

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'
NINETEENTH STATUS REPORT**

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

A copy of the report is attached hereto.

Dated: November 1, 2004

Respectfully submitted,
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/s/ John T. Stemplewicz
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CERTIFICATE OF SERVICE

I hereby certify that, on November 1, 2004 the foregoing *Interior's Status Report to the Court Number Nineteen (For the Period July 1, 2004 through September 30, 2004)* was served by Electronic Case Filing, and on the following who is not registered for Electronic Case Filing, by facsimile:

Earl Old Person (*Pro se*)
Blackfeet Tribe
P.O. Box 850
Browning, MT 59417
Fax (406) 338-7530

/s/ Jay St. John
Jay St. John



THE SECRETARY OF THE INTERIOR
WASHINGTON

October 29, 2004

Sandra P. Spooner
U.S. Department of Justice
Civil Division
Commercial Litigation Branch
P.O. Box 875
Ben Franklin Station
Washington, D.C. 20044-0875

Re: *Cobell v. Norton* – *Status Report to the Court Number Nineteen*

Dear Ms. Spooner:

Enclosed is the Department of the Interior's *Status Report to the Court Number Nineteen (For the Period July 1, 2004 through September 30, 2004)*. Please forward a copy to the Court.

This is the twelfth 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 Nineteen

**For the Period
July 1, 2004 through September 30, 2004**



November 1, 2004

November 1, 2004

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STATUS REPORT TO THE COURT NUMBER NINETEEN

November 1, 2004

Introduction

I. INTRODUCTION

This *Status Report to the Court Number Nineteen* (Report) represents the period from July 1, 2004, through September 30, 2004. The Report is presented for the purpose of informing the Court on the progress of trust reform activities occurring during this reporting period, and progress of the historical accounting of individual Indian beneficiary funds managed by Interior.¹

This Report is prepared in a manner consistent with previous reports to the Court. Each manager in charge of an area of trust administration and the director of the historical accounting project are submitting reports on the progress of their respective activities.

A glossary of acronyms and abbreviations is included in this Report. The glossary is located at the end of the Report.

¹ 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

During this reporting period, I reviewed and accepted most of the key components of the "To-Be" Model, subject to further discussion on a few specific issues described in the Special Trustee's Observations. I believe the model will enable Interior to continue the implementation of its Comprehensive Trust Management Plan. Now that the "To-Be" Model has been completed, we will refer to it as the Fiduciary Trust Model. It encompasses those business processes necessary to manage the fiduciary trust activities of Interior.

The end of this reporting period is also the end of the government's fiscal year. We begin the new fiscal year without an appropriation, and will operate with a continuing resolution for funding purposes. This permits Interior to spend money at the same level as FY2004 but not to initiate new programs or projects. Based on initial actions taken by Congressional appropriators, we have some indication of likely final action. Except for our request for historical accounting and the Indian land consolidation initiative, both of which are expected to receive less funding than requested, all other trust activities are expected to be funded at or near requested levels.

Appropriate management of our IT systems remains a high priority within Interior. I am pleased to report that the E-Gov Institute, a non-governmental organization, awarded Interior the "Excellence in Enterprise Architecture Award" in the category of Federal Civilian Leadership in Government Transformation. I am also encouraged to hear that, for seven consecutive months, no Interior IT hosts were found to have vulnerabilities listed in the SANS Top 20. The Inspector General reported in his annual evaluation of Interior's IT security program that "the Department continues to improve the security over its information systems," although he also recommended additional improvements that are described in the IT section of this report. Interior trust operations that directly affect our ability to provide services to beneficiaries continue to be impacted adversely by not having access to the Internet.

One of our greatest challenges has been the creation of a comprehensive records management program, not only to protect trust records, but all Indian records so that generations to come will have access to the written history of the past and current operations of Indian affairs. Our alliance with Haskell Indian Nations University to forge a records management instructional program is progressing well. Fifteen students are now enrolled for the fall semester in the records management course at Haskell. This will eventually help us to have qualified records management specialists available at bureaus and offices throughout Indian country to ensure the proper protection and preservation of Indian records.

Congress made progress toward probate reform with the passage of S.1721, which also should help to reduce further fractionation of allotted lands. I also just learned the President signed the Bill on October 27, 2004. It appears that the legislation, sponsored by Senator Ben Campbell, reflects many of our suggestions, as well as agreements reached through negotiations among stakeholders.

STATUS REPORT TO THE COURT NUMBER NINETEEN

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Secretary Gale Norton's Observations

On the personnel front, Principal Deputy Assistant Secretary of Indian Affairs Aurene Martin departed for private practice. Her work with Tribes and individual Indians with regard to trust matters has been important to Interior and we appreciate her service.

It is important that we continue moving forward with trust reform and implementation of the Fiduciary Trust Model. We continue working to obtain the support and cooperation of Congress, Indian Tribes and other beneficiaries and stakeholders of the trust. The following reports of managers describe their accomplishments and concerns during this reporting period.

A. INFORMATION TECHNOLOGY

Introduction

This section describes the status of Interior IT systems, particularly the systems that house or provide access to 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 describes various efforts being made to improve IITD security within Interior, pursuant to OMB Circular A-130 Appendix III, and the status of Internet connectivity.

Accomplishments and Completions

Computer Security:

Interior continues to make progress in ensuring IT security and, in particular, addressing the potential risks associated with unauthorized access to IITD from the Internet. A primary focus for this quarter has been completing actions required for certification and accreditation of Interior IT systems pursuant to A-130. The most noteworthy accomplishments and completions during the reporting period are described below.

Training and Awareness

- Bureaus and offices conducted a simulation exercise for incident response. The exercise tested procedures and practices in place to determine their effectiveness in responding to security incidents. It also provided IT staff and management hands-on experience in dealing with unexpected situations. All bureaus and offices completed the test and documented potential improvements to processes.

Prevention and Monitoring

- Interior continued testing Internet-accessible systems against the SANS Top 20 vulnerability list. For the second consecutive reporting period, no hosts were found to have vulnerabilities listed in the SANS Top 20.
- BIA completed its assessment of the Blaster worm incident reported in the previous report to the Court. The virus was introduced to BIA by magnetic media and subsequently spread to other machines that had not been patched for Blaster worm vulnerability. The incident occurred while BIA was in the process of implementing two actions that would have mitigated or prevented the incident: (1) deploying automated patching capability; and (2) replacing legacy operating systems. The first of these actions was completed but cannot be used with older operating systems; the second is scheduled to be completed by the end of CY2004.

Policies and Guidance

- The Memorandum, “Information Technology Security Requirements for Acquisition,” dated August 18, 2004, from Interior’s CIO and Director of the Office of Acquisition and Property Management, was sent to the heads of bureaus and offices, bureau and office CIOs, deputy CIOs and procurement chiefs. This memorandum establishes guidelines for assuring IT security requirements are included in IT-related contracts.

A-130 Certification and Accreditation:

Over 90% of Interior’s general support systems and major applications have been certified and accredited by the respective bureau or office DAA and have full authority to operate. C&A reviews conducted by a qualified third-party have been completed for 21% of the bureau and office accreditations. OCIO expects to report on these reviews in future reporting periods.

IT Systems Architecture:

Interior was honored for its Enterprise Architecture Program, which guides the modernization of Interior's business operations to provide more cost-efficient, user-centered service to the nation. The E-Gov Institute, a private organization, awarded Interior the Excellence in Enterprise Architecture Award in the category of Federal Civilian Leadership in Government Transformation. The Enterprise Architecture Program provides a roadmap for leveraging information technology to meet strategic and programmatic goals and objectives efficiently and effectively.

Interior updated its program maturity self-assessment using the OMB Enterprise Architecture framework tool. Interior scored 4.0 on a 5.0 scale, which indicates the architecture is being operationalized across Interior and is providing performance impact to business operations. This is an improvement from a 3.3 rating from the last quarterly submission, and up from 2.0 in 2003.

Phase 3A of DEAR data validation and population was completed this reporting period. This phase focused on cross-mapping Interior’s system inventory to the goals and objectives in the DOI Strategic Plan FY 2003 – 2008 and the Interior Enterprise Architecture Performance Reference Model. This cross-mapping provides Interior information to identify system gaps in its portfolio for accomplishing the DOI Strategic Plan.

TrustNet

During this reporting period, TrustNet, an internal secured network, was expanded as follows:

- Four of the six OHTA sites have been connected to TrustNet on a managed service program (firewalls, intrusion detection and monitoring).
- The Office of the Solicitor moved 95% of its data communications infrastructure from Denver to Herndon, VA, and is expected to be connected to the Department’s TrustNet during the next reporting period.

Current Status

A-130 Certification and Accreditation:

OCIO has implemented a comprehensive program to define, accomplish, and review certification and accreditation packages. Interior established policies that use criteria identified in publications issued by the National Institute for Standards and Technology. Additionally, Interior to date has delivered formal C&A training to 258 bureau staff responsible for the conduct of certification and accreditation procedures. In FY2004, Interior bureaus and offices applied \$12 million in funding, specifically budgeted to accomplish C&A. OCIO established a Blanket Purchase Agreement with vendors qualified to support the bureaus in independent verification of controls. This investment and focus helped bureaus and offices achieve accreditation for over 90% of major applications and GSS, compared to the 10% accredited as of September 30, 2003.

As noted in GAO-04-376, *Agencies Need to Implement Consistent Processes in Authorizing Systems for Operation* (June 2004), accreditation packages of federal agencies required by the Federal Information Security Management Act and A-130 vary in quality and standards of content. OCIO is addressing this challenge faced by federal agencies by establishing a quantitative checklist for C&A package quality and applying it to accredited systems. Although not required by FISMA or A-130, Interior expects to perform a 100% quality review of the C&A packages by the end of the second quarter of FY2005. C&A reviews conducted by a qualified third party have been completed for 21% of the bureau and office accreditations. OCIO expects to report on these reviews in future reporting periods. Areas in C&A packages identified for improvement will be tracked via the POA&M process, which includes a schedule for resolution.

Trust Network Connection:

Interior's Enterprise Services Network consolidates departmental Internet connections, adds centrally-managed network perimeter security, provides secure connectivity between bureaus and offices (Intranet) and implements twenty-four hour network security monitoring. The trust network segment, which hosts trust related computer systems, will be connected to the ESN via a series of additional network security devices including firewalls, routers and intrusion detection devices. These devices will be configured to allow outbound connections to the ESN and block all incoming access except electronic mail. Internal trust computer applications are protected by at least three security layers: Internet perimeter security, Intranet security and host-based security.

Shared network segments (known as demilitarized zones) will be created to allow trust and non-trust bureaus and offices to share a limited subset of trust data, such as electronic mail. Under no circumstances will direct Internet access be permitted to internal trust network segments.

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November 1, 2004

Information Technology

The trust network segment has been certified and accredited using Interior's NIST-based security C&A process. Routine scanning and vulnerability testing are used to ensure the trust network is secured from unauthorized access from the Internet.

