requirements and funded efforts to pursue C&A for its network communications system.
 - SOL completed its contingency plan to address problems with network communications.

Architecture:

- **Enterprise Architecture (Interior)**
 - The Interior Data Reference Model version 1.0, which documents data needs for key Interior lines of business, was completed.
 - The Technical Reference Model version 2.0, which incorporates updated technology and product standards, was completed.
- **Trust Architecture**

Probate Case Management and Tracking System

On September 30, 2003, a contract was awarded for the acquisition, integration, and C&A of a commercial off-the-shelf (COTS) Probate Case Management and Tracking System (ProTrac). Preparation is being made for implementation of the system. Initial efforts to load relevant data into the system are anticipated to occur during the next reporting period.

Trust Data Architecture

On December 19, 2003, the Trust Architect and trust data architecture support contractor completed the development of the preliminary trust data dictionary. The preliminary trust data dictionary will be used in upcoming meetings to establish standardized trust data elements, which is expected to provide the foundation for data interoperability among the diverse trust systems.

Trust Technical Architecture Profile

On November 21, 2003, the Trust Architect completed the development of the preliminary Trust Technical Architecture Profile (TAP). The TAP is the description of the technology standards and vendor products that are used by trust systems and is a subset of the standards contained within the Interior Technical Reference Model (TRM). In

addition, the TAP is a time-phased-based standards document that supports the migration and transition planning of the trust systems.

Current Status (Ongoing Efforts)

Findings & Recommendations Database:

The “Findings and Recommendations” database, which identifies 1,375 historical findings and recommendations related to IT systems, was generated from studies and audits performed from 1988 to 2002. Many of these historical studies and audits were cited in the “Report and Recommendations of the Special Master Regarding the Security of Trust Data at the Department of the Interior” (November 2001). In addition, Interior has added the findings and recommendations included in several subsequent studies or audits.

As part of a developing strategy to address and close these findings, the OCIO and the IT Security Office provide findings reports to contractor teams performing C&A “initial assessments,” so that these historic findings can be verified, evaluated, addressed and closed. Remaining relevant findings become part of the work plan developed at the end of the initial assessment. The IT Security Office plans to track these findings until they are closed or considered no longer applicable in the current IT environment.

Preliminary Injunction & Reconnection to the Internet:

On July 28, 2003, the Court issued a Preliminary Injunction that required Interior to disconnect immediately from the Internet all information technology systems that house or provide access to IITD, with certain exceptions. Key exceptions included those systems that the Special Master had previously authorized to be “reconnected” to the Internet, if Interior further certified that those systems either are secure or do not house or access “individual Indian trust data” as defined in the preliminary injunction.

On August 11, 2003, Interior submitted the required documentation to the Court on behalf of its bureaus and agencies with reconnected systems. Depending upon the circumstances involved, some bureaus and agencies sought the Court’s recognition that their computer systems did not house or provide access to IITD, while others sought to demonstrate that their systems were protected adequately against the threat of unauthorized access from the Internet.

In the Preliminary Injunction, the Court further required Interior to submit a proposed method for evaluating Interior proposals to permit reconnection of disconnected computer systems and for determining whether reconnected systems remain secure. On August 27, 2003, the Department of Justice filed “Interior Defendants’ Submission Pursuant to the July 28, 2003, Preliminary Injunction Regarding Reconnection of Computer Systems” (Reconnection Proposal). The filing included a proposal regarding how the Court could address future requests from Interior to reconnect the IT systems to the Internet that have been disconnected due to the original TRO, the subsequent Consent Order and the Preliminary Injunction that followed.

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Information Technology

BIA, OST, OHA and SOL have been and remain disconnected from the Internet since December 5, 2001. Continued disconnection from the Internet adversely impacts the operations of each of the affected entities. At the conclusion of this reporting period, these agencies had not been permitted access to the Internet for more than two years.

On September 25, 2003, a Notice of Appeal was filed with the U.S. Court of Appeals for the District of Columbia seeking review of the Preliminary Injunction. This appeal is pending.

A-130 Status (Interior-wide):

- **Certification and Accreditation**

In response to OMB guidance, Interior has been engaged in an effort to identify and catalogue its IT systems and applications in preparation for subsequent C&A activities. Only a subset of the identified systems and applications, as noted in the following table, involves individual Indian trust data.

Trust Systems C&A Table

ORG	# of DOI Trust Systems & Applications	Current C&A Status of Trust Systems		
		Initial Assessment	IATO Granted	Full C&A Completed
OHTA	1	Complete	1	0
BLM	4	Complete	1	3
OST	6	2	4	0
MMS	9	Complete	9	0
BOR	1	Complete	Complete	1
BIA	28	Complete	28	0
OS	5	Complete	5	0
OHA	8	4	4	0
Total	62	6	52	4

The table indicates that most trust systems and applications have moved beyond an initial assessment to receive an IATO determination. As the December 17, 2001, Consent Order has been stayed by the July 28, 2003, Preliminary Injunction, Interior's C&A activities for trust systems are being conducted pursuant to OMB requirements and internal objectives.

Architecture:

- **Interior Enterprise Architecture**

Interior Enterprise Architecture models are being developed consistent with the Federal Enterprise Architecture framework and are expected to be housed in the DOI Enterprise Architecture Repository (DEAR). DEAR will likely become accessible during the second quarter of FY2004, rather than the first quarter as reported previously. Longer

than expected time frames in system testing, and data population delayed the deployment of DEAR.

- **Trust Architecture**

- **Probate Case Management and Tracking System (ProTrac)**

- In early October 2003, representatives from OHA, OST and BIA attended a system requirements review with the system integrator contractor and the COTS Probate Case Management and Tracking System vendor. From October 20, 2003, to December 12, 2003, the COTS product was enhanced to accommodate Indian data and Interior's probate workflow processes. During the week of December 15, 2003, representatives from OHA, OST and BIA successfully tested the enhanced COTS product during the factory test conducted by the contractor team. It is expected that the system will complete user acceptance testing and C&A and commence initial operations during the next reporting period.

- **Realty/Lease Contract Management**

- During this reporting period, the Trust Enterprise Architect conducted three realty/lease contract management requirements meetings to support the development of system specifications. The system specifications are expected to be completed in January 2004, and may be used in a RFP to replace BIA's legacy realty systems.

On a separate but associated track, BIA and OST began exploring the possibility of utilizing the asset management modules of the TAAMS software with a monetary distribution component in the TFAS system. If feasible, this effort would allow BIA to utilize one computer system to maintain land title and lease information, eliminating the need to maintain separate ownership databases for land title and the distribution of trust funds to the beneficiaries. It also would replace the various leasing systems currently in use for the distribution of trust income derived from leasing, forestry, rights-of-way, and other income-generating activities.

- **CGI Land Title System**

- During this reporting period, BIA entered into a contract to utilize the CGI Land Title System. The contract is in place for five years and is structured so that BIA can purchase the software on a sliding price scale during the contract period. At the end of the contract period, BIA is scheduled to own the software.

The land title software was initially deployed to pilot sites at the land title offices located in Billings, MT, Anadarko, OK, Muskogee, OK, and Anchorage, AK. A draft plan was developed to convert title data from the TAAMS version 1.17 from some locations and the Land Records Information System (LRIS) from other locations into the title software. Implementation is expected to be completed in CY2005.

Status Reports:

- **Federal Computer Security Report Card (Putnam Report). Committee on Government Reform, U.S. Congress, December 9, 2003.**

The Putnam report (which was formerly referred to as the Horn Report) based its grades on perceived compliance with the requirements of the Federal Information Security Management Act (FISMA), which was passed by Congress in 2002, based on an assessment of the information contained in the IG and CIO reports. Overall, the federal government received a score of “D”; eight Departments (Energy, Justice, Health & Human Services, Agriculture, Housing & Urban Development, State, Homeland Security, and Interior) received an “F.”

Interior also evaluates IT security with a scorecard, but takes a different approach. The following table illustrates the different security elements reviewed in each scorecard and the relative weighting assigned to each element. While the congressional scorecard focuses on the FISMA criteria for programmatic security, the Interior IT Security Scorecard blends key portions of FISMA’s programmatic responsibilities with the real world need for operational security. The network hardening metric, for instance, is derived from monthly vulnerability scanning against an operational profile known as the SANS Top 20 vulnerability list. In Interior’s view, this is the critical element to evaluate the status of Interior’s efforts to protect against the threat of unauthorized Internet access to Interior’s trust-related networks and systems.

Interior Scorecard vs. Congressional FISMA Scorecard

Subject Area	Maximum Points	
	FISMA Congressional Scorecard	INTERIOR Scorecard
IT Security Program Reviews	N/A	20
Security Documentation	N/A	20
Network Hardening	N/A	9
Training and Awareness	13	9
Plans of Action and Milestones (POA&M)	6	8
Computer Security Incident Handling and Reporting	12	8
IT Security Life Cycle Funding	10	8
Interim Authority To Operate (IATO)	N/A	9
Certification and Accreditation	9	9
Annual NIST 800-26 Self Assessment	18	N/A
Critical Infrastructure Protection	11	N/A
Inventory of all Major IT Systems (Note: Congressional score based on 0 to -10, maximum score is 0 and minimum score is -10.)	0	N/A
Requested and enacted budget figures included in FISMA report.	5	N/A
Responsibilities and authorities of the CIO and program officials assigned, implemented and enforced.	2	N/A
Patch Management	3	N/A
Annual Contingency Plan Tests	2	N/A
Agency-wide IT Security Program exits	5	N/A
An agency Chief Information Security Officer has been appointed.	4	N/A
TOTAL MAXIMUM POINTS	100	100

- The OIG issued four final financial statement audit reports and one draft financial statement audit report related to agencies that have trust data. The reports, which may or may not be of interest to the Court, are available upon request from the OIG.
 - **Final Independent Auditors' Report on the Bureau of Land Management's Financial Statements for Fiscal Years 2003 and 2002.**
(Report No. C-IN-BLM-0076-2003)
 - **Final Independent Auditors' Report on the Minerals Management Service's Financial Statements for Fiscal Years 2003 and 2002.**
(Report No. E-IN-MMS-0066-2003)

- **Final Independent Auditors' Report on the Tribal and Other Trust Funds and Individual Indian Monies Trust Funds Financial Statements for Fiscal Years 2003 and 2002 Managed by the Office of the Special Trustee for American Indians.**
(Report No. Q-IN-OST-0075-2003)
- **Final Independent Auditors' Report on the Departmental Offices' Financial Statements for Fiscal Years 2003 and 2002.**
(Assignment No. E-IN-DMO-0068-2003)
- **Draft Independent Auditors' Report on the Bureau of Indian Affairs' Financial Statements for Fiscal Years 2003 and 2002.**
(Assignment No. E-IN-BIA-0069-2003)

Delays and Obstacles

There are many challenges that must be addressed regarding the integration, performance, funding, security, and data integrity of Interior IT systems. Interior initiated or completed steps to address some of the challenges reported in previous reporting periods. However, delays and obstacles listed here still impede progress to achieving Interior's IT management goals:

- Employee fears about becoming personally implicated in the *Cobell* litigation are undermining creativity and decision-making. This continues to be an impediment within Interior as contempt or other disciplinary actions against individuals working on this issue continues to be sought by plaintiffs.
- Information system technical leadership and support staffs are insufficient. Bureau and office IT staffs are insufficient and, through normal attrition and budget restraints, the OCIO has several leadership and staff vacancies.
- Funding availability will continue to dictate the timing of IT-related initiatives. Interior's FY2004 budget will require Interior to manage a variety of IT-related requirements and tradeoffs.
- Interior is conducting a business process reengineering effort to standardize and streamline trust business processes. The "As-Is" portion of that process has been completed and the "To-Be" reengineering efforts are underway. IT systems specifications may depend upon the timing and results of the reengineering effort.
- BIA, OST, OHA and SOL have been and remain disconnected from the Internet since December 5, 2001. Continued disconnection from the Internet adversely impacts the operations of each of the affected entities. At the conclusion of this reporting period, these agencies had not been permitted access to the Internet for more than two years.
- The lack of interagency communication and cooperation has, at times, impeded the efficient and effective completion of trust-related initiatives.

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Information Technology

Assurance Statement

I concur with the content of the information contained in the Information Technology section of the *Status Report to the Court Number Sixteen*. The information provided in this section is accurate to the best of my knowledge.

