

Ross Swimmer

Overhauling a century's worth of financial records

Interior Department

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In a football field-sized room eight stories beneath Lenexa, Kan., the Interior Department is scanning 120 years of financial records.

Stored in boxes stacked 14 high, the records document the department's payments to American Indians for leasing rights to land parcels that were allotted to tribal members in 1887. The records are still arriving from reservations around the country, where for a century they piled up haphazardly.

The records' collection at the secure, low-cost Lenexa site is part of an effort to reform management of the Indian Trust. Responsible for payouts to Indians for revenue raised from their land, the trust has been famously fouled up for a century, maligned for shoddy records, poor service and, more recently, unprotected data. Ross Swimmer's job is to fix it.

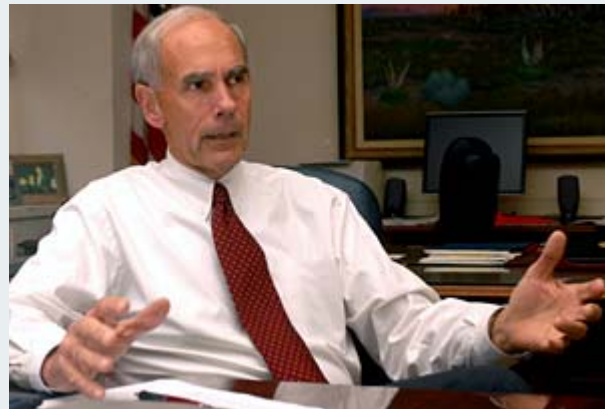
A former chief of the Cherokee Nation and Reagan appointee, Swimmer has served since 2001 as the special trustee for American Indians, a job Congress created to implement the 1994 Indian Trust Reform Act.

With a staff of 650 employees, most of whom are American Indians, Swimmer oversees efforts to overhaul the trust's accounting system, collect its records and consolidate the trust's software systems.

Due to a law that divides land rights among descendants of beneficiaries, the office grapples with the proliferation of tiny, nearly worthless land shares that must be tracked despite costing far more to administer than they will ever pay out. And since 1996, the trust has been the subject of a massive class-action lawsuit, *Cobell vs. Kempthorne*, in which trust beneficiaries seek billions of dollars they say they lost to bad accounting.

Most trust reforms are close to complete, raising the question of how long the special trustee will remain. But in a recent interview with Federal Times, Swimmer did not sound ready to close up shop:

Q: What do the reforms achieve?



Ross Swimmer is the special trustee for American Indians.

Rick Kozak / Federal Times

Swimmer: From the day that the trust was set up, it was considered more or less a program within the Bureau of Indian Affairs [BIA]. It wasn't looked at as a fiduciary obligation to beneficiaries. When the land was actually allotted, the trust was intended to last 25 years.

But [Congress] provided that the president could extend that trust. . . . And, in fact, that happened over the years. So in some respects, it was never meant to be a permanent trust. As a result, you didn't really see the bureau setting up the infrastructure that would be necessary to run a permanent trust, or a normal trust that you would see in the private sector.

One of the things we said was that when beneficiaries need information, they ought to be able to call and get it. The way it was, if you wanted information, you would either call or go to a BIA agency office. . . . You might find someone who would take the time, sit down with you and go through your account. Or you might not.

We did two things pretty much simultaneously. We set up a call center in Albuquerque [N.M.] to centralize all the calls. Instead of calling your local agency, you could call a toll-free number. It would go to our site. And we would have people there who would have at their fingertips all of the information on your account. After several hundreds of thousands of phone calls, we're able to answer 88 percent of the questions while the person is on the phone — with an average phone call time of four minutes.

The other thing we did . . . was put trust officers in the field. We picked the 15 largest BIA agencies . . . and put trust officers at each. So if a beneficiary comes in and says, "I want to talk to somebody about my trust account," they've got somebody to go to immediately. That's their only duty. They don't have to take care of social services or law enforcement or anything else. Their duty is to the beneficiary.

Now trust officers are also responsible for . . . finding the "whereabouts unknown." We have 300,000 account holders. Twenty-five thousand of those have a trust with less than a dollar in it. We lose them. People don't bother to tell us that they have moved. They only have a dollar in their account anyway, so they don't care.