Interior continues to develop reconnection plans for Interior bureaus and offices (BIA, OHA, OST and SOL) that have not been permitted by the Court to have Internet access since December 5, 2001. Continued disconnection of these systems hampers Interior's ability to provide the most effective IT operations and security.

Reports:

- GAO issued "Federal Chief Information Officers: Responsibilities, Reporting Relationships, Tenure, and Challenges" (GAO-04-823) and "Information and Technology Management: Responsibilities, Reporting Relationships, Tenure and Challenges of Agency Chief Information Officers" (GAO-04-957T). As these reports cover descriptions of CIO roles government-wide, they may or may not be of interest to the Court.
- Although Interior issued its annual FISMA report on October 8, 2004, following the end of this reporting period, the Court may find it of interest. In summary, the report states Interior systems are adequately secured, its investments are sound and Interior is in compliance with the President's mandates and congressional direction. FISMA provides a framework and relevant agency roles in ensuring the effectiveness of security controls with regard to information resources that support federal operations and assets. In support of FISMA, Interior has:
 - Increased annual IT security spending from approximately \$4 million in previous years to \$49.2 million in FY2004, including \$12 million specifically identified for C&A. The FY2004 budget is consistent with OMB guidance suggesting that 5% of IT spending be targeted for security.
 - Accredited over 90% of IT systems as of September 30, 2004. Reviewed 21% of those accreditations against quality standards.
 - Established configuration standards for common platforms to facilitate security settings and patch management.
 - Promulgated policies, directives, and standards for IT security topics including C&A, peer-to-peer technologies, security in contracts, and others.
 - Trained 76,888 employees and contractor staff (93% of end users) in relevant computer user policies and practices.
 - Maintained a monthly scanning program that assesses Interior systems against the SANS Top 20 vulnerability list, entering the eighth consecutive month with no vulnerabilities found.
- In addition, OIG issued its FY2004 *Annual Evaluation, DOI Information Security Program* on October 12, 2004. This report states that Interior "has effectively designed its information security program to meet the requirements of FISMA and continued to improve security over its information systems." As part of the evaluation, OIG examined 19 fully accredited

systems. The report “identified weaknesses in the conduct of a majority of the system certifications” which, in the IG’s opinion, “demonstrates a clear need for qualitative examination by the CIO of reported bureau accomplishments.” Bureaus and offices have not had an opportunity to review “identified weaknesses.” These findings will be reviewed to determine their validity.

OCIO is currently conducting such an examination. OCIO is working with OIG to determine a clear inventory of findings, which will be incorporated into the POA&M process in accordance with OMB guidance. By maintaining a managed and accountable effort, Interior expects to continue to translate budget into value-added results for the IT security program. Given the comprehensive nature of FISMA, meeting its requirements affirms the focus and responsibility Interior takes in protecting the confidentiality, integrity, and availability of its information systems.

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 this and previous reporting periods. However, delays and obstacles listed here still impede progress in achieving Interior’s IT management goals:

Litigation

- Employee fears about becoming personally implicated in the *Cobell* litigation are undermining creativity and decision-making. This impediment has worsened within Interior as new restrictions on communication have been placed on Interior employees by the Court.

Funding

- Funding availability will continue to dictate the timing of IT-related initiatives. Interior’s FY2005 budget will require managing a variety of IT-related requirements and tradeoffs. The additional resources (time, personnel, and funding) provided for IT security have limited the funding for other IT-related activities, which on occasion has adversely impacted overall systems performance.

Reengineering Effort

- Interior is conducting a business process reengineering effort to standardize and streamline trust business processes. IT system specifications, design, and procurement may depend upon the timing and results of the reengineering effort and available funding.

Denied Internet Access

- Several Interior bureaus and offices (BIA, OHA, OST and SOL) have not been permitted by the Court to have Internet access since December 5, 2001. Lack of Internet access impedes work processes and the ability to communicate effectively, both internally and externally. For example, not having access to the Internet continues to deny the public electronic access to OHA administrative decisions. Maintaining security on internal systems is more difficult without access to the Internet for research, reporting, and patch management.

Assurance Statement

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

Date: October 27, 2004

Name: *Signature on File*
W. Hord Tipton
Interior Chief Information Officer

B. CADASTRAL SURVEY

Introduction

Cadastral surveys provide assurance that land boundaries for individual Indian and tribal trust lands are identified appropriately. By federal law, surveys of Indian lands are to be performed under BLM's direction and control. Official surveys, whether preexisting or new, identify the location of land boundaries of Indian trust assets and determine official acreage. The official surveys are integral to realty transactions, resource management activities, litigation support and the federal system of patent, allotment and survey records maintained by BLM. Ownership information, distribution of trust assets, and management of trust accounts may be related to or based upon information recorded in official surveys.

Accomplishments and Completions

Training

The latest LTIC class, attended by 31 individuals from BIA, BLM, OST and tribal governments across the country, was held during this reporting period. The attendees were a mix of cadastral surveyors, realty specialist/officers, resource managers, legal counsel, self-governance specialists, leasing compliance officers/managers, accountants, paralegal specialists, natural resource specialists, public service directors, probate clerks, and agency superintendents.

The BLM National Training Center released the third Internet-based self-paced course, dealing with cadastral survey corner point identification. This course contains material related to finding the location of corner points in Indian country and federal lands.

Assistance in Interior Reengineering Efforts

The BLM Cadastral Indian Program Manager participated in the FTM decision-maker group implementation team meetings. The team continued to develop a framework to meet Interior's fiduciary trust responsibilities for Tribes, individual Indians and Alaska Natives. The cadastral elements of the FTM were presented to BLM managers and to the FTM implementation team during this reporting period.

Current Status

GCDB Data Collection for High Priority Areas

BIA, OST, BLM and the four Tribes selected for the GCDB pilot projects to develop a CGIS continue to plan for the implementation of these projects. These four projects are expected to demonstrate how accurate and reliable survey data can be used to improve the management of resources and other trust assets. These projects also are expected to provide documentation of the benefits realized or obstacles encountered in the collection of GCDB data. It is anticipated that data collection for these projects will start during the next reporting period.

Interior Indian Trust Lands Boundary Standards (Draft)

BIA, BLM, OST and tribal representatives have scheduled their third working group meeting for October 19-21, 2004, in Nashville, to continue to examine and finalize the land boundary standards, develop an implementation plan/consultation schedule and outline development plans for manuals, handbooks and directives.

Training

The BLM Cadastral Indian Program Manager and Cadastral Survey Training Coordinator continued to assist the OST curriculum committee and BIA in the development and implementation of future land tenure and boundary management trust training courses.

Creation of the Certified Federal Surveyor Program

The BLM Cadastral Program staff has consulted with the American Congress of Surveying and Mapping to develop a certification program for non-BLM surveyors. The certification of state licensed and/or registered land surveyors and non-BLM Series 1373 Federal Land Surveyors is expected to enhance survey services under the direction and control of BLM on Indian lands. It is anticipated that this program will be in place during FY2005, and the first surveyor is expected to be certified in FY2006.

Delays and Obstacles

Communications with Class Members in *Cobell v. Norton*

The BLM cadastral program is affected by the Court orders concerning communications with class members in the *Cobell v. Norton* case. In the process of performing cadastral surveys in support of land transfers, BLM's cadastral surveyors must communicate in writing with landowners regarding the surveys being performed, therefore, may be required to send the court approved notice together with the survey report.

Funding of the Recommendations Outlined in the FTM

The BLM Cadastral Survey Program has not been able to obtain clarification on the funding of the recommendations outlined in the FTM related to cadastral surveys. This funding issue may affect BLM's capability to meet its timeline as proposed in the FTM. This issue is expected to be addressed during the next reporting period.

Disconnection from the Internet

The Court-ordered disconnection from the Internet continues to adversely impact the way communications are handled between BLM, BIA and OST, including the way CARS is being implemented.

Limited Resources

The cost to perform all requested cadastral services would be approximately 64.4 million dollars. The current budget of eight million dollars per year only addresses the most urgent needs. Furthermore, an estimated four to five million dollars in new cadastral requests are generated each year.

Missing BIA Indian Service Survey Records and Unofficial Survey Records

BLM cadastral surveyors often have been able to gather only portions of the records of unofficial surveys conducted by the BIA Indian Service surveyors from the 19th and 20th centuries, as well as unofficial surveys performed by other federal agencies or their agents. These unofficial surveys are known to exist in at least 12 states and on 42 reservations. Incomplete records can lead to errors in current official surveys and impair the bona fide rights of individual Indians, Tribes and fee land owners. Evidence of unofficial surveys is discovered by BLM surveyors in the course of performing official surveys. Once the existence of on-the-ground unofficial surveys is identified, a search is made for the missing records. BIA has identified a lack of resources and personnel, which has delayed the previously reported development of an inventory of its Indian Service records that relate to land surveys. BLM will continue to search for the records as surveys are performed.

Assurance Statement

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

Date: October 27, 2004

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

C. MINERALS MANAGEMENT SERVICE

Introduction

Minerals Revenue Management, an MMS program, 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 maintains reported information and distributes revenues at the lease-level. BIA maintains individual Indian ownership records that are used to provide information to OST for disbursement of the lease revenues to individual Indian beneficiaries.

Current Status

Document Procedures Regarding Royalties Disbursement

As previously reported, MMS is working with BIA and OST to prepare Memoranda of Understanding documenting inter-bureau procedures regarding information exchanges associated with mineral revenue disbursements. Previously, MMS provided BIA and OST each a draft MOU containing proposed formats along with MMS-relevant mineral revenue disbursement procedures. MMS also requested that BIA and OST provide a point of contact to help expedite the review and execution of both MOU. The effective date of the OST/MMS MOU was August 13, 2004. MMS continues to await BIA's response. The target date for completing the BIA/MMS MOU remains December 2004.

Indian Oil Rule

As previously reported, the proposed rule for valuing crude oil produced from Indian leases is being considered. Issues associated with the proposed rule remain under review by SOL. A timeline for implementation of the new rule has not been established.

Payment Receipt Date Verification

Enhancements to the MRM financial system remain on hold as MRM is preparing for an upgrade to its PeopleSoft software. The upgrade has been rescheduled and is expected to be completed on November 15, 2004. The two-week delay is necessary to enable the auditors to complete their audit of the FY2004 financial statements with a minimum of disruption to MRM's work.

As previously reported, MRM expects to resume enhancement efforts on the remaining three scenarios after the upgrade. Following the PeopleSoft upgrade, MRM expects to be able to identify actual occurrences of incorrect information. Once determined, the information is expected to be provided to BIA and OST in order to make any necessary corrections to beneficiary accounts. Once the software changes are implemented, MMS expects to provide a completion date for this project.

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November 1, 2004

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 Nineteen*. The information provided in this section is accurate to the best of my knowledge.

Date: October 20, 2004

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

D. OFFICE OF HISTORICAL TRUST ACCOUNTING

Introduction

OHTA was established by Secretarial Order No. 3231 on July 10, 2001, and is charged with planning, organizing, directing and executing the historical accounting of IIM and tribal trust accounts.