Date: January 30, 2004

Name: *Signature on File*
James E. Cason
Associate Deputy Secretary

B. CADASTRAL SURVEY

Introduction

A cadastral survey is a land survey of sufficient scale to show the extent and measurement of property boundaries. Surveys of Indian lands are performed under the direction and control of the Bureau of Land Management (BLM) and are used to identify the location of land boundaries, to determine official acreage of tracts, and to maintain the related survey records for all public and Indian lands. Cadastral surveys and records are critical to the success of the Indian trust. Ownership information, distribution of trust assets, and management of trust accounts may be related to or based upon information recorded in a cadastral survey. The BLM Cadastral Program is continuing to develop and oversee these functions in accordance with 25 U.S.C. § 176: “Whenever it becomes necessary to survey any Indian or other reservations, or any lands, the same shall be surveyed under the direction and control of the Bureau of Land Management, and as nearly as may be in conformity to the rules and regulations under which other public lands are surveyed.” These surveys are being recorded into the standardized land record system as official acts of the United States. Cadastral surveys provide assurance that survey needs for individual Indian trust and tribal lands are met.

Accomplishments and Completions

Refinement of the Inventory of Cadastral Needs/Cadastral Automated Request System (CARS)

BLM, in collaboration with the recommendations from the Bureau of Indian Affairs (BIA), continues to refine the CARS database. Through the use of CARS, BLM assists BIA in determining which surveys are to be performed with appropriated funding based on priority drivers. Priority drivers are the underlying reason for performing a survey, and include such things as type of survey, economic benefit for different types of resource activities, and administrative needs, each of which is assigned a numerical value within CARS. A working group of representatives from the Office of the Special Trustee for American Indians (OST), BIA and BLM met during this reporting period. The working group completed a proposal to refine the priority driver ranking system in order to reflect the highest priority needs for survey services in FY2005.

BIA, BLM and OST Coordination Meeting

Working as a team, BIA, BLM and OST held a joint meeting in November 2003 to address issues associated with surveying in Indian country. Issues discussed included: regional funding needs, CARS improvements, ranking the priority of Geographic Coordinate Data Base (GCDB) projects for building Cadastral Geographic Information Systems (CGIS) and improving communication. The results of the meeting included: clarifying changes made to CARS since the last joint meeting, creating a working group to improve the priority scoring sheet used by CARS and establishing a time line for survey services requested for FY2005. An agreement was reached not to include GCDB survey services requests in CARS. Instead, a proposal is expected to be presented to OST in the next reporting period to fund two GCDB projects as recommended

in the Department of the Interior's (Interior) "To-Be" Model. A mid-year adjustment of funds previously allocated may be considered at the next joint BIA, BLM and OST meeting scheduled for May 2004. In addition, criteria for the request of emergency funds (funds set aside for congressionally mandated surveys and unexpected survey needs) were developed. The team also agreed upon the need for a joint monthly conference call. The first call occurred during this reporting period, and was beneficial in communicating the outcomes of this joint meeting.

Land Tenure in Indian Country (LTIC) Class and Training Coordination

The proposal for the LTIC class was received from OST and two classes are scheduled. BLM, with assistance from OST and BIA, is expected to present these classes in Phoenix, AZ on March 29, 2004, and in Minneapolis, MN on August 9, 2004. This training course provides communication tools to realty specialists, cadastral surveyors, appraisers, attorneys, other land tenure specialists and managers about land issues facing BIA, BLM, OST and tribal governments. The BLM Cadastral Indian Program Manager and the Cadastral Survey Training Coordinator expect to continue to assist the OST curriculum committee and BIA in the development and implementation of future trust training courses.

Current Status

Interior Indian Trust Lands Boundary Standards (Draft)

These standards are expected to increase efficiencies in land transactions and boundary issues by establishing standard processes and formal procedures for consulting between title and realty specialists, resource managers and land surveyors on land tenure and boundary issues. Efficiencies are expected to be gained by avoiding unnecessary costly surveys and reducing the duplication of efforts in land tenure activities. In lieu of further briefings by BLM, BLM and BIA agreed to establish a working group to enhance the standards based upon BIA comments. This working group is expected to meet in the next reporting period and subsequent review within Interior will be deferred pending the results of the working group.

Assistance in Interior Reengineering Efforts

The draft cadastral elements of the "To-Be" reengineering efforts were presented to Interior managers at the joint BIA and BLM cadastral meeting and at four "To-Be" business model presentations. The major cadastral change proposed in the draft "To-Be" Model consists of development and use of licensed private land surveyors who have received federal training and certification. These deputy surveyors are expected to provide more flexibility in delivering services to Indians, Tribes, BLM and other federal agencies, while operating under the direction of BLM. The draft "To-Be" Model also proposes establishing a cadastral surveyor in each BIA regional office to work directly with BIA on trust issues. This cadastral surveyor would help verify survey requests, research Indian Survey Services records, consult with BIA on complex legal land descriptions and address GCDB issues. This recommendation is part of the "To-Be" implementation plan, which is expected to be completed in the third quarter of FY2004.

GCDB Data Collection for High Priority Areas

GCDB is a computerized graphic portrayal of the Public Land Survey System (PLSS) and is derived from a compilation of best available survey and title records. GCDB is not the official survey record but is a computerized representation of the boundaries and is extremely useful in the management of trust assets. The official survey is a composite of on-the-ground survey markers and monuments and recorded survey plats and notes located within BLM and county offices. GCDB information is an essential layer for a CGIS as it provides the most current, accurate and best available information on allotment and Indian boundaries within a computerized Geographic Information System (GIS). A CGIS is the most useful type of GIS for management of high-valued resources, such as minerals and timber. CGIS adds the essential cadastral layer to a GIS, which connects the boundaries to the ownership and land use encumbrance records.

BLM established an inventory of priorities for GCDB collection in Indian country during this reporting period. The BIA regional offices are expected to submit pilot project proposals during the next reporting period. The BIA, BLM and OST working group, which met in this reporting period, agreed that two pilot projects would be selected. One of the pilot projects would be in an area where no GCDB information exists. The second pilot project would be in an area where the basic structure of GCDB information is already collected for the PLSS but a need exists for further collection of allotment parcel data. During the next reporting period, a proposal is expected to be prepared and presented to OST for consideration of approval and funding of the two pilot projects that are selected.

Results of GCDB work already performed indicate that additional funding to collect and maintain GCDB data at the parcel level would be beneficial.

Delays and Obstacles

Limited Resources

The cost to perform all requested surveys would be approximately 68 million dollars. The current budget of eight million dollars per year only addresses the most urgent survey needs. Furthermore, an estimated two to three million dollars in new cadastral requests are generated each year. Carefully allocating cadastral services for the highest priority surveys, developing CGIS and incorporating the numerous recommendations in the "As-Is" report should help alleviate the projected backlog of high-priority survey needs.

Missing BIA Indian Service Survey Records and Non-Cadastral Survey Records

BLM cadastral surveyors have often been able to gather only portions of the records of surveys conducted by the BIA Indian Service Surveyors from the 19th and 20th centuries, as well as non-cadastral surveys performed by non-BLM employees. These surveys are located in at least 12 states and on 42 reservations. A lack of historical records can lead to errors in current cadastral surveys and impair the bona fide rights of allottees, tribes and fee land owners. Currently,

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Cadastral Survey

missing records are identified as surveys are performed in the field where evidence is found of previously-performed BIA Indian Service surveys. Once on-the-ground surveys are identified, a search is made for the missing survey records. In order to locate and inventory these records, BLM contacted the Office of Trust Records (OTR) and BIA. OTR indicated it rarely encounters records related to surveys but would provide any found records to BLM. BIA has agreed to request an inventory of Indian Service records that relate to land surveys in the next reporting period.

Disconnection from the Internet

The Court-ordered disconnection from the Internet has adversely impacted the way communications are handled between BLM, BIA and OST. It has also hampered the way CARS is being implemented by reducing effective communications among BIA, BLM and OST.

Assurance Statement

I concur with the content of the information contained in the Cadastral Survey section of the *Status Report to the Court Number Sixteen*. The information provided in this section is accurate to the best of my knowledge.

Date: January 29, 2004

Name: *Signature on File*
Donald A. Buhler
Chief Cadastral Surveyor
Bureau of Land Management

C. MINERALS MANAGEMENT SERVICE

Introduction

Minerals Revenue Management (MRM), a program of the Minerals Management Service (MMS), is responsible for collecting, accounting for, and distributing mineral revenues from both federal and Indian mineral leases and for evaluating industry compliance with laws, regulations, and lease terms. MRM conducts its business processes, maintains reported information, and distributes revenues at the lease level. The Bureau of Indian Affairs (BIA) maintains individual Indian ownership records and distributes the lease revenues to individual Indian beneficiaries.

Accomplishments and Completions

Records Destruction Incident – Farmington Indian Minerals Office (FIMO)

During this reporting period, MMS completed the remaining item outstanding from this incident. All policies and procedures within FIMO were reviewed to assure compliance with applicable laws, regulations, delegations, etc. Those policies and procedures found not to be in compliance were corrected.

Current Status

Document Procedures Regarding Royalties Disbursement

As previously reported, MMS is working with BIA and OST to prepare Memoranda of Understanding (MOU) documenting inter-bureau procedures regarding information exchanges associated with mineral revenue disbursements. By February 28, 2004, MMS expects to submit to BIA and OST draft MOU containing proposed formats along with MMS-relevant mineral revenue disbursement procedures. MMS will request that BIA and OST incorporate their relevant procedures and other comments, and work with MMS to finalize and approve the MOU. The target date for completing the MOU is June 30, 2004.

Indian Oil Rule

The proposed rule for valuing crude oil produced from Indian leases is under review by the Solicitor's office. As previously reported, a timeline for implementation of the new rule has not been established.

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Minerals Management Service

Assurance Statement

I concur with the content of the information contained in the Minerals Management Service section of the *Status Report to the Court Number Sixteen*. The information provided in this section is accurate to the best of my knowledge.

Date: January 30, 2004

Name: *Signature on File*
Cathy J. Hamilton
Chief of Staff
Minerals Revenue Management
Minerals Management Service

D. WORKFORCE PLANNING

Introduction

Workforce planning is a comprehensive process that provides managers with a framework for making staffing decisions based on an organization's mission, strategic plan, budgetary resources, and the associated skills needed to accomplish mission tasks. Indian trust management workforce planning is a continuous process at the Department of the Interior (Interior), involving a comprehensive process of assessing: current workload, current program efficiencies and gaps, future work and skill gaps, and options for addressing current and future workforce needs.

In the *Status Report to the Court Number Fifteen*, Interior reported that its agencies had completed workforce plans for FY2004-2008. Completion of these workforce plans rectifies the workforce planning breach originally identified by the Court in 1999. As a result, Interior will no longer include a separate section on workforce planning in future status reports to the Court. Workforce issues are expected to continue to be reported as needed but will be integrated into other status report sections, reflecting the workforce responsibilities of particular trust managers.

Assurance Statement

I concur with the content of the information contained in the Workforce Planning section of the *Status Report to the Court Number Sixteen*. The information provided in this section is accurate to the best of my knowledge.

Date: January 30, 2004

Name: *Signature on File*

Kathryn A. Bown

Indian Trust Human Resource Advisor

Office of Assistant Secretary-Policy, Management and Budget

E. OFFICE OF HISTORICAL TRUST ACCOUNTING

Introduction

On July 10, 2001, the Office of Historical Trust Accounting (OHTA) was established by Secretarial Order No. 3231. The purpose of OHTA is to plan, organize, direct and execute the historical accounting of Individual Indian Money (IIM) and Tribal Trust accounts (Secretarial Order No. 3231 and Amendment Numbers 1 and 2).

Accomplishments and Completions

Third-Party Document Collection

On October 20, 2003, OHTA distributed a memorandum to the Bureau of Indian Affairs (BIA), the Bureau of Land Management (BLM) and the Minerals Management Service (MMS) requesting a list of entities that have trust-related contracts or other financial relationships with an individual Indian or a Tribe. OHTA has received responses from BLM and MMS.

On October 29, 2003, OHTA sent an informational letter to about 600 tribal leaders reiterating a Department of the Interior (Interior) request to preserve documents relevant to IIM accounts and land assets. This letter included a copy of a 1999 Court order directing the retention of trust-related documents, a 1999 letter from Interior's Chief of Staff asking that trust-related documents be retained, a list of document types that may be relevant to the historical accounting effort and a copy of the May 5, 2003, *Federal Register* notice describing Interior's third-party document collection policy.

The purpose of these communications is to develop a list of potential holders of third-party records and to preserve such records which may exist, respectively.

Current Activities

Eastern Region IIM Land-Based Accounts

OHTA has completed a draft report regarding the historical accounting project for 289 Eastern Region land-based IIM transactions with a throughput amount of \$126,362. A quality-control review of the draft report is expected to be delivered during the next reporting period.

Judgment and Per Capita IIM Accounts

OHTA has been tasked to reconcile Judgment and Per Capita IIM accounts. As reported in previous *Status Reports to the Court*, OHTA continues to perform historical accounting procedures on these IIM accounts. As explained at length in the *Status Report to the Court Number Fifteen*, OHTA has revised its presentation on Judgment and Per Capita IIM accounts.