But if they die, we have to know where they are because we have to probate that interest, no matter how small it is, to keep the chain of title current. . . . [But] for several years, BIA didn't have the resources to try to track them down.

Q: Is the focus on beneficiaries unique?

Swimmer: There is no other system in the federal government like what we do. The closest thing you would find would be a federal retirement program, where you have a 401(k) set up for you and managed by the federal government. But there's not a system out there where you have land, minerals, timber — physical assets as well as money — that are managed for someone else to the degree that we do.

[Various agencies offer social services on Indian reservations.] But the fiduciary trust is different because the revenue is generated from assets owned by the individual Indian, or by the tribes. This isn't just program money. This is their money.

Q: Where do you stand now on combining software systems?

Swimmer: One of the major things that's required is the conversion of all these antiquated software programs that were introduced in the BIA since the 1970s. . . . It sounds simple enough to convert systems. But you have to make sure that you have good reliable information going in. We had heard these horror stories over the years: "Nobody really knows who is in the trust or who owns what." So we . . . went into all of the land title records offices, where we maintain the county records for all of the trust beneficiaries, and validated the information.

Q: How have the systems changed?

Swimmer: Previously, money would come in at the 85 BIA agencies. A farmer would bring his check in for a lease. The agency would process it using two or three people. The check would then be either deposited or mailed to a federal depository bank. From there, it would get put into the beneficiary's account. Today, the lease, the title and the funds management system speak to each other.

Before, we expected the farmer to pay the lease. Now we have an invoice system. . . . And when that money hits, it automatically processes.

So it's a slick system. It works. It has bugs that are being worked out, . . . but we'll have it, I think, totally automated by the end of this year.

Q: Are all records now automated?

Swimmer: All the records that we have collected are. It's increasing by a thousand boxes a month or so. We have a very aggressive, very comprehensive management program for current records, as well as the records that are in the system. When we bring records in to Lenexa, every box gets indexed. From there, the information goes onto a box index search system. The boxes then get stored by [the National Archives and Records Administration].

Q: What are prospects for a legislative fix to the Cobell suit?

Swimmer: I have sort of been on the periphery of some of the discussions between the department and Congress [on companion Senate and House bills] which were basically a proposal to come up with \$8 [billion] or \$9 billion.

The problem is finding something to buy for that. I don't think the evidence is there to support that kind of payment.

There was a recent effort by Interior's Office of Historical Trust Accounting to [review] every transaction over \$100,000 between 1985 and 2000. . . . They found virtually no errors. They've also done a study of all the various audit reports that have cited the trust fund as having a lot of weaknesses. . . . What they're finding is that whatever was being used by the BIA through the years did work. . . . Except for a few errors that are not significant, there's not anything there in terms of large sums of money that would justify the Cobell plaintiffs' claims.

So we're going to continue doing the accounting. And after a few more years and a few more million dollars, we hope that we'll complete whatever accounting that the court wants us to do.

Q: Would that resolve the lawsuit?

Swimmer: Well, then the lawsuit would go away. That is the lawsuit. It said, "Provide an accounting to each of the individual account holders."

Q: The Government Accountability Office recently asked your office to provide a timetable for completing reforms. Do you have one?

Swimmer: By the end of 2009, we should have 95 percent of the conversion work and what I call the reform work done.

We have several options at this point. We can propose a date, and 30 days before that we'd have to also make a recommendation as to whether the Office of the Special Trustee should remain a permanent office. Obviously, that decision is not going to be made until that time. A lot depends on what we do between now and then.

Q: What would change without a special trustee?

Swimmer: When people talk about the special trustee sunseting, in my mind basically what's being talked about is me, not what we do.

The Office of the Special Trustee can be administered by anybody who has trust experience. Right now, it is a [presidentially appointed] office responsible to the secretary. In the future, it could be someone who reports to the undersecretary or an assistant secretary. That would change the nature of the trustee more than it would the functions of the trust.

We . . . manage \$3.5 billion of investments. That's not going to go away. We have the records program, which is now around a \$16 million program. I don't see that going away. We don't want to revert to where we were in terms of records, and end up having them stored in every nook and cranny. So I see those things continuing.

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