Current Status

Accounting Standards Manual

Periodic revisions are routinely made to the *Accounting Standards Manual*. These revisions include such things as adding a table showing corporate documentation required from the various professional firms hired by OHTA to perform account reconciliations. Most recently, updates to the manual have been issued in January, May and July 2004.

Judgment IIM Accounts

OHTA continues to perform historical accounting procedures on Judgment IIM accounts. During this reporting period, OHTA completely reconciled an additional 6,531 accounts in Subgroups,² as follows: 118 accounts in Subgroup A, 4,853 accounts in Subgroup B, 349 accounts in Subgroup C, and 1,211 accounts in Subgroup D. OHTA has completed quality control review of the 479 accounts completely reconciled during the previous reporting period. Also, quality control review was completed on 3,263 accounts completely reconciled during this reporting period, leaving 3,268 accounts from Subgroup B to be reviewed during the next reporting period.

As more data—particularly from the “Paper Era”—is collected and keyed into the transaction listings, some accounts are reclassified into Subgroups different from their original classification. The following tables present the total number of Judgment IIM accounts in each Subgroup reconciled as of September 30, 2004, including accounts reconciled in previous reporting periods. The tables also report balances and throughput.

² Subgroup A contains Judgment IIM accounts with receipt deposit(s) and monthly interest postings through December 31, 2000, and no disbursement of funds. Subgroup B contains only Judgment IIM accounts with receipt deposit(s) and monthly interest postings with a single disbursement. Subgroup C contains only Judgment IIM accounts with receipt deposit(s) and monthly interest postings with multiple disbursements. Subgroup D contains accounts with both (1) Judgment transactions with receipt deposit(s) and monthly interest postings, and (2) land-based transactions (income from land interests owned by the account holder).

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November 1, 2004

Office of Historical Trust Accounting

Status of Work

Judgment IIM Accounts Open as of 12/31/00

Number of Accounts: 33,205 Balances Total: \$80,839,699 Throughput* Total: \$140,694,346

	<u>Subgroup A</u>	<u>Subgroup B</u>	<u>Subgroup C</u>	<u>Subgroup D</u>	<u>Totals</u>
<u>Completely Reconciled</u>					
Number of Accounts	17,803	--	--	795	18,598
\$ Balances Reconciled	\$50,915,830	--	--	\$256,524	\$51,172,354
\$ Throughput* Reconciled	\$51,178,252	--	--	\$9,948,752	\$61,127,004
<u>Partially Reconciled</u>					
Number of Accounts	0	4	2	3,525	3,531
\$ Balances	--	--	--	\$7,337,813	\$7,337,813
\$ Throughput* Reconciled	--	\$6,796	\$3,415	\$2,932,937	\$2,943,148
\$ Throughput to be Reconciled**		\$11,347	\$17,682	\$20,499,896	\$20,528,925
<u>Paper Era Reconstruction</u>					
Number of Accounts***					11,076
\$ Balances to be Reconciled					\$22,329,532
\$ Throughput to be Reconciled**					\$56,095,269

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Office of Historical Trust Accounting

Judgment IIM Accounts Open as of or after 10/25/94 but Closed Prior to 12/31/00

Number of Accounts: 47,334

Balances Total: \$0

Throughput* Total: \$499,956,704

	<u>Subgroup A</u>	<u>Subgroup B</u>	<u>Subgroup C</u>	<u>Subgroup D</u>	<u>Totals</u>
<u>Completely Reconciled</u>					
Number of Accounts	NA	11,085	503	511	12,099
\$ Balances Reconciled	NA	--	--	--	--
\$ Throughput* Reconciled	NA	\$62,991,894	\$4,653,502	\$8,677,666	\$76,323,062
<u>Partially Reconciled</u>					
Number of Accounts	NA	3,037	1,037	7,893	11,967
\$ Balances	NA	--	--	--	--
\$ Throughput* Reconciled	NA	\$4,765,465	\$2,179,026	\$10,075,470	\$17,019,961
\$ Throughput to be Reconciled**	NA	\$15,897,357	\$6,894,453	\$94,914,454	\$117,706,264
<u>Paper Era Reconstruction</u>					
Number of Accounts***					23,268
\$ Balances Reconciled					--
\$ Throughput to be Reconciled					\$288,907,417

*Throughput is defined as the sum of the receipts and disbursements in the Electronic Era portion of an account.

** Throughput relating to respective accounts to be reconciled.

*** Distribution of reconstructed Paper Era accounts unknown.

The majority of the remaining Judgment IIM accounts (as well as some Per Capita IIM accounts) require conversion of transaction data recorded in manual ledgers into electronic format. As of September 30, 2004, OHTA has searched approximately 2,400 boxes of stored records for manual ledgers required to complete the account history for Judgment and Per Capita IIM accounts that originated in the "Paper Era." Approximately 181,000 transactions for 20,000 accounts have been located and entered into electronic format as a result of this effort.

Per Capita IIM Accounts

OHTA continues to perform historical accounting procedures on Per Capita IIM accounts. During this reporting period, OHTA completely reconciled 2,203 accounts in Subgroups,³ as follows: 319 accounts in Subgroup A, 1,520 accounts in Subgroup B, 298 accounts in Subgroup C, and 66 accounts in Subgroup D. OHTA has completed quality control review of all accounts that were completely reconciled in this and previous reporting periods.

As more data—particularly from the “Paper Era”—is collected and keyed into the transaction listings, some accounts are reclassified into Subgroups different from their original classification. The following tables present the total number of Per Capita IIM accounts in each Subgroup reconciled as of September 30, 2004, including accounts reconciled in previous reporting periods. The tables also report balances and throughput.

Note: This section continues on the next page.

³ Subgroup A contains Per Capita IIM accounts with receipt deposit(s) and monthly interest postings through December 31, 2000, and no disbursement of funds. Subgroup B contains only Per Capita IIM accounts with receipt deposit(s) and monthly interest postings with a single disbursement but do not necessarily disburse the entire balance of the account. Subgroup C contains only Per Capita IIM accounts with receipt deposit(s) and monthly interest postings with multiple disbursements but do not necessarily disburse the entire balance of the account. Subgroup D contains accounts with both (1) Per Capita transactions with receipt deposit(s) and monthly interest postings, and (2) land-based transactions (income from land interests owned by the account holder).

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Office of Historical Trust Accounting

Status of Work

Per Capita IIM Accounts Open as of 12/31/00

Number of Accounts: 9,013 Balances Total: \$ 69,486,684 Throughput* Total: \$ 98,208,350

	<u>Subgroup A</u>	<u>Subgroup B</u>	<u>Subgroup C</u>	<u>Subgroup D</u>	<u>Totals</u>
<u>Completely Reconciled</u>					
Number of Accounts	1,465	165	78	54	1,762
\$ Balances Reconciled	\$10,882,415	\$776,317	\$265,139	\$60,603	\$11,984,474
\$ Throughput* Reconciled	\$12,296,769	\$1,279,151	\$690,834	\$215,244	\$14,481,998
<u>Partially Reconciled</u>					
Number of Accounts	--	488	727	5,348	6,563
\$ Balances	--	\$5,871,985	\$8,854,166	\$42,397,434	\$57,123,585
\$ Throughput* Reconciled	--	\$5,699,205	\$9,817,271	\$36,175,963	\$51,692,439
\$ Throughput to be Reconciled**	--	\$1,870,625	\$4,065,235	\$25,668,196	\$31,604,056
<u>Paper Era Reconstruction</u>					
Number of Accounts***					688
\$ Balances to be Reconciled					\$378,625
\$ Throughput to be Reconciled					\$429,857

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Per Capita IIM Accounts Open as of or after 10/25/94 but closed prior to 12/31/00

Number of Accounts: 10,020

Balances Total: \$0

Throughput* Total: \$93,733,222

	<u>Subgroup A</u>	<u>Subgroup B</u>	<u>Subgroup C</u>	<u>Subgroup D</u>	<u>Totals</u>
<u>Completely Reconciled</u>					
Number of Accounts	NA	3,061	420	12	3,493
\$ Balances Reconciled	NA	--	--	--	--
\$ Throughput* Reconciled	NA	\$32,871,650	\$5,565,619	\$158,147	\$38,595,416
<u>Partially Reconciled</u>					
Number of Accounts	NA	911	789	2,719	4,419
\$ Balances	NA	--	--	--	--
\$ Throughput* Reconciled	NA	\$3,675,570	\$5,300,416	\$10,866,470	\$19,842,456
\$ Throughput to be Reconciled**	NA	\$8,357,656	\$9,096,861	\$17,027,439	\$34,481,956
<u>Paper Era Reconstruction</u>					
Number of Accounts***					2,108
\$ Balances to be Reconciled					--
\$ Throughput to be Reconciled					\$813,394

* Throughput is defined as the sum of the receipts and disbursements in the Electronic Era portion of an account.

** Throughput relating to respective accounts to be reconciled.

*** Distribution of reconstructed Paper Era accounts unknown.

Land-Based IIM Accounts

During this reporting period, OHTA completed its activity to collect supporting documentation for transactions in the "Electronic Era" that exceed \$100,000 and for randomly drawn transactions from a random sample of land-based IIM accounts. Also, OHTA completed its accounting and reconciliation work on the transactions for which supporting documents were

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collected. A final report on this work is expected to be available by the end of the next reporting period.

Special Deposit Accounts Clean-Up Project

The SDA Clean-Up Project continues to identify the proper ownership of residual funds in SDA. The objective is to identify and to transfer or distribute funds held in SDA to proper IIM accounts, tribal accounts, or non-trust owners.

The results of the SDA Clean-Up Project as of September 30, 2004, are provided in the following table.

SDA Resolution Progress

	<u>Number of Accounts</u>	<u>Dollars</u>
SDA as of December 31, 2000	21,415	\$67,900,000
Net SDA resolved from January 1, 2001, through December 31, 2002 (eight quarters)	<u>(3,687)</u>	<u>(12,407,265)</u>
SDA as of January 1, 2003	17,728	55,492,735
Interest posted on undistributed SDA and additional collections (net of disbursements thereof, including collections in prior periods) credited to SDA from January 1, 2003, through June 30, 2004	--	6,293,605
SDA resolved from January 1, 2003, through June 30, 2004 (six quarters)	<u>(4,216)</u>	<u>(23,325,471)</u>
SDA that remain to be resolved as of June 30, 2004 - Reported in the <i>Status Report to the Court Number Eighteen</i>	13,512	38,460,869
Interest posted on undistributed SDA and additional collections (net of disbursements thereof, including collections in prior periods) credited to SDA during the reporting period ending September 30, 2004	--	(67,282)
SDA resolved from July 1, 2004, through September 30, 2004	<u>(282)</u>	<u>(3,471,547)</u>
SDA remaining to be resolved as of September 30, 2004	<u>13,230</u>	<u>\$34,922,040</u>

OHTA continues to coordinate its SDA work with BIA and OST. During this reporting period, OHTA prepared SDA materials to clean up SDA at 73 agency, regional and tribal offices.

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In the *Status Report to the Court Number Eighteen*, OHTA reported that seven RAF were still pending as of June 30, 2004. Further research has been conducted on the associated SDA, and new RAF that address the original seven RAF have been submitted for routine processing.