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Office of Historical Trust Accounting

Following is a summary of progress during the reporting period, and cumulative progress to date for (1) Judgment IIM Accounts Fully Reconciled, (2) Partially Reconciled Judgment Accounts, (3) Per Capita IIM Accounts Fully Reconciled and (4) Per Capita IIM Transactions Reconciled.

Judgment IIM Accounts Fully Reconciled

OHTA has completed work as follows.

	<u>IIM Judgment Accounts Reconciled to 12/31/00 Subgroup A¹</u>		<u>Quality Control Checks Completed²</u>	
	<u>Number of Accounts</u>	<u>Dollars</u>	<u>Number of Accounts</u>	<u>Dollars</u>
Reported in earlier <i>Reports</i> (cumulative through September 30, 2003)	17,376	\$49,482,162	15,150	\$46,740,282
Report delivered October 31, 2003	71	139,541	--	--
Report delivered October 31, 2003	--	--	71	139,541
Report delivered November 26, 2003	200	459,580	--	--
Report Delivered December 31, 2003	<u>38</u>	<u>407,692</u>	<u>--</u>	<u>--</u>
Totals through December 31, 2003	<u>17,685</u>	<u>\$50,488,975</u>	<u>15,221</u>	<u>\$46,879,823</u>

- (1) OHTA found that there were four Judgment IIM account subgroups-Subgroup A, B, C and D. Subgroup A includes Judgment IIM accounts with a single credit deposit and monthly interest accruals through December 31, 2000, and no disbursement of funds.
- (2) Quality control work is in process for three deliveries covering 2,464 accounts with December 31, 2000, balances of \$3,609,152. This quality control work is expected to be completed during the next reporting period.

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Partially Reconciled Judgment Accounts

OHTA has completed partial reconciliation work on Judgment IIM accounts as summarized below.

Judgment IIM Accounts Partially Reconciled									
	Subgroup B ¹		Subgroup C ²		Subgroup D ³		Total		
	Number of Accounts	Dollars	Number of Accounts	Dollars	Number of Accounts	Dollars	Number of Accounts	Dollars	
Reported in earlier <i>Reports</i> - Accounts Partially Reconciled (cumulative through September 30, 2003)	17,279	\$22,217,180	2,542	\$3,167,320	18,229	\$20,377,965	38,050	\$45,762,465	
Report Delivered, October 31, 2003	547	545,784	35	42,691	317	339,994	899	928,469	
Report Delivered November 26, 2003	686	1,730,819	337	1,487,598	2,767	2,254,853	3,790	5,473,270	
Report Delivered December 31, 2003	37	20,061	3	--	19	--	59	20,061	
Accounts Partially Reconciled, December 31, 2003	<u>18,549</u>	<u>\$24,513,844</u>	<u>2,917</u>	<u>\$4,697,609</u>	<u>21,332</u>	<u>\$22,972,812</u>	<u>42,798</u>	<u>\$52,184,265</u>	
(1) Subgroup B includes Judgment accounts with a single credit deposit and monthly interest accruals with a single disbursement. (2) Subgroup C includes Judgment accounts with a single credit deposit and monthly interest accruals with multiple disbursements. (3) Subgroup D includes Judgment accounts with the single credit deposit and monthly interest accruals, and land-based transactions (income from land interests owned by the account holder).									

Per Capita IIM Accounts Fully Reconciled

OHTA has completed work as follows.

	<u>IIM Per Capita Accounts Reconciled to 12/31/00</u>		<u>Quality Control Checks Completed</u>	
	<u>Number of Accounts</u>	<u>Dollars</u>	<u>Number of Accounts</u>	<u>Dollars</u>
Reported in earlier <i>Reports</i> (cumulative through September 30, 2003)	619	\$2,600,415 ¹	408	\$2,081,775
Report Delivered September 24, 2003	--	--	<u>211</u>	<u>518,640</u>
Totals Through December 30, 2003	<u>619</u>	<u>\$2,600,415</u>	<u>619</u>	<u>\$2,600,415</u>

(1) Revised from \$2,593,415, resulting from a \$7,000 typographical error in the previous report.

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Per Capita IIM Transactions Reconciled

OHTA has completed work as follows.

	<u>Number of Transactions</u>	<u>Dollars</u>
Transactions Reconciled (cumulative through September 30, 2003) ¹	122,603	\$163,713,085 ²
Report Delivered October 31, 2003	5,387	18,904,126
Report Delivered November 26, 2003	2,630	655,969
Report Delivered December 31, 2003	<u>183</u>	<u>312,520</u>
Totals Through December 31, 2003	<u>130,803</u>	<u>\$183,585,700</u>

(1) These data were reported in the *Status Report to the Court Number Fifteen*.

(2) Revised from \$163,463,131, resulting from a revision of transactions reconciled as of June 30, 2003, in the previous *Status Report to the Court Number Fifteen*.

Special Deposit Accounts (SDA) Clean-Up Project

The SDA Clean-Up Project continues to identify the proper ownership of residual funds in SDA. The objective is to identify or reclassify funds held in SDA and distribute monies to proper accounts, tribes, or private entities.

The results of the SDA Clean-Up Project are provided in the following table.

	<u>Number of Accounts</u>	<u>Dollars</u>
SDA that remain to be resolved as of August 18, 2003 ¹ - Reported in the <i>Status Report to the Court Number Fifteen</i>	15,425	\$45,221,094
SDA resolved from August 19, 2003, through September 30, 2003	<u>(681)</u>	<u>(1,954,159)</u>
SDA remaining to be resolved as of September 30, 2003 ²	14,744	43,266,935
Interest posted on undisbursed SDA and additional collections credited to SDA during the reporting period ending December 31, 2003	-	3,037,554
SDA resolved from October 1, 2003, through December 31, 2003	<u>(553)</u>	<u>(3,133,087)</u>
SDA remaining to be resolved as of December 31, 2003 ^{2,3}	<u>14,191</u>	<u>\$43,171,402</u>

(1) Statistics provided as of August 18, 2003. SDA statistics were not available from August 19, 2003, through September 30, 2003, in time for preparation for the *Status Report to the Court Number Fifteen*.

(2) Represents the number of accounts and the current dollars within the OHTA population of accounts as of the respective period end.

(3) These totals should reflect the beginning SDA statistics in the *Status Report to the Court Number Seventeen*.

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As stated in the *Status Report to the Court Number Fifteen*, OHTA is coordinating the SDA Clean-Up Project by working with and providing assistance to BIA Agencies to clean up their own SDA or, if an Agency chooses, to use OHTA or contractor staff to perform the work. During this reporting period, OHTA held orientation meetings on the SDA Clean-Up Project with the Rocky Mountain and Midwest BIA regions and their respective Agencies. This completes orientation with BIA Regions and Agencies. Meetings were held also with two self-governance or contracted tribes.

The *Status Report to the Court Number Fifteen* reported that 543 Recommended Action Forms (RAF) were prepared that addressed ownership of residual funds in SDA during the reporting period. These 543 RAF were submitted to the OST Office of Trust Funds Management (OTFM) for processing and disbursement.

During this reporting period, OHTA prepared approximately 380 RAF addressing the clean-up of approximately \$291,000 in SDA balances. It is expected that these RAF will be reviewed and the funds distributed by OTFM to IIM account holders, Tribes, or non-Indian owners during the next reporting period.

Imaging/Coding – Indian Trust Documents

The imaging and coding effort has expanded beyond the Alaska Region to encompass other areas at the Office of Trust Records (OTR) facility in Albuquerque, NM, at the Office of the Special Trustee in Albuquerque, NM and at the National Archives and Records Administration facility in Lee’s Summit, MO. OHTA staff sends quality-control checked documents on Digital Video Discs (DVDs) from the OTR Albuquerque facility for delivery to the Account Reconciliation Tool (ART) in Washington, DC.

As of the end of this reporting period, OHTA reports the following imaging and coding work.

	<u>Pages Scanned</u>	<u>Documents Coded</u>	<u>Documents Loaded into ART</u>
Work results from July 9, 2003, to September 30, 2003	526,525	19,286	6,007
Work results from October 1, 2003, to December 31, 2003	<u>1,023,583</u>	<u>78,229</u>	<u>19,196</u>
Cumulative Results	<u>1,550,108</u>	<u>97,515</u>	<u>25,203</u>

The imaging and coding process entails three stages.

1. *Pages Scanned* - The imaging process converts the original paper records into electronic images for electronic data storage purposes.

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Office of Historical Trust Accounting

2. *Documents Coded* - The initial coding process captures specific identifying information, such as an IIM account number, from an imaged document so that the imaged document can be retrieved at a later time. A document may consist of several related records (images) that can be grouped together for further account analysis.
3. *Documents Loaded into ART* - All coded documents are quality-control checked for accuracy before they are loaded into ART for account analysis. This added quality check takes time and accounts for the difference between the number of documents initially coded and the number of documents delivered to ART.

Assurance Statement

I concur with the contents of the information contained in the Office of Historical Trust Accounting section of the *Status Report to the Court Number Sixteen*. The information provided in this section is accurate to the best of my knowledge.

Date: January 27, 2004

Name: *Signature on File*
Bert T. Edwards, Executive Director
Office of the Historical Trust Accounting

III. OFFICE OF THE SPECIAL TRUSTEE FOR AMERICAN INDIANS (OST)

Introduction

The Office of the Special Trustee for American Indians (OST) was created by the American Indian Trust Fund Management Reform Act of 1994 (Act). The Act provides direction to the Department of the Interior (Interior) on accounting for Indian trust funds and reforming the operation of the Indian fiduciary trust. The Special Trustee's responsibilities under the Act include creating a strategic plan for the operation of the trust and providing oversight of the accounting for Indian trust funds and the reform of the trust.

In addition to the role of the Special Trustee set forth in the Act, the Secretary assigned other duties to the Special Trustee, including accounting and investing of collected funds, developing a risk management program, managing a reengineering effort of the trust business processes and creating an audit and review function to grade the performance of various Interior offices and Tribes that perform fiduciary trust functions.

Special Trustee's Observations:

Accomplishments and Completions

The following are highlights of some of the activities accomplished during this reporting period.

Reengineering ("To-Be")

The draft "To-Be" Trust Business Model, containing changes to five major fiduciary trust business processes performed by the Bureau of Indian Affairs (BIA), OST, the Bureau of Land Management (BLM) and the Minerals Management Service (MMS), was presented to Interior and tribal employees. The draft model was incorporated on CD-ROM for ease of distribution and use by interested parties. However, the CD version was not available until January 2004. As a result, some Tribes requested additional time to review the CD. Although this request for additional review was made after the end of this reporting period, Interior believes it advisable to let the Court know that an additional 60-day review time was agreed to with the Tribes. The due date for comments on the draft model is now March 31, 2004. The new date for a final model is now May 31, 2004. An implementation plan is expected to be developed by June 30, 2004. Implementation of the new trust business model is expected to begin soon after the plan is available.

Private sector comments on the draft model are expected to be received during January 2004. The final model is expected to be developed with consideration of these comments.

Trust Audit and Review

A draft of the trust examination procedure and process was developed during this reporting period. The fiduciary trust activities of Interior agencies and self-governance and self-

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Office of the Special Trustee for American Indians

determination Tribes are expected to be reviewed and rated according to their level of compliance and performance in the administration of fiduciary trust processes. The final trust examination process is scheduled for completion and field testing by the end of the first quarter of CY2004.

During the FY2004 appropriation process, several Tribes that have compacted with the BIA to perform trust management functions were provided an exclusion from any impacts of the BIA/OST reorganization or reengineering. However, in order to be exempt, the Secretary is required by the legislation to certify that the Tribes meet the same level of competency in administering the trust functions as is required of Interior. To comply with this requirement, OST is using the preliminary examination process and applying it to the Tribes' operations to determine if the Tribes can be certified in accordance with the congressional directive. This examination process began during December 2003 and is expected to be completed before the end of the first quarter of CY2004.

Advisory Board

Special Trustee Advisory Board members were selected by the Special Trustee during this reporting period. The names have been provided to the Secretary for review. Appointments are expected to be made, and the first meeting to be held, during the first quarter of CY2004.

Current Activities

Reorganization

Implementation of OST reorganization continued during this reporting period. Five of the six candidates selected as trust administrators accepted employment offers. Several of the individuals selected have extensive private sector trust experience. They expect to assume their duties by the end of the second quarter of CY2004. Trust officer positions are being advertised and several new trust officers also are expected to be hired by the end of the first quarter of CY2004.

As part of the reorganization effort, OST proceeded with its efforts to contract for the investment management of IIM funds. A request for proposal was issued during this reporting period. The time for submitting proposals expires in January 2004, and a contractor is expected to be selected by the end of the first quarter of CY2004.