The following table reflects the SDA dollars resolved by type of recipient from January 1, 2003, to September 30, 2004. Recipient data for the period from January 1, 2001, to December 31, 2002, are not yet readily available. Recipients in the "other" category include transfers to Miscellaneous Receipts Account at Treasury, account reclassifications, transfers to the Federal Finance System, etc.

	<u>Transfers to IIM Accounts</u>	<u>Transfers to Tribal Accounts</u>	<u>Paid to Non- Indian Third Parties</u>	<u>Other</u>	<u>Total</u>
Dollars resolved from January 1, 2003, to September 30, 2004	<u>\$10,131,005</u>	<u>\$8,565,825</u>	<u>\$3,498,888</u>	<u>\$4,601,300</u>	<u>\$26,797,018</u>

Imaging/Coding – Indian Trust Documents

OHTA's imaging and coding efforts continued during this reporting period. As of September 30, 2004, OHTA had completed the following imaging and coding work.

Imaging and Coding Progress

	<u>Pages Scanned</u>	<u>Documents Coded</u>	<u>Documents Loaded into Accounting Reconciliation Tool</u>
Work results from July 9, 2003, to June 30, 2004 – Reported in the <i>Status Report to the Court Number Eighteen</i>	<u>5,238,936</u>	<u>200,937</u>	<u>191,554</u>
Work results from July 1, 2004, to September 30, 2004	<u>952,872</u>	<u>17,126</u>	<u>25,958</u>
Cumulative results from July 9, 2003, to September 30, 2004	<u>6,191,808</u>	<u>218,063</u>	<u>217,512</u>

Delays and Obstacles

Three factors affected OHTA's ability to search for trust records necessary to its ongoing historical accounting projects.

- Because of Interior's priority to preserve and protect Indian trust-related records, OTR continues to relocate records from Albuquerque to the AIRR in Lenexa, KS. Records being prepared for shipment or in transit were unavailable to OHTA during this reporting period.

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Office of Historical Trust Accounting

Similarly, records being processed by NARA at the AIRR were unavailable.

- During this reporting period, OHTA reduced its contractor imaging staff in Albuquerque by 74% in preparation to move its imaging operations to the AIRR in Lenexa, KS. This staff change reduced the volume of documents imaged and coded. OHTA expects imaging to be fully operational in the AIRR by the end of the next reporting period.
- As reported in the *Status Report to the Court Number Eighteen*, OHTA's access to OTR records in Albuquerque was limited because of court orders in *Pueblo of Laguna v. United States*, *Jicarilla Apache v. United States*, and *Osage Nation and/or Tribe of Indians of Oklahoma v. United States*. During this reporting period, representatives of the Tribes involved in these cases continued to review records and select documents for production. Once the reviews and subsequent document productions are complete, OHTA again should be able to access these documents.

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 Nineteen*. The information provided in this section is accurate to the best of my knowledge.

Date: October 27, 2004

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

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November 1, 2004

Office of the Special Trustee for American Indians

III. OFFICE OF THE SPECIAL TRUSTEE FOR AMERICAN INDIANS

Introduction

The Office of the Special Trustee for American Indians was created by the American Indian Trust Fund Management Reform Act of 1994. The 1994 Act provides direction to the Department of the 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 comprehensive 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 bureaus and offices and Tribes that perform fiduciary trust functions.

Special Trustee's Observations

The following lists the status of various projects that are underway or completed in the Office of the Special Trustee for American Indians.

Trust Initiatives for the 21st Century

I am pleased to report that the draft "To-Be" Model was completed and that the major components were accepted by the Secretary during this reporting period. Two issues remain open as a result of the Secretary's review. One is the issue of permitting direct pay to beneficiaries by lessees or other users of allotted land. The second is the growing issue of how to treat non-trust/fee interests when leasing parcels of trust land. It is expected that these two issues will be resolved during the next reporting period.

Since the "To-Be" Model is now the final design model for managing the trust, it is now referred to as the Fiduciary Trust Model. Notice of the adoption of the FTM has been given to employees of Interior.

Efforts to hire trust officers continued during this reporting period. OST extended offers to an additional ten individuals to serve as trust officers. Nine of these offers have been accepted. The prospective trust officers are undergoing employment reviews prior to being hired. Twenty-five trust officers and 14 related support staff have been hired as of the end of the reporting period.

The implementation plan for the FTM continues to be developed, with the full plan scheduled to be completed during the next reporting period. Several key improvements are in progress, including development of a commercial lockbox system for collection of revenue from trust lands, establishment of a call center for beneficiary information and standardization of trust practices across Interior bureaus and offices.

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Office of the Special Trustee for American Indians

Trust Review and Audit

OTRA continued its work on a draft trust examination handbook. It is currently being used as a guide to review the BIA regional offices, agencies and Tribes in the two Oklahoma regions. The handbook will continue to be modified as necessary, while it is used during future trust examinations.

Findings and recommendations regarding the Section 139 Tribes were received by the Special Trustee during this reporting period. One Tribe was determined not able to perform its fiduciary trust functions in a manner acceptable to Interior. That Tribe was provided assistance with its record management and IT functions, and its progress will be monitored. A further review is expected during the next fiscal year to check the progress of the Tribe in its trust management functions. The findings and recommendations for the Section 139 Tribes are expected to be discussed with the Secretary during the next reporting period.

Appraisals

A contract was signed between OST and Interior's Appraisal Services Directorate. This contract places responsibility for oversight and management of OST appraisal services under the Directorate. It is expected that this contract will enhance the management of the OST appraisal program.

Investment Contract for Pooled IIM Funds

During this reporting period, a contract was entered into with an investment management firm for management of the IIM pool of funds. It is expected that the contract will enable OST to continue achieving high returns for money invested on behalf of individual Indian account holders. The contracting firm handles very large investments for businesses and individuals and has particular expertise in the U.S. securities markets.

Conclusion

I am pleased with the progress being made in completing the FTM and the implementation plan. As is discussed in other areas of this Report, the IT systems and applications also are moving forward. It remains critically important to everyone's success to have appropriate computer applications to help manage the enormous amount of data required for the trust.

Management of the trust continues to be difficult as a result of offices and bureaus performing trust functions not having access to the Internet. Not only does it impede the work of Interior, it also denies the opportunity to beneficiaries to access their accounts and other information by using this tool. The loss of productivity from lack of access to the Internet appears to far outweigh the current risk of using the Internet.

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Office of the Special Trustee for American Indians

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: October 28, 2004

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

A. TRUST REVIEW AND AUDIT

Introduction

OTRA reports directly to the Special Trustee for American Indians. OTRA was created by OST as a response to trust initiatives developed during the tribal consultation process of 2002. OTRA conducts performance audits of Interior entities as well as Tribes that manage fiduciary trust activities. These reviews are planned to result in a performance rating. OTRA also conducts audits and reviews that may be requested by individual account holders, Tribes, the Special Trustee and Interior staff. Priorities for review are determined by the locations with the greatest volume of trust activities.

Accomplishments and Completions

Annual Interior Indian Trust Funds Financial Statement Audit

The Indian trust funds financial statement audit, required by the American Indian Trust Fund Management Reform Act of 1994, is conducted by an independent third party under OIG management. The FY2003 audit report was issued by OIG. OST has completed the mailing of notices to the account holders, advising them that the annual audit has been completed and is available for review.

Annual Audit Corrective Actions

During this reporting period, recommendations were implemented from a prior OIG audit (Q-IN-OST-0025-2004) related to making improvements to the security screening process for new employees and contract personnel.

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 resolves these inquiries by correspondence, field examinations, special reviews or by referral to the responsible agency. During this reporting period, twelve cases were in inventory. Of the twelve, field work is in process for ten. Two cases were completed and closed. These reported numbers change as OTRA inquiries are ongoing and issues are resolved by correspondence and by other means as stated above.

Examinations of Self-Governance Demonstration Tribes

The FY2004 Interior appropriations act provided for conditional exemption for ten self-governance Tribes (three individual Tribes and a consortium of seven Tribes) from the impacts of trust reform and reorganization. However, their exemptions are conditioned upon their operating trust programs in accordance with the same fiduciary standards to which the Secretary

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November 1, 2004

Trust Review and Audit

is held and satisfying the Secretary that they have the capability to do so. Trust evaluations were conducted, and final reports were issued.

The final reports included a finding of the Tribes' capacity to perform trust programs as required by the appropriations act and any corrective action needed. These reports were received by the Tribes and the Special Trustee during this reporting period, and the findings and recommendations are expected to be discussed with the Secretary during the next reporting period. One Tribe was determined not to be meeting performance standards regarding records and IT management. Corrective action plans for deficiencies or weaknesses have been developed for all the Tribes and implementation will be monitored.

Indian Trust Rating System

Development of the rating system continues, following a business exam model used by the Office of the Comptroller of the Currency, with the assistance of a former senior examiner from that office. The purpose of the rating system will be to measure performance of fiduciary trust activities accomplished in whole or part by the respective Interior offices or the Tribes that have compacted or contracted various activities.

A status report on the Indian trust rating system was provided to the TESC during this reporting period. Also, pilot tests of the new examination process were conducted with Tribes and BIA agencies within the Southern Plains Region and the Eastern Oklahoma Region. The examination process and procedures will stay in draft while field testing, discussion with Interior entities and consultation with Tribes continues. Additional examinations are scheduled for the Eastern Oklahoma Region during the next reporting period.

The planning and development of a trust examination handbook is ongoing as OTRA tests the processes for examining trust fiduciary operations. The handbook will continue to be revised based on the pilot testing of the exam process in the field.

Delays and Obstacles

Lack of Internet access impedes work processes and the ability to communicate effectively, both internally and externally.

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November 1, 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 Nineteen*. The information provided in this section is accurate to the best of my knowledge.

Date: October 22, 2004

Name: *Signature on File*
William P. Ragsdale
Director, Office of Trust Review and Audit
Office of the Special Trustee for American Indians

B. OST-OFFICE OF THE CHIEF INFORMATION OFFICER

1. RECORDS MANAGEMENT

Introduction

The Office of Trust Records was established in 1999 to develop and implement a program for the economical and efficient management of trust records, consistent with the 1994 Act, the Federal Records Act and other statutes and implementing regulations. The OTR records management program has been developed and implemented, and continues to evolve, to ensure that necessary Indian records are maintained, records retention schedules are consistent with retention needs, and records are safeguarded throughout their life-cycles.

Accomplishments and Completions

American Indian Records Repository

During this reporting period, approximately 23,300 boxes of indexed inactive Indian records were moved to the AIRR in Lenexa, KS, both from OTR's facilities in Albuquerque and from the Lee's Summit FRC in Kansas City, MO. A total of approximately 64,200 indexed boxes are located in the AIRR, as of the end of this reporting period.

Records Indexing Project

A total of 86,868 boxes had been indexed by the end of this reporting period. Priority for the indexing of boxes of Indian records continues to be given to those boxes of records potentially responsive to tribal trust litigation, and includes boxes required by OHTA for litigation discovery requests.

With the conclusion of the Lee's Summit portion of the indexing project in July 2004, OTR's indexing contractor moved its work site from Kansas City, MO, to Lenexa, KS (the Lenexa Annex) in order to be located closer to the AIRR. Approximately 8,700 boxes of records were moved from Albuquerque to Lenexa for indexing. Also, during this reporting period, OTR relocated to Lenexa approximately 11,700 boxes of records from the GSA Indian Trust Accounting Division warehouse in Lanham, MD. Indexing of these boxes also will be conducted at the Lenexa Annex. All indexed boxes then will be stored in the AIRR. It is anticipated that the Albuquerque portion of the indexing project will conclude during the next reporting period, and all indexing will occur in Lenexa thereafter.

Haskell Indian Nations University Records Management Certificate Program

As reported in the *Status Report to the Court Number Fifteen*, Interior and NARA agreed to develop an archival and records management studies program at Haskell Indian Nations University in Lawrence, KS. Pursuant to this agreement, the first records management class was

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November 1, 2004

Records Management

offered to Haskell students as classes began in September. OTR is providing the instructor for the fifteen students enrolled in the class this semester.

Training

OTR provided records management training for 355 BIA/OST-identified records contacts during this reporting period. In FY2004, OTR trained 1,397 BIA/OST employees and 35 tribal employees.

Equipment Purchases

During FY2004, OTR provided more than 400 items of fireproof filing equipment to BIA and OST programs and 13 items to one Tribe. During an evaluation of this Tribe's ability to manage trust functions, as required in its compact, it was noted that the Tribe was in need of such equipment.

Records Movement

During this reporting period, revised policy and guidance for requesting approval to move inactive records was implemented. Pursuant to this guidance, Interior bureaus and offices that have completed certifications regarding Indian trust records now may move certified non-trust records without prior approval from the Associate Deputy Secretary. Instead, disposition of non-trust records once again is governed by NARA-approved record retention schedules. Bureaus and offices still are required to submit a move plan and receive approval from the Assistant Deputy Secretary, acting on behalf of the Associate Deputy Secretary, before moving trust records. Additionally, the policy and guidance delegates authority to OTR for approving move plans submitted by BIA and OST, in that all of their inactive records are to be moved to the AIRR under OTR's direction.

Records Management Liaison

During this reporting period, OTR filled the records management specialist position in the BIA Central Office.

Current Status

Safeguarding Records

A contract was awarded on September 30, 2004, for services to assess and prescribe treatment for records that were or may have been damaged or contaminated by mold, mildew, mouse droppings, and other adverse elements. During the next reporting period, OTR and the contractor expect to concentrate on boxes requiring remediation that are located in OTR facilities in Albuquerque. As of the end of this reporting period, OTR has 269 boxes that need to be assessed.

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Records Management

Record Keeping Requirements

NBC completed the identification of all offices under the Office of the Secretary that maintain Indian fiduciary trust records. NBC will work with these offices to perform records inventories and to update records retention schedules, as appropriate. This will be an ongoing project. Ultimately, NBC is expected to update record schedules, which will be submitted to the Archivist of the United States for approval.

The Tribal/Federal Trust Records Management Work Group met on August 24, 2004, in Nashville. The Work Group continued discussions on tribal responsibility for creation and maintenance of trust records for contracted/compacted trust programs. It is anticipated that a letter to all tribal leaders will be sent in the next reporting period providing an update and soliciting comments on the work of the group.

Site Assessments

During this reporting period, OTR completed records management site assessments of BIA programs located at Pawnee Agency, Southern Ute Agency, Laguna Agency, Northern Pueblos Agency, Anadarko Agency, Shawnee Agency, Horton Field Office and Southern Plains Regional Office, and completed site assessments at the OST field offices located at Pawnee Agency, Anadarko Agency, Shawnee Agency, Horton Field Office and the Southern Plains Regional Office. Written reports are expected to be provided to each office in the next reporting period.

Records Retention Schedules

Draft records retention schedules for sixteen non-fiduciary-trust BIA programs were submitted for comment to NARA and BIA. After comments are received, OTR will revise the schedules, as necessary.

Delays and Obstacles

Lack of Internet access continues to hinder OTR's ability to provide access to the record index database for authorized users of the records. 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.

Use of the limited space in OTR facilities continued to affect OTR's daily work activities as OTR staff attempted to respond to requests for boxes of records from federal attorneys, plaintiffs' tribal trust litigation attorneys and their contractors, and federal agencies and their contractors. Due to tribal trust litigation court orders and agreements regarding discovery, several thousand boxes of indexed records must remain in Albuquerque. Otherwise, these boxes could be moved to Lenexa and discovery could take place in the AIRR, a state-of-the-art archive facility.

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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 Nineteen*. The information provided in this section is accurate to the best of my knowledge.

Date: October 28, 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 PROCESS MODELING

Introduction

Interior is working to build a highly effective fiduciary trust services organization by implementing the business objectives contained in the CTM. Those business objectives are being used to guide implementation of the Fiduciary Trust Model. The FTM, formerly known as the "To-Be" Model, is structured around 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 use and management by incorporating the Secretary's Trust Principles and the concepts outlined in the CTM into the process.
- **Ownership** – To ensure the inventory of trust or restricted ownership interests is 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 the 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 with and enforcement of established agreements to protect trust assets.

When implemented, the FTM 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.

Accomplishments and Completions

The major components of FTM were accepted by Secretary Norton during this reporting period, except for the provisions concerning direct pay and accounting for fee owners' interests in trust parcels. On August 26, 2004, the Special Trustee and the Assistant Secretary – Indian Affairs issued a joint memorandum to all AS-IA, BIA and OST employees announcing the approval.

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November 1, 2004

Trust Business Process Modeling

Interior began a plan to implement the FTM in three phases. TPMC coordinated and facilitated implementation team meetings during this reporting period and identified eight sub-projects for Phase 1. Teams and project leaders have been established for the sub-projects. Detailed project plans are being developed by each team to identify significant milestones and ensure that ongoing trust initiatives and FTM initiatives are coordinated. The development of these plans will complete Phase 1, which is expected in the next reporting period.

Current Status

Implementation of the FTM is a collaborative effort and is integrated with other trust reform initiatives. TPMC has responsibility to coordinate implementation and pilot projects. Initial implementation tasks include developing operating procedures, identifying organizational dependencies, coordinating systems requirements, developing training, and creating interim solutions until full implementation can be achieved.

TPMC expects to continue coordinating the universal support functions that provide the records management requirements, policies and procedures, internal controls, risk management, training, workforce planning, and IT systems required to implement the FTM within each of the Phase 1 project schedules and to consolidate those functions to leverage available resources.

TPMC continues to participate in the Interior-wide effort to identify functional requirements for the IT systems that support implementation and operation of the FTM.

A contract was awarded to assist TPMC in implementing the trust call center prototype for OST-Field Operations. The nationwide, toll-free call center is expected to enhance beneficiaries' access to information regarding their trust assets. The prototype also is designed to allow Interior to capture the frequency and types of calls so that the prototype can later be expanded into a fully operational Trust Beneficiary Relationship Management System. The call center prototype is expected to be deployed in December 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.

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November 1, 2004

Trust Business Process Modeling

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 Nineteen*. The information provided in this section is accurate to the best of my knowledge.

Date: November 1, 2004

Name: *Signature on File*

D. Jeff Lords

Deputy Special Trustee, Trust Accountability

Office of the Special Trustee for American Indians

2. TRUST DATA QUALITY AND INTEGRITY

Introduction

The success of trust reform depends, in part, on the accuracy of data generated from the maintenance of trust assets, ownership of trust assets, distribution of trust income, and management of trust accounts. The DQ&I project focuses on accomplishing three initiatives: (1) validating/correcting current CDE to their respective source documents, (2) implementing Post-QA review processes which will help ensure that on-going updates to CDE remain accurate, and (3) providing trust transaction and real property asset statements to beneficiaries, after CDE validation/correction has been completed for a location. 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.

Accomplishments and Completions

During this reporting period, TPMC:

- Completed CDE validation on an additional 40% of the 5,882 Anadarko Agency land tracts, bringing the total completed to 99%.
- Completed scanning of trust documents necessary to perform CDE validation/correction for the Horton Agency and Shawnee Field Office.
- Conducted DQ&I agency operations assessments at the Northern, Southern, and Central California Agencies. The purpose of these assessments was to (1) collect information pertaining to the trust systems used, (2) quantify the volume of transactions processed, (3) identify 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 project at these locations.

In addition, as reported by OST's contractors, the following assigned tasks, which eliminated or reduced backlogs, were completed during this reporting period:

- Encoded 68 additional Pima Agency probate orders into IRMS.
- Encoded the remaining 111 Alaska Region land title chain sheets into the land title system, which completed 4,997 land chain sheet encoding tasks. At the instruction of the BIA Alaska Region, the balance of the 5,063 land title chain sheets were returned to the region due to track status changes and encoding complexity.

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Trust Data Quality and Integrity

Current Status

The DQ&I project was expanded to the Pawnee Agency, Horton Agency, and Shawnee Field Office. Currently, the DQ&I project is being conducted at: (1) SPRO-LTRO for all SPRO agency/field office locations (Anadarko Agency, Concho Agency, Pawnee Agency, Horton Agency, and Shawnee Field Office), (2) GPRO-LTRO for the Pine Ridge Agency, (3) Pima Agency and (4) PRO-LTRO.

Implementation of the Post-QA review process at ENA continues to be deferred until new office space at that location is made available.

During the latter part of the reporting period, seven contractor personnel received land title system write-access authority for the SPRO. This will allow the contractor to encode certain CDE corrections for SPRO-LTRO.

Also, during this reporting period, the contractor continued to support:

- Preparation of Concho Agency oil and gas lease assignment abstracts for producing leases. At the end of the reporting period, an additional 231 out of 657 abstracts had been prepared. To date, 391 abstracts have been prepared.
- Encoding Pine Ridge Agency probate orders that reverse escheated interests into the land title system. At the end of the reporting period, an additional 281 out of 1,095 probate orders had been encoded. To date, 756 probate orders have been encoded. ILCO assumed the responsibility for completing the encoding of the remaining 339 probate orders.
- Encoding Palm Springs Field Office land title documents into the land title system. By the end of the reporting period, an additional 214 out of 512 identified land title documents had been encoded. To date, 285 documents have been encoded.
- Encoded 440 out of 676 Pacific Region encumbrances into the land title system.

Delays and Obstacles

During this reporting period, the following delays and obstacles impeded the progress of the DQ&I project:

- Securing timely BIA trust system logon IDs and security profile set-ups.
- Not being allowed by BIA to implement the Post-QA review process at the PRO-LTRO.
- Unanticipated volume of document encoding and land title certification backlogs at the PRO-LTRO. Eight contractor employees assist with backlogged land title document encoding.

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Trust Data Quality and Integrity

- 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 project being unable to take full advantage of available information technology.

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 Nineteen*. The information provided in this section is accurate to the best of my knowledge.