Legislation

A major legislative action began in this reporting period with the introduction by the Senate Committee on Indian Affairs of S. 1721, containing proposed amendments to the Indian Land Consolidation Act and Indian probate laws. Extensive work has been done on this legislative initiative by various Indian groups as well as Interior. It is expected that this will be one of the first legislative actions for consideration when Congress returns in 2004.

Delays and Obstacles

Obstacles to trust reform include the lack of access to the Internet by Interior trust managers and staff, required management of very small IIM accounts and obtaining cooperation from Tribes for the reorganization and reengineering effort. Resolution of the Internet issue is with the Court, small account issues may require legislative action and tribal cooperation will continue to be sought through consultation and hearings.

The reengineering of trust business processes also may become more of an obstacle as the reengineered processes begin to be introduced into day-to-day activities of Interior agencies. The reengineered business processes are expected to result in major changes in the way Interior agencies do business, and, as a result, will require full cooperation of these agencies if the changes are to be implemented. However, it also is expected that the changes can create substantial productivity improvements in the way Interior agencies deliver services and meet the needs of the Tribes and individual Indian beneficiaries.

Assurance Statement

The comments and observations are provided by the Special Trustee for American Indians and reflect the opinion of the Special Trustee only.

Date: January 29, 2004

Name: *Signature on File*
Ross O. Swimmer
Special Trustee for American Indians

A. TRUST REVIEW AND AUDIT

Introduction

The Office of Trust Review and Audit (OTRA) reports directly to the Special Trustee for American Indians. OTRA is responsible for conducting performance audits of agencies and offices managing trust activities, providing a numerical rating of their performance and conducting audits and reviews that may be requested by individual account holders, Tribes, the Special Trustee and Department of the Interior (Interior) staff.

Accomplishments and Completions

Annual Interior Indian Trust Funds Financial Statement Audit

The Indian trust funds financial statement audit is required by the American Indian Trust Fund Management Reform Act of 1994 (Act), and has been conducted by an independent third party each year since 1995. The FY2003 audit was completed by the Office of the Inspector General (OIG) during this reporting period. It included the same material weaknesses and the reportable condition as in prior years but recognized that progress was being made towards resolution. As required by the Act, a notice to account holders advising them that the audit has been completed and is available for their review is expected to be distributed with account statements during the next reporting period.

The annual trust fund financial audit is being expanded. A working group comprised of OIG, OST, Minerals Management Service (MMS), Bureau of Land Management and Bureau of Indian Affairs (BIA) representatives has planned increased audit coverage to include all funds, cash collection, processing procedures, ownership and other operational trust asset management functions not previously covered. In FY2004, the trust fund financial statement audit coverage is expected to be expanded to include trust cash management and associated internal control processes at OST, BIA and MMS. In FY2005, the audit is expected to include a review of the accuracy of ownership records. The additional audit work is to be managed by OIG. The contract to accomplish the expanded work for FY2004 was awarded during this reporting period.

OTRA Director

During this reporting period, a new director for OTRA was appointed. The director is expected to assume the position full time during the next reporting period.

Current Status

Compliance Reviews

Compliance reviews result from inquiries by beneficiaries or other interested groups and usually question the adequacy or status of trust and fiduciary activities of Interior. OTRA assigns the inquiries to internal audit staff to investigate and, when needed, recommend appropriate

corrective actions. The cooperative agreement with OIG to provide investigator assistance in these reviews when appropriate is expected to be completed during the next reporting period.

During this reporting period, four new cases were received, resulting in 22 cases in inventory. For the 22 in inventory, field work is underway on 16 and draft reports are being prepared and reviewed on six.

Examinations of Self-Governance Demonstration Tribes

The FY2004 appropriations act exempted ten self-governance tribes from the impacts of trust reform and reorganization. However, their exemption is conditioned upon a certification from the Secretary that they are operating trust programs in accordance with the same fiduciary standards to which the Secretary is held.

OTRA drafted review plans for and initiated field visits with two of the tribes during this reporting period. Additional field visits and reports discussing the extent to which these tribes are meeting the fiduciary standards to which the Secretary is held are expected to be completed during the next reporting period.

Annual Audit Corrective Actions

The corrective action plans for outstanding audit findings and recommendations continue to be developed. Additional corrective action information for FY2002 and prior audits was received during this reporting period. Follow-ups are expected to commence during the next reporting period to ensure that corrective plans are developed. Once the corrective action plans are developed, a monthly progress report on implementation of actions to resolve material weaknesses is expected to be monitored by senior Interior officials.

Indian Trust Rating System

Previously reported development work is ongoing. A senior examiner from the Office of the Comptroller of the Currency and OTRA staff are cooperatively developing examination procedures that include the planning processes; data needs and evaluation processes; and definitions of and processes for assigning ratings and evaluating results for the Trust Rating System. Final drafts of these procedures and reviews by senior OST managers were completed during this reporting period. The drafts are expected to be distributed to other Interior offices for review and comment during the next reporting period. Once implemented, Interior offices and agencies and compacting and contracting Tribes performing fiduciary trust functions are expected to receive a rating of their performance of fiduciary trust activities.

STATUS REPORT TO THE COURT NUMBER SIXTEEN

February 2, 2004

Trust Review and Audit

Assurance Statement

I concur with the content of the information contained in the Trust Review and Audit section of the *Status Report to the Court Number Sixteen*. The information provided in this section is accurate to the best of my knowledge.

Date: February 2, 2004

Name: *Signature on File*

Kenneth M. Moyers

Acting Director, Office of Trust Review and Audit

Office of the Special Trustee for American Indians

B. CHIEF INFORMATION OFFICE

1. RECORDS MANAGEMENT

Introduction

The Office of Trust Records (OTR) was established in 1999 to develop and implement a program for the economical and efficient management of trust records, consistent with the American Indian Trust Fund Management Reform Act of 1994, the Federal Records Act, other statutes and implementing regulations. The line authority for supervision and management of OTR remains with the Assistant Deputy Secretary. The OTR records management program has been developed and implemented, and continues to evolve, to ensure that: necessary Indian records are maintained, records retention needs are met through authorized schedules, and the records are safeguarded throughout their life-cycle.

Accomplishments and Completions

Fiduciary Trust Records Definition

The records series matrices identifying Indian fiduciary trust records for the Bureau of Indian Affairs (BIA) and the Office of the Special Trustee for American Indians (OST) were distributed to BIA and OST on October 9, 2003. The matrices consist of records series currently in the 16 Bureau of Indian Affairs Manual (BIAM) Records Retention Schedules containing trust records.

Record Keeping Requirements

On November 19, 2003, the Assistant Deputy Secretary, OTR and BIA met with the tribal/federal records management work group. The work group was established as an outcome of the conference at the Haskell Indian Nations University in September 2003. The work group discussed records management issues facing compacting and contracting tribes. An additional meeting is anticipated in the next reporting period.

In December 2003, a Memorandum of Understanding (MOU) between OTR and BIA was signed. The purpose of the MOU is to formalize the partnership between OTR and BIA with regard to the management of general records created, maintained and used by the BIA. The MOU contemplates an annual work plan to be negotiated between BIA and OTR setting deliverables and performance measures.

Records Management Liaisons

OTR completed placement of all records management liaisons in the BIA regions during this reporting period. Each BIA region now has a records management liaison, except that the liaison in the Pacific Regional Office, located in Sacramento, CA, serves both the Pacific and Alaska regions. OTR provided in-depth training for eight of the liaisons in November 2003. In-depth training is expected to be provided for the remaining three liaisons during the next reporting

period. The records management liaisons will provide technical assistance to the BIA field personnel on records management responsibilities.

Records Retention Schedules

The updates to the 4000 records series of 16 BIAM were approved by the Archivist of the United States during this reporting period. The updated records series were submitted to the National Archives and Records Administration (NARA) in the last reporting period, as described in the *Status Report to the Court Number Fifteen*.

Development of Policies and Procedures

OTR distributed to BIA and OST on December 30, 2003, the completed chapters of its Indian Affairs Records Management Manual (Manual) containing the policies and procedures OTR expects to use for records management. Policies and procedures for research requests, frozen or litigation records and electronic records are expected to be issued in the next reporting period to complete the Manual.

Current Status

Record Keeping Requirements

On October 27, 2003, the Assistant Deputy Secretary issued a memorandum to bureau directors and office heads within the Department of the Interior (Interior) on "Identification and Retention of Indian Fiduciary Trust Records." Each agency is required to assess all records, by records series, to identify Indian fiduciary trust records. OTR plans to report on responses during the next reporting period.

Records Retention Schedules

The approved 4000 records series schedules are expected to be distributed to the BIA and OST Chief Information Officers for electronic distribution to BIA and OST staff in the next reporting period. OTR continues to work with BIA and OST to provide information required by NARA in its review of the electronic records schedules. These schedules include:

1. Integrated Records Management System (IRMS) Lease/Lease Distribute/Range/Owner Module;
2. IRMS – Individual Indian Monies;
3. IRMS People/Per Capita Modules;
4. Royalty Distribution and Reporting System;
5. Osage Annuity System;
6. Land Records Information System.

Training

During this reporting period, OTR provided records management training for 162 BIA/OST staff and 218 tribal employees at seven records management training sessions. Five BIA managers attended a manager's orientation session at the BIA Papago Agency.

Evaluation of Records Programs

OTR discussed its preliminary findings and recommendations with OST Field Operations Senior Management for twelve pilot site assessments conducted at OST Field Operations sites. OTR plans to conduct more outreach on records management requirements through additional training on records programs. OTR is expected to further emphasize records management program requirements in its training beginning in the next reporting period. OTR is expected to resume site assessments in the third quarter of CY2004.

Records Retrieval/Indexing Project

OTR's contractor continued indexing boxes of Indian records in Albuquerque, NM and Kansas City, MO. The total number of boxes indexed through December 31, 2003, is approximately 39,500. As reported in the *Status Report to the Court Number Fifteen*, the index is designed to serve as a finding aid to research boxes of records. It provides a box and file level index of all boxes; that is, within each box, the title on each folder is captured along with the region or agency that created the records. In the case of financial records a document type and date range also are captured. The indexing project does not include the imaging of individual documents. Testing of the database search engine continues and is expected to be ongoing for the duration of the project as researchers use the database and anomalies are discovered and addressed. Priority for the indexing of boxes of Indian records at both locations continues to be those boxes of records potentially responsive to tribal trust litigation, and now also includes boxes required by the Office of Historical Accounting (OHTA) to meet the requirements of OHTA projects.

In support of the historical accounting effort, Interior plans to utilize available OTR and OHTA staff and contractor resources to search for selected records during the next reporting period. As a result, Interior anticipates an estimated two-month delay in the indexing project resulting in the completion of the initial phase during the third quarter of CY2004.

Delays and Obstacles

Lack of Internet access continues to hinder OTR's ability to provide access to the record index database by client agencies and authorized users of the records. Competition for the limited space in OTR facilities is intense and interrupts OTR's daily work activities as OTR staff attempt to respond to requests for instantaneous access to records from federal attorneys, plaintiffs' tribal trust litigation attorneys and their contractors, and federal agencies and their contractors. If Internet access were available, authorized researchers could conduct their searches remotely from their respective work sites and only visit OTR when necessary to inspect specific boxes.

STATUS REPORT TO THE COURT NUMBER SIXTEEN

February 2, 2004

Records Management

Assurance Statement

I concur with the content of the information contained in the Records Management section of the *Status Report to the Court Number Sixteen*. The information provided in this section is accurate to the best of my knowledge.

Date: January 29, 2004

Name: *Signature on File*

Ethel J. Abeita

Director, Office of Trust Records

Office of the Special Trustee for American Indians

C. TRUST ACCOUNTABILITY

1. TRUST BUSINESS MODELING

Introduction

The Department of the Interior (Interior) is striving to build a highly effective fiduciary trust services organization through the “To-Be” Reengineering effort. The “To-Be” reengineering phase is a process redesign activity that should transform the current trust business processes into more efficient, consistent, integrated and fiscally responsible business processes that meet the needs and priorities of the beneficiaries. The initial “To-Be” Model includes the following major trust business processes:

- **Financial Operations** – To assure the timely identification, collection, deposit, investment and distribution of income due or held on behalf of tribal and individual beneficiary account holders.
- **Beneficiary Relationship Development and Management** – To provide beneficiaries with accurate and timely trust asset information and counseling on asset management and use options. This is accomplished by incorporating the Secretary’s Trust Principles and the concepts outlined in the Comprehensive Trust Management Plan (CTM) into the process.
- **Ownership** – To ensure the inventory of trust or restricted ownership interests are current, accurate and accessible. This process ensures the identification of all beneficiary ownership interests for accurate and timely distribution of income, as well as distribution of trust assets to current and future beneficiaries.
- **Land and Natural Resources Planning** – To provide beneficiaries with support necessary to develop wide-area plans that enhance and expedite the management and utilization of trust land and natural resources.
- **Land and Natural Resources Use and Management** – To ensure lands are productive and managed in accordance with accepted conservation and preservation practices. Land use is monitored for compliance and enforcement with established agreements to protect trust assets.

Accomplishments and Completions

As reported in the last reporting period, the draft “To-Be” Trust Business Model was completed. To produce the final “To-Be” Trust Business Model, input is expected from stakeholders who may be affected. The Trust Program Management Center (TPMC) conducted four “To-Be” informational meetings, with an average of 150 people attending each meeting during this reporting period. These meetings were intended to provide stakeholders with an opportunity to

review and comment on the draft “To-Be” Model. The informational meeting dates and locations were as follows:

“To-Be” Reengineering Informational Meetings

Date	Location
November 18 – 20, 2003	Albuquerque, NM
December 2 – 4, 2003	Oklahoma City, OK
December 9 – 11, 2003	Portland, OR
December 16 – 18, 2003	Minneapolis, MN

To prepare for the “To-Be” reengineering informational meetings, the process sponsors completed the following tasks during this reporting period.

- Formal presentations for each of the five major trust business processes being reengineered were prepared.
- TPMC presented the draft “To-Be” Model, the initial gap analysis and a preview of the “To-Be” orientation presentation to the Trust Executive Steering Committee (TESC). Comments and recommendations received from the TESC were incorporated into the final version of the formal presentations for each of the five major trust business processes.

The information presented during the “To-Be” informational meetings has been compiled on a CD titled “To-Be” Trust Business Model Version 6.3 - Draft. The CD includes the: 1) Process Templates; 2) Gap Analysis, Process Decomposition Tables and Universal Support Requirements; and 3) Process Flow Diagrams for each major trust business process of the draft “To-Be” Model. The CD is expected to be mailed to Tribes and made available on Interior’s website at www.ost.doi.gov and at www.trustfix.com during the next reporting period.

Current Status

During December 2003, TPMC management and the process sponsors began reviewing and contributing to the functional requirements for a new Indian trust realty system to ensure that system requirements and functionality meet the needs of the “To-Be” Model. The TPMC will lead the development of the final trust business model and participate in the development of functional requirements of systems impacting the Indian trust.

A private sector review of the draft “To-Be” Model, for comparison with private sector trust business processes, began during this reporting period. In this effort, two financial institutions are making a comparative analysis of each of the five major trust business processes with commercial trust business processes for the purpose of identifying gaps or operational differences. The analysis is expected to provide insight for making improvements to the draft “To-Be” Trust Business Model.

The final "To-Be" informational meeting will be conducted in Rapid City, SD, during January 2004. Comments and recommendations for improving the five major trust business processes collected from this session will be considered along with those received to date. In response to tribal requests, the due date for submitting comments and recommendations has been extended to March 31, 2004. Accordingly, the final "To-Be" Model due date has been extended to May 31, 2004, with the final implementation plan due June 30, 2004.

Delays and Obstacles

Major obstacles affecting the ability of Interior to build a trust services delivery model include:

- lack of Internet access;
- sheer complexity of reengineering the existing trust business processes to achieve integrated and consistent business processes.

Assurance Statement

I concur with the content of the information contained in the Trust Business Process Modeling section of the *Status Report to the Court Number Sixteen*. The information provided in this section is accurate to the best of my knowledge.

Date: February 2, 2004

Name: *Signature on File*
D. Jeff Lords
Acting Deputy Special Trustee
Trust Accountability

2. COMPREHENSIVE TRUST MANAGEMENT PLAN

Introduction

As outlined in The Comprehensive Trust Management Plan (CTM), the Department of the Interior (Interior) continues its efforts to manage the fiduciary trust by implementing changes in management, organizational structure and business processes. CTM provides the necessary structure and framework for communicating Interior's vision of trust operations. CTM will continue to evolve and change as the final "To-Be" Model is developed and as trust reform efforts continue.

Accomplishments and Completions

The Trust Tracking and Coordination (TRAC) system was tested and version 1.0 was completed as planned.

Current Status

TRAC implementation is expected to continue during the next reporting period as work-plans are loaded into the system. As TRAC is implemented, the inventory of projects and action items is expected to grow to include all projects that impact trust reform. This will provide management with one of the tools needed to monitor the progress of trust reform.

The draft "To-Be" Model has been shared with the Tribes and Interior agencies and comments have been requested. The final model was expected to be completed by March 31, 2004. As a result of an agreement with the Tribes, an additional comment period of 60 days, through March 31, 2004, has been provided. This action advances the date for the completion of the final "To-Be" model to May 31, 2004, with an implementation plan expected to be completed by June 30, 2004.

Delays and Obstacles

Personnel Considerations: Personnel transition uncertainty and change management resulting from the OST/BIA reorganization continue to present an expected but manageable challenge to implementation of CTM.

Technology Considerations: The lack of Internet access continues to delay reform efforts as work is forced to be completed manually to overcome the electronic communication barrier. Transferring electronic data within or outside Interior without the use of this common technology increases communication time and introduces an increased risk of errors. It also compounds the amount of work necessary to complete any task that requires coordination outside of OST/BIA. Such tasks include budgeting, financial reporting, performance planning and any other task that requires coordination with the Office of the Secretary or elsewhere within Interior.

STATUS REPORT TO THE COURT NUMBER SIXTEEN

February 2, 2004

Comprehensive Trust Management Plan

Assurance Statement

I concur with the content of the information contained in the Comprehensive Trust Management Plan section of the *Status Report to the Court Number Sixteen*. The information provided in this section is accurate to the best of my knowledge.

Date: January 30, 2004

Name: *Signature on File*

Victor J. Christiansen

Acting – Director of Budget, Finance, and Administration

Office of the Special Trustee for American Indians

3. TRUST DATA QUALITY AND INTEGRITY

Introduction

The success of trust reform depends foremost on the accuracy of data upon which trust land is maintained, trust land ownership is determined, trust income distributed, and trust accounts managed. The purpose of this trust reform task is to standardize trust data elements; to implement quality controls which will ensure trust data is accurate, current, and secure; and to provide trust real property asset statements to beneficiaries.

Data Quality and Integrity (DQ&I) Pilot Agency Project

The DQ&I pilot agency project focuses on accomplishing two initiatives: (1) implementing Post Quality Assurance (Post-QA) processes at the Bureau of Indian Affairs (BIA) Anadarko Agency, Concho Agency and their servicing Southern Plains Regional Office (SPRO) Land Titles and Records Office (LTRO), and (2) validating/correcting current Critical Data Elements (CDE) to their respective source documents. CDE are defined as those trust data elements that are needed to provide: (1) timely and accurate payments to beneficiaries; (2) timely and accurate transaction listings and asset inventories to beneficiaries, and (3) effective management of the assets. Examples of CDE are beneficiary name, account number, tract identification number, and land ownership interests. Current CDE are planned to be validated/corrected, on a tract-by-tract basis, to their source input document, with errors being delivered to the CDE owner for resolution. Upon completion of CDE validation/correction at the Anadarko Agency, Concho Agency, and SPRO-LTRO, the Post-QA process is expected to remain to help ensure that CDE updates are accurate.

The Anadarko and Concho Agencies are the initial DQ&I pilot agency project sites. Once successfully implemented at these locations and the SPRO-LTRO, the DQ&I pilot agency project is scheduled to be expanded, beginning in CY2004, to the following four additional BIA locations: Pima Agency, Eastern Navajo Agency (ENA), Pine Ridge Agency and Palm Springs Field Office.

Accomplishments and Completions

During this reporting period, the following were completed by the Trust Program Management Center (TPMC):

- On a weekly and on going basis, Post-QA review information was assimilated and provided to the Anadarko Agency, Concho Agency, and SPRO management. This information showed the number of documents that: (1) went through Post-QA review; (2) went through Post-QA review that were encoded accurately into the respective land title and realty systems; and (3) were returned to the originating office due to discrepancies between the document encoding and source document.

STATUS REPORT TO THE COURT NUMBER SIXTEEN

February 2, 2004

Trust Data Quality and Integrity

- Scanning of available Concho Agency documents, at the SPRO-LTRO, was completed by a contractor who is expected to utilize these scanned documents for CDE validation/correction.
- CDE validation/correction was initiated for the Concho Agency.
- Secured access from BIA and the Office of the Special Trustee for American Indians (OST) for the contractor to the CGI Land Title System, Land Records Information System (LRIS), Real Estate Module (REM), and Trust Funds Accounting System for the Concho and Anadarko Agencies. The ability to access these systems is necessary for the contractor to begin CDE validation/correction.
- Standard Operating Procedures for Post-QA review of land title and realty system entries were completed and provided to the SPRO management for review and approval.
- The document scanning list for the Pima Agency was completed. This list identifies those documents which need to be scanned in order to perform CDE validation/correction for this location.
- Pima Agency probate orders that were not encoded into the Integrated Records Management System (IRMS) were inventoried by a contractor. This inventory quantifies the Pima Agency probate order encoding task, which the contractor began during the reporting period.
- Land title system information, which will be used to derive document listings necessary to perform CDE validation/correction, was requested and received from BIA for the ENA, Pine Ridge Agency, and the Palm Springs Field Office.
- A DQ&I pilot agency operations assessment was conducted at the Palm Springs Field Office. The purpose of this assessment was to: (1) collect information pertaining to the trust systems used; (2) quantify volume of trust transactions processed; (3) identify the predominant sources of trust income; and (4) identify backlogs in the processing of trust related documents. This information will be used for planning the implementation of the DQ&I pilot agency project at this location.

In addition, as reported in the contractor's quarterly report to OST, during this reporting period the contractor completed the following assigned tasks, which eliminated backlogs in each of the following areas:

- 400 Concho Agency Oil and Gas (O&G) communitization agreement files were organized. In addition to organizing these files, the contractor also prepared land title recordation transmittals for 236 of these communitization agreements which had not been submitted to the SPRO-LTRO for recordation.

STATUS REPORT TO THE COURT NUMBER SIXTEEN

February 2, 2004

Trust Data Quality and Integrity

- 1,625 Anadarko Agency surface lease files were organized. Of these files, 1,525 extract sheets were prepared to facilitate BIA encoding into the REM.
- 36 Pima Agency encumbrances were encoded into the LRIS at the Southwest Regional Office (SWRO) LTRO.

Current Status

During this reporting period, in support of the DQ&I pilot project the contractor scanned approximately 54% of all available Anadarko Agency documents at the SPRO-LTRO. The contractor plans to utilize these scanned documents for CDE validation/correction for this location.

In addition, the contractor's efforts continued to support:

- The administrative probate modification and encumbrance tasks for the ENA. The contractor has completed the research and document preparation for these tasks and has submitted its final work product to the SWRO-LTRO. On an ongoing basis, upon review and approval of the contractor's final work-product by the SWRO-LTRO, the contractor encodes its final work-product into LRIS.
- Encoding ENA Certificate of Indian Blood administrative modifications into LRIS at the SWRO-LTRO.
- Encoding Alaska Region land title documents (i.e., trust patents, conveyances, encumbrance documents, etc.) into the CGI Land Title System.

Delays and Obstacles

As reported in the contractor's quarterly report to OST, during this reporting period the contractor's efforts were adversely impacted by the following:

- Delayed access to BIA legacy systems due to untimely issuance of user ID from the Office of Information Resource Management.
- Delayed access to BIA legacy systems due to untimely user ID security profile set-up by local BIA system administrators.

Also, the contractor's level of effort has been impeded by the processing delay in its employees' receiving security clearances.

Lack of access to the Internet has resulted in: (1) communication delays; (2) adverse project coordination issues; (3) increased administrative program costs, and (4) the overall DQ&I pilot agency project not taking full advantage of available information technology.

STATUS REPORT TO THE COURT NUMBER SIXTEEN

February 2, 2004

Trust Data Quality and Integrity

Assurance Statement

I concur with the content of the information contained in this Trust Data Quality and Integrity section of the *Status Report to the Court Number Sixteen*. The information provided in this section is accurate to the best of my knowledge.

Date: February 2, 2004

Name: *Signature on File*

John E. White

Trust Reform Officer

Office of the Special Trustee for American Indians

4. INDIAN FIDUCIARY TRUST TRAINING PROGRAM

Introduction

The Department of the Interior (Interior) has a continuing responsibility to provide adequate staffing, supervision and training for trust fund management and accounting (25 U.S.C. § 162 a(d)(7)). Fiduciary trust training is an integral part of all training for Interior employees who are involved in the management of Indian trust assets, and is essential to the success of Interior's trust reform efforts.

Accomplishments and Completions

The Office of the Special Trustee for American Indians (OST) offered four sessions of the course, *Fiduciary Overview Program*, presented by Cannon Financial Institute. The courses were given in Oklahoma City, OK, Aberdeen, SD, Gallup, NM, and Phoenix, AZ, during this reporting period. As of this reporting period, a total of 310 Bureau of Indian Affairs (BIA), OST, Minerals Management Service (MMS) and tribal managers have attended the course. This course compares and contrasts the federal Indian trust administered through Interior with private sector trusts administered through banks and other financial institutions. Another class is scheduled to be held during the next reporting period.

The final version of the *Indian Fiduciary Trust Training Program Plan (Plan)* was completed and distributed to OST and BIA senior management. This *Plan* is explained in the *Status Report to the Court Number Fifteen*.

The curriculum committee conducted two meetings during this reporting period and is expected to continue meeting monthly. Topics of discussion included review of course development and content, plans for the fiduciary trust certification process, and general training ideas and concepts.

OST is developing an inventory of training that was provided to trust employees during the past three years. This inventory is intended to identify training deficiencies and identify existing courses to include in the *Plan*. OST training staff is expected to present the inventory to senior management during the next reporting period.

OST agreed to provide funding to the Bureau of Land Management (BLM) for two Land Tenure in Indian Country (LTIC) classes to be presented during FY2004.

OST training staff conducted three sessions to provide training in Trust Fund Accounting System (TFAS), Stratavision and Historical Query to 37 OST, BIA and contractor staff. In-depth, hands-on training was provided to Anadarko and Concho OST trust officers and BIA deputy superintendents.

STATUS REPORT TO THE COURT NUMBER SIXTEEN

February 2, 2004

Indian Fiduciary Trust Training Program

Current Status

As previously reported, OST has contracted for the development of a CD version of the *Fiduciary Trust Foundations: An Introduction to Trust Reform and Change* course. The CD version is expected to provide trust personnel with a basic understanding of the federal government's fiduciary responsibilities. The Office of the Solicitor (SOL) reviewed the draft version and submitted comments. OST staff plans to consider SOL comments during the next reporting period.

OST and BIA training staff are working to develop a comprehensive orientation program tailored to meet the needs of trust-related target audiences. The program currently being developed is a three-day course that is expected to include such topics as the history and policy of Indian trust, trust reform, current reform activities, job roles and responsibilities, organization and working relationships. A pilot class is expected to be ready by the end of the next reporting period, and is expected to be presented to senior management.

OST training staff attended the "To-Be" Trust Business Model presentations and expect to work with the "To-Be" process sponsors on curriculum development and training requirements for its implementation. During this reporting period, the OST training staff reviewed the "To-Be" *Trust Business Model Information Gathering Template*. Once the "To-Be" Model is finalized, the template's training requirements are expected to be incorporated into the *Plan*.

Delays and Obstacles

The lack of Internet access inhibits electronic communication with other governmental agencies and contractors, and hinders the research of training tools and potential contractors.

Assurance Statement

I concur with the content of the information contained in the Training section of the *Status Report to the Court Number Sixteen*. The information provided in this section is accurate to the best of my knowledge.

Date: January 28, 2004

Name: *Signature on File*
Dianne M. Moran
Director, Trust Training
Office of the Special Trustee for American Indians

5. RISK MANAGEMENT

Introduction

The objectives of the risk management initiative are to design, deliver, and implement a comprehensive risk management program that includes extensive management controls to enable monitoring and evaluation of the Department of the Interior's (Interior) Indian trust asset management program. Once the risk management program has been implemented, the Office of Trust Review and Audit will perform the monitoring and evaluation process to systematically address and make recommendations to resolve management control deficiencies.

Accomplishments and Completions

The Office of the Special Trustee for American Indians (OST) completed the training phase of the comprehensive risk management program at the Rocky Mountain, Navajo, Pacific, Southwest, Midwest, Western, and Great Plains BIA Regions during this reporting period. The seven training sessions were attended by 187 BIA employees from 54 BIA agencies. As of the end of this reporting period, all twelve BIA regions have received training on risk management awareness and the Risk Management Assessment/Evaluation tool (RM-PLUS).

Current Status

Following the training of BIA personnel on risk management awareness and RM-PLUS, agency superintendents and program managers were to conduct risk assessments/evaluations of their respective programs. The OST Chief Information Officer recommended that the RM-PLUS stand-alone version be converted to a web-based version accessible through BIANET. However, until the web-based version of RM-PLUS is completed and approved, agencies are unable to conduct the planned risk assessments/evaluations. The web-based version of RM-PLUS is anticipated to be completed and approved during the second quarter of FY2004.

Assurance Statement

I concur with the content of the information contained in the Risk Management section of the *Status Report to the Court Number Sixteen*. The information provided in this section is accurate to the best of my knowledge.

Date: February 2, 2004

Name: *Signature on File*

D. Jeff Lords

Acting Deputy Special Trustee, Trust Accountability

Office of the Special Trustee for American Indians

6. REGULATIONS, POLICIES AND PROCEDURES

Introduction

The Office of Trust Regulations, Policies and Procedures (OTP) in the Office of the Special Trustee for American Indians (OST) was established and incorporated into the Departmental Manual changes signed by the Secretary on April 21, 2003. OTP is responsible for ensuring organizational knowledge of, access to, and compliance with applicable trust-related regulations, policies, procedures, and related trust materials. OTP is separate from the Bureau of Indian Affairs (BIA) Office of Planning and Policy Analysis (PPA). BIA PPA activities are reported in the BIA section of the status reports to the Court. The activities of that office, as well as the trust reform regulation, policy and procedure activities of other Department of the Interior (Interior) offices are planned to be monitored by OTP.

OTP assists Interior in establishing “consistent, written policies and procedures for trust fund management and accounting” as required by the American Indian Trust Fund Management Reform Act (25 U.S.C. § 162 a(d)(6)). In addition, OTP facilitates development of and is a clearinghouse for Interior-wide trust related regulations, policies, and other fiduciary materials necessary to meet Interior’s fiduciary responsibilities.

Accomplishments and Completions

The OTP liaison group, with members from Interior agencies with fiduciary trust responsibilities, as described in previous reports to the Court, held its first meeting in December 2003. It was primarily an informational and get-acquainted session. Members were briefed on SiteScape Enterprise Forum and its capabilities, as described in the previous status report to the Court. Following the meeting, a more detailed description of SiteScape was prepared and transmitted to all group members, accompanied by explanatory files prepared by the software’s manufacturer. Group members were asked for lists of their policies and procedures. At the next meeting, members are expected to discuss the needs of the organizations and the role that OTP will play to assist them.

OTP continues to work with OST’s Office of the Chief Information Officer and its staff to establish SiteScape Enterprise Forum as a viable information management and dissemination tool. During this reporting period, OTP personnel used a test model of this tool. During the next reporting period, OTP plans to extend access to BIA, various Interior field locations, and staff in Washington, DC. Work on the fiduciary library is moving forward in conjunction with the implementation of SiteScape; however, the library is still in the information-gathering phase. Policy and procedure information provided by the liaison group is expected to be combined with information from the “As-Is” and “To-Be” projects. The goal is to use the SiteScape library function to make this information available throughout Interior and to the public.

The following policies and procedures were signed by the appropriate officials during this reporting period:

STATUS REPORT TO THE COURT NUMBER SIXTEEN

February 2, 2004

Regulations, Policies and Procedures

Policy	Monitoring and Managing Network Domain Access Security Profiles
Policy	Verification of Signatures, Dates and System Batch Numbers Prior to Final Storage
Policy	Peer-to-Peer File Sharing Restriction
Policy	Establishing an Individual Indian Monies (IIM) Account for an Unrestricted Account Holder

Current Status

25 CFR 124 – Deposits of Proceeds of Lands Withdrawn for Native Selection Under the Alaska Native Claims Settlement Act. The proposed rule remains on schedule to be published during the third quarter of CY2004.

As previously reported, OTP continues working with the core group working on the “To-Be” project. OTP staff members remain in close contact with personnel in the Trust Program Management Center for the development of policies and procedures related to trust process reengineering.

OTP received the draft Appraisal Handbook (Handbook) from the Office of Appraisal Services and is coordinating the development of a final draft for review and approval by OST management. The Handbook is expected to be issued during the next reporting period.

Delays and Obstacles

Lack of Internet access and its repository of online statutes, the Federal Register and other resources continue to present challenges to this office.

Assurance Statement

I concur with the content of the information contained in the Office of Trust Regulations, Policies, and Procedures section of the *Status Report to the Court Number Sixteen*. The information provided in this section is accurate to the best of my knowledge and belief.

Date: January 29, 2004

Name: *Signature on File*

Richard V. Fitzgerald, Acting Director
Office of Trust Regulations, Policies and Procedures
Office of the Special Trustee for American Indians

D. FIELD OPERATIONS

1. APPRAISAL

Introduction

The Indian land valuation program was established to provide impartial estimates of market value for a variety of real property interests on land owned in trust or restricted status by individual American Indians, Alaska Natives and Indian tribes. Various regulations governing Indian trust land actions require valuations. To meet this requirement, an appraisal or other valuation method is used to ensure that fair and just compensation is received on Indian land transactions. The types of land actions are varied. Major types include commercial, industrial, recreational, agricultural and other types of leases; rights-of-way; land sales and land exchanges; grazing and range permits; and assessment of trespass damages.

Accomplishments and Completions

On June 19, 2003, the Secretary announced her intent to consolidate the real estate appraisal programs within the Department of the Interior (Interior) in order to reform the appraisal function. The Office of the Special Trustee for American Indians (OST) appointed two representatives to participate on the Interior Appraisal Reform Team (Team), which is comprised of career professionals from the respective bureaus and offices, to prepare the framework for managing the transition to the new consolidated structure.

A reprogramming letter sent to Congress regarding the proposed consolidation stated, "The transfer of the OST appraisers would occur at a later date following planned consultation with Indian Country regarding the relevant aspects of implementing this initiative." During this reporting period, the last two of four tribal consultation sessions were held on October 28, 2003, in Las Vegas, NV, to discuss benefits and issues relating to OST's participation in Interior's consolidation plan. Public comments were also solicited through the Federal Register, and approximately 40 written responses were provided to OST. The Office of Appraisal Services (OAS) is currently working with the Interior consolidation team leader to address issues raised during the tribal consultation process and Interior consolidation meetings, and in written responses. A decision by OST on participation in the consolidation is expected to be made by the end of the next reporting period.

As reported in the *Status Report to the Court Number Fifteen*, staff with extensive appraisal and standards knowledge began the process to revise and update the *OST-OAS Appraisal Handbook* (Handbook). The draft Handbook was finalized during this reporting period and submitted to the OST-Office of Trust Regulations, Policies and Procedures. This office is expected to coordinate the development of a final draft for OST management. The official Handbook is expected to be issued in the next reporting period. Training will commence upon OST acceptance of the Handbook.

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Appraisal

As reported in the *Status Report to the Court Number Fifteen*, in FY2003, the Special Master for the *Cobell* litigation made a visit to OAS in Gallup, NM, and the Bureau of Indian Affairs (BIA) Navajo Realty Office in Window Rock, AZ. The Special Master issued a report regarding his findings. During this reporting period, a team of appraisers initiated a review of the report and prepared a draft analysis for management.

Current Status

As reported in the *Status Report to the Court Number Fifteen*, BIA and OST have been engaged in a dialogue regarding appraisal services to the Eastern Cherokee BIA Agency. In October 2000, BIA issued a policy memorandum requiring appraisals or valuations to support trust transactions. The Eastern Region received a Solicitor's opinion in March 2003, providing clarification of valuation requirements that affect the BIA policy. The Office of the Solicitor (SOL) continues to work with BIA and OST in drafting a joint policy that would provide guidance and clarification on cases that would not require an appraisal, such as subleases of possessory interests held in trust for the Eastern Band of Cherokee Indians.

As reported in the *Status Report to the Court Number Fifteen*, OST is seeking an independent contractor review of right-of-way appraisals that were completed prior to September 2, 2003, on tribal and allotted Indian lands. This review is planned to sample appraisals related to four rights-of-way per region. The evaluations are expected to help ascertain whether appraisals prepared by OAS, tribal staff appraisers, and third-party contract appraisers are consistent with generally recognized industry right-of-way valuation methods and techniques. The National Business Center is currently working with SOL regarding the legal aspects of the contract. The contract is expected to be awarded in the next reporting period.

As reported in the *Status Report to the Court Number Fifteen*, The Appraisal Foundation report, issued in August 2003, recommended that a second-level review be established to strengthen the technical review process. From September 2, 2003, through December 31, 2003, right-of-way appraisal reports and appraisal reviews were reviewed by a team of internal review appraisers. The review team was charged with reviewing right-of-way appraisal reports for compliance with applicable industry standards. The review team conducted technical reviews of right-of-way appraisal reports that have been completed during this timeframe at the twelve OAS regions. A final report regarding potential changes in policies, procedures and processes as a result of these appraisal reviews is expected in the next reporting period.

The Indian Land Consolidation Project (ILCP) is expected to increase the appraisal workload when it is expanded to other regions. By using the mass appraisal technique approved by the Uniform Standards of Professional Appraisal Practice, the Midwest region completed 4,088 appraisals for the ILCP during this reporting period. In addition, 780 other appraisals were completed during CY2003 in the Midwest Region. The BIA Great Plains Acting Regional Director, OST Deputy Special Trustee for Field Operations and OAS Acting Director discussed future planning to accommodate the expansion of the ILCP valuation requirements, and the future role OST-OAS will have in supporting the mission of the ILCP. OST-OAS is expected to provide either appraisal reports or to approve all valuations, appraisal reports, or appraisal

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Appraisal

systems developed and completed in support of ILCP. A Memorandum of Understanding is expected to be developed during the next reporting period outlining OST-OAS involvement in ILCP.

Appraisal Backlog

As reported in the *Status Reports to the Court Number Fourteen and Fifteen*, OAS has initiated a Backlog Plan to control appraisal backlog that has been identified at the Northwest, Rocky Mountain, Midwest, and Navajo regions. During the next reporting period, it is expected that contracts to address the backlog will be advertised for bid and/or awarded. As of this reporting period, the appraisal backlogs for the Northwest, Rocky Mountain, Navajo and Midwest regions are as follows:

<u>Region</u>	<u>Appraisal Backlog As of 10-1-03</u>	<u>Total Completed Reports 10-1-03 to 12-31-03 *</u>	<u>Appraisal Backlog As of 12-31-03</u>
Northwest	845	563	288
Rocky Mountain	345	263	467
Midwest	0	1,125	1
Navajo	<u>47</u>	<u>164</u>	<u>43</u>
**Total:	1,237	2,115	799

*The "Total Completed Reports" column is a compilation of all appraisal reports which includes backlog and current appraisal assignments.

**This table does not include appraisal backlog information from the compacted and contracted Tribes. An effort will be made to obtain this information during the next reporting period.

Delays and Obstacles

As reported in the *Status Report to the Court Number Fifteen*, the Assistant Secretary, Policy, Management and Budget, issued a memorandum on August 6, 2003, establishing temporary hiring controls for the real estate appraiser positions. OAS is complying with the temporary hiring controls in conjunction with the Interior plan for appraisal consolidation. As a result, the completion time for an OST-OAS appraisal has been adversely affected. The Acting Director, OAS, has prepared a draft exception to hire key appraisers that are necessary to the management of the appraisal program. OAS has also contracted with private appraisers to assist in addressing the appraisal workload and is working on obtaining additional contractors for appraisal work.

The inability to utilize the Internet as a tool to communicate with outside contacts to research comparable sales and other information is a continued hardship.

Assurance Statement

I concur with the content of the information contained in the appraisal section of the *Status Report to the Court Number Sixteen*. The information provided in this section is accurate to the best of my knowledge.

Date: January 28, 2004

Name: *Signature on File*
Gabriel Sneezy
Acting Director, Office of Appraisal Services

E. TRUST SERVICES

1. CURRENT ACCOUNTING ACTIVITIES

Overview

Current accounting activities include the following: 1) Whereabouts Unknown Accounts (WAU); 2) Trust Funds Accounting System (TFAS); 3) Special Deposit Accounts (SDA); 4) Small Balance Accounts; and 5) Accounting Discrepancies.

In December 2003, the Office of the Special Trustee for American Indians (OST) issued a new policy whereby all Individual Indian Money (IIM) accounts are unrestricted, unless they are WAU or restricted by the Bureau of Indian Affairs (BIA). This policy eliminates the Locate Missing Mandatory Documents for Unrestricted Accounts (MMD) project reported in prior reports to the Court.

At the end of this reporting period, there were 18,088 accounts awaiting documentation under the MMD project. These 18,088 accounts are being reviewed by the Trust Program Management Center (TPMC) to verify TFAS account status and to evaluate and update the accounts for placement in one of the following categories: unrestricted, encumbered, supervised or estate.

1. Whereabouts Unknown Accounts

Introduction

Accounts are administratively restricted and classified WAU for various reasons, including: new account established without an address, third-party address change notification not verified by account holder, mail is returned due to invalid address, or account holder refuses or does not claim mail. OST continues to use and search for cost-effective methods and means to locate account holders whose whereabouts are unknown.

Accomplishments and Completions

- 316 accounts were updated in TFAS during this reporting period by account holders using a toll-free telephone number.
- TPMC staff made three beneficiary outreach trips during this reporting period:
 - Indian Land Working Group, Polson, MT.
 - National Congress of American Indians, Albuquerque, NM.
 - Laguna Pueblo BIA Agency, Laguna, NM.
- As of December 31, 2003, 51 addresses have been confirmed and accounts updated in TFAS as a result of information received from Shoshone Bannock Tribes and the Fort Hall BIA Agency.

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Current Accounting Activities

- OST provided a WAU list to BIA to compare with its personnel records. BIA returned 125 addresses of BIA personnel who are on the WAU list. To date, 30 WAU accounts have been updated as a result.
- Another initiative includes partnering with BIA agencies to update the addresses of WAU supervised accounts. To date, TPMC has received 266 WAU supervised account holder addresses from BIA agencies, as a result of which 11 addresses have been updated.
- OST continues to work with the Internal Revenue Service (IRS). From October 2002 to December 31, 2003, addresses for 2,150 account holders have been updated as a result of the IRS letter-forwarding process.

Current Status

- OST has entered into an Interagency Agreement with the Social Security Administration (SSA). SSA matched 2,749 addresses with the data provided for IIM account holders that are WAU.
- As described in previous reports, Trans Union notifies OST of possible address changes from its credit database. During this reporting period, 2,407 notifications were received. Verification letters and change of address forms were then sent to these account holders.
- Priority continues to be placed on locating the current Top 100 highest dollar balance WAU account holders. During this reporting period, 6 out of the top 100 WAU account holders were located, with combined account balances in excess of \$778,000.

During this reporting period, 4,358 accounts were added to the WAU list and 3,676 accounts were removed. As of December 31, 2003, there were 68,398 WAU with a balance of \$87.9 million. The following table illustrates the number of accounts stratified by account balance and WAU category:

Account balance	Correspondence/ Check Returned	Account Setup No Address	Awaiting Address Confirmation	Refused/ Unclaimed Mail	Total
Equal to or over \$100,000	28	10	2	0	40
Under \$100,000 and equal to or over \$50,000	40	8	11	0	59
Under \$50,000 and equal to or over \$5,000	2,763	681	516	3	3,963
Under \$5,000 and equal to or over \$1,000	6,424	1,697	1,285	7	9,413
Under \$1,000 and equal to or over \$100	11,691	4,005	2,020	33	17,749
Under \$100 and equal to or over \$1	17,174	6,733	4,004	56	27,967
Under \$1	5,741	2,270	1,181	15	9,207
Total	43,861	15,404	9,019	114	68,398

Delays and Obstacles

The regular influx of WAU accounts categorized as “account set up no address” causes the total number of WAU accounts to remain relatively constant. These accounts result primarily from probates that determine heirs that are WAU.

Individuals who know they are, or know of someone else who is, on the WAU list but neglect or refuse to update their addresses have proven to be a challenge in reducing the number of WAU accounts.

Current policy requires written confirmation from account holders once OST is notified of new addresses from tribes, the credit bureau, or other federal agencies. This policy is under review.

The lack of Internet access limits communication effectiveness. OST and its contractor are limited in responding to the IIM account holders by mail and telephone.

2. Trust Funds Accounting System

Introduction

The conversion of the IIM accounts to TFAS was completed in March 2000. TFAS is a generic term for the contractor’s off-the-shelf, standard trust accounting system. TFAS provides the basic receipt, accounting, investment, disbursing and reporting functions common to commercial trust funds management operations. The system is owned and operated by a contractor in a service bureau environment.

Accomplishments and Completions

OST worked with the contractor on an enhancement to TFAS to produce account holder statements that identify the source of income and a listing of all assets owned. A TFAS database expansion was delivered during this reporting period and is scheduled to be tested during the next reporting period.

The TFAS contract has been modified to explore the possibility of using TFAS to distribute income generated from real property assets to the owners of those assets. Due to a delay, OST expects to provide the final data requirements to the contractor during the next reporting period. Proof-of-concept testing is expected to begin during the second quarter of CY2004.

3. Special Deposit Account Activity

Introduction

The BIA/OST Interagency Handbook Procedures contain the definition of Special Deposit Accounts (SDA). SDA are temporary accounts for the deposit of trust funds that cannot immediately be credited to the rightful account holders. This type of account may be used only as an exception to the mandate for immediate deposit and distribution of trust funds to individual Indian and tribal beneficiaries.

The SDA project is divided into two sub-projects, the retrospective (pre-January 1, 2003 receipts) and the prospective (post-January 1, 2003 receipts). The Office of Historical Trust Accounting (OHTA) has responsibility for resolution of the retrospective part of the project. BIA has responsibility for the prospective part of the project. Responsibility for resolution includes research and appropriate distribution of funds. It is the policy of BIA to distribute funds within 30 days of receipt into SDA. This section of the report to the Court applies only to the prospective part of the project.

Accomplishments and Completions

During this reporting period, aged funds were held in 200 additional SDA than in the previous reporting period, which represents an increase of 1,284 undistributed aged receipts and a decrease of a SDA combined dollar amount of \$463,321.67. As of December 31, 2003, there were funds held in 817 SDA with a combined dollar amount of \$3,028,115.33 which represented 3,211 undistributed receipts aged over 30 days from January 1, 2003 through December 31, 2003.

TPMC sent two staff members, as reported in the previous reporting period, to assist Pima agency staff in performing any work necessary to distribute SDA funds. SDA with 66 undistributed receipts aged over 90 days with a combined dollar balance of over \$1.078 million were identified. The two OST staff members completed their assignment at Pima Agency during this reporting period. At the end of their detail, \$475,000 was distributed and a report completed with recommendations to the BIA superintendent for resolving the remaining balance.

Current Status

TPMC has been working with BIA staff to identify those SDA undistributed receipts aged over 30 days to facilitate the distribution of the funds. The priority is to work on accounts with undistributed receipts greater than 90 days old, then 60 and 30 days old.

The previous *Status Reports to the Court* discussed the automated BIA lease program referred to as the Management & Accounting Distribution System (MADS) used in the Great Plains BIA Region. Several BIA agencies that did not have the interest distribution/calculation program installed on MADS. Therefore, when principal amounts were distributed from the SDA the

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Current Accounting Activities

corresponding interest earnings remained in many SDA. The interest program was installed across the region in the automated lease program in MADS, but not all agencies have implemented its use.

Delays and Obstacles

There were various problems associated with the Integrated Records Management System (IRMS) that impeded progress, such as the inability to print various reports that the staff needed for verification purposes, the hours of operation to use IRMS, and the number of staff allowed on the system simultaneously with maintenance capability to update ownership. The IRMS issues have been referred to the BIA Office of Information Resource Management in Reston, VA.

4. Small Balance Accounts

As of December 31, 2003, there were 20,147 accounts that have a \$.01 - \$1.00 balance with no activity for the previous 18 months. The total sum included in those accounts is \$5,795.00. Statements are sent to accountholders for these accounts on an annual basis pursuant to direction from Congress. OST continues to explore options for managing these accounts.

5. Accounting Discrepancies

Introduction

Prior to conversion to TFAS, a number of accounting discrepancies existed and still need to be researched. Some of these discrepancies may impact individual accounts.

Currently, OST has an extensive daily and monthly reconciliation process in place to make certain that transactional reporting to the Department of the Treasury is accurate and that any differences are researched and corrected by the next accounting period. The process ensures, on a continuing basis, that current differences are corrected in a timely manner.

Accomplishments and Completions

In December 2003, the Special Trustee for American Indians received an opinion from the Solicitor's office, regarding the liability for unaccrued lost interest from failed financial institutions, primarily during the 1980's. That opinion is being used to evaluate interest issues with regard to the previously-identified discrepancies.

Current Status

Efforts continue to resolve the nearly \$6 million difference between the subsidiary account ledger (liabilities) and the IIM investment pool (assets). Legislation requesting an authorization and appropriation for approximately \$6 million was sent to Congress on June 3, 2003, to resolve this problem. Additional supporting documentation will be made available as needed to Interior's Office of Congressional and Legislative Affairs in support of the request for funding.

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Current Accounting Activities

Work continues on a plan for resolution of the remaining accounting discrepancies.

Assurance Statement

I concur with the content of the information contained in the Current Accounting Activities section of the *Status Report to the Court Number Sixteen*. The information provided in this section is accurate to the best of my knowledge.