Date: October 22, 2004

Name: *Signature on File*
John E. White
Trust Reform Officer
Office of the Special Trustee for American Indians

STATUS REPORT TO THE COURT NUMBER NINETEEN

November 1, 2004

Indian Fiduciary Trust Training Program

3. INDIAN FIDUCIARY TRUST TRAINING PROGRAM

Introduction

Interior has a continuing responsibility to provide adequate staffing, supervision and training for trust fund management and accounting activities. Fiduciary trust training is essential to the success of Interior's trust reform efforts and forms an integral part of all training for Interior employees who are involved in the management of Indian trust assets.

Accomplishments and Completions

OST offered one session of the course, *Fiduciary Overview Program*, presented by Cannon Financial Institute, with 27 BIA, OST, MMS and tribal personnel attending during this reporting period. A total of 473 people have attended this course since March 2003. This course compares and contrasts the federal Indian trust administered through Interior with private sector trusts administered through banks and other financial institutions. Additional sessions are scheduled to be held during the next reporting period.

During this reporting period, OST training staff conducted six sessions to provide training in TFAS, StrataVision and Historical Query to 37 OST, BIA and contractor staff.

The three-day course, *Trust Fundamentals*, which is a comprehensive orientation program tailored to meet the needs of employees in trust-related positions, was presented to BIA and OST employees in Billings and Phoenix. This course is expected to be taught three or four times a year by regional BIA/OST employees.

OST offered the first orientation program for trust officers and deputy superintendents for trust. OST regional trust administrators, trust officers, BIA deputy superintendents for trust and a superintendent attended the first two weeks of this three-week orientation program in Albuquerque. Goals of the program include providing an overview of federal Indian law and policy; introducing the participants to each other and helping them understand the importance of working together; and providing the technical training necessary to perform their jobs. The third week is scheduled to be held during the next reporting period. Another three-week orientation program is scheduled to begin during the next reporting period for additional participants.

OST and BIA completed development of two trust certification programs in conjunction with the Cannon Financial Institute. Specialty courses have been developed and are expected to be presented by Cannon personnel during the next reporting period. Upon completion of the required courses, participants take a comprehensive exam resulting in the designation of Certified Indian Fiduciary Trust Analyst or the higher-level Certified Indian Fiduciary Trust Specialist.

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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 designed to provide trust personnel with a basic understanding of the federal government's fiduciary responsibilities. Changes requested by SOL were completed and OST training staff received the completed product this reporting period.

Training deficiencies identified in the *Training Inventory and Identification of Critical Functional Training Areas for the Department of the Interior's Indian Trust Training Program* are being reviewed and course development is underway. OST training staff expects to meet with senior management as courses are developed.

The draft *Manager's Handbook for New Hires* was circulated for comment to BIA and OST management, who suggested several modifications. The draft handbook was revised based on these comments and has been approved by senior management. Final publication is expected to occur during the next reporting period.

Delays and Obstacles

The lack of Internet access inhibits electronic communication with other governmental agencies and contractors, hinders the research of training tools and potential contractors, and restricts OST's ability to access online training programs.

Assurance Statement

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

Date: October 22, 2004

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

4. 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 for monitoring and evaluating Interior's Indian trust asset management program. Once the risk management program has been implemented by TPMC, OTRA will monitor and evaluate it, and recommend resolutions of any management control deficiencies.

Accomplishments and Completions

In accordance with the previously approved project plan, the risk management program was designed, delivered, and implemented throughout OST. OST managers completed their risk self-assessments utilizing the RM-PLUS application.

Current Status

During this reporting period, BIA and OST agreed to defer implementation of RM-PLUS at the BIA agency pilot sites until FY2005 due to other priorities within both organizations.

Delays and Obstacles

The lack of Internet access complicates the implementation and use of RM-PLUS since it was designed as a web-based application.

Assurance Statement

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

Date: November 1, 2004

Name: *Signature on File*

D. Jeff Lords

Deputy Special Trustee, Trust Accountability

Office of the Special Trustee for American Indians

5. REGULATIONS, POLICIES AND PROCEDURES

Introduction

OTP in OST was established on April 21, 2003, to assist Interior in establishing “consistent, written policies and procedures for trust fund management and accounting” as stated in the 1994 Act. OTP oversees and facilitates the development, promulgation and coordination of trust-related regulations, policies, procedures and other materials to guide the proper discharge of Interior’s fiduciary responsibilities. OTP is separate from BIA’s PPA, which is responsible for policies, procedures and regulations affecting all BIA activities. PPA activities thus are reported in the BIA section of the reports to the Court.

Accomplishments and Completions

Additions to the virtual DOI Fiduciary Library include:

- OTRA Draft Examination Handbook;
- Congressional testimony of the Special Trustee and others on S. 1721 (the American Indian Probate Reform Act of 2004), budget matters, and Trust Initiatives for the 21st Century;
- Memo from AS-IA and Special Trustee on Indian Trust Rating System.

The OTP liaison group was notified of the Secretary’s approval of the “To-Be” model (now known as the Fiduciary Trust Model). Members were advised that implementation of the FTM would likely generate a significant increase in OTP’s workload.

OTP completed work on five frequently-used forms and added them to the Infonet. The forms can be retrieved, completed electronically, and printed.

A part of the Receiving Desk Operating Procedure was changed and approved by the appropriate officials during this reporting period. In addition, “Policy on Trust Funds Remittances” was issued.

Current Status

OTP continues to work with OST’s OCIO to establish SiteScape as a viable information management and dissemination tool. During this reporting period, additional SiteScape training was conducted in Albuquerque. Several functional areas of OST are beginning to use the program and have established their own program workspaces. Promoting the use and functionality of SiteScape remains a priority.

25 CFR 124 – Deposits of Proceeds of Lands Withdrawn for Native Selection Under the Alaska Native Claims Settlement Act. On the advice of SOL, it was decided that this regulation was not needed. Discussions with SOL and senior Interior management continued regarding the disposition of this rule. A decision to withdraw or amend the rule is expected during the next reporting period.

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November 1, 2004

Regulations, Policies and Procedures

Delays and Obstacles

Lack of access to the Internet and its repository of online statutes, the Federal Register and other resources continues 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 Nineteen*. The information provided in this section is accurate to the best of my knowledge and belief.

Date: October 29, 2004

Name: *Signature on File*

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

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Appraisal

D. FIELD OPERATIONS

1. APPRAISAL

Introduction

The Office of Appraisal Services is responsible for the Indian land valuation program, which 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 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

The contract between NBC-ASD and OST, Office of Appraisal Services for the management of the appraisal program was signed during this reporting period.

A contract for additional analysis of the former Special Master's right-of-way report was awarded and completed during this reporting period. The report identified weaknesses associated with the valuation standards and reporting formats used by an appraiser. A corrective action plan was developed. The plan includes remedial training for the appraiser and review of the appraiser's future work by the Associate Director-ASD.

Current Status

The vacant regional appraiser position located at the Eastern Region was not advertised during this period pending a revision of all regional appraiser position descriptions. The new position descriptions are being revised to make them consistent with current NBC-ASD, regional supervisory appraisal positions.

As previously reported, OAS drafted a MOU with ILCO regarding ILCP. ILCO submitted the draft MOU to the BIA Director for review and comment. Further discussions between BIA and OST are required in order to finalize the MOU. A meeting with ILCO and OAS is expected to be scheduled during the next reporting period to finalize the MOU.

In addition to the independent review of the Special Master's report, OST sought an independent contractor to review a selection of certain right-of-way appraisals that were completed prior to September 2, 2003. The contract was awarded March 11, 2004, and the final report was issued during this reporting period. The report identified weaknesses associated with the valuation standards and reporting formats used by the various OAS regions. NBC-ASD is expected to review the report and develop a corrective action plan during FY2005.

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Appraisal

As previously reported, OAS and NBC are working cooperatively to establish regional contracts with independent contractors to perform appraisals and alleviate backlogs. Ten regional appraisal contracts were advertised by NBC during this reporting period. The proposed bids were evaluated based on technical merit, pricing, contractor's experience and qualifications. NBC determined that of the 10 proposals received, only one was a qualified proposal. The one qualified bidder later retracted its bid because of pricing issues. During the next reporting period, OAS and NBC expect to review contracting requirements in anticipation of readvertising the appraisal contracts.

Appraisal Backlog

As of this reporting period, the appraisal backlogs are as follows:

	Appraisal Backlog As 06/30/04	Appraisal Backlog As of 09/30/04
Northwest	238	57
Rocky Mountain	555	103
Midwest	6	5
Western	0	0
Southwest	9	0
E. Oklahoma	73	0
Navajo	4	110
Pacific	7	7
Alaska *	298	297
Eastern	0	0
Southern Plains	47	0
Great Plains	9	0
Total	<u>1,246</u>	<u>579</u>

*Due to extreme weather conditions, Alaska appraisers inspect properties during the summer months and complete the reports during the winter months.

During this reporting period, OAS Rocky Mountain and Northwest Regions reduced the backlog by utilizing contractor and staff appraisers.

This table does not include appraisal backlog information from the compacted and contracted Tribes. OST has not been successful in obtaining this information from Tribes. However, the requirement to report backlog information on a quarterly basis is incorporated into the FY2005 appraisal compacts and contracts negotiated by OST.

Delays and Obstacles

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

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Appraisal

The appraisal program is indirectly affected by the Court's orders concerning communications with class members in the *Cobell v. Norton* case. These orders delay the processing of land sales, which result in fewer appraisal requests. However, the appraisal backlog may increase once this delay is resolved.

The process of performing appraisals often requires OAS appraisers to communicate with landowners.

Assurance Statement

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

Date: November 1, 2004

Name: *Signature on File*

Gabriel Sneezy

Office of Appraisal Services

Office of the Special Trustee for American Indians

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Current Accounting Activities

E. TRUST SERVICES

1. CURRENT ACCOUNTING ACTIVITIES

Introduction

Current accounting activities focus on: a) whereabouts unknown accounts; b) trust funds accounting system; c) special deposit accounts; d) small balance accounts; and e) accounting discrepancies.

WAU are classified as such for various reasons, including (a) new accounts established without an address, (b) mail returned for invalid address and (c) account holder refused or did not claim mail. A variety of methods and means are used to locate WAU account holders.

TFAS is a generic term for a COTS trust fund accounting system that provides the basic receipt, accounting, investment, disbursing and reporting functions common to commercial trust funds management operations. All IIM accounts have been converted to this system.

SDA are temporary accounts for the deposit of trust funds that cannot immediately be credited to the proper account holders. As explained in the BIA/OST Interagency Handbook Procedures, this type of account is to be used only as an exception to the rule that trust funds immediately be deposited to the credit of, and then distributed as soon as practicable to, the individual and tribal beneficiaries. The SDA project has two sub-projects: the retrospective (pre-January 1, 2003 receipts) and the prospective (post-December 31, 2002 receipts) phases. OHTA has responsibility for "resolution" (i.e., research and distribution of funds) of the retrospective phase, while BIA has comparable responsibility for the prospective phase. This section of the report to the Court thus addresses only the prospective phase.

Small balance accounts are defined as those with balances of \$.01 - \$1.00 and no activity in the preceding eighteen months. Management expenses for these accounts are considerable, in part because (as directed by Congress) annual statements must be sent to these account holders.

Various accounting discrepancies that existed prior to the conversion to TFAS still need research and resolution. Some may impact individual accounts. At present, OST has a daily and monthly reconciliation process in place to ensure that transactional reporting to Treasury is accurate and that any discrepancies are researched and reconciled during the next accounting period. While this process ensures resolution of current discrepancies in timely fashion, separate research and reconciliation efforts are needed to address the pre-TFAS discrepancies.

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Current Accounting Activities

a. Whereabouts Unknown Accounts

Accomplishments and Completions

As a result of mailing letters to the tribal leaders of federally recognized Tribes during the last reporting period, requesting them to compare the WAU list for their respective Tribes to their tribal enrollment records, OST has received documentation from 73 Tribes listing 3,380 addresses. OST has updated 1,193 accounts and mailed out 857 forms for supervised accounts.

TPMC staff made several beneficiary outreach trips during this reporting period. By working directly with Salt River, Turtle Mountain, Rosebud, Standing Rock and Blackfeet agencies and The Confederated Salish and Kootenai Tribes of the Flathead Reservation, TPMC secured over 2,400 addresses.

Current Status

Priority continues to be placed on locating the current Top 100 highest dollar balance WAU account holders. During this reporting period, 5 out of the top 100 WAU account holders were located, with combined account balances in excess of \$480,000.

During this reporting period, 2,914 accounts were added to the WAU list and 4,068 accounts were removed. As of September 30, 2004, there were 54,760 WAU accounts with a balance of \$82,017,235.96. 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	25	9	0	0	34
Under \$100,000 and equal to or over \$50,000	43	12	1	0	56
Under \$50,000 and equal to or over \$5,000	2,806	879	125	2	3,812
Under \$5,000 and equal to or over \$1,000	7,064	2,105	106	5	9,280
Under \$1,000 and equal to or over \$100	9,733	4,099	237	12	14,081
Under \$100 and equal to or over \$1	13,644	7,042	417	12	21,115
Under \$1	4,142	2,109	123	8	6,382
Total	37,457	16,255	1,009	39	54,760

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Current Accounting Activities

Delays and Obstacles

The influx of WAU accounts categorized as "account set up no address" causes the total number of WAU accounts to remain relatively constant. These accounts primarily result from probates lacking addresses for individual heirs.

There are 22,200 supervised IIM account holders (minors, emancipated minors, adults in need of assistance, and non compos mentis) coded as WAU that present an obstacle to clearing up the total number of WAU accounts.

The lack of Internet access limits communication effectiveness. OST and its contractor must rely primarily on mail and telephone communication with IIM account holders.

b. Trust Funds Accounting System

Current Status

OST continued working with the contractor on an enhancement to TFAS to produce account holder statements for the assets held by Concho and Anadarko Agency IIM account holders that identify the source of income and a listing of all assets owned. A two-month delay was encountered due to a contracting issue with the third-party vendor supplying information to TFAS. The issue was resolved. Testing of the enhancement now is planned for the fourth quarter of CY2004 for the assets held by Concho and Anadarko Agency IIM account holders.

OST also continued working with the TFAS contractor and BIA to finalize the technical design within TFAS to distribute income generated from real property assets to the owners of those assets. Testing still is expected to begin during the fourth quarter of CY2004, but the project may be delayed slightly due to the contracting issue mentioned above.

c. Special Deposit Account Activity

Accomplishments and Completions

This section relates to SDA prospective receipts (post December 31, 2002). During this reporting period, aged funds were held in 166 fewer SDA than in the previous reporting period, however, undistributed aged receipts increased by 787, while the combined dollar amount decreased by \$926,949.91. As of September 30, 2004, funds were held in SDA with a combined dollar amount of \$2,208,753.04, which represented 5,466 undistributed receipts aged over 30 days from January 1, 2003, through September 30, 2004.

TPMC staff worked one week at Standing Rock Agency and seven weeks at Pima Agency to assist agency staff in performing work necessary to distribute aged receipts from SDA. Due to the combined efforts of TPMC and Pima Agency staffs, aged receipts totaling over \$1.26 million were distributed from SDA during the reporting period. In addition to assisting with research at

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November 1, 2004

Current Accounting Activities

these two agencies, OST staff provided guidance and training to their staff in: (1) accessing reports on StrataVision; (2) utilizing aging reports in SDA management; and (3) navigating through TFAS.

Current Status

BIA has the responsibility for distribution of SDA funds received since January 1, 2003. It is the policy of BIA to distribute funds within 30 days of receipt into SDA. During this reporting period, TPMC has tracked 3,163 receipts, offsetting them with distributions, and has aged and reported on 1,831 undistributed receipts. TPMC has researched or contacted the field to obtain lease and allotment numbers for over 24,300 transactions that were not encoded per BIA policy. As of September 30, 2004, there were 497 receipts in 170 SDA for \$399,030.25 aged over one year.

Delays and Obstacles

Some BIA agencies still are not utilizing StrataVision to obtain current aging reports to assist in the monitoring and management of their SDA receipt activity. Agency staff turnover, training, obtaining access to IRMS and IRMS document encoding backlogs also contribute to delays in timely distributing aged SDA receipts.

d. Small Balance Accounts

As of September 30, 2004, there were 20,311 accounts that have a \$.01 - \$1.00 balance with no activity for the previous 18 months. The total sum included in those accounts is \$5,849.17. Statements are sent to account holders for these accounts on an annual basis pursuant to direction from Congress.

e. Accounting Discrepancies

Current Status

Interior's proposal to resolve the \$5.8 million difference between the subsidiary account ledger (liabilities) and the IIM investment pool (assets) remains with Congress.

Comments on the draft procedure to transfer non-trust WAU to the Treasury Unclaimed Moneys Account were received and incorporated into the procedure. The new draft is under internal Interior review and is expected to be finalized during the next reporting period.

As discussed in the previous report, comments were received from the private sector regarding the Interior proposal for distribution of unposted interest from pre-1994. These comments were not supportive of the proposal; as a result of these comments, SOL guidance has not yet been sought and research continues for an equitable solution to this problem.

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Current Accounting Activities

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 Nineteen*. The information provided in this section is accurate to the best of my knowledge.

Date: November 1, 2004

Name: *Signature on File*

D. Jeff Lords

Deputy Special Trustee, Trust Accountability

Office of the Special Trustee for American Indians

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November 1, 2004

Trust Regulations, Policies and Procedures

IV. BUREAU OF INDIAN AFFAIRS

A. TRUST REGULATIONS, POLICIES AND PROCEDURES

Introduction

The Office of Planning and Policy Analysis in the Office of the Assistant Secretary – Indian Affairs was established on April 21, 2003. PPA is responsible for ensuring BIA’s knowledge of, access to, and compliance with applicable regulations, policies, and procedures. PPA is separate from OST’s Office of Trust Regulations, Policies and Procedures, whose activities are reported in the OST section of the status reports to the Court.

PPA:

- coordinates development of strategic plans and annual performance reports in support of the Government Performance and Results Act;
- determines the reliability of performance measures and evaluates the AS-IA and related bureau 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 Indian Affairs program and administrative policies and handbooks documenting operating procedures;
- publishes and maintains the Indian Affairs Manual, which contains the policies and general procedures that are essential to the efficient administration of Indian Affairs;
- reviews applicable notices and rules that are prepared for publication in the Federal Register.

Accomplishments and Completions

Environmental Contingent Liability Guidance Handbook (59 IAM 7-H) - The handbook was issued during this reporting period.

Directives Handbook (1 IAM H) - The handbook was issued during June 2004.

Current Status

25 CFR 161 - Navajo Partitioned Lands Grazing Permits – BIA met with the Tribe’s Resources Committee on August 11, 2004. The Tribe has determined that the Resources Committee has the authority to formally concur, but the Resources Committee was unwilling to concur with the draft regulation. It is unclear when or if the Resources Committee will concur with the draft regulation. The completion date for this regulation will remain undetermined until the Resources Committee is willing to make a decision.

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Trust Regulations, Policies and Procedures

25 CFR 162 Subparts C & D – Residential Leases and Business Leases – The project continues on schedule, with the final rule expected to be published by the end of the second quarter of FY2005.

25 CFR 216 - Surface Exploration, Mining, and Reclamation of Lands – BLM and OSM have not been able to schedule review of the draft proposed rule. Completion of the draft proposed rule is now undefined.

25 CFR 243 - Reindeer in Alaska – The project has been delayed awaiting OST review of reindeer trust status. The final rule is now expected to be published by the end of the second quarter of FY2005.

Directives Library – The project continues on schedule, with the electronic library expected to be functional in the first quarter of FY2005.

Surface Leasing (25 CFR 162) Handbook – The project continues on schedule, with internal review of the handbook expected by the third quarter of FY2005.

Fee-to-Trust Handbook – The project continues on schedule, with internal review of the handbook expected by the second quarter of FY2005.

Trust-to-Trust Handbook – The project continues on schedule, with internal review of the handbook expected by the second quarter of FY2005.

Rights-of-Way Handbook – The project continues on schedule, with internal review of the handbook expected by the second quarter of FY2005.

Grazing Permits (25 CFR 166) Handbook – The project continues on schedule, with final publication expected by the end of the second quarter of FY2005.

National Environmental Policy Act Compliance Handbook – The draft handbook was distributed on CD to all Tribes for comment. The project continues on schedule for publication by the end of the first quarter of FY2005.

IAM Parts 1, 2, 3 and 7 containing delegations of authority – The project has been delayed and is now scheduled for publication in the first quarter of FY2005.

IAM Part 13 - Indian Self-Determination – The draft IAM has been completed and submitted for signature. Publication is now expected by the end of the first quarter of FY2005.

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Trust Regulations, Policies and Procedures

Bureau of Indian Affairs Manual Conversion to IAM – The projects continue on schedule for the finish dates set forth in the following table.⁴

BIAM Part	Title	Planned Finish
35	INFORMATION RESOURCES MANAGEMENT	12/31/2004
46	FACILITIES MANAGEMENT	12/31/2004
51	INDIAN RIGHTS PROTECTION	12/31/2004
54	RESOURCES/LAND	12/31/2004
54	REAL PROPERTY MANAGEMENT	12/31/2004
57	ROAD CONSTRUCTION	12/31/2004
58	ROAD MAINTENANCE	12/31/2004
66	SOCIAL SERVICES	12/31/2004

Delays and Obstacles

Lack of access to the Internet has hindered PPA's ability to research statutes and departmental manuals and makes distribution of documents for review by Tribes more difficult and costly.

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 Nineteen*. The information provided in this section is accurate to the best of my knowledge.

Date: October 27, 2004

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

⁴ This table has been revised to include only parts related to trust matters.