Date: February 2, 2004

Name: *Signature on File*

D. Jeff Lords

Acting Deputy Special Trustee, Trust Accountability

Office of the Special Trustee for American Indians

IV. BUREAU OF INDIAN AFFAIRS

A. TRUST REGULATIONS, POLICIES AND PROCEDURES

Introduction

The Office of Planning and Policy Analysis (PPA) in the Office of the Assistant Secretary – Indian Affairs (AS-IA) was established and incorporated into the Departmental Manual signed by the Secretary on April 21, 2003. PPA is responsible for ensuring organizational knowledge of, access to, and compliance with applicable regulations, policies, and procedures. The office:

- coordinates development of strategic plans and annual performance reports in support of the Government Performance Review Act;
- determines the reliability of performance measures and evaluates the AS-IA and related bureaus' programs for effectiveness;
- provides guidance and technical assistance to all programs under the purview of the Principal Deputy AS-IA to ensure compliance with Administration initiatives;
- provides assistance for the development of manuals that set forth program and administrative policies of Indian Affairs and handbooks documenting operating procedures;
- publishes and maintains the Indian Affairs Manual (IAM) that contains the policies and general procedures of a continuing nature that are essential to the efficient administration of Indian Affairs;
- reviews all applicable notices and rules that are prepared for publication in the Federal Register.

Accomplishments and Completions

The following directives were issued during this reporting period:

1. IAM Part 53, Forestry;
2. IAM Part 101, Individual Indian Money Accounts.

Current Status

25 CFR 161 - Navajo Partitioned Lands Grazing Permits – The proposed regulations were published November 11, 2003. Public meetings were held December 10 and 11, 2003, and public comments are due February 10, 2004. The Bureau of Indian Affairs (BIA) plans to meet with the Navajo Nation in the second quarter of FY2004 to discuss the comments and changes that may be necessary, and to seek concurrence to publish a final rule in the third quarter of FY2004.

25 CFR 162 Subparts C & D – Residential Leases and Business Leases – The Federal Register notice for the proposed rule has been signed by the Principal Deputy AS-IA and is expected to be

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Trust Regulations, Policies and Procedures

published in the Federal Register by February 1, 2004. A 90-day comment period will follow publication.

Grazing Permits (25 CFR 166) Handbook – Public, BIA and Solicitor comments have been received regarding the draft handbook and are being incorporated into the final handbook. The project is on schedule for publishing and distribution in the second quarter of FY2004. Note: The *Status Report to the Court Number Fifteen* mistakenly reported a first quarter FY2004 completion date.

National Environmental Policy Act Compliance Handbook – The *Status Report to the Court Number Fifteen* identified distribution of the draft during the first quarter of FY2004. The draft now is expected to be provided to Tribes and BIA Regional offices for review in the second quarter of FY2004.

IAMs 1, 2, 3, and 7 containing Delegations of Authority are under review and expected to be published in the third quarter of FY2004.

Efforts to develop a directives library available to all Indian Affairs employees have begun. The final product is expected to be a user-friendly electronic system with topic and location search capabilities.

Directives Handbook – A project to develop a Directives Handbook, providing more detailed information and procedures than an IAM, is expected to be completed by the first quarter of FY2005.

Delays and Obstacles

Lack of access to the Internet has hindered PPA's ability to research statutes and departmental manuals.

Assurance Statement

I concur with the content of the information contained in the Trust Regulations, Policies and Procedures - BIA section of the *Status Report to the Court Number Sixteen*. The information provided in this section is accurate to the best of my knowledge.

Date: January 28, 2004

Name: *Signature on File*
Jerold Gidner
Director, Office of Planning and Policy Analysis
Bureau of Indian Affairs

B. FRACTIONATION

Introduction

Fractionation of Indian trust and restricted lands has a long history stemming from the federal Indian policy of the 19th Century. Fractionation of Indian land occurs when land passes from one generation to the next and more heirs or devisees acquire an undivided interest in the land. Fractionation is a complex and potentially emotionally-charged issue due primarily to cultural differences, historical legacy and family associations of the present Indian owners with the original owners of those lands held in trust by the United States or subject to a restriction against alienation by the Secretary of the Interior. Both Congress and the Department of the Interior (Interior) are attempting to address this complex issue, primarily through the Bureau of Indian Affairs (BIA) Indian Land Consolidation Office (ILCO). The opportunities offered by the Indian Land Consolidation Act and the Amendments of 2000 (ILCA) are important to the solution of fractionated ownership of Indian land. Additional ways of streamlining the ILCA process continue to be considered.

Accomplishments and Completions

- Acquired 6,221 fractional interests during this reporting period, for a cumulative total of 68,938 interests for the Indian Land Consolidation Program (ILCP) pilot projects in the Midwest and Great Plains Regions through December 31, 2003. Of the total interests acquired, 91% were interests of less than 2% ownership in the respective tracts of land.
- Acquired the equivalent of 42,076 acres for the pilot project reservations.
- ILCP staff at the Rosebud Agency site presented an outreach booth at the Lakota Nation Invitational Basketball Tournament in Rapid City, SD. The booth was a collaborative effort between the Rosebud Sioux Tribe, the Rosebud Sioux Tribal Land Enterprise and the Rosebud BIA Agency. The topics discussed were land fractionation, ILCA, land sales options, land exchange options, writing of wills and overall estate planning.
- The Agency ILCP staff and members of the Rosebud Sioux Tribal Administration, Tribal Council, Tribal Land Enterprise and Land and Natural Resource Committee met to develop a written Cooperative Agreement. The Cooperative Agreement addressed the formulation of a committee to do ILCP outreach, hold community meetings and provide information to land owners and beneficiaries on the land acquisition program.

Current Status

As previously reported, ILCP is presently operating within two BIA Regions on seven reservations. Current ILCP activities include:

- Drafting a national expansion plan that is expected to be completed by the end of FY 2004;
- Developing an acquisition plan for *Youpee* interests based on voluntary sales;
- Responding to requests for comments on S. 1721, the proposed ILCA amendments;

- Continuing to process applications and purchase interests;
- Developing a case management system in FY2004 to automate application processing.

ILCO continues to explore alternative methods to finance consolidation of Indian land. Many of the funding programs that have been reviewed are structured for individual Indians to purchase land rather than for overall land consolidation efforts by a Tribe. As an example, the Indian Land Tenure Foundation is a potential source of funding to support individual ownership. As a result of these reviews, ILCO is considering suggesting changes to ILCA and the national draft expansion plan to include consolidation by individual owners.

Initial research of tribal acquisition programs revealed that, generally, Tribes that have such programs are willing to participate in the Indian Land Consolidation Program. The total number of tribal acquisition programs is unknown, but is thought to be relatively low. Tribal acquisition programs are not expected to have a significant impact on ILCP. However, where there are active programs, ILCO plans to assess their capabilities and willingness to partner with ILCP.

Achieving tribal majority ownership in a tract may facilitate consolidation of fractionated interests. As a result of the pilot project:

- The Bad River Tribe has majority ownership in 287 of 652 (44%) total allotted reservation tracts.
- The Lac Courte Oreilles Tribe has majority ownership in 176 of 326 (54%) total allotted reservation tracts.
- The Lac du Flambeau Tribe has majority ownership in 208 of 245 (85%) total allotted reservation tracts.

Delays and Obstacles

- The need to reconcile ownership records causes delays in expansion of ILCP. Reconciliation efforts are expected to improve as a result of the ongoing implementation of the CGI Record Title System.
- There is a challenge recruiting qualified staff at remote locations.
- Probate backlog and *Youpee* issues continue to impede the land-purchase transaction process.

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February 2, 2004

Fractionation

Assurance Statement

I concur with the content of the information contained in the Fractionation section of the *Status Report to the Court Number Sixteen*. The information provided in this section is accurate to the best of my knowledge.

Date: January 29, 2004

Name: *Signature on File*
Robert R. Jaeger
Director, Indian Land Consolidation Office
Bureau of Indian Affairs

C. PROBATE

Introduction

The Department of the Interior (Interior) is charged with administering trust or restricted assets for the benefit of individual Indian owners. Federal law permits Indian owners to pass title to their trust assets by testamentary devise or by intestate succession and imposes upon Interior the duty of determining the legal heirs to the trust assets after death of an Indian trust asset owner. In order to perform this duty, three Interior agencies must cooperatively carry out their functions within the probate process: the Bureau of Indian Affairs (BIA), the Office of Hearings and Appeals (OHA), and the Office of the Special Trustee for American Indians (OST).

Accomplishments and Completions

Probate Process – Priorities

BIA issued a memorandum of instruction that implements a policy setting priorities for processing probate cases. Under the new policy, each office that has probate responsibilities is directed to process their probate cases in a multi-tiered approach. This multi-tiered approach applies to case preparation, case distribution and closure. The oldest cases normally would be processed first; followed by the second tier, high dollar cases, where there are funds exceeding \$10,000 in the decedent's IIM estate account at any given time; and the third tier cases, where a real estate transaction (such as a land sale, a partition, or a lease) is pending and the ownership of the tract must be established in order to complete the transaction.

Case Preparation

Case Preparation is the initial stage of the probate process. During this stage of the process, information is researched and gathered regarding the identity and whereabouts of presumptive heirs and an inventory of the trust assets of an estate is prepared. As of this reporting period, 12,775 probate cases were pending.

Case Adjudication

In the Case Adjudication stage, deciding officials are OHA Administrative Law Judges (ALJ) and Indian Probate Judges (IPJ), and BIA Attorney Decision Makers (ADM). The ADM have authority to probate and determine the heirs in estates containing trust cash assets less than \$5,000. In addition, ADM have the authority to probate estates containing land and/or cash assets that do not present questions of law or fact. In the latter instance, where there is an issue of law or fact, the estate must be sent to ALJ or IPJ for adjudication.

In this reporting period, BIA deciding officials received 433 cases and issued decisions in 238 cases; OHA deciding officials received 842 cases and issued decisions in 606 cases.

Case Closure

Case closure is the posting and recording of ownership and distribution of assets after the case has been adjudicated. The posting, distribution and recording is broken into three categories:

- Posting and recording of Agency ownership records.
- Posting and recording of Land Titles and Records Office (LTRO) records that result from probate decisions.
- Posting, recording and distribution of financial information in the Trust Funds Accounting System (TFAS).

In this reporting period, OST distributed and closed 1,087 accounts representing 1,066 estates. TFAS, as of the end of December 2003, contains 26,659 open estate accounts, up from 26,559 open estate accounts at the end of the last reporting period.

Current Status

Probate Spreadsheet Reporting on Caseload

A spreadsheet report of the current caseload has been utilized during this reporting period. The spreadsheet provides probate data, such as numbers of cases in the various stages of the probate process, which are preparation, adjudication and closure. The spreadsheet report is submitted by the BIA agency, field and regional offices to the BIA probate office on a monthly basis. The spreadsheet report is expected to be replaced by the automated tracking system described below.

Probate Case Management and Tracking System (ProTrac)

The new probate tracking system (ProTrac) is being developed and tested. A systems requirements meeting was held in October 2003 followed by a factory testing session in December 2003. ProTrac is being developed to provide probate case tracking information and to assist in the management of probate cases within BIA, OHA and OST. ProTrac is scheduled for implementation in April 2004.

Probate Handbook

Interior's Handbook of Indian Probate Procedures (Handbook), dated September 30, 2003, was circulated in final draft form. It is expected to be published in CY2004.

Probate Process – Small Estates

As discussed in previous reports to the Court, there is an ongoing effort to streamline the probate process for small estates. Several proposals have been written and circulated which would dramatically change and improve the process used for small estates.

National Association for Public Health Statistics and Information Systems (NAPHSIS)

A meeting with the Executive Director of NAPHSIS was held on July 1, 2003. Several items were discussed, including the possibility of negotiating a memorandum of agreement with states to provide vital statistics information, the creation of an electronic notice of death mechanism, and a streamlined method of issuing death certificates to Interior.

Delays and Obstacles

The following obstacles have been identified as having an impact on the progress of the probate program:

- Lack of consistency in program management;
- Lack of adequate staffing for probate processing in the field;
- Lack of a comprehensive case management and tracking system;
- Lack of access to the Internet;
- Inability to use electronic mail communication between OHA and BIA/OST;
- Fractionation of ownership of Indian lands;
- Numerous title initiatives (e.g., *Youpee* revestitures, *Cobell* requirements, TAAMS conversion);
- Cultural diversities regarding the subject of death.

Assurance Statement

I concur with the content of the information contained in the Probate section of the *Status Report to the Court Number Sixteen*. The information provided in this section is accurate to the best of my knowledge.

Date: January 30, 2004

Name: *Signature on File*
Sharlene M. Round Face
Realty Specialist
Western Region
Bureau of Indian Affairs