B. FRACTIONATION

Introduction

Fractionation of Indian trust and restricted land stems from the federal Indian policy of the 19th Century. Fractionation occurs as land passes from one generation to the next and more and more heirs or devisees acquire an undivided interest in the land. This is a complex and potentially emotionally-charged issue, due primarily to cultural differences, historical legacy and family associations of the present owners with the original Indian owners of those lands. Efforts to address this complex issue are coordinated primarily through the BIA Indian Land Consolidation Office, which seeks to help Tribes make use of the opportunities offered by the Indian Land Consolidation Act, as amended in 2000. ILCO is operating pilot projects and, from there, a nationwide plan is being implemented to promote consolidation of the ownership of Indian land.

Accomplishments and Completions

- Acquired 9,716 fractional interests during this reporting period, for a cumulative total of 102,900 interests for the ILCP pilot projects in the Midwest, Northwest, Western, and Great Plains Regions. Of the total interests acquired, 90% were interests of less than 2% ownership in the respective tracts of land.
- Acquired a cumulative total equivalent of 77,308 acres for the pilot project reservations.
- Added acquisition programs at two additional reservation sites: Flathead (Northwest Region) and Quapaw (Eastern Oklahoma).

Current Status

On September 3, 2004, the procurement authority within the BIA was withdrawn in order to prepare for year-end audit requirements and resulted in the suspension of acquisition activity for the remainder of FY2004. Up to that time, ILCO had been managing active acquisition programs for 13 reservations within four BIA Regions. Current ILCP activities include:

- Implementing ILCO's national expansion strategy;
- Recruiting and deploying staff to the Miami Field Office for Quapaw and to the Great Plain's Centralized Acquisition Office, including support for the Regional Land Titles and Records Office;
- Negotiating a cooperative agreement with Tribal staff at Flathead for performance of non-inherently federal ILCP activity;
- Recruiting and deploying staff to Gila River, which is expected to be completed by the end of November 2004;
- Continuing a review of a draft acquisition plan to acquire *Youpee* interests;
- Continuing the preparatory work for Navajo (Navajo Region) and Crow (Rocky Mountain Region), with active acquisition activity projected to begin during the second quarter of FY2005.

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Fractionation

Delays and Obstacles

- The need to reconcile ownership records causes delays in the expansion of ILCP. Reconciliation is expected to improve as a result of the ongoing implementation of the CGI title system.
- Recruiting qualified staff at remote locations is a challenge.
- Probate backlog and *Youpee* issues continue to impede the land-purchase transaction process.
- During this reporting period, no ownership interests were acquired for Pine Ridge due to the inability of existing staff to take on the additional workload and the unavailability of contract staff prior to the September 3, 2004, procurement cut-off date.
- No ownership interests were acquired for Quapaw due to the late arrival of land-value market analysis and limited staff access to LRIS ownership data for reconciliation purposes. Staff access should improve when the title legacy system is fully converted to the CGI system.
- Lack of receipt of surface and subsurface values has delayed some acquisition programs and may delay expansion efforts because the values are not being received in a timely manner to coincide with projected acquisition activity.
- Lack of a case management system impacts on current administrative and reporting requirements and may delay future expansion efforts because work activities will remain highly labor intensive.
- Lack of Internet access results in slower processing of applications from potential sellers and hinders searches for WAU account holders.
- The current *Cobell* court order regarding communications with individual landowners prevents ILCP from processing beneficiaries' written requests to sell their land. The processing of approximately \$6.2 million of pending applications currently is not permitted. Future acquisition activities may be impacted as well.

Assurance Statement

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

Date: October 28, 2004

Name: *Signature on File*

Robert R. Jaeger
Director, Indian Land Consolidation Office
Bureau of Indian Affairs

C. PROBATE

Introduction

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. In order to perform this duty, BIA, OHA and OST must coordinate their work to accomplish the probate process.

Accomplishments and Completions

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, 11,684 probate cases were in the case preparation stage.

Case Adjudication

In the case adjudication stage, deciding officials are OHA Administrative Law Judges, OHA Indian Probate Judges and BIA Attorney Decision Makers. 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. 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 288 cases and issued decisions in 291 cases; OHA deciding officials received 1,050 cases and issued decisions on 1,052 cases.

Case Closure

Case closure is the posting and recording of land ownership by the appropriate LTRO and distribution of assets after the case has been adjudicated.

In this reporting period, OST closed 1,210 accounts by distributing financial assets from 1,159 estates. TFAS, as of the end of September 2004, contains 28,101 open estate accounts, up from 27,640 open estate accounts at the end of the last reporting period. Account closure in TFAS does not reflect the closure of estates that contain land.

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Probate

Current Status

Probate Case Management and Tracking System

ProTrac was developed to provide probate case tracking information and to assist in the management of probate cases within BIA, OHA and OST. The ProTrac system was implemented in phases by each BIA region, during the period from July 20, 2004, to August 16, 2004. Each BIA regional office and corresponding agencies are in the process of encoding new cases, examining "initial load" cases and making corrections. In order to expedite the implementation of ProTrac, probate specialists and others involved in the probate process began concentrating on uploading case data and performing data cleanup during this reporting period.

Probate Handbook

As previously reported Interior's draft Handbook of Indian Probate Procedures, dated September 30, 2003, was circulated in final draft form and reviewed by field probate users. Due to a change in personnel and the need for a more in-depth review of the handbook, publication now is expected in the first quarter of CY2005.

Delays and Obstacles

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

- Lack of access to the Internet, which includes the inability to use electronic mail communication between OHA and BIA/OST;
- Fractionation of ownership of Indian lands;
- Numerous initiatives competing for resources (e.g., *Youpee* revestitures, *Cobell* requirements, CGI title conversion, realty system development);
- Cultural diversities regarding the subject of death;
- The shifting of resources to focus on data entry and cleanup for ProTrac has delayed the processing and closing of probate cases. This delay is temporary and implementation of ProTrac is expected to expedite probate processing.

Assurance Statement

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

Date: October 20, 2004

Name: *Signature on File*
William Titchywy, Realty Specialist
Western Region
Bureau of Indian Affairs

ACRONYMS AND ABBREVIATIONS

1994 Act (or Act)	American Indian Trust Fund Management Reform Act of 1994
A-130	Office of Management and Budget Circular A-130 Appendix III
ADM	Attorney Decision Makers
AFMSS	Automated Fluid Mineral Support System
AIRR	American Indian Records Repository
ALJ	Administrative Law Judges
ARO	Alaska Regional Office
ART	Accounting Reconciliation Tool
AS-IA	Assistant Secretary-Indian Affairs
ASD	Appraisal Services Directorate
BIA	Bureau of Indian Affairs
BIAM	Bureau of Indian Affairs Manual
BLM	Bureau of Land Management
BOR	Bureau of Reclamation
BPA	Blanket Purchase Agreement
C&A	Certification and Accreditation
CARS	Cadastral Automated Request System
CDE	Critical Data Elements
CGI	Software vendor successor to TAAMS vendor
CGIS	Cadastral Geographic Information Systems
CIFTA	Certified Indian Fiduciary Trust Analyst
CIFTS	Certified Indian Fiduciary Trust Specialist
CIO	Chief Information Officer
CISSP	Certified Information System Security Professional
COTS	Commercial off-the-shelf
CSIRC	Computer Security Incident Response Capability
CSIRT	Computer Security Incident Response Team
CTM	Comprehensive Trust Management Plan
DAA	Designated Approving Authority
DEAR	DOI Enterprise Architecture Repository
DM	Departmental Manual
DOI	Department of the Interior
DQ&I	Data Quality and Integrity
ENA	Eastern Navajo Agency
EORO	Eastern Oklahoma Regional Office
ERO	Eastern Regional Office
ESN	Enterprise Services Network
FAR	Federal Acquisition Regulation
FIMO	Farmington Indian Minerals Office
FISMA	Federal Information Security Management Act
FRC	Federal Records Center
FTM	Fiduciary Trust Model
GAO	Government Accountability Office

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Acronyms and Abbreviations

GCDB	Geographic Coordinate Data Base
GIS	Geographic Information System
GPRO	Great Plains Regional Office
GPS	Global Positioning System
GSA	General Services Administration
GSS	General Support Systems
IAM	Indian Affairs Manual
IATO	Interim Approval to Operate
IIM	Individual Indian Money
IITD	Individual Indian Trust Data
ILCA	Indian Land Consolidation Act
ILCO	Indian Land Consolidation Office
ILCP	Indian Land Consolidation Project
Interior	Department of the Interior
IPJ	Indian Probate Judges
IRM	Information Resources Management
IRMS	Integrated Records Management System
IRS	Internal Revenue Service
ISA	Information Security Assessment
IT	Information Technology
LAN	Local area network
LRIS	Land Records Information System
LTIC	Land Tenure in Indian Country
LTRO	Land Titles and Records Office
MA	Major Applications
MADS	Management & Accounting Distribution System
MMD	Missing Mandatory Documents for Unrestricted Accounts
MMS	Minerals Management Service
MOU	Memorandum or Memoranda of Understanding
MRM	Minerals Revenue Management
MWRO	Midwest Regional Office
NARA	National Archives and Records Administration
NBC	National Business Center
NIST	National Institute of Standards and Technology
NPS	National Park Service
NRO	Navajo Regional Office
NWRO	Northwest Regional Office
O&G	Oil and Gas
OAS	Office of Appraisal Services
OCIO	Office of the Chief Information Officer
OHA	Office of Hearings and Appeals
OHTA	Office of Historical Trust Accounting
OIG	Office of the Inspector General
OMB	Office of Management and Budget
OSM	Office of Surface Mining

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Acronyms and Abbreviations

OST	Office of the Special Trustee for American Indians
OTFM	Office of Trust Funds Management
OTP	Office of Trust Regulations, Policies and Procedures
OTR	Office of Trust Records
OTRA	Office of Trust Review and Audit
PLSS	Public Land Survey System
PMSO	Project Management Support Office
POA&M	Plans of Actions and Milestones
Post-QA	Post Quality Assurance
PPA	Office of Planning and Policy Analysis
PRO	Pacific Regional Office
ProTrac	Probate Case Management and Tracking System
QA	Quality Assurance
QC	Quality Control
RAF	Recommended Action Forms
REM	Real Estate Module
RFP	Request for Proposal
RM-PLUS	Risk Management Assessment/Evaluation tool
RMRO	Rocky Mountain Regional Office
SANS	SysAdmin, Audit, Network, Security
SDA	Special Deposit Accounts
SDLC	System Development Life Cycle
SMS	System Management Servers
SOL	Office of the Solicitor
SPRO	Southern Plains Regional Office
SSA	Social Security Administration
SSM	System Security Manager
SSP	System Security Plan
ST&E	Security Test and Evaluation
SUS	System Update Servers
SWRO	Southwest Regional Office
TAAMS	Trust Asset and Accounting Management System
TAP	Technical Architecture Profile
TESC	Trust Executive Steering Committee
TFAS	Trust Fund Accounting System
TPMC	Trust Program Management Center
TRAC	Trust Tracking and Coordination
Treasury	Department of the Treasury
TRM	Technical Reference Model
TRO	Temporary Restraining Order
USGS	United States Geological Survey
WAN	Wide area network
WAU	Whereabouts Unknown
WRO	Western Regional